

U. S. Congress.

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# CONGRESSIONAL GLOBE

FOR THE

SECOND SESSION THIRTY-NINTH CONGRESS.

PART I.

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JH  
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4th

IN THE SENATE OF THE UNITED STATES,

THURSDAY, *February 21, 1867.*

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Secretary of the Senate is hereby directed to furnish to the official publishers of the Debates in Congress, to be inserted therein at the close of each session, the name and post office address of each Senator, and of each officer of the Senate, with a diagram of the Senate Chamber showing the seats of Senators.

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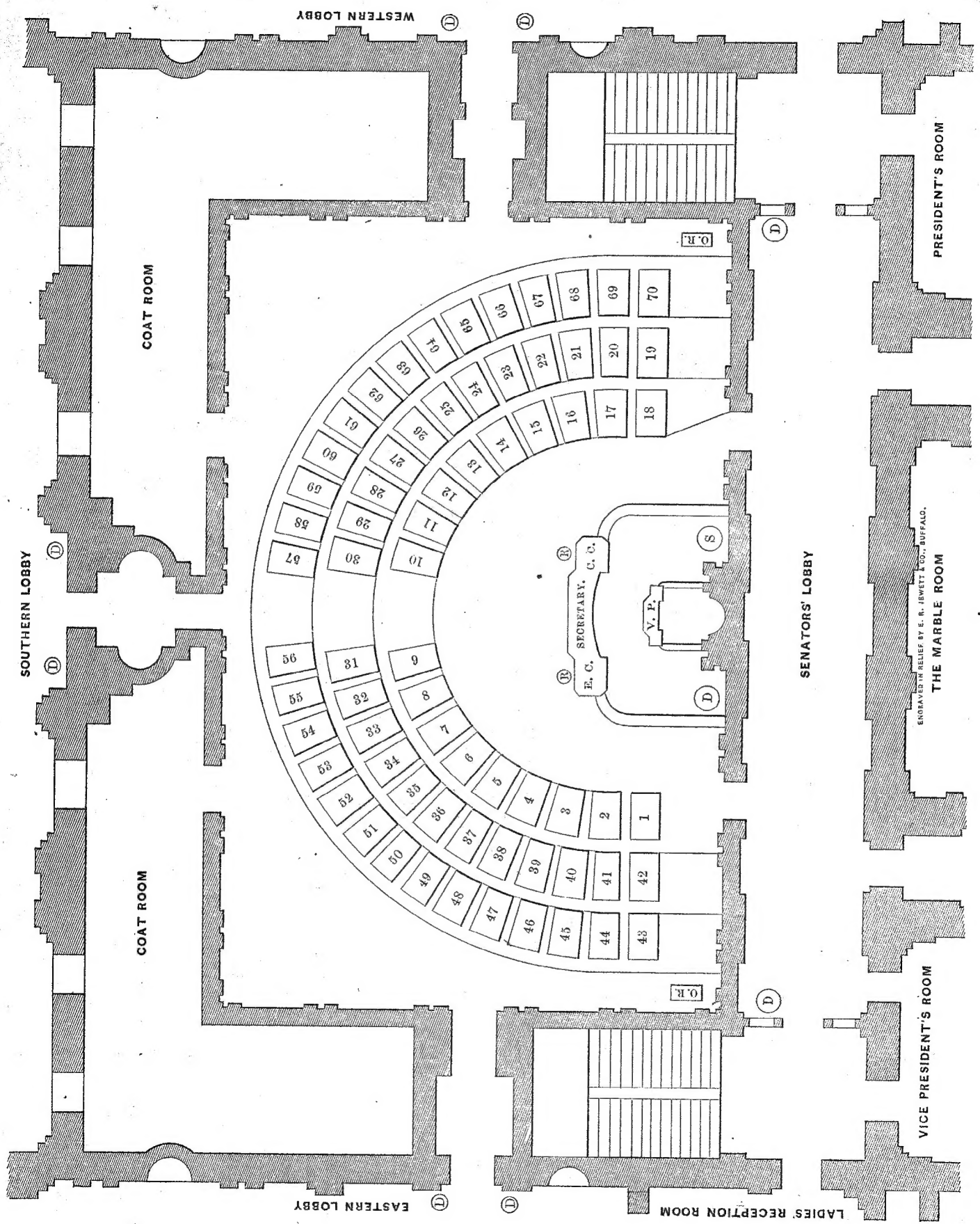
IN THE HOUSE OF REPRESENTATIVES,

SATURDAY, *February 16, 1867.*

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved,* That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.





ENGRAVED IN RELIEF BY E. R. JEWETT & CO., BUFFALO.

# Name and Post Office Address

OF

Each Senator and of each Officer of the Senate, Second Session Thirty-Ninth Congress.

LA FAYETTE S. FOSTER, President *pro tempore*, resigned March 2, 1867; BENJAMIN F. WADE elected President *pro tempore* March 2, 1867.

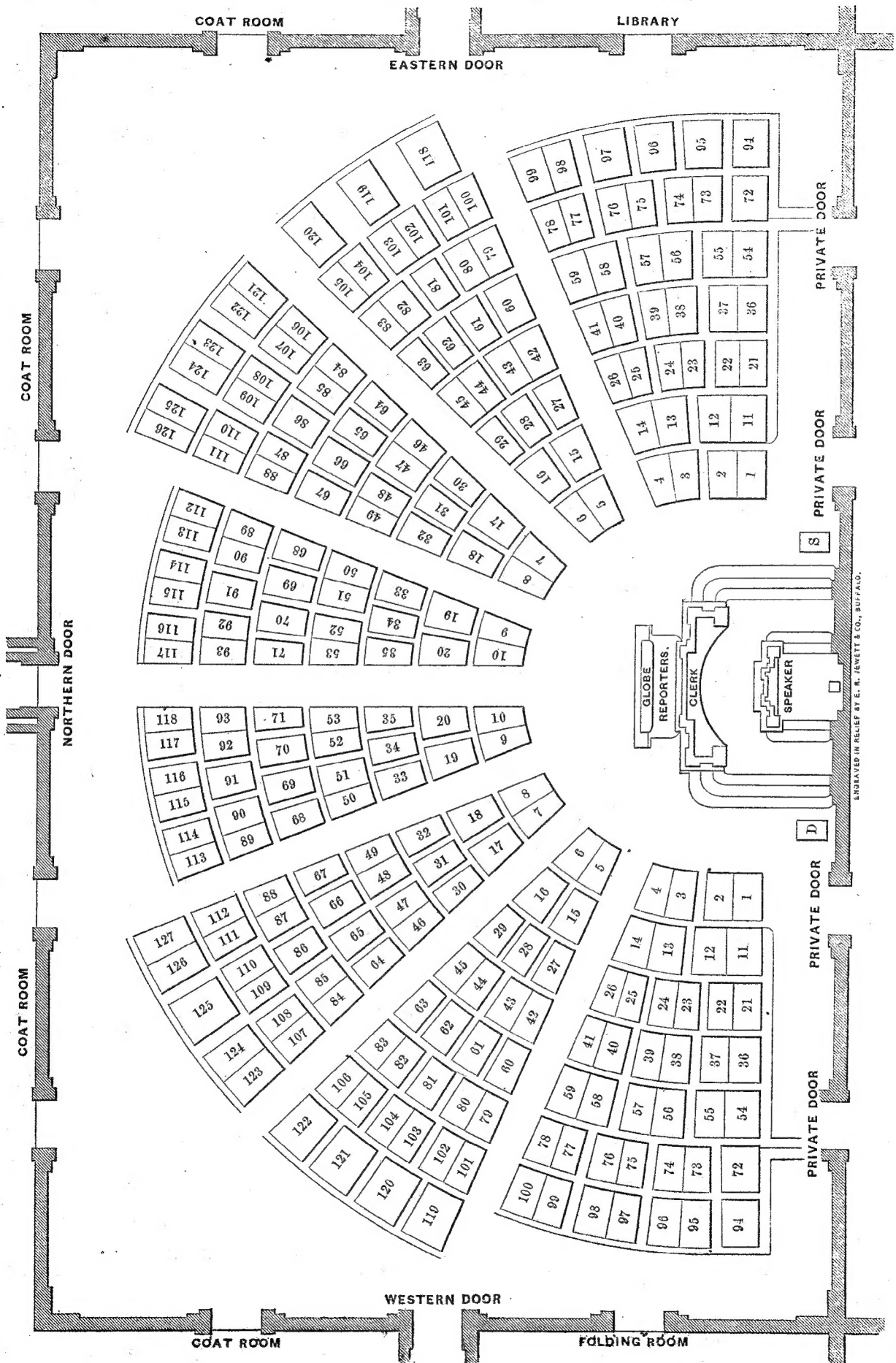
Name.	Post Office Address.	No. of Seat.	Name.	Post Office Address.	No. of Seat.
Anthony, Henry B.....	Providence, Rhode Island.....	6	Kirkwood, Samuel J.....	Iowa City, Iowa.....	38
Brown, B. Gratz.....	St. Louis, Missouri.....	7	Lane, Henry S.....	Crawfordsville, Indiana.....	58
Buckalew, Charles R.....	Bloomsburg, Pennsylvania.....	26	McDougall, James A.....	San Francisco, California.....	13
Cattell, Alexander G.....	Camden, New Jersey.....	2	Morgan, Edwin D.....	New York city.....	53
Chandler, Zachariah.....	Detroit, Michigan.....	49	Morrill, Lot M.....	Augusta, Maine.....	10
Conness, John.....	Sacramento, California.....	4	Nesmith, James W.....	Salem, Oregon.....	61
Cowan, Edgar.....	Greensburg, Pennsylvania.....	55	Norton, Daniel S.....	Winona, Minnesota.....	12
Cragin, Aaron H.....	Lebanon, New Hampshire.....	47	Nye, James W.....	Carson City, Nevada.....	51
Creswell, John A. J.....	Elkton, Maryland.....	5	Patterson, David T.....	Greenville, Tennessee.....	66
Davis, Garrett.....	Paris, Kentucky.....	60	Poland, Luke P.....	St. Johnsbury, Vermont.....	37
Dixon, James.....	Hartford, Connecticut.....	31	Pomeroy, Samuel C.....	Atchison, Kansas.....	14
Doolittle, James R.....	Racine, Wisconsin.....	56	Ramsey, Alexander.....	St. Paul, Minnesota.....	48
Edmunds, George F.....	Burlington, Vermont.....	39	Riddle, George Read.....	Wilmington, Delaware.....	64
Fessenden, William Pitt.....	Portland, Maine.....	32	Ross, Edmund G.....	Lawrence, Kansas.....	27
Fogg, George G.....	Concord, New Hampshire.....	40	Saulsbury, Willard.....	Georgetown, Delaware.....	63
Foster, La Fayette S.....	Norwich, Connecticut.....	45	Sherman, John.....	Mansfield, Ohio.....	29
Fowler, Joseph S.....	Nashville, Tennessee.....	46	Sprague, William.....	Providence, Rhode Island.....	28
Frelinghuysen, Frederick T.....	Newark, New Jersey.....	3	Stewart, William M.....	Virginia City, Nevada.....	59
Grimes, James W.....	Burlington, Iowa.....	8	Sunmer, Charles.....	Boston, Massachusetts.....	52
Guthrie, James.....	Louisville, Kentucky.....	62	Trumbull, Lyman.....	Chicago, Illinois.....	36
Harris, Ira.....	Albany, New York.....	57	Van Winkle, Peter G.....	Parkersburg, West Virginia.....	24
Henderson, John B.....	Louisiana, Missouri.....	30	Wade, Benjamin F.....	Jefferson, Ohio.....	33
Hendricks, Thomas A.....	Indianapolis, Indiana.....	25	Willey, Waitman T.....	Morgantown, West Virginia.....	23
Howard, Jacob M.....	Detroit, Michigan.....	50	Williams, George H.....	Portland, Oregon.....	9
Howe, Timothy O.....	Green Bay, Wisconsin.....	35	Wilson, Henry.....	Natick, Massachusetts.....	34
Johnson, Reverdy.....	Baltimore, Maryland.....	11	Yates, Richard.....	Jacksonville, Illinois.....	54

## Officers of the Senate.

John W. Forney.....	Secretary of the Senate.....	Philadelphia, Pennsylvania.
William J. McDonald.....	Chief Clerk.....	Washington city.
D. W. C. Clarke.....	Executive Clerk.....	Burlington, Vermont.
George T. Brown.....	Sergeant-at-Arms.....	Alton, Illinois.
Isaac Bassett.....	Doorkeeper.....	Washington city.







ENGRAVED IN RELIEF BY E. W. JENNETT & CO., BUFFALO.

# Name and Post Office Address

OF THE

## Members of the House of Representatives, Second Session Thirty-Ninth Congress.

Name.	Post Office Address.	Occupation.	Seat.
Alley, John B.....	Lynn, Massachusetts.....	Merchant.....	111 west.
Allison, William B.....	Dubuque, Iowa.....	Lawyer.....	66 west.
Ames, Oakes.....	North Easton, Massachusetts.....	Manufacturer.....	7 east.
Ancona, Sydenham E.....	Reading, Pennsylvania.....	Bookkeeper and Accountant.....	15 east.
Anderson, George W.....	Louisiana, Missouri.....	Lawyer.....	67 east.
Arnell, Samuel M.....	Columbia, Tennessee.....	Lawyer.....	72 west.
Ashley, Delos R.....	Austin, Nevada.....	Lawyer.....	82 east.
Ashley, James M.....	Toledo, Ohio.....	Lawyer.....	16 west.
Baker, Jehu.....	Belleville, Illinois.....	Lawyer.....	35 west.
Baldwin, John D.....	Worcester, Massachusetts.....	Editor.....	43 east.
Banks, Nathaniel P.....	Waltham, Massachusetts.....	Lawyer.....	14 west.
Barker, Abraham A.....	Ebensburg, Pennsylvania.....	Merchant.....	62 west.
Baxter, Portus.....	Derby Line, Vermont.....	Merchant and Farmer.....	19 west.
Beamman, Fernando C.....	Adrian, Michigan.....	Lawyer.....	4 west.
Benjamin, John F.....	Shelbyville, Missouri.....	Lawyer.....	87 west.
Bergen, Teunis G.....	New Utrecht, New York.....	Surveyor.....	60 east.
Bidwell, John.....	Chico, California.....	Farmer.....	13 west.
Bingham, John A.....	Cadiz, Ohio.....	Lawyer.....	25 east.
Blaine, James G.....	Augusta, Maine.....	Editor.....	49 west.
Blow, Henry T.....	Carondelet, Missouri.....	Merchant.....	85 west.
Boutwell, George S.....	Groton, Massachusetts.....	Lawyer.....	110 west.
Boyer, Benjamin M.....	Norristown, Pennsylvania.....	Lawyer.....	16 east.
Brandegge, Augustus.....	New London, Connecticut.....	Lawyer.....	5 west.
Bromwell, Henry P. H.....	Charleston, Illinois.....	Lawyer.....	52 east.
Broomall, John M.....	Media, Pennsylvania.....	Lawyer.....	113 west.
Buckland, Ralph P.....	Fremont, Ohio.....	Lawyer.....	111 east.
Bundy, Hezekiah S.....	Reed's Mills, Ohio.....	Manufacturer.....	32 west.
Campbell, William B.....	Lebanon, Tennessee.....	Lawyer.....	107 east.
Chanler, John W.....	New York, New York.....	Lawyer.....	44 east.
Clarke, Reader W.....	Batavia, Ohio.....	Lawyer.....	90 east.
Clarke, Sidney.....	Lawrence, Kansas.....	Editor.....	77 west.
Cobb, Amasa.....	Mineral Point, Wisconsin.....	Lawyer.....	24 west.
Colfax, Schuyler.....	South Bend, Indiana.....	Ex-editor.....	Speaker.
Conkling, Roscoe.....	Utica, New York.....	Lawyer.....	40 west.
Cook, Barton C.....	Ottawa, Illinois.....	Lawyer.....	10 west.
Cooper, Edmund.....	Shelbyville, Tennessee.....	Lawyer.....	106 east.
Cullom, Shelby M.....	Springfield, Illinois.....	Lawyer.....	41 west.
Culver, Charles V.....	Franklin, Pennsylvania.....	Lawyer.....	105 west.
Darling, William A.....	New York, New York.....	Banker.....	105 west.
Davis, Thomas T.....	Syracuse, New York.....	Railroad President.....	107 west.
Dawes, Henry L.....	Pittsfield, Massachusetts.....	Lawyer.....	53 west.
Dawson, John L.....	New Geneva, Pennsylvania.....	Lawyer.....	61 west.
Defrees, Joseph H.....	Goshen, Indiana.....	Lawyer.....	13 east.
Delano, Columbus.....	Mount Vernon, Ohio.....	Merchant.....	20 west.
Deming, Henry C.....	Hartford, Connecticut.....	Farmer.....	91 east.
Denison, Charles.....	Wilkesbarre, Pennsylvania.....	Lawyer.....	2 east.
Dixon, Nathan F.....	Westerly, Rhode Island.....	Lawyer.....	63 east.
Dodge, William E.....	New York, New York.....	Lawyer.....	28 east.
Donnelly, Ignatius.....	Hastings, Minnesota.....	Lawyer.....	116 west.
Driggs, John F.....	East Saginaw, Michigan.....	General Business.....	89 east.
Dumont, Ebenezer.....	Indianapolis, Indiana.....	Lawyer.....	114 west.
Eckley, Ephraim R.....	Carrollton, Ohio.....	Lawyer.....	76 west.
Eggleston, Benjamin.....	Cincinnati, Ohio.....	Lawyer.....	9 east.
Eldridge, Charles A.....	Fond du Lac, Wisconsin.....	Merchant.....	71 east.
Eliot, Thomas D.....	New Bedford, Massachusetts.....	Lawyer.....	84 east.
Farnsworth, John F.....	St. Charles, Illinois.....	Lawyer.....	104 west.
Farquhar, John H.....	Brookville, Indiana.....	Lawyer.....	29 west.
Ferry, Thomas W.....	Grand Haven, Michigan.....	Lumberman and Banker.....	26 west.
			27 west.



LIST OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Finck, William E.	Somerset, Ohio.	Lawyer.	62 east.
Garfield, James A.	Hiram, Ohio.	Lawyer.	65 west.
Glossbrenner, Adam J.	York, Pennsylvania.	Editor and Printer.	14 east.
Goodyear, Charles.	Scotcharie, New York.	Banker.	80 east.
Grinnell, Josiah B.	Grinnell, Iowa.	Farmer.	47 west.
Griswold, John A.	Troy, New York.	Manufacturer.	51 east.
Hale, Robert S.	Elizabethtown, New York.	Lawyer.	50 west.
Harding, Aaron.	Greensburg, Kentucky.	Lawyer.	66 east.
Harding, Abner C.	Monmouth, Illinois.	General Business.	12 west.
Harris, Benjamin G.	Leonardtown, Maryland.	Lawyer and Farmer.	78 east.
Hart, Roswell.	Rochester, New York.	Merchant.	99 west.
Hawkins, Isaac R.	Huntingdon, Tennessee.	Lawyer.	54 west.
Hayes, Rutherford B.	Cincinnati, Ohio.	Lawyer.	69 east.
Henderson, James H. D.	Eugene City, Oregon.	Farmer.	44 west.
Higby, William.	Calaveras, California.	Lawyer.	34 west.
Hill, Ralph.	Columbus, Indiana.	Lawyer.	2 west.
Hise, Elijah.	—, Kentucky.	Lawyer.	12 east.
Hogan, John.	St. Louis, Missouri.	Merchant.	86 east.
Holmes, Sidney T.	Morrisville, New York.	Lawyer.	68 west.
Hooper, Samuel.	Boston, Massachusetts.	Merchant.	5 east.
Hotchkiss, Giles W.	Binghamton, New York.	Lawyer.	59 west.
Hubbard, Asahel W.	Sioux City, Iowa.	Lawyer.	23 east.
Hubbard, Chester D.	Wheeling, West Virginia.	Banker.	32 east.
Hubbard, Demas, jr.	Smyrna, New York.	Lawyer.	58 west.
Hubbard, John H.	Litchfield, Connecticut.	Lawyer.	82 west.
Hubbell, Edwin N.	Coxsackie, New York.	Manufacturer and Farmer.	81 east.
Hubbell, James R.	Delaware, Ohio.	Lawyer.	110 east.
Hulburd, Calvin T.	Brashear Falls, New York.	Lawyer.	106 west.
Humphrey, James M.	Buffalo, New York.	Lawyer.	45 east.
Hunter, John W.	Brooklyn, New York.	Banker.	24 east.
Ingersoll, Ebon C.	Peoria, Illinois.	Lawyer.	33 west.
Jenckes, Thomas A.	Providence, Rhode Island.	Lawyer.	6 east.
Johnson, Philip (deceased).	Easton, Pennsylvania.	Lawyer.	29 east.
Jones, Morgan.	New York, New York.	Plumber.	40 east.
Julian, George W.	Centreville, Indiana.	Lawyer.	78 west.
Kasson, John A.	Des Moines, Iowa.	Lawyer.	84 west.
Kelley, William D.	Philadelphia, Pennsylvania.	Lawyer.	93 west.
Kelso, John R.	Springfield, Missouri.	Teacher.	117 east.
Kerr, Michael C.	New Albany, Indiana.	Lawyer.	64 east.
Ketcham, John H.	Dover, New York.	Farmer.	81 west.
Koontz, William H.	Somerset, Pennsylvania.	Lawyer.	55 west.
Kaykendall, Andrew J.	Vienna, Illinois.	Lawyer.	6 west.
Lafin, Addison H.	Herkimer, New York.	Paper Manufacturer.	86 west.
Latham, George R.	Buckhannon, West Virginia.	Lawyer.	31 east.
Lawrence, George V.	Monongahela City, Pennsylvania.	Farmer.	60 west.
Lawrence, William.	Bellefontaine, Ohio.	Lawyer.	30 west.
Le Blond, Francis C.	Celina, Ohio.	Lawyer.	30 east.
Leftwich, John W.	Memphis, Tennessee.	Merchant.	87 east.
Loan, Benjamin F.	St. Joseph, Missouri.	Lawyer.	93 east.
Longyear, John W.	Lansing, Michigan.	Lawyer.	89 west.
Lynch, John.	Portland, Maine.	Merchant.	22 west.
Marshall, Samuel S.	McLeansboro, Illinois.	Lawyer.	47 east.
Marston, Gilman.	Exeter, New Hampshire.	Lawyer.	20 west.
Marvin, James M.	Saratoga Springs, New York.	General Business.	71 west.
Maynard, Horace.	Knoxville, Tennessee.	Lawyer.	73 west.
McClurg, Joseph W.	Linn Creek, Missouri.	Merchant.	92 east.
McCullough, Hiram.	Elkton, Maryland.	Lawyer.	42 east.
McIndoe, Walter D.	Warsaw, Wisconsin.	Lumberman.	39 west.
McKee, Samuel.	Mount Sterling, Kentucky.	Lawyer.	35 east.
McRuer, Donald C.	San Francisco, California.	Merchant.	102 west.
Mercur, Ulysses.	Towanda, Pennsylvania.	Lawyer.	70 west.
Miller, George F.	Louisburg, Pennsylvania.	Lawyer.	43 west.
Moorhead, James K.	Pittsburg, Pennsylvania.	Manufacturer.	42 west.
Morrill, Justin S.	Strafford, Vermont.	Merchant.	64 west.
Morris, Daniel.	Penn Yan, New York.	Lawyer.	101 west.
Moulton, Samuel W.	Shelbyville, Illinois.	Lawyer.	108 west.
Myers, Leonard.	Philadelphia, Pennsylvania.	Lawyer.	90 west.
Newell, William A.	Allentown, New Jersey.	Physician.	113 west.
Niblack, William E.	Vincennes, Indiana.	Lawyer.	46 east.
Nicholson, John A.	Dover, Delaware.	Lawyer.	27 east.
Noell, Thomas E.	Perryville, Missouri.	Lawyer.	85 east.
O'Neill, Charles.	Philadelphia, Pennsylvania.	Lawyer.	91 west.
Orth, Godlove S.	La Fayette, Indiana.	Lawyer.	9 west.
Paine, Halbert E.	Milwaukee, Wisconsin.	Lawyer.	37 west.
Patterson, James W.	Hanover, New Hampshire.	College Professor.	67 west.
Perham, Sidney.	Paris, Maine.	Farmer.	18 west.
Phelps, Charles E.	Baltimore, Maryland.	Lawyer.	34 east.
Pike, Frederick A.	Calais, Maine.	Lawyer.	83 west.
Platts, Tobias A.	Pomeroy, Ohio.	Lawyer.	8 west.
Pomeroy, Theodore M.	Auburn, New York.	Lawyer.	103 west.
Price, Hiram.	Davenport, Iowa.	Banker.	7 west.
Radford, William.	Yonkers, New York.	Retired Merchant.	41 east.
Randall, Samuel J.	Philadelphia, Pennsylvania.	Merchant.	59 east.
Randall, William H.	London, Kentucky.	Lawyer.	19 east.
Raymond, Henry J.	New York, New York.	Editor.	63 west.
Rice, Alexander H.	Boston, Massachusetts.	Merchant.	80 west.

LIST OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES—Continued.

Name.	Post Office Address.	Occupation.	Seat.
Rice, John H.....	Foxcroft, Maine.....	Lawyer.....	15 west.
Ritter, Burwell C.....	Hopkinsville, Kentucky.....	Farmer.....	65 east.
Rogers, Andrew J.....	Newton, New Jersey.....	Lawyer.....	53 east.
Rollins, Edward H.....	Concord, New Hampshire.....	Druggist.....	31 west.
Ross, Lewis W.....	Lewistown, Illinois.....	Lawyer.....	49 east.
Rousseau, Lovell H.....	Louisville, Kentucky.....	Lawyer.....	105 east.
Sawyer, Philetus.....	Oshkosh, Wisconsin.....	Lumberman.....	23 west.
Schenck, Robert C.....	Dayton, Ohio.....	Lawyer.....	48 west.
Scofield, Glenni W.....	Warren, Pennsylvania.....	Lawyer.....	52 west.
Shanklin, George S.....	Nicholasville, Kentucky.....	Lawyer.....	88 east.
Sbellabarger, Samuel.....	Springfield, Ohio.....	Lawyer.....	57 west.
Sitgreaves, Charles.....	Philipsburg, New Jersey.....	Lawyer.....	79 east.
Sloan, Ithamar C.....	Janesville, Wisconsin.....	Lawyer.....	38 west.
Spalding, Rufus P.....	Cleveland, Ohio.....	Lawyer.....	8 east.
Starr, John F.....	Camden, New Jersey.....	Manufacturer.....	
Stevens, Thaddeus.....	Lancaster, Pennsylvania.....	Lawyer and Manufacturer.....	46 west.
Stilwell, Thomas N.....	Anderson, Indiana.....	Banker.....	3 west.
Stokes, William B.....	Liberty, Tennessee.....	Farmer.....	74 west.
Strouse, Myer.....	Pottsville, Pennsylvania.....	Lawyer.....	83 east.
Taber, Stephen.....	Roslyn, New York.....	Farmer.....	61 east.
Taylor, Nathaniel G.....	Elizabethton, Tennessee.....	Agriculturist.....	104 east.
Taylor, Nelson.....	New York, New York.....	Farmer.....	17 east.
Thayer, M. Russell.....	Philadelphia, Pennsylvania.....	Lawyer.....	10 east.
Thomas, Francis.....	Frankville, Maryland.....	Lawyer.....	11 east.
Thomas, John L., jr.....	Baltimore, Maryland.....	Lawyer.....	33 east.
Thornton, Anthony.....	Shelbyville, Illinois.....	Lawyer.....	48 east.
Trimble, Lawrence S.....	Paducah, Kentucky.....	Lawyer.....	50 east.
Trowbridge, Rowland E.....	Birmingham, Michigan.....	Farmer.....	25 west.
Upson, Charles.....	Coldwater, Michigan.....	Lawyer.....	79 west.
Van Aernam, Henry.....	Franklinville, New York.....	Physician.....	98 west.
Van Horn, Burt.....	New Fane, New York.....	Manufacturer and Farmer.....	100 west.
Van Horn, Robert T.....	Kansas City, Missouri.....	Editor and Printer.....	89 east.
Ward, Andrew H.....	Cynthiana, Kentucky.....	Lawyer.....	108 east.
Ward, Hamilton.....	Belmont, New York.....	Lawyer.....	18 east.
Warner, Samuel L.....	Middletown, Connecticut.....	Lawyer.....	4 east.
Washburne, Elihu B.....	Galena, Illinois.....	Lawyer.....	45 west.
Washburn, Henry D.....	Clinton, Indiana.....	Lawyer.....	1 west.
Washburn, William B.....	Greenfield, Massachusetts.....	Manufacturer.....	23 west.
Welker, Martin.....	Wooster, Ohio.....	Lawyer.....	70 east.
Wentworth, John.....	Chicago, Illinois.....	Farmer.....	69 west.
Whaley, Kellian V.....	Point Pleasant, West Virginia.....	Merchant.....	68 east.
Williams, Thomas.....	Pittsburg, Pennsylvania.....	Lawyer.....	88 west.
Wilson, James F.....	Fairfield, Iowa.....	Lawyer.....	109 west.
Wilson, Stephen F.....	Wellsboro, Pennsylvania.....	Lawyer.....	92 west.
Windom, William.....	Winona, Minnesota.....	Lawyer.....	16 west.
Winfield, Charles H.....	Goshen, New York.....	Lawyer.....	26 east.
Woodbridge, Frederick E.....	Vergennes, Vermont.....	Lawyer.....	51 west.
Wright, Edwin R. V.....	Hudson City, New Jersey.....	Lawyer.....	3 east.



# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF

THE SECOND SESSION

OF

THE THIRTY-NINTH CONGRESS.

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BY F. & J. RIVES.

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CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1867.



# THE CONGRESSIONAL GLOBE.

## THIRTY-NINTH CONGRESS. SECOND SESSION.

### IN SENATE.

MONDAY, December 3, 1866.

The Senate commenced the second session of the Thirty-Ninth Congress this day, pursuant to the Constitution.

#### SENATORS PRESENT.

The following Senators were present. From the State of

*Maine*—Hon. William Pitt Fessenden and Hon. Lot M. Morrill.

*New Hampshire*—Hon. Aaron H. Cragin.

*Massachusetts*—Hon. Charles Sumner and Hon. Henry Wilson.

*Rhode Island*—Hon. Henry B. Anthony.

*Connecticut*—Hon. La Fayette S. Foster and Hon. James Dixon.

*New York*—Hon. Ira Harris and Hon. Edwin D. Morgan.

*Delaware*—Hon. Willard Saulsbury.

*Maryland*—Hon. Reverdy Johnson and Hon. J. A. J. Creswell.

*Kentucky*—Hon. Garrett Davis.

*Ohio*—Hon. Benjamin F. Wade and Hon. John Sherman.

*Indiana*—Hon. Henry S. Lane.

*Illinois*—Hon. Richard Yates and Hon. Lyman Trumbull.

*Michigan*—Hon. Jacob M. Howard and Hon. Zachariah Chandler.

*Wisconsin*—Hon. Timothy O. Howe and Hon. James R. Doolittle.

*Iowa*—Hon. James W. Grimes and Hon. Samuel J. Kirkwood.

*Minnesota*—Hon. Alexander Ramsey and Hon. Daniel S. Norton.

*California*—Hon. James A. McDougall and Hon. John Conness.

*Oregon*—Hon. James W. Nesmith and Hon. George H. Williams.

*Kansas*—Hon. Samuel C. Pomeroy and Hon. Edmund G. Ross.

*West Virginia*—Hon. P. G. Van Winkle and Hon. Waiman T. Willey.

*Tennessee*—Hon. David T. Patterson and Hon. Joseph S. Fowler.

#### SENATORS ABSENT.

The following Senators were absent: Hon. William Sprague, of Rhode Island; Hon. Edgar Cowan, of Pennsylvania; Hon. C. R. Buckalew, of Pennsylvania; Hon. George Read Riddle, of Delaware; Hon. James Guthrie, of Kentucky; Hon. Thomas A. Hendricks, of Indiana; Hon. B. Gratz Brown, of Missouri; Hon. John B. Henderson, of Missouri; Hon. William M. Stewart, of Nevada; Hon. James W. Nye, of Nevada.

Hon. LA FAYETTES FOSTER, President *pro tempore*, a quorum of Senators being present.

ent, called the Senate to order at twelve o'clock m.

#### PRAYER.

The Chaplain of the Senate, Rev. E. H. GRAY, D. D., offered the following prayer:

Holy, holy, holy Lord God of Hosts! Let the whole earth be full of Thy glory. As sovereign Thou reignest in heaven and rulest upon the earth. Thou holdest the seas in the hollow of Thy hand and takest up the isles as a very little thing. Thou hearest the voice of the feeblest weeper and the shouting of the multitudinous nations. Thou dost mark the footsteps of the obscurest traveler and the acts of those who are in the highest trust and power of the nation. O God of the nation, we pray that Thou wilt spread over this Capitol the wing of Thy protecting providence. We thank Thee for the opening of Congress, that the assembled wisdom of the land has again convened in this high conclave of the nation to deliberate upon interests to affect the welfare of thirty million people. Oh, grant that wisdom and grace and strength may be imparted to Thy servants, the Senators and to the Representatives of Congress, that all the words they utter, and the enactments that go forth from this high place of power, may be approved of Heaven. Let Thy blessing rest, we pray Thee, upon all Thy servants, and grant that life and health may be continued to them, and that death shall not be permitted to invade this legislative body. We pray that Thou wilt bless the President of the United States and make him faithful to execute the high trusts confided to him. Bless the members of the Cabinet, and may they be gifted, highly gifted, with wisdom and foresight. Bless the Army and Navy of the United States, and let all our defenders have courage and patience and endurance. Bless the judges in our land. May they deal justly and love mercy. Bless the four millions of the freedmen in this country, and prepare them for the rights of manhood and the privileges of citizenship. Bless all the people and have their interests in Thy safe care and keeping; and may all the States of this great Union be prepared to dwell together in unity and concord, and may the God of peace overshadow and bless and protect and save us now and evermore. Amen.

#### CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. LUKE P. POLAND, elected a Senator by the Legislature of the State of Vermont, to fill the vacancy occasioned by the death of Hon. Jacob Collamer, for the term ending March 3, 1867.

The credentials were read, and the oaths prescribed by law were administered to Mr. POLAND, and he took his seat in the Senate.

The PRESIDENT *pro tempore* presented the credentials of Hon. GEORGE F. EDMUNDS, elected a Senator by the Legislature of the State of Vermont, to fill the vacancy occa-

sioned by the death of Hon. Solomon Foot, for the term ending March 3, 1869.

The credentials were read, and the oaths prescribed by law were administered to Mr. EDMUNDS, and he took his seat in the Senate.

Mr. FESSENDEN. I rise, Mr. President, to present a commission issued by the Governor of the State of New Jersey to ALEXANDER G. CATTELL, as a Senator to represent that State in the Congress of the United States, to fill a vacancy existing in the representation of the State of New Jersey for and during the term ending the 4th day of March, A. D. 1871. I understand that a certificate of the election under the statute has been filed with the President of the Senate.

I desire also to present the credentials of Hon. FREDERICK T. FRELINGHUYSEN, appointed by the Governor of New Jersey to fill the vacancy occasioned by the death of Hon. William Wright, late a Senator from that State.

The PRESIDENT *pro tempore* presented the credentials of Hon. A. G. CATTELL, elected a Senator by the Legislature of the State of New Jersey for the residue of the term of six years, commencing on the 4th of March, 1865.

The credentials were read, and the oaths prescribed by law were administered to Mr. CATTELL, and he took his seat in the Senate.

The PRESIDENT *pro tempore* presented the credentials of Hon. FREDERICK T. FRELINGHUYSEN, appointed a Senator of the United States by the Governor of the State of New Jersey, to fill, until the next session of the Legislature of that State, the vacancy occasioned by the death of Hon. William Wright.

The credentials were read, and the oaths prescribed by law were administered to Mr. FRELINGHUYSEN, and he took his seat in the Senate.

Mr. CRAGIN presented the credentials of Hon. GEORGE G. FOGG, appointed a Senator of the United States by the Governor of the State of New Hampshire, to fill, until the next session of the Legislature of that State, the vacancy occasioned by the resignation of Hon. Daniel Clark.

The credentials were read, and the oaths prescribed by law were administered to Mr. FOGG, and he took his seat in the Senate.

Mr. JOHNSON. Mr. President, I am requested to present the credentials of Hon. David G. Burnet, elected a Senator from the State of Texas to fill the vacancy in the senatorial representation from that State which expires on the 3d day of March, 1871. I am also requested to present the credentials of Hon. O. M. Roberts, elected a Senator from the same State to fill the vacancy in the term expiring on the 3d day of March, 1869. I move that they lie upon the table.

The motion was agreed to.

#### NOTIFICATION TO THE HOUSE.

On motion of Mr. ANTHONY, it was Ordered, That the Secretary inform the House of

Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

#### HOUSE OF MEETING.

On motion of Mr. ANTHONY, it was

*Ordered*, That the hour of the daily meeting of the Senate be twelve o'clock, m., until otherwise ordered.

#### NOTIFICATION TO THE PRESIDENT.

On motion of Mr. ANTHONY, it was

*Resolved*, That a committee, consisting of two members, be appointed to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee; and Messrs. ANTHONY and NESMITH were appointed.

#### SUFFRAGE IN THE DISTRICT.

Mr. SUMNER. Is there any business before the Senate now?

The PRESIDENT *pro tempore*. There is none.

Mr. SUMNER. If not, and if it is in order, I will move that the Senate proceed to the consideration of Senate bill No. 1, entitled "A bill to regulate the elective franchise in the District of Columbia."

The PRESIDENT *pro tempore* put the question on the motion, and declared that the yeas appeared to have it.

Mr. SUMNER called for a division.

The PRESIDENT *pro tempore*. Those in favor—

Mr. SUMNER. Before the motion is put I wish to call the attention of the Senate to the condition of that bill. It will be remembered that it was introduced on the first day of the last session; that it was the subject of repeated discussions in this Chamber; that it was more than once referred to the Committee on the District of Columbia, by whose chairman it was reported back to the Senate. At several different stages of the discussion it was supposed that we were about to reach a final vote. The country expected that vote. It was not had. It ought to have been had. And now, sir, I think that the best way is for the Senate in this very first hour of its coming together to put that bill on its passage. It has been thoroughly debated. Every Senator here has made up his mind on the question. There is nothing more to be said on either side. So far as I am concerned, I am perfectly willing that the vote shall be taken without one further word of discussion; but I do think that the Senate ought not to allow the bill to be postponed. We ought to seize this first occasion to put the bill on its passage. The country expects it; the country will rejoice and be grateful if you will signalize this first day of your coming together by this beautiful and generous act.

Mr. McDUGALL. I should like to inquire of the Senator from Massachusetts whether he desires to force a discussion on that measure to-day. It is, of course, a very important one, and he is aware that there are differences of opinion upon it. I differ with him much. That bill cannot be passed without discussion, and it should be a full discussion, for it involves principles, and I ask the Senator from Massachusetts not to urge it immediately. Let him set a time for its consideration—any time when those members of the Senate who desire to debate it will be prepared to do so—and not press it before the morning hour has expired of the first day of the session of the Senate. I object to its consideration now, and I ask the Senator from Massachusetts to name a day for that purpose. [After a pause.] He insists upon it now. Well, then, it will have to be discussed. I would rather that so important a question should be postponed until some day when we come here prepared for business, and not when we come here for the purpose of settling the preliminaries of business.

Mr. MORRILL. I agree with all that has been said by the honorable Senator from Massachusetts about the propriety of an early consideration of this measure. It is true, that

having been charged by the committee with presenting the measure to the consideration of the Senate at the last session, I did call the attention of this body on more than one occasion to the importance of its consideration, but was not able to secure the final action of the body; and in the continuance of the duty with which I felt charged by the committee, it was my purpose to move for the action of the Senate at the earliest moment when I supposed it would be in order to do so. I was under the impression that the unfinished business of the two Houses must lie over under the rule for the first six days of the session—in other words, it would not be in order to take this measure up until the expiration of six days. I do not know that the rule is susceptible of that construction, but under that construction it was my purpose to do no more to-day than to give notice of an intention to bring this bill to the consideration of the Senate at the earliest possible moment when it could receive its attention, but I should be very glad, if it is within the reach of the Senate, to consider it now, and very much obliged to my honorable friend from Massachusetts for relieving me from any further duty in regard to the bill.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. SAULSBURY. Mr. President, according to the Constitution of the United States, I believe—

Mr. JOHNSON. I understand the Senator from California to object to the consideration of the bill now. Does not a single objection carry it over?

The PRESIDENT *pro tempore*. The Chair thinks not.

Mr. McDUGALL. It is a violation of the rule to take it up now.

Mr. SAULSBURY. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Delaware has the floor. The Chair will state that the only question suggested by the Senator from Maine, as a question of order, in the opinion of the Chair, must come under the 21st joint rule, which is, that—

"After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

It does not, in the opinion of the Chair, exclude the Senate from considering bills prior to the six days. It requires that after the six days they "shall be resumed." If the opinion of the Chair is wrong, he will be subject, of course, to correction. The Chair, however, is referred to a previous decision at a former session. A motion was made to take up a bill under like circumstances:

"Mr. PEARCE raised a question of order whether the motion was in order under the 21st joint rule, and the Vice President decided that the motion was not in order."—*Senate Journal*, Thirty-Fifth Congress, second session, page 39.

In view of that decision the Chair will reverse its decision, and decide that this motion, if the question of order is made, is not now in order, on the authority of the precedent formerly set.

#### INTRODUCTION OF BILLS.

Mr. SHERMAN. Is it in order now to introduce a bill with the consent of the Senate?

The PRESIDENT *pro tempore*. The Chair thinks it is, if there be no objection. The title of the bill will be read for information.

There being no objection, leave was granted to introduce a bill (S. No. 452) to prevent and punish the illegal appointment of officers of the United States; and it was read twice by its title.

Mr. SHERMAN. I ask that it be referred to the Judiciary Committee.

Mr. GRIMES. The committees have not been appointed.

Mr. SHERMAN. I thought they were continued; if not, let it be laid on the table.

The bill was laid on the table.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 453) to regulate the tenure of offices; which was read twice by its title, laid on the table, and ordered to be printed.

#### ORGANIZATION OF THE HOUSE.

EDWARD McPHERSON, Esq., Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. PRESIDENT: I have been directed to inform the Senate that a quorum of the House of Representatives has assembled, and that the House is now ready to proceed to business.

The House has passed a resolution directing the appointment of a committee on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make; and has appointed Mr. E. B. WASHBURN of Illinois, Mr. J. S. MORRILL of Vermont, and Mr. W. E. FINCK of Ohio, the committee on the part of the House.

#### NOTICE OF A BILL.

Mr. MORGAN gave notice of his intention to ask leave to introduce a bill in relation to the employment of apprentices in the commercial marine of the United States.

#### FRENCH TROOPS IN MEXICO.

Mr. CHANDLER. I ask leave to offer the following resolution:

*Resolved*, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence or other information in his possession in regard to the following points:

1. Whether the French Emperor has complied with his announcement toward the United States to withdraw one third of the French troops in Mexico during the month of November last.

2. Whether any number of said French troops has been withdrawn in accordance with that announcement.

3. Whether, if, as it appears, no troops have been withdrawn, the French Emperor has offered any explanation or apology for his course, or whether he has proposed a different understanding by which the withdrawal will be delayed.

4. What action, if any, the Government has taken to see that understanding carried out.

Mr. SUMNER. Let that lie over until tomorrow.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

#### SUPERINTENDENT OF PRINTING.

Mr. LANE submitted the following resolution:

*Resolved*, That the Committee on Printing be directed to inquire into the expediency of providing by law for the election of Superintendent of Public Printing by a concurrent vote of both Houses of Congress, and to report by bill or otherwise.

The PRESIDENT *pro tempore*. The Chair will suggest that there is at present no committee to which the resolution can be referred.

Mr. LANE. Let the resolution lie on the table, to be referred when the committee shall have been appointed.

The PRESIDENT *pro tempore*. That course will be taken, no objection being made.

#### WIDOW OF HON. J. H. LANE.

Mr. POMEROY. I ask the consent of the Senate to introduce the following resolution:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay out of the compensation fund of the Senate, to Mrs. ——— Lane, widow of Hon. James H. Lane, deceased, late a Senator from the State of Kansas, the amount of compensation due the deceased at the time of his death.

I suppose this resolution had better lie on the table until the appointment of the Committee on Contingent Expenses.

The PRESIDENT *pro tempore*. The resolution will lie over, having received one reading to-day.

#### RECESS.

Mr. TRUMBULL, (at a quarter before one o'clock.) I move that the Senate take a recess until a quarter past one o'clock.

Several SENATORS. Let us adjourn.

Mr. TRUMBULL. No, we may get the message. I understand that our committee have gone to the President, and I think we ought to await their report before adjourning. It is possible we may have the message to-day. The motion was agreed to.

The PRESIDENT *pro tempore* resumed the chair at fifteen minutes past one o'clock p. m.



## REPORT OF COMMITTEE TO WAIT ON PRESIDENT.

Mr. ANTHONY. Mr. President, the joint committee appointed to inform the President of the United States that the two Houses of Congress were organized and prepared to receive any communication which he might be pleased to make to them, have performed the duty to which they were appointed, and the President replied that he would communicate to the two Houses immediately in writing.

## POWER OF AMNESTY AND PARDON.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced the passage by the House of a bill (H. R. No. 828) to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, in which the concurrence of the Senate was requested.

Mr. CHANDLER. I move, Mr. President, that the Senate proceed to the consideration of House bill No. 828.

Mr. SAULSBURY. I should like to know what that bill is.

The PRESIDENT *pro tempore*. The title of the bill will be read for information.

The SECRETARY. House bill No. 828 is a bill to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered the day on which it is received.

## THE PRESIDENT'S ANNUAL MESSAGE.

Mr. ROBERT JOHNSON, the Private Secretary of the President of the United States, appeared below the bar and said:

Mr. President: I am directed by the President of the United States to deliver to the Senate a message in writing.

The PRESIDENT *pro tempore* having received the message, handed it to the Secretary, and directed that it be read.

The Secretary of the Senate, JOHN W. FORNEY, Esq., read the President's annual message. [The message will be published in the Appendix.]

## PRINTING OF THE MESSAGE.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the message of the President of the United States, with the reports of the heads of Departments, and without the accompanying documents, be printed, and that three thousand additional copies be printed for the use of the Senate.

## FINANCE REPORT.

The PRESIDENT *pro tempore*. The Chair has received, and will take this opportunity to lay before the Senate, the annual report of the Secretary of the Treasury on the state of the finances.

Mr. FESSENDEN. I move that that report be laid upon the table until the committees are appointed, and be printed.

The PRESIDENT *pro tempore*. That order will be taken if there be no objection.

Mr. POMEROY. If there is no further business, I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 3, 1866.

In conformity to the Constitution, the Thirty-Ninth Congress of the United States of America convened this day in its second session. At twelve o'clock m., Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, a member from the State of Indiana, called the House to order.

Rev. C. B. BOYNTON, the Chaplain, offered up prayer in these words:

Almighty God, our heavenly Father, Creator and Preserver of all things, and Redeemer of men, as the only proper object of worship we approach Thee once more with our offerings of thanksgiving, praise, and prayer. Thanks be to God for this good hour, so full of the evidences of Thy remembering love and Thy protecting care. Through the months in which we have been separated from each other Thou hast watched over Thy servants, these public men; Thou hast guarded their lives, their health, and their interests well, watching them in all their course; Thou hast protected their families from sickness and disaster, and the death shadow has fallen during all these months only on one of the families connected with this Congress. We thank Thee, O God, that Thou hast preserved them all but that. We pray Thy blessing, and for the consolations that Thou alone canst give to the friends of him whom Thou hast taken away. We thank Thee that Thou didst nerve up these men so that they have done a duty while absent from this spot more important in its results, as we trust, than what they were able to do while here, even. We bless Thee that Thou gavest them the wisdom and the strength to enlighten the people on the great questions at issue before the country, and we thank Thee for that magnificent uprising of a free people, instructed as they were to make right decisions in reference to every great question presented, so that when their decisions were uttered we knew that it was not in vain to depend upon the intelligence of the American people. We thank Thee, O God, that Thou hast been pleased to bring these men together once more, to enter upon their duties thus strengthened and encouraged by all the experience that they have had of the overruling providence of God and of the supporting power of the people upon whom they depended.

And now, O God, grant them wisdom, we pray Thee, to enter upon the discharge of these new responsibilities with added strength and courage. May they have increased faith in God; faith in the righteous cause; faith in the power of truth; faith in the intelligence and right-mindedness of the people, and so may they go forward to perfect the work which they have so nobly begun. Grant, we pray Thee, that with a true Christian and manly courage they may perform all things that are demanded by the welfare and best interest of the country. Everything that justice mingled with mercy requires, may they be ready to perform. May they leave nothing to be done by those who shall come after them that they of right ought to perform; and as the result of their deliberations and decisions we pray that there may be no spot in this land that is not wholly consecrated to freedom—Christian freedom. May there be no foot of our territory which shall not be free, so that every man, wherever the flag floats, or ought to be unfurled, shall be secure in life, liberty, and property. We pray Thee, O God, that the end of what they do may be, that every man shall be invested anew with every civil and every political right that belongs to a proper manhood; and may there be no flinching or faltering in any one question connected with these great issues.

O God, bless all those who have any influence upon the destinies of the land. May all the high officers of the Government, the President included, be taught of God Himself, influenced by the Holy Ghost, so that if it be possible there may be harmony in all the operations of every department of the Government. We ask not for harmony that is the result of any compromise, of any yielding, of the right. May those who are right be stronger than ever in the right; and may peace be procured by the yielding of those who are wrong.

Will God bless the Senate of the United States also. And now we pray Thy blessing on us individually in every relation of life, and when at last all is over may we be able to step off into that unknown—unknown except to

faith—with a good hope in Jesus Christ; and we will give all the praise and the glory now and forever unto the triune God. Amen.

## CALL OF THE ROLL.

The Clerk then called the roll, and the following named Members and Delegates answered to their names:

## MAINE.

John Lynch, John H. Rice,  
Sidney Perham, Frederick A. Pike,  
James G. Blaine,

## NEW HAMPSHIRE.

Edward H. Rollins, James W. Patterson.

## VERMONT.

Justin S. Morrill, Portus Baxter.

## MASSACHUSETTS.

Thomas D. Eliot, George S. Boutwell,  
Oakes Ames, John D. Baldwin,  
Alexander H. Rice, William B. Washburn,  
Samuel Hooper, Henry L. Dawes,  
Nathaniel P. Banks,

## RHODE ISLAND.

Thomas A. Jenckes, Nathan F. Dixon.

## CONNECTICUT.

Samuel L. Warner, Augustus Brandegee,  
John H. Hubbard,

## NEW YORK.

Stephen Taber, Calvin T. Hulburd,  
Nelson Taylor, Addison H. Laffin,  
John W. Chanler, Sidney T. Holmes,  
William E. Dodge, Daniel Morris,  
William A. Darling, Roswell Hart,  
John H. Ketcham, Burt Van Horn,  
Robert S. Hale, Henry Van Aernam.

## NEW JERSEY.

John F. Starr, Charles Sitgreaves,  
William A. Newell, Andrew J. Rogers.

## PENNSYLVANIA.

Samuel J. Randall, Adam J. Glessbrenner,  
Charles O'Neill, William H. Koontz,  
Leonard Myers, Abraham A. Barker,  
William D. Kelley, Stephen F. Wilson,  
Benjamin M. Boyer, Glenni W. Scofield,  
John M. Broomall, John L. Dawson,  
Sydenham E. Ancona, James K. Moorhead,  
Thaddeus Stevens, Thomas Williams,  
Ulysses Mercar, George V. Lawrence,  
George F. Miller,

## DELAWARE.

John A. Nicholson.

## MARYLAND.

John L. Thomas, Francis Thomas,  
Charles E. Phelps,

## OHIO.

Benjamin Eggleston, James M. Ashley,  
Rutherford B. Hayes, Ezekiah S. Bundy,  
Robert C. Schenck, William E. Finck,  
William Lawrence, Martin Welker,  
Francis C. Le Blond, Tobias A. Plants,  
Reader W. Clarke, John A. Bingham,  
Samuel Shellabarger, Ephraim R. Eckley,  
James R. Hubbell, Rufus P. Spalding,  
Ralph P. Buckland, James A. Garfield.

## KENTUCKY.

Lawrence Trimble, George S. Shanklin,  
Burwell C. Ritter, William H. Randall,  
Aaron Harding, Samuel McKee.

## TENNESSEE.

Nathaniel J. Taylor, William B. Stokes,  
Horace Maynard, John W. Leftwich.

## INDIANA.

William E. Niblack, Henry D. Washburn,  
Michael C. Kerr, Godlove S. Orth,  
Ralph Hill, Schuyler Colfax,  
John H. Farquhar, Joseph H. Defrees,  
George W. Julian, Thomas N. Stilwell.

## ILLINOIS.

John Wentworth, Shelby M. Cullom,  
John H. Farnsworth, Samuel S. Marshall,  
Elihu B. Washburne, Jehu Baker,  
Abner C. Harding, Andrew J. Kuykendall,  
Ebon C. Ingersoll, Samuel W. Moulton,  
Henry P. H. Bromwell,

## MISSOURI.

Henry T. Blow, Robert T. Van Horn,  
Thomas E. Noel, Benjamin F. Loan,  
John R. Kelso, John F. Benjamin,  
Joseph W. McClurg,

## MICHIGAN.

Fernando C. Beaman, Rowland E. Trowbridge,  
Charles Upson, John F. Driggs,  
Thomas W. Ferry.



## IOWA.

Hiram Price, Josiah B. Grinnell,  
William B. Allison, John A. Kasson.

## WISCONSIN.

Halbert E. Paine, Philletus Sawyer,  
Amasa Cobb, Walter D. McIndoe.  
Charles A. Eldridge,

## CALIFORNIA.

Donald C. McRufer, John Bidwell.  
William Higby,

## MINNESOTA.

William Windom, Ignatius Donnelly,

## OREGON.

James H. D. Henderson.

## KANSAS.

Sidney Clarke.

## WEST VIRGINIA.

Chester D. Hubbard, Kellian V. Whaley.  
George R. Latham,

## NEW MEXICO.

J. Francisco Chaves, William H. Hooper.

## WASHINGTON.

Arthur A. Denny, Phineas W. Hitchcock.

## COLORADO.

Allon A. Bradford, Walter A. Burleigh.

## ARIZONA.

John N. Goodwin, E. D. Holbrook.

## MONTANA.

Samuel McLean.

The SPEAKER stated that one hundred and forty-six members (more than a quorum) had answered to their names, and that the House was ready to proceed to the transaction of business.

## QUALIFICATION OF MEMBERS.

Mr. MAYNARD. I rise to a question of privilege, and present the credentials of Messrs. WILLIAM B. CAMPBELL, SAMUEL M. ARNELL, and ISAAC R. HAWKINS, members-elect from the fifth, sixth, and seventh districts, respectively, of the State of Tennessee. Those gentlemen are now in attendance, ready to take the oath of office.

Mr. DAWES. The credentials of the members from Tennessee were at the last session referred to the Committee of Elections. I move that the credentials now presented be so referred, before the gentlemen are sworn in as members.

The SPEAKER. The Committee of Elections at the last session reported in favor of the admission of eight members from the State of Tennessee; and that report was accepted by the House. These are three gentlemen who, being absent, were not sworn in at that time. Does the gentleman from Massachusetts [Mr. DAWES] desire that their credentials shall be again referred?

Mr. DAWES. No, sir. The fact just mentioned had slipped my memory. I withdraw my motion.

Messrs. CAMPBELL, ARNELL, and HAWKINS appeared, and were duly qualified by taking the oaths prescribed by the Constitution and laws.

Mr. HARDING, of Kentucky. I rise to a question of privilege, and present the credentials of Mr. ELIJAH HISE, a member-elect from the third district of Kentucky, lately represented by Hon. Henry Grider, now deceased, and also the credentials of ANDREW H. WARD, member-elect from the sixth district of the same State, lately represented by Hon. Green Clay Smith, resigned.

Messrs. HISE and WARD appeared, and were duly qualified by taking the oaths prescribed by the Constitution and laws.

## COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. WASHBURNE, of Illinois. Mr. Speaker, a quorum having answered to their names I offer the following resolutions:

*Resolved*, That the Clerk inform the Senate that a quorum of the House of Representatives has assembled, and that the House is ready to proceed to business.

*Resolved*, That a committee of three be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States to inform him a quorum of the two Houses has assembled, and

Congress is ready to receive any communication he may be pleased to make.

The resolutions were adopted.

The SPEAKER appointed as such committee, Mr. WASHBURNE of Illinois, Mr. MORRILL, and Mr. FINCK.

## NEWS ASSOCIATION.

Mr. WASHBURNE, of Illinois. I ask now that the Speaker may assign to the United States and European News Association a seat for its reporter upon the floor of the House, at some point where it will be of no inconvenience to the members.

There was no objection, and it was agreed to accordingly.

Mr. STEVENS. I desire to know whether the motion just made embraces the editor of the London Times, who is now in town and ought to be invited to take a seat upon the floor.

Mr. WASHBURNE, of Illinois. My motion only applies to a permanent agent of the Associated Press. The gentleman from Pennsylvania can make his own motion.

Mr. STEVENS. I merely made the inquiry.

## CALL OF STATES FOR RESOLUTIONS.

The first business in order was a call of the States for resolutions.

## COMMITTEE ON FREEDMEN.

Mr. ELIOT submitted the following resolution; which was referred to the Committee on Rules:

*Resolved*, That a standing committee, called the Committee on Freedmen, consisting of nine members, be appointed by the Speaker at the beginning of each session of Congress, which committee shall have charge of all matters concerning freedmen which shall be committed to it by the House.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by its Secretary, Mr. JOHN W. FORNEY, informing the House that a quorum of the Senate had assembled and was now ready to proceed to business; and further, that it had appointed Mr. ANTHONY and Mr. NESMITH a committee, to join such committee as may be appointed on the part of the House, to wait upon the President and to inform him a quorum of each House had assembled and Congress was ready to receive any communication he may please to make.

## PRESIDENT'S PARDONING POWER.

Mr. ELIOT. I ask unanimous consent to introduce a bill to repeal the thirteenth section of an act entitled "An act to suppress insurrection, to punish treason and rebellion, and seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862.

Mr. SPALDING. I ask for the reading of the section proposed to be repealed.

The Clerk read as follows:

"SEC. 13. And be it further enacted, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare."

Mr. FINCK. I object.

Mr. ELIOT. I move to suspend the rules.

Mr. FINCK. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 28, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Culom, Darling, Dawes, Defrees, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Maynard, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, and Windom—112.

son, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elishu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, and Windom—116.

NAYS—Messrs. Ancona, Boyer, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Hale, Aaron Harding, Hise, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Neell, Phelps, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Stilwell, Nathaniel G. Taylor, Nelson Taylor, Trimble, and Andrew H. Ward—28.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, Bergen, Bundy, Campbell, Conkling, Cook, Cooper, Culver, Davis, Delano, Deming, Denison, Dumont, Goodyear, Griswold, Harris, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Humphrey, Johnson, Jones, Longyear, Marston, Marvin, McCullough, Pomeroy, Radford, Raymond, Ross, Sloan, Starr, Strouse, Taber, Thayer, Thornton, Hamilton Ward, James F. Wilson, Winfield, Woodbridge, and Wright—45.

So (two thirds having voted in the affirmative) the rules were suspended.

During the roll-call,

Mr. GRINNELL said: I desire to state that my colleague, Mr. HUBBARD, is detained at home by sickness.

Mr. ANCONA said: I desire to state that my colleague, Mr. JOHNSON, is detained at home by sickness.

The result of the vote was announced as above recorded.

The bill was then read a first and second time.

Mr. ELIOT. I demand the previous question on the engrossment of the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. LE BLOND demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 29, not voting 49; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Culom, Darling, Defrees, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Maynard, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, and Windom—112.

NAYS—Messrs. Ancona, Boyer, Campbell, Chanler, Dawson, Eldridge, Glossbrenner, Hale, Aaron Harding, Hise, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Neell, Phelps, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Stilwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, Trimble, and Andrew H. Ward—29.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, Bergen, Bundy, Conkling, Cook, Cooper, Culver, Davis, Dawes, Delano, Deming, Denison, Dodge, Dumont, Finck, Goodyear, Griswold, Harris, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Humphrey, Johnson, Jones, Longyear, Marston, Marvin, McCullough, Morrill, Pomeroy, Radford, Raymond, Ross, Sloan, Strouse, Taber, Thornton, Burt Van Horn, Hamilton Ward, Elishu B. Washburne, James F. Wilson, Winfield, Woodbridge, and Wright—49.

So the bill was passed.

During the roll-call,

Mr. LE BLOND said: Mr. FINCK is absent attending the committee to wait on the President. If he were present he would vote against the bill.

The result of the vote having been announced as above recorded,

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## QUALIFICATION OF A MEMBER.

Mr. ORTH. Hon. LOVELL H. ROUSSEAU having been reelected a Representative from the fifth congressional district of Kentucky, is present and desires to be sworn in.

Mr. ROUSSEAU was duly qualified by taking the oaths prescribed by the Constitution and laws.

JOHN H. SURRATT.

Mr. BOUTWELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of State be, and is hereby, directed to lay before this House copies of all correspondence in the State Department in relation to the discovery and arrest of John H. Surritt.

## SALE OF GOLD.

Mr. BOUTWELL introduced a bill to provide for the sale of gold, and for other purposes; which was read a first and second time.

The bill directs the Secretary of the Treasury to sell the sum of \$2,000,000 in gold in the city of New York, on each and every Monday, in lots not exceeding \$10,000 each, whenever the amount of gold in the Treasury shall exceed \$42,000,000.

Mr. BOUTWELL. I move that the bill be referred to the Committee of Ways and Means.

Mr. SPALDING. I move that the bill be referred to the Committee on Banking and Currency.

Mr. SPALDING's motion was disagreed to.

Mr. BOUTWELL's motion was then agreed to.

## MEETING OF CONGRESS.

Mr. SCHENCK introduced a bill to fix the time for the regular meeting of Congress; which was read a first and second time.

Mr. SCHENCK. I do not desire action on the bill at the present time. I now move that it be made the special order for Tuesday, the 11th instant, after the morning hour.

Mr. RANDALL, of Pennsylvania. I think there is already a special order for that day. If this bill shall come in after the special orders that have already been fixed for that day, I will have no objection.

The SPEAKER. There are several postponements of special orders from the last session. They will take precedence in the order of their dates.

Mr. SCHENCK. I will modify my motion. I move that the bill be postponed and made the special order for Thursday next, after the morning hour, and that it be printed.

The motion was agreed to.

## DEPARTMENT OF INTERNAL REVENUE.

Mr. KELLEY. I move to suspend the rules in order to enable me to introduce and have referred a bill to create and organize a Department to be called the Department of Internal Revenue.

Mr. ELDRIDGE. I call for the reading of the bill at length.

The Clerk began the reading of the bill, but before concluding,

Mr. HALE said: I move to suspend the rule under which the gentleman from Wisconsin [Mr. ELDRIDGE] has the right to call for the reading of this bill.

Mr. ELDRIDGE. I would inquire of the Chair if the reading of a bill can be interrupted in this way?

The SPEAKER. It can. Any member has the right under the rules to call for the reading of a bill. And under the same rules any member has the right to move to suspend the rules that gives the right to call for the reading. The Chair will state that the rule is that motions to suspend the rules can be made on each Monday only, after the expiration of one hour succeeding the reading of the Journal. There being no Journal read to-day that rule does not apply to this day.

The question was taken upon the motion of Mr. HALE, and upon a division there were—ayes one hundred and eight, noes not counted.

So (two thirds having voted in the affirma-

tive) the rules were suspended, and the further reading of the bill was dispensed with.

The question recurred upon the motion of Mr. KELLEY to suspend the rules in order to enable him to introduce a bill, and being taken it was agreed to, two thirds voting in the affirmative.

So the rules were suspended, and the bill was introduced and read a first and second time.

Mr. KELLEY. I move that the bill be referred to the Committee on the Judiciary, and be printed.

Mr. GARFIELD. I move to amend that motion, so that the bill may be referred to the Committee of Ways and Means.

The question was taken upon the motion of Mr. GARFIELD; and upon a division there were—ayes 54, noes 62.

So the amendment was not agreed to.

The motion of Mr. KELLEY was then agreed to.

## REMOVALS FROM OFFICE.

Mr. STEVENS. I move that the rules be suspended in order to enable me to introduce a bill to regulate removals from office.

Mr. ELDRIDGE. I call for the reading of the bill at length.

The bill was read at length. The first section provides that in all instances of appointments to office by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with the Senate.

The second section provides that in case of disability or misconduct in office, occurring during the recess of the Senate, where the interests of the public may make it necessary to displace the incumbent until the advice and consent of the Senate can be duly had and obtained thereon, it shall be lawful for the President to suspend the disabled or defaulting officer, and to designate some other person to perform the duties of the office until the Senate shall have the opportunity of acting thereupon. And it shall be the duty of the President, within ten days after the next meeting of the Senate, to report to it the fact of such suspension, with the reasons therefor, and to nominate a person for the place, and in case of the refusal of the Senate to concur in such suspension, either by a direct vote thereon, or by advising and consenting to the appointment of the person so nominated, the officer suspended shall thereupon resume the exercise of his official functions as though the same had not been suspended.

The third section provides that every person who has been or shall hereafter be nominated to the Senate for office, and who shall fail to receive the advice and consent of the Senate thereto, shall be incapable of holding any office under the United States for the term of three years after such rejection, unless two thirds of the Senate shall relieve him of such disability. And whenever any person has assumed office, and discharged its duties upon the nomination of the President, before he has been confirmed by the Senate, or his rejection by the Senate, all subordinates and deputies appointed by him, or on his recommendation, shall vacate their places.

The fourth section provides that all nominations made by the President shall be communicated to the Senate within twenty days after they are made, or after the commencement of the next succeeding session of the Senate.

The question was upon the motion to suspend the rules.

Mr. STEVENS. I desire to state that I do not propose to ask for action upon this bill at this time, but shall move that its further consideration be postponed until Friday next, and that it be made the special order for that day after the morning hour.

Mr. SPALDING. Is the gentleman from Pennsylvania [Mr. STEVENS] aware that that subject is now before the joint committee on retrenchment? They have the subject now before them and are considering it.

Mr. STEVENS. All I know is that I offer

this bill. If the gentleman does not like it he can vote against it.

Mr. SPALDING. He will probably assume that privilege, whether the gentleman from Pennsylvania [Mr. STEVENS] likes it or not.

The motion to suspend the rules was agreed to; and the bill was postponed, and made a special order for Friday next, after the morning hour, and ordered to be printed.

## MANAGEMENT OF GOVERNMENT PRINTING.

Mr. LAFLIN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Printing be requested to inquire into the expediency of providing by law for the selection of a proper person to take charge of and manage the Government Printing Office, for the execution of all the congressional and departmental printing.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER resumed the call of the States and Territories for the introduction of resolutions and of bills on leave.

## LIGHT-HOUSE AT MATAWAN POINT, ETC.

Mr. NEWELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be requested to inquire into the expediency of making an appropriation for the erection of a light-house at Matawan Point, on Raritan bay, in the State of New Jersey; and also of providing for a per diem compensation for the crews connected with the life-saving stations on the coasts of Long Island and New Jersey for every day during which they may be actually employed, and that the committee report by bill or otherwise.

## APPOINTMENT OF PUBLIC OFFICERS.

Mr. BROOMALL introduced a bill regulating the appointment of certain public officers; which was read a first and second time.

Mr. LE BLOND called for the reading of the bill at length; and it was read.

The bill was referred to the Committee on the Judiciary, and ordered to be printed.

## ORGANIZATION OF CONGRESS.

Mr. WASHBURNE, of Illinois. I rise to make a privileged report. The joint committee of the two Houses, appointed to wait on the President and advise him of the organization of Congress, beg leave to report that they have discharged that duty, and that the President has informed them that he will communicate his message to Congress at once.

## EXEMPTION FROM INCOME TAX.

Mr. ANCONA submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Committee of Ways and Means be requested to take into consideration and report at the earliest day practicable a bill providing an adjustment of the rates and amount of exemption from the income tax, in accordance with the pledges made to the people by Congress at the last session, when action was last taken upon the general subject of internal revenue duties.

Mr. GARFIELD. I hope that this resolution in its present form will not be adopted, although I have no objection to a reference of the subject to the committee.

The previous question was not seconded.

Mr. ANCONA. I will move the reference of the resolution to the Committee of Ways and Means. That will accomplish the same purpose.

The motion was agreed to; and the resolution was referred to the Committee of Ways and Means.

## INSPECTORS OF DISTILLERIES.

Mr. MILLER submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be, and are hereby, requested to inquire into the expediency of so changing the revenue laws as to dispense with the present mode of appointing inspectors of distilleries of ardent spirits, and report by bill or otherwise.

## MODIFICATION OF INTERNAL REVENUE LAW.

Mr. KELLEY submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of immediately repealing the provisions of the internal revenue law whereby a tax of five per cent. is imposed on the products of the mechanical and manufacturing industry of the country.

## PRESIDENT'S MESSAGE.

Mr. STEVENS. I move that the Clerk now proceed to read the President's message, of which I send a copy to the desk. [Laughter.]

The SPEAKER. The message has not yet been officially communicated to the House.

Mr. STEVENS. The copy which I send up is that already issued in the official paper, the Constitutional Union, [laughter]—the paper published by Colonel Florence. Anything emanating from that source must, I presume, be authentic. [Renewed laughter.] However, I withdraw the motion.

## APPOINTMENTS OF POSTMASTERS.

Mr. WARNER submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire whether any appointments of postmasters have been made, or whether any postmasters now acting as such now hold the commissions or perform the duties of postmaster, in violation of section twenty-six of the act entitled "An act to change the organization of the Post Office and to provide more effectually for the settlement of the accounts thereof," passed July 2, 1838, with authority to report by bill or otherwise.

## MEETING OF THE NEXT CONGRESS.

Mr. GARFIELD. I offer for action at the present time a bill to fix the time for the meeting of the next Congress. It provides that after the expiration of the present session the next meeting of Congress shall be at noon on the first Monday of March next.

Mr. SCHENCK. I hope it will be ordered to be printed and made the special order for Tuesday next with my own proposition.

Mr. GARFIELD. I desire action now, and demand the previous question.

Mr. FINCK. Has it been regularly introduced?

The SPEAKER. If when introduced objection had been made that notice had not been given of its introduction, it would not have been in order.

Mr. WASHBURNE, of Illinois. I hope it will be referred.

Mr. GARFIELD. At the suggestion of several gentlemen, I move that it be referred to the Committee on the Judiciary.

The bill was read a first and second time, ordered to be printed, and referred to the Committee on the Judiciary.

## JOHN GRAY.

Mr. BINGHAM introduced a bill for the relief of John Gray; which was read a first and second time, and referred to the Committee on Invalid Pensions.

## COMPENSATION OF MEMBERS.

Mr. LAWRENCE, of Ohio. I ask leave to introduce a bill to repeal so much of the act of Congress, approved July 28, 1866, as increases the compensation of Senators, Representatives, and Delegates in Congress.

Mr. SPALDING. I object, as proper notice has not been given.

Mr. LAWRENCE, of Ohio. I move to suspend the rules, and on that motion demand the yeas and nays.

The yeas and nays were not ordered.

The rules were not suspended.

Mr. STEVENS. I think we had better adjourn.

The SPEAKER. The committee appointed to wait on the President has reported that he was ready to communicate with Congress to-day. The House refused to adjourn.

## IMPEACHMENTS.

Mr. LAWRENCE, of Ohio, submitted the

following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be, and are hereby, instructed to inquire into the expediency of providing by general law a mode of procedure for trial of all cases of impeachment before the Senate, and that said committee report by bill or otherwise.

## EQUALIZATION OF BOUNTIES.

Mr. SCHENCK introduced the following bill:

A bill to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, instead of any grant of land or other bounty, there shall be allowed and paid to each and every soldier, sailor, and marine who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been, or who may hereafter be, honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served, between the 12th day of April, 1861, and the 19th day of April, 1865. And in the case of any such soldier, sailor, or marine, discharged from the service on account of wounds received in battle, or while engaged in the line of his duty, the said allowance of bounty shall be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine, while in the service, or in case of his death after the discharge and before the end of his term of enlistment, if discharged on account of being wounded, as provided, the allowance and payment shall be made to his widow if she has not been remarried, or if there be no widow, then to the minor child or children of the deceased who may be under sixteen years of age.

*Sec. 2. And be it further enacted*, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws, by the United States, or by any State; county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

*Sec. 3. And be it further enacted*, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request, prior to the 9th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and such person did actually so reenlist or accept promotion or was so transferred. And no bounty shall be paid to any soldier, sailor, or marine, discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

*Sec. 4. And be it further enacted*, That every petition or application for bounty made under the provisions of this act shall disclose and state specifically under oath, and under the pains and penalties of perjury, what amount of bounty, either from the United States or from any other source, and what amount of prize money, if any, has been paid or is payable to the soldier, sailor, or marine, by whom or by whose representatives the claim is made.

*Sec. 5. And be it further enacted*, That whenever application shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent, that he has not charged, nor agreed for, and will not accept more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

*Sec. 6. And be it further enacted*, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

*Sec. 7. And be it further enacted*, That in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

*Sec. 8. And be it further enacted*, That it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

*Sec. 9. And be it further enacted*, That no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines shall be made in the same manner as now provided by law.

*Sec. 10. And be it further enacted*, That sections twelve, thirteen, fourteen, fifteen, and sixteen of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866, are hereby repealed. But if any money shall have been paid to any person under the provisions of said sections repealed, the amount thereof shall be deducted in each case by the proper accounting officer from any sum to be allowed under this act. And any application made for allowance of bounty under the said act of July 28, 1866, with all the evidence and papers submitted therewith, shall be taken and considered as filed under the requirements of this act, and shall be used hereunder for the benefit of the applicant as far as the same may be applicable.

The bill was read a first and second time, ordered to be printed, and referred to the Committee on Military Affairs.

## G. E. PICKETT.

Mr. SCHENCK also introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be respectfully requested to communicate to this House, if not in his opinion incompatible with the public interests, the information asked for in a resolution of this House dated the 23d June last, and which resolution he has up to this time failed to answer, as to whether any application has been made to him for the pardon of G. E. Pickett, who acted as a major general of the rebel forces in the late war for the suppression of insurrection, and if so, what has been the action thereon; and also to communicate copies of all papers, entries, indorsements, and other documentary evidence in relation to any proceeding in connection with such application; and that he also inform this House whether, since the adjournment at Raleigh, North Carolina, on the 30th of March last, of the last board or court of inquiry, convened to investigate the facts attending the hanging of a number of United States soldiers for alleged desertion from the rebel army, any further measures have been taken to bring the said Pickett or other perpetrators of that crime to punishment.

Mr. SCHENCK moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## MEXICO.

Mr. McKEE. I submit the following resolution:

*Resolved*, That the President be requested to communicate to this House, if in his opinion not incompatible with the public interest, any correspondence or other information in the possession of the Government relative to the present condition of affairs in our sister republic of Mexico, and specially any letters of the minister at Washington.

Mr. BANKS. I hope it will be referred to the Committee on Foreign Affairs. I have no doubt the information will be sent with the President's message.

Mr. McKEE. I move to suspend the rules.

The rules were not suspended, and the resolution was laid over for one day.

## PREEMPTION LAWS.

Mr. JULIAN introduced a bill amendatory of the preemption laws, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

## INDEPENDENT COMPANY OF EXEMPTS.

Mr. HUBBARD, of West Virginia, introduced a bill for the relief of Captain Robert Hamilton's independent company of exempts of West Virginia volunteer infantry; which



was read a first and second time, and referred to the Committee on Military Affairs.

The call of the States and Territories having been completed, the Speaker announced as the next business in order the calling of the committees for reports, beginning with the Committee of Elections.

Mr. FARNSWORTH moved that the House adjourn.

The motion was disagreed to, there being—ayes 62, noes 63.

The SPEAKER proceeded with the call as far as the Committee of Claims.

Mr. STEVENS. I move that the House adjourn. The message has been sent all over the country.

Mr. PHELPS. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States by Colonel ROBERT JOHNSON, his Private Secretary.

Mr. STEVENS. I understand it will take over an hour to read that message. I move to postpone the reading till to-morrow.

The SPEAKER. The gentleman will first have to withdraw the motion to adjourn.

Mr. STEVENS. I withdraw it.

The SPEAKER then laid before the House the President's message.

Mr. STEVENS. I now move to postpone the reading till to-morrow.

The motion was disagreed to—ayes thirty-four, noes not counted.

Mr. EGGLESTON. I move that the House take a recess till three o'clock, and then have the message read.

The motion was disagreed to.

The Clerk then read the President's annual message. [The message will be published in the Appendix.]

During the reading of the message,

Mr. STEVENS said: We all of us have a copy of this message, and our friends who gave us notice are waiting for our reception. Now, it will take three quarters of an hour longer to read the message, and I move the further reading be postponed till to-morrow.

The question being taken, there were—ayes 60, noes 50.

Mr. DAWSON. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the negative—yeas 64, nays 65, not voting 71; as follows:

YEAS—Messrs. Allison, Arnell, James M. Ashley, Baker, Baxter, Bidwell, Blow, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Darling, Dodge, Driggs, Eggleston, Abner C. Harding, Hawkins, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Kelley, Kelso, Koontz, William Lawrence, McIndoe, McKee, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Starr, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Windom—64.

NAYS—Messrs. Ames, Ancona, Banks, Barker, Beaman, Bingham, Blaine, Boutwell, Boyer, Brandegee, Campbell, Daves, Dawson, Defrees, Dixon, Donnelly, Eckley, Eldridge, Eliot, Ferry, Finck, Glossbrenner, Hale, Aaron Harding, Hayes, Hise, Hooper, Hulburd, Jenckes, Kasson, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, Le Blond, Leftwich, Loan, Lynch, Marshall, Maynard, McNair, Niblack, Nicholson, Noell, Patterson, Phelps, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rousseau, Shanklin, Sitgreaves, Spalding, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Trimble, Andrew H. Ward, Warner, Elihu B. Washburne, William B. Washburn, and Whaley—65.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, Baldwin, Benjamin, Bergen, Bromwell, Buckland, Bundy, Chanter, Conkling, Cook, Cooper, Culver, Davis, Delano, Deming, Denison, Dumont, Farnsworth, Farquhar, Garfield, Goodyear, Grinnell, Griswold, Harris, Hart, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Humphrey, Johnson, Jones, Julian, Kerr, Longyear, Marston, Marvin, McClurg, McCullough, Morris, Pomeroy, Radford, Raymond, Rogers, Ross, Sloan, Stillwell, Strouse, Taber, Nelson Taylor, Thayer, Thornton, Burt Van Horn, Hamilton Ward, James F. Wilson, Winfield, Woodbridge, and Wright—71.

So the motion was disagreed to.

Mr. WASHBURN, of Illinois. I move that the message and accompanying documents be referred to the Committee of the Whole on the state of the Union, and printed, and on that I demand the previous question.

Mr. BANKS. I ask the gentleman to allow me to offer this as an amendment:

*Resolved*, That the message, with the reports of the Secretaries of the several Departments and the papers relating to Mexican affairs, be printed for the use of the House, in forms separate from the general documents accompanying the message.

Mr. WASHBURN, of Illinois. I think the gentleman had better refer that to the Committee on Printing.

Mr. BANKS. We want a certain number of these printed separately.

Mr. WASHBURN, of Illinois. But we certainly want them to go with the general documents.

Mr. BANKS. If the House adopts this order, the report of the Secretary of State and the correspondence relative to Mexican affairs will be on our tables to-morrow; if not, we may have to wait for it for some time. Extra copies can be ordered, if desirable.

Mr. WASHBURN, of Illinois. I have no objection to that, and will accept it as a modification of my motion.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. WASHBURN's motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. SPALDING asked and obtained leave of absence for four days for Mr. TAYLOR, of Tennessee.

#### EXTRA COPIES OF THE MESSAGE.

Mr. FINCK submitted a resolution for the printing of fifty thousand extra copies of the President's message and accompanying documents; which was referred under the law to the Committee on Printing.

And then, on motion of Mr. WASHBURN, of Illinois, (at ten minutes before three o'clock p. m.,) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. HUBBARD, of West Virginia: The petition of members of company A, independent exemptions of West Virginia volunteer infantry, asking payment of bounty provided by law for soldiers enlisted in the volunteer forces of the United States in 1862.

By Mr. RICE, of Massachusetts: The petition of Samuel Pierce, of Cambridge, Massachusetts, for renewal of his patent for improvement in cooking stoves.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rule:

By Mr. ASHLEY, of Ohio: A bill to enable loyal citizens residing in the districts of country recently in rebellion against the United States to organize constitutional State governments in each of the States whose governments were usurped or overthrown, and for other purposes.

Also, a bill to change the boundary of the Territory of Montana, and for other purposes.

Also, a bill for the admission of Nebraska and Colorado into the Union as States on an equal footing with the original States.

By Mr. ELIOT: A bill to repeal the thirteenth section of an act entitled "An act to suppress insurrection, to punish treason and rebellion, and to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862.

By Mr. JULIAN: An act to amend and make general the preemption laws of the United States.

Also, an act providing civil governments for the districts lately in revolt against the United States, and for the restoration of said districts to their forfeited rights as States of the Union.

Also, a bill to equalize the bounties of soldiers who served in the late war for the Union.

By Mr. LAWRENCE, of Ohio: A bill to repeal the provisions of the law of last session, increasing the pay of Senators, Representatives, and Delegates in Congress.

Also, a bill to reduce the mileage of members of Congress.

By Mr. SPALDING: A bill making provision for

a navy-yard and naval station for the upper lakes, at Cleveland, Ohio.

Also, a bill for the relief of R. C. Spalding, paymaster in the United States Navy.

Also, a bill for the protection of the piers, breakwaters, and harbor improvements of the United States.

#### IN SENATE.

TUESDAY, December 4, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

Hon. CHARLES R. BUCKALEW, of Pennsylvania; Hon. GEORGE READ RIDDLE, of Delaware; Hon. JOHN B. HENDERSON, of Missouri; Hon. WILLIAM M. STEWART, of Nevada; and Hon. THOMAS A. HENDRICKS, of Indiana, appeared in their seats.

#### PETITIONS.

Mr. WILSON presented two petitions of officers of the United States Army praying for an increase of pay; which were ordered to lie upon the table.

#### RECONSTRUCTION.

Mr. SUMNER. I desire to give notice that I shall to-morrow or some subsequent day ask leave to introduce resolutions declaring the true principles of reconstruction; the jurisdiction of Congress over the whole subject; the illegality of the existing governments in the rebel States; and the exclusion of such States with such illegal governments from representation in Congress, and from voting on constitutional amendments.

#### PAPERS WITHDRAWN.

On motion of Mr. MORGAN, it was

Ordered, That S. P. Todd, late a purser in the United States Navy, have leave to withdraw from the files of the Senate his petition and papers, praying for compensation for loss of clothing, &c., while on board the St. Lawrence.

#### BILLS INTRODUCED.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 454) for the relief of the widow of Jacob Harmon; which was read twice by its title.

Mr. PATTERSON. I desire the bill to go to the Committee on Pensions.

The PRESIDENT *pro tempore*. It will lie on the table for the present, as the committees have not yet been appointed.

Mr. PATTERSON also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 455) for the relief of the widow of Henry Fry; which was read twice by its title and ordered to lie on the table.

#### GOVERNMENT ADVERTISING.

Mr. CRESWELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what amount of money has been paid or ordered to be paid since the 18th day of May last to the several newspapers printed and published in the District of Columbia for advertising notices and proposals for each of the Executive Departments of the Government; and that he further inform the Senate of the number and character of the advertisements for which said money was paid, and the name of every officer of the Government who approved each of the bills for said advertisements or directed the same to be paid; and also that he inform the Senate when, and in what manner, the extent of the circulation of the daily newspapers printed in the city of Washington or elsewhere in the District of Columbia was determined, and that he furnish copies of the sworn statements of the publishers of said newspapers in support of their claim to have the largest circulation.

#### FRENCH TROOPS IN MEXICO.

Mr. CHANDLER. I now move to take up the resolution that I offered yesterday.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the resolution as follows:

*Resolved*, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence or other information in his possession in regard to the following points:

1. Whether the French Emperor has complied with his announcement toward the United States to withdraw one third of the French troops in Mexico during the month of November last.

2. Whether any number of said French troops has been withdrawn in accordance with that announcement.

3. Whether, if, as it appears, no troops have been withdrawn, the French Emperor has offered any explanation or apology for his course, or whether he has proposed a different understanding by which the withdrawal will be delayed.

4. What action, if any, the Government has taken to see that understanding carried out.

Mr. SUMNER. Mr. President, I doubt whether it is expedient to proceed to the consideration of that resolution now. It seems to me, all things considered, that it would be advisable to refer the resolution to the Committee on Foreign Relations. It touches a very important question; and the Senate, even in listening to it, as they have now that it has been read from the desk, must be struck by some of the language that is employed. I do not presume now to criticize it; I do not know that the language may not be proper; but I have my doubts; and under the circumstances it seems to me that the resolution had better lie on the table until our committees are formed, and that the resolution should then be referred to the Committee on Foreign Relations.

The PRESIDENT *pro tempore*. Does the Senator make a motion?

Mr. SUMNER. Under the circumstances I think it not advisable to take up the resolution. If it should be taken up, I should feel bound to move that it lie on the table until the formation of the committees, so that it might be properly considered.

Mr. CHANDLER. I hope the resolution will be taken up. It is a mere resolution of inquiry on a subject of deep interest to the country. There is nothing in it, I think, to which exception can be taken. I hope the resolution will be taken up and acted upon.

Mr. SAULSBURY. I hope the Senate of the United States will not adopt a resolution couched in such language. I know the honorable mover did not mean to use language that one Government ought not to present to another; but on inspection it will be found that the words he uses are such as one Government ought not to use to another; for instance, it inquires whether the Emperor of the French has offered an apology. I am satisfied that I have made my objection sufficiently to the Senate without offering another word. There is language in that resolution that I cannot vote for.

The PRESIDENT *pro tempore*. The question is, Will the Senate now proceed to the consideration of the resolution which has just been read?

Mr. SUMNER. I say again that I hope at this day the Senate will not proceed with its consideration. I have no desire to avoid a discussion of the topics in that resolution on any proper occasion. The Senate is aware that the President at some length has stated what he has done on the matters referred to in that resolution; in short, to a certain extent he has anticipated that resolution, and he has announced to us that he will communicate or has communicated the correspondence on the subject. Under those circumstances I do not think it advisable that we should to-day adopt a resolution the language of which, I think, has not been carefully considered; and under the circumstances I think it advisable that it should pass under the eye of a committee of this body.

The motion to take up the resolution was not agreed to.

#### POWER OF AMNESTY AND PARDON.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 828.

The PRESIDENT *pro tempore*. The title of the bill will be read for information.

The SECRETARY. "A bill to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862."

Mr. SUMNER. Let the bill be read, so that we may see what is in it.

The Secretary read it, as follows:

*Be it enacted, &c., That the thirteenth section of an act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.*

Mr. SHERMAN. I should like to have that thirteenth section read.

The PRESIDENT *pro tempore*. The reading of the section referred to in the bill is asked for. It will be read.

The Secretary read as follows:

"SEC. 13 *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare."

Mr. JOHNSON. Mr. President, I have some doubts whether it was necessary in the first instance for Congress to pass the section which it is now proposed to repeal. The power of pardon is given by the Constitution to the Executive; and the only necessity for the original act now sought to be repealed was a doubt, I suppose, whether under that power the President of the United States could pardon all, in the form of a general amnesty. I am not prepared to say whether he could or could not do it; but it is a question that is certainly open for deliberation. If he could do it under the Constitution as it is, the original act was wholly unnecessary; but if he could not do it under the Constitution, without the authority of Congress, in the form in which Congress authorized him to do it, by a declaration of general amnesty, he could certainly issue a pardon to every one of the parties who might stand in a situation requiring to be pardoned. Over that power of course Congress has no control. Practically, the question is of little or no moment, I suppose; for the President has issued no general amnesty. The amnesty which he has issued is less extensive than that which was issued by his predecessor. But, at any rate, under the circumstances, I submit to the Senate, as there is no occasion now for prompt action, whether it is not advisable that this bill, relating to a very important question of constitutional power, should go to some committee, either the Judiciary Committee, if the Senate should think that proper, or some other committee selected by the Senate. I hope that, instead of being acted on now, it will take that course; and if nobody else makes the motion, I move, as the committees are not yet appointed, that the bill lie on the table to be referred to the Committee on the Judiciary when that committee shall have been appointed.

The PRESIDENT *pro tempore*. The Chair will suggest that the bill has not yet been taken up. The motion is that the Senate now proceed to its consideration.

Mr. JOHNSON. If it be taken up I shall make the motion which I have indicated.

Mr. FESSENDEN. I do not know, sir, that I shall not be in favor of passing this bill as it stands; but it is unnecessary that I should say anything on that subject at the present time. My conviction is, and has been for some time, that no bill ought to be allowed to pass the Senate without having previously been examined and considered by a committee of the body. It is true that of late years, since the war commenced, we have been in the habit of doing things with some considerable rapidity, and on several occasions have passed bills without sending them to a committee. There may be occasions when it is admissible to do so, when time is pressing, and it is important to do the thing desired and it may be readily and easily understood. But, sir, I need not remind the Senate that on several occasions when we have passed bills with the idea that we understood them perfectly, we have found afterward that we have got ourselves into difficulty and had been so unfortunate as to act very unadvisedly and very injuriously. No particular instance now occurs to me; but the fact is impressed on my mind that there have been instances of that kind, and gentlemen will undoubtedly recollect them.

Now, sir, if I saw a necessity for immediate action on this matter, a pressing necessity for prompt action, I should be willing to take up the bill for consideration at once. It is suggested aside that the matter is pressing because the President may do several things under the act of 1862 which the repeal of the law would prevent his doing. Suppose it to be so; the President has ten days to consider every bill that is submitted to him, and if this bill should be passed by the Senate, and he is disposed to act in the way suggested, he has ten days within which he might do whatever he might choose to do before the bill was either approved by him or disapproved and returned so that it could be acted on by Congress. Then I do not see any advantage that is to be gained by immediate action and by breaking over a rule which is a most valuable one, and which I shall hereafter on all occasions, except those which are very pressing, insist upon, that every bill which is brought in for our consideration should be first submitted to the scrutiny and examination of a committee. That is my view in regard to it, and with that view I shall vote against taking up the bill at the present time.

Mr. HOWARD. Mr. President, this bill was passed by the House of Representatives yesterday, I understand, and it has not been referred to a committee of the Senate. It is to be supposed that the House of Representatives saw some reason satisfactory to them for speedy action on this subject. There can be no doubt that the general power of pardon, of pardoning offenses, is granted in its plenitude by the Constitution of the United States to the President, and no act such as that from which an extract has been read is necessary to be passed by Congress in order to confer on the President the power of pardon. I do not suppose, sir, that the necessity for repealing the thirteenth section of the confiscation act of 1862 arises from the mere fact that the President of the United States has the power of pardon and may exercise it. I take it for granted that there is some other evil, either existing or apprehended, which has led to the speedy enactment by the House of Representatives of the bill now before us. I take it for granted, sir, that the great object of this bill is, if possible, to prevent an unwise restoration of property to persons who have heretofore been engaged in the rebellion, by the President of the United States, under the confiscation act of 1862; and if I have been rightly informed there is a necessity for the speedy action of Congress upon this subject.

I do not understand that the power of restoring forfeited property to offenders under the confiscation act is a power legitimately included in the constitutional power of pardoning offenses. It seems to me to be a distinct and separate function conferred on the President by the confiscation act; and I have great fear myself that proceedings have been had under the confiscation act in the way of restoring forfeited property to rebels with which the country will not be very generally satisfied when they come to understand all the facts of the case. I suppose that the bill now before us is intended to foreclose and put an end to this restoration of rebel property by the President of the United States, so far as it is practicable for us to do so; and for one I hope the bill will be taken up and acted upon speedily, without unnecessary delay; and I see no necessity for referring the bill to the Committee on the Judiciary or to any other committee of this body. We all know quite well what the thirteenth section of the confiscation act of 1862 is. The object of this present bill is simple, and aims only to the repeal of that thirteenth section. The repeal of that section, I take it, will, for the future, prevent the President of the United States from attempting to restore to its former owners property which has become confiscated on account of those owners having been engaged in the rebellion.

Mr. CHANDLER. Mr. President, I think if there ever was a case when the prompt action of Congress was needed, it is this. It is alleged

that hundreds of millions of dollars worth of property confiscated under the law have under that section been restored by the President. The country expects us to act promptly in this case. It is alleged that pardons are for sale for money around the streets of this town by women of at least doubtful reputation, and with those pardons property has been restored to the amount of millions. Sir, if there ever was an occasion that required prompt action, in my judgment that occasion is now, and this bill is that occasion. If the President has powers under the Constitution, let him exercise them; but in God's name give him no greater power than he possesses under the Constitution, to exercise as they have been exercised for the last twelve months. I hope that the Senate will take up this bill and pass it as promptly as the House of Representatives did. The House suspended the rules and passed it within the hour, and the country looks to the Senate to act with as much promptness as the House. I hope, sir, there will be no delay, and no reference of this bill. I hope it will be passed this morning.

The PRESIDENT *pro tempore* put the question on the motion to proceed to the consideration of the bill.

Mr. CHANDLER called for the yeas and nays, and they were ordered.

Mr. TRUMBULL. Mr. President, I was not very well satisfied with the confiscation bill when we passed it, as I suppose every Senator who was here at that time very well knows, and I think that the power granted by the clause which it is now proposed to repeal has been very grossly abused; but I am not aware of any confiscated property that is now about to be restored. The report of the Commissioner of the Freedmen's Bureau, made at the last session of Congress, shows that lands of rebels which had been taken possession of as confiscated property were subsequently, by order of the President, restored to their previous owners; but I do not know that at this time there is any property likely to be restored under this clause of the confiscation act.

It is very probable that I shall vote for this bill repealing the clause under consideration; but I think there is very great force in the suggestion made by the Senator from Maine, that it is always safer to refer a bill to some one of our committees. The committees are not yet formed. There is now no committee to which this bill can be referred. I know of no pressing necessity for the passage of the bill to-day. I will not commit myself to say that it ought to pass at all. I should like to be better informed than I am to-day before voting upon it. My impressions certainly are in its favor; but I think we had better act deliberately and understandingly, and not under excitement, as if we had come together and were in a great hurry to repeal this statute which we ourselves passed only three or four years ago. I trust that the measure will not be forced to a vote at the present time; I trust that the Senate will not take it up for consideration now. I know of nothing to be gained by that course. I think it is a bad practice; and unless some Senator will show that there is danger of property being restored, that there is some pressing necessity for action to-day, I trust the motion will not be pressed, or if it is pressed before the Senate, that we shall not proceed to the consideration of the bill. If reasons were given showing that this power is to be abused between to-day and to-morrow or next day, I would not object to considering the bill at once, but knowing no reason and none having been stated, I think we had better let the bill take the ordinary course.

Mr. HOWE. Mr. President, if the yeas and nays had not been called for upon this motion, of course I should have said nothing about it; and even then I do not know that I should have said a word but for an expression which has just been dropped by the Senator from Illinois. I propose to vote for the motion; but I should be unwilling that any one should infer from that vote that I was acting under any undue

excitement. I do not think any such inference would properly arise. It seems to me that there is the best of all reasons patent upon the face of the Journal for proceeding to the consideration of this bill. That is what I understand to be the motion: it is not a motion that the bill pass immediately, but that we proceed to the consideration of it now. That very good reason of which I spoke, it seems to me, arises from the fact that the bill is pending here, and I do not know that we have anything else to do. I do not know of any better opportunity to proceed to the consideration of it.

There is another reason which it seems to me supports the motion very strongly, and that is that nobody seems to have any sort of objection to this bill. I understand the Senator from Illinois and the Senator from Maine both to say that they are not satisfied with the powers granted in the section of the act of 1862 which it is proposed by this bill to repeal. I understood the Senator from Illinois to say that he believes the powers granted there are not only unjust in themselves, but that they have been abused. I did not know myself that they had been abused, but I do not think they are powers which we should vest in any one, and I do not think there is any occasion for our assenting to them any longer. If we had other and more important business to attend to now that would be a reason for postponing the consideration of this bill; but as I know of nothing else, I shall vote to proceed to its consideration.

The question being taken by yeas and nays, resulted—yeas 21, nays 21; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cresswell, Edmunds, Fowler, Frelinghuysen, Harris, Henderson, Howard, Howe, Lane, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Wade, Williams, and Wilson—21.

NAYS—Messrs. Anthony, Buckalew, Davis, Dixon, Doolittle, Fessenden, Fogg, Foster, Grimes, Hendricks, Johnson, Kirkwood, Morgan, Nesmith, Norton, Patterson, Riddle, Saulsbury, Trumbull, Van Winkle, and Wiley—21.

ABSENT—Messrs. Brown, Cowan, Cragin, Guthrie, McDougall, Morrill, Nye, Poland, Sprague, and Yates—10.

So the motion of Mr. CHANDLER was not agreed to.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 4, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

The following Representatives and Delegates appeared in addition to those heretofore reported:

Vermont—Frederick E. Woodbridge.

Massachusetts—John B. Alley.

Connecticut—Henry C. Deming.

New York—Stephen Taber, Teunis G. Bergen, Henry J. Raymond, Charles Goodyear, John A. Griswold, Hamilton Ward, and Theodore M. Pomeroy.

Pennsylvania—M. Russell Thayer, and Myer Strouse.

Illinois—Burton C. Cook.

Missouri—George W. Anderson.

Iowa—James F. Wilson.

Wisconsin—Ithamar C. Sloan.

Washington Territory—A. A. Denny.

New Mexico—J. Francisco Chaves.

Colorado—Allen A. Bradford.

## QUALIFICATION OF A MEMBER.

Mr. BERGEN. My colleague, JOHN W. HUNTER, elected to fill the vacancy occasioned by the decease of James Humphrey, is present and wishes to be sworn in.

Mr. HUNTER appeared and qualified by taking the prescribed oath.

Mr. SPALDING. I demand the regular order of business.

## COMMITTEE ON FREEDMEN'S AFFAIRS.

Mr. WASHBURNE, of Illinois, from the Committee on Rules, to whom was referred

the resolution introduced yesterday by Mr. ELIOT, reported back the following as an additional rule, upon the adoption of which he demanded the previous question:

There shall be appointed, at the commencement of every Congress, a standing Committee on Freedmen, to consist of nine members, whose duty it shall be to take charge of all matters concerning freedmen which shall be referred to them by the House.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I modify the resolution so as to call the committee the Committee on Freedmen's Affairs, instead of the Committee on Freedmen.

The resolution, as modified, was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## PROVOST MARSHAL GENERAL FRY.

Mr. ECKLEY, by unanimous consent, withdrew the following preamble and resolution offered on the 23d of July, 1866:

Whereas, on the 30th of April, a letter, purporting to be written by General Fry, was read in this House, together with sundry documents accompanying it, which letter was grossly libelous, and reflected upon the public and private character of a member; and whereas the House having ordered an inquiry as to said letter and its truth or falsity; and whereas, for that purpose, a select committee was raised, which committee has ascertained and reported said letter to have been false and malicious; Therefore,

Resolved, That the Judiciary Committee be instructed to inquire and report whether any breach of the privileges of the House not sufficiently reported upon by said select committee has been committed in connection with writing or sending said letter, the documents accompanying the same, or the introduction thereof into the House, or causing the same to be read in the House, or entered upon the record of the House, or making the same public; and if so, by whom, and what action, if any, should be taken; and that said committee also inquire and report whether the said libel has been republished or renewed by the said General Fry, or any other person since the termination of the session of said committee; and if so, by whom, and whether any or what action ought to be had thereon; and that said committee have power to send for persons and papers.

## INDIAN HOSTILITIES.

The SPEAKER laid before the House a communication from the Secretary of War, in reply to a resolution of the House of June 7, 1866, transmitting reports of the Quartermaster General, the Paymaster General, and the Commissary General, as to the amounts expended in suppressing Indian hostilities during the years 1864 and 1865; which was laid upon the table and ordered to be printed.

## REPORT ON THE CURRENCY.

The SPEAKER also laid before the House the report of the Comptroller of the Currency; which was referred to the Committee on Banking and the Currency, and ordered to be printed.

## CURRENCY.

The SPEAKER stated as the regular order of business, the consideration, as a special order, of bill of the House No. 771, to amend an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, and for other purposes."

Mr. HOOPER, of Massachusetts. I move to recommit the bill to the Committee on Banking and Currency. There was a good deal of discussion on this bill at the last session, and recommendations have since been made by the Treasury Department and by the Currency Bureau which will affect the bill. I therefore move that the bill be recommitted, and on that motion I ask the previous question.

Mr. RANDALL, of Pennsylvania. Is it in order for me to say a few words in dissent of that proposition?

The SPEAKER. It is not, pending the call for the previous question.

Mr. RANDALL, of Pennsylvania. I ask the gentleman from Massachusetts [Mr. Hooper] to withdraw his call for the previous question, with the understanding that I will renew it in after I have stated to the House my reasons opposition to the motion to recommit this bill.



Mr. HOOPER, of Massachusetts. I will withdraw the call for the previous question with that understanding.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, this bill occupied the attention of the Committee on Banking and Currency during nearly six months of the last session of Congress. I fear that if it is recommitted now it will not receive, during this short session, that consideration which its present status upon the files of the House will be likely to secure it. I think we are as competent to consider in the House the recommendations made by the Secretary of the Treasury in his report in connection with this bill as the Committee on Banking and Currency will be.

Therefore fearing that the reforms which the bill, as reported at the last session, would accomplish in the banking system of the country may not be enacted into a law if it is now recommitted, I trust the House will not adopt the motion of the gentleman from Massachusetts. If the gentleman is not ready to proceed with the consideration of the bill at this time, let it be postponed to some definite day, a week or ten days hence, when the subject can have full and fair consideration. I hope, therefore, the motion of the gentleman from Massachusetts will not prevail, but that the House will postpone the subject to some future day. I now renew the demand for the previous question.

Mr. HOOPER, of Massachusetts. In order, if possible, to meet the views of the gentleman from Pennsylvania, [Mr. RANDALL,] I will modify my motion by adding to it that the committee have leave to report at any time.

The SPEAKER. That will require unanimous consent, as the rules cannot be suspended on this day.

Mr. INGERSOLL. I call for the reading of the bill.

Mr. WASHBURN, of Illinois. Let the bill be read that we may know what it is.

Mr. HOOPER, of Massachusetts. Why should the time of the House be taken up by reading this bill? It is a very long one, covering some twenty printed pages.

The Clerk commenced the reading of the bill, but before concluding,

Mr. ASHLEY, of Ohio, moved to dispense with the further reading.

The SPEAKER. That will require unanimous consent.

Mr. WASHBURN, of Illinois. I object. The Clerk resumed the reading of the bill, but before concluding,

Mr. HOOPER, of Massachusetts, said: I ask that by unanimous consent the further reading of the bill be dispensed with, in order that I may move that the bill be postponed until the third Tuesday of December, and made the special order for that day after the morning hour. Upon consultation with several of my colleagues upon the Committee on Banking and Currency, I find that such a disposition of the subject will be satisfactory.

No objection was made; and the further reading of the bill was accordingly dispensed with.

The bill was then postponed until Tuesday, the 18th instant, and made the special order for that day after the morning hour.

#### CALL OF COMMITTEES.

The SPEAKER. The morning hour has now commenced. The first business in order is the calling of committees for reports, commencing with the Committee on Commerce, where the call rested on yesterday.

#### PENNSYLVANIA JUDICIAL DISTRICTS.

Mr. WILLIAMS, from the Committee on the Judiciary, reported back, with a recommendation that it do not pass, House bill No. 65, to create the northern judicial district of Pennsylvania, and moved that the same be laid upon the table.

The motion was agreed to.

#### CLAIMS AGAINST THE GOVERNMENT.

Mr. WILLIAMS, from the same committee,

also reported back, with a recommendation that it do not pass, House bill No. 576, to authorize the employment of additional counsel in cases of claims depending against the Government of the United States, and moved that the same be laid on the table.

The motion was agreed to.

#### FORFEITURE OF REAL ESTATE.

Mr. WILLIAMS, from the same committee, also reported back, with a recommendation that it do not pass, House joint resolution No. 12, to repeal a portion of the joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate property of rebels, and for other purposes, approved July 17, 1862, and moved that the same be laid upon the table.

The bill was laid upon the table, and the report accompanying it was ordered to be printed.

#### NATIONAL CURRENCY.

Mr. WILLIAMS, from the same committee, reported back, with a recommendation that it pass, a bill (H. R. No. 560) entitled "An act to amend an act entitled 'An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof.'"

The SPEAKER. As this bill comes up for consideration now, it will be reported at length.

Mr. STEVENS. I suggest to my friend from Pennsylvania [Mr. WILLIAMS] that it is unnecessary to have this bill read now. Let it be postponed till some early day.

Mr. WILLIAMS. Very well. I move that the bill be postponed until Thursday of next week, after the morning hour, be made a special order for that time, and from day to day until disposed of.

The motion was agreed to.

Mr. PRICE. I move that the bill be ordered to be printed.

The motion was agreed to.

#### CIVIL SERVICE OF THE UNITED STATES.

Mr. JENCKES, from the select committee on the civil service of the United States, reported back a bill (H. R. No. 678) entitled "An act to regulate the civil service of the United States, and to promote the efficiency thereof;" which was read a first and second time, and, on motion of Mr. JENCKES, ordered to be printed, and recommitted.

#### CALL OF STATES.

The SPEAKER proceeded, as the next business in order, to call the States and Territories, in inverse order, for the introduction of resolutions and of bills on leave.

#### SOLDIERS' BOUNTIES—PAY OF MEMBERS.

Mr. COBB submitted the following resolution, on which he demanded the previous question:

Whereas sections twelve, thirteen, fourteen, fifteen, and sixteen of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866, which sections of said act provide for the payment of an additional bounty to certain soldiers of the Union Army, were prepared and passed in great haste, and without due examination or consideration by the members of either House of Congress, by reason of which the said sections are believed to but illy express the will of Congress, are partial in their application, and fall far short of an equalization of bounties; and whereas sections seventeen and eighteen of said act, providing for an increase of the pay of members of Congress, were attached to said bill and adopted in great haste in the closing hours of the session, receiving but a bare majority of votes in a very thin House, and being believed to be of questionable propriety as well in substance as in form: Therefore,

*Resolved*, First, that the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of so amending said act as to provide for the payment of an additional bounty to all soldiers of the late volunteer forces of the United States who served faithfully in the late war, have been honorably discharged, and have not received nor are entitled to receive more than \$100 bounty under previous laws; also of amending said act so that the soldier shall not be deprived of its benefits by reason of the accidental loss or destruction of his certificate of honorableness discharge without fault on his part, and that the committee report by bill or otherwise.

*Resolved*, Second, that the Committee on the Judi-

ciary be, and they are hereby, instructed to inquire into the expediency of repealing so much of said act as provides for an increase of the pay of members of Congress, and that they report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. COBB moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DESERTIONS OF DRAFTED MEN.

Mr. PAINE submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Secretary of War be directed to communicate to this House the names of all persons who, having been duly enrolled and drafted into the military and naval service of the United States, failed to report to the proper authorities under such draft, showing the districts and sub-districts in which they were severally enrolled and drafted; also, the names of all persons who, under the provisions of the twenty-first section of the act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes," approved March 3, 1865, forfeited their rights of citizenship and their right to become citizens, and became forever incapable of holding any office of trust or profit under the United States, or of exercising any right of citizens thereof, by desertion from the military or naval service, showing the residence, and the company and regiment or ship of each deserter.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

Mr. ANCONA. I object to its consideration now. Let it lie over.

The SPEAKER. Objection being made to its consideration, the resolution lies over under the rule.

#### INTERNAL TAXATION.

Mr. PRICE introduced a bill to amend an act entitled "An act to reduce internal taxation," &c., approved July 13, 1866; which was read a first and second time, and referred to the Committee of Ways and Means.

#### MICHIGAN HARBORS.

Mr. FERRY submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of making appropriations for such harbors on the western coast of the State of Michigan as have been surveyed by the General Government the current year, upon official report and estimates by the engineer department of the amounts requisite for the same, and that they report by bill or otherwise.

#### CONGRESS AND THE PRESIDENT.

Mr. INGERSOLL. I submit the following resolution:

*Resolved*, That the President of the United States is hereby respectfully requested to inform this House, if in his opinion not incompatible with the public interest, how near "the verge of the Government the present body called a Congress" is at present; and if it is not nearer the center than he formerly supposed.

[Laughter.]

Mr. ELDRIDGE demanded the yeas and nays on the adoption of the resolution.

The House divided; and there were—ayes twenty.

Mr. LE BLOND called for tellers.

Tellers were not ordered; and the yeas and nays were not ordered.

The resolution was then rejected.

#### RESPONSE TO THE PRESIDENT.

Mr. WENTWORTH submitted the following resolution, and demanded the previous question on its adoption:

*Resolved*, In response to that portion of the President's message which relates to those communities that claimed to be the confederate States of America, that this House find in the many acts of disloyalty that have transpired in those communities since its last adjournment, as well as in the recent elections in the loyal States, additional reasons for insisting on the adoption of the pending constitutional amendment before it will consider the propriety of giving them congressional representation.

The previous question was seconded and the main question ordered.

Mr. ANCONA moved the resolution be laid upon the table.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 119, not voting 40; as follows:

**YEAS**—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hise, Hunter, Kerr, Latham, LeBlond, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Ritter, Rogers, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Nelson Taylor, Trimble, and Andrew H. Ward—32.

**NAYS**—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Dawes, Defrees, Deming, Dixon, Dodge, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James B. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Ketcham, Kootz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, Maynard, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomerooy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—119.

**NOT VOTING**—Messrs. Delos R. Ashley, Barker, Baxter, Bundy, Conkling, Cooper, Culver, Davis, Delano, Denison, Driggs, Dumont, Harris, Hawkins, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Johnson, Jones, Kelso, Ketcham, Leftwich, Longyear, Marshall, Marston, Marvin, McCullough, Radford, Raymond, Ross, Stillwell, Nathaniel G. Taylor, Thornton, Burt Van Horn, William B. Washburn, Welker, Winfield, and Wright—40.

So the resolution was not laid upon the table.

The resolution was then adopted.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

**JAMES T. POLLOCK.**

Mr. ORTH introduced a bill for the relief of the sureties of James T. Pollock, late receiver at Crawfordsville, Indiana; which was read a first and second time, and referred to the Committee of Claims.

#### GOVERNMENT OF MEXICO.

Mr. ORTH offered the following resolution:

*Resolved*, That the President be requested to communicate to this House, if not incompatible with the public interest, any correspondence or other information in his possession relative to the attempt of Santa Anna and Ortega to organize armed expeditions within the United States for the purpose of overthrowing the national government of the republic of Mexico.

The resolution being a call for executive information, was considered by unanimous consent and agreed to.

#### PAY OF A MEMBER.

Mr. FARQUHAR offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Sergeant-at-Arms be, and he is hereby, ordered to allow, on settlement of the account of Hon. HENRY D. WASHBURN, the same pay allowed other members of the House, deducting therefrom the amount of his pay and allowances received from the Government while in the military service, from the 3d of March, 1865, to the date of his discharge.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. FARQUHAR moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EQUALIZATION OF BOUNTIES.

Mr. JULIAN introduced a bill to equalize the bounties to soldiers and sailors who served in the Army and Navy of the United States during the late rebellion; which was read a first and second time, and referred to the Committee on Military Affairs.

#### HARBOR IMPROVEMENTS.

Mr. SPALDING introduced a bill for the

protection of Government piers, breakwaters, and other harbor improvements; which was read a first and second time, and referred to the Committee on Commerce.

#### RUFUS C. SPALDING.

Mr. SPALDING introduced a bill for the relief of Rufus C. Spalding, paymaster in the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### NAVY-YARD AT CLEVELAND.

Mr. SPALDING introduced a bill to provide for a navy-yard and naval station for the upper lakes, at Cleveland; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### COLUMBUS L. LANCASTER.

On motion of Mr. SCHENCK, by unanimous consent, leave was granted to withdraw the papers of Columbus L. Lancaster, asking compensation for certain slaves, in order that the same may be used before the commission created under the law on the subject.

#### PAY OF MEMBERS.

Mr. LAWRENCE, of Ohio, introduced a bill to repeal so much of the act of Congress approved July 28, 1866, as increases the compensation of Senators, Representatives, and Delegates in Congress; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. SCHENCK introduced the following as an amendment to the foregoing bill; which was referred to the same committee:

And all payments made to members of Congress in accordance with the aforesaid clause so repealed, shall be returned by the parties who received the same to the proper disbursing officers, to be by them paid into the Treasury of the United States; and no member who has not already drawn such additional compensation shall receive the same.

#### MILEAGE OF MEMBERS.

Mr. LAWRENCE, of Ohio, introduced a bill to reduce the mileage of members of Congress; which was read a first and second time, and referred to the Committee on the Judiciary.

#### TERRITORIAL GOVERNMENTS FOR THE SOUTH.

Mr. BROOMALL offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on Territories be instructed to inquire into the expediency of reporting a bill providing territorial governments for the several districts of country within the jurisdiction of the United States, formerly occupied by the once existing States of Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Arkansas, and Texas, and giving to all adult male inhabitants, born within the limits of the United States, or duly naturalized, and not participants in the late rebellion, full and equal political rights in such territorial governments.

The previous question was seconded and the main question ordered.

Mr. SPALDING and Mr. NIBLACK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 37, not voting 47; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, Arnell, Ashley, Baldwin, Banks, Barker, Beaman, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Defrees, Deming, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, John H. Hubbard, James B. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kootz, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, Maynard, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomerooy, Price, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Wright—107.

**NAYS**—Messrs. Ancona, Baker, Bergen, Boyer, Campbell, Chanler, Dawson, Dodge, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Chester D. Hubbard, Hunter, Kerr, Kuykendall, Latham, LeBlond, Nib-

lack, Nicholson, Noell, Phelps, Samuel J. Randall, Raymond, Ritter, Rogers, Rousseau, Shanklin, Sitgreaves, Spalding, Stillwell, Strouse, Taber, Nelson Taylor, Trimble, and Andrew H. Ward—37.

**NOT VOTING**—Messrs. Delos R. Ashley, Baxter, Benjamin, Blaine, Conkling, Cooper, Culver, Davis, Dawes, Delano, Denison, Donnelly, Dumont, Aaron Harding, Harris, Hise, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Johnson, Jones, Kelso, Ketcham, Leftwich, Longyear, Marshall, Marston, Marvin, McCullough, McIndoe, Radford, William H. Randall, Ross, Sawyer, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Thornton, Burt Van Horn, Welker, Whaley, Winfield, and Woodbridge—47.

So the resolution was agreed to.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### COMMITTEE ON RECONSTRUCTION.

Mr. STEVENS. I offer the following concurrent resolution, upon which I demand the previous question:

*Resolved*, (the Senate concurring,) That the joint committee of fifteen on reconstruction appointed during the last session of Congress shall be reappointed under the same rules and regulations as then existed, and that all the documents and resolutions which were referred then be now considered as referred to them anew.

Mr. BINGHAM. I desire to know whether under the rules of the House that committee does not continue until the close of the Congress?

The SPEAKER. It does not; a joint-select committee expires with the session.

The previous question was seconded and the main question ordered, being upon the adoption of the resolution.

Mr. ELDRIDGE demanded the yeas and nays on the adoption of the resolution, and tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The resolution was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### RAILROADS.

Mr. STEVENS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That a committee of five be appointed to examine into and report to the House of Representatives at the next session of Congress the past and present relations existing between the Federal Government and the railroads in States lately in rebellion, the amount of money expended by United States authorities in constructing, repairing, equipping, and managing said roads, the amount of money each of said railroad companies was owing to the Government, and all other facts that may be deemed of importance in connection with the subject; and they shall also report what, in their opinion, would be the proper course to be taken by the Government in regard to such railroads or railroad companies. The committee shall be authorized to send for persons and papers, and when thought necessary by them, may employ a clerk, and may report progress at any time.

#### APPOINTMENT OF POSTMASTERS.

Mr. DRIGGS. I ask leave, not having been in my seat when my State was called, to offer the following resolution:

*Resolved*, That the Postmaster General be, and is hereby, requested to communicate to the House the following information:

1. The number and names of all postmasters in each of the States that have been removed since the adjournment of the last session of Congress.
2. The reasons in the case of each officer so removed.
3. The names of all new appointees.
4. Whether the salaries of any or all of the new appointees have been increased over that of their predecessors, and if so, to what extent in each case, and for what reasons, and to what sum such increase will amount in the aggregate.

Mr. ANCONA. That resolution is a call for executive information. I ask that it lie over for one day.

The SPEAKER. The resolution will lie over.

Mr. DRIGGS. Cannot the Speaker entertain a motion to suspend the rules?

The SPEAKER. A motion to suspend the rules is only in order on Mondays. The res-



olution will probably come up to-morrow or the day after.

#### APPOINTMENTS TO OFFICE.

Mr. MYERS. I offer the following preamble and resolution, upon which I demand the previous question:

Whereas, under the Constitution of the United States, the President of the United States has power to appoint officers of the United States, whose appointments are established by law, only by and with the advice and consent of the Senate, except temporarily to fill up vacancies that may happen in the recess of the Senate; and whereas the present Chief Magistrate, it is alleged, has, in numerous instances, failed to nominate such officers to the Senate for such advice and consent until its session had nearly closed, and then after rejection, reappointed them or designated others for their places, thus virtually exercising the sole power of appointment; and whereas in numerous other instances he has, it is alleged, appointed men to office and allowed a session of the Senate to elapse without sending in their names for confirmation; and whereas he has also, it is alleged, in numerous instances, during the recess of the Senate, made appointments to office where no vacancies had happened or existed:

Be it resolved, That the President of the United States be, and he is hereby, requested to communicate to this House at as early a day as possible,

1. The names of all persons reappointed by him after rejection by the Senate, or the names of others appointed in their stead with a designation of the offices to which they were so appointed and the dates of their several appointments, and of their nominations to the Senate.

2. A like list and designation of all persons appointed by him whose names were withheld from the Senate during its sessions.

3. A like list and designation of all appointments made by him during the recess of the Senate where no vacancy had happened, and if to fill vacancies, then a complete statement of how such vacancies occurred.

Mr. BOYER. I object to the introduction of that resolution at the present time.

The SPEAKER. The gentleman from Pennsylvania [Mr. MYERS] has a right to introduce the resolution under the call of States.

Mr. ANCONA. Is it not a call for executive information?

The SPEAKER. It is; and if any gentleman objects to its consideration now, it must lie over under the rule.

Mr. ANCONA. I object.

The SPEAKER. Objection being made, the resolution lies over under the rule.

#### DELEGATE FROM THE DISTRICT OF COLUMBIA.

Mr. DARLING introduced a bill to provide for the election of a Delegate in Congress from the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### FRAUDS ON THE REVENUE.

Mr. DARLING also submitted the following preamble and resolution, upon which he called the previous question:

Whereas it is publicly alleged that great frauds are daily practiced in the payment and collection of the internal revenue on distilled spirits, tobacco, and cigars, involving the integrity and fidelity of the revenue officers of the Government: Therefore,

Resolved, That a select committee of five be appointed to investigate and report to this House the facts as to any frauds or evasions in the payment of internal duties, and as to the terms of compromise or settlement in any cases of underpayment or alleged fraud of any parties concerned in the manufacture of distilled spirits, tobacco, or cigars, and of any inspector or other internal revenue officer who may have had any connection, official or otherwise, therewith, with power to send for persons and papers.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

#### DISTRICT JUDGE OF CONNECTICUT.

Mr. WARNER submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the salary of the judge for the district of Connecticut be increased to the sum of \$4,000, instead of the sum now allowed by law.

#### SOLDIERS' AND SAILORS' ORPHANS' HOME.

Mr. BANKS introduced a bill to amend an act to incorporate the National Soldiers' and Sailors' Orphans' Home; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

#### FRIEND A. BRAINARD.

Mr. WOODBRIDGE introduced a bill for the relief of Friend A. Brainard; which was read a first and second time, and referred to the Committee of Claims.

#### TAX ON COTTON.

Mr. BLAINE submitted the following resolution, upon which he called the previous question:

Resolved, That the Committee of Ways and Means be instructed to inquire whether the agricultural, commercial, and manufacturing interests of the country would not be promoted by the repeal of the tax on cotton.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### COURT OF CLAIMS.

Mr. RICE, of Maine, introduced a bill conferring jurisdiction upon the Court of Claims in certain cases; which was read a first and second time by its title.

Mr. WASHBURN, of Illinois. I would like to hear that bill read at length.

The bill was read at length. It confers upon the Court of Claims jurisdiction to hear and determine all claims against the United States arising under the grant of land reservations by the eighth article of the treaty between the United States and the Cherokee Indians, of January 8, 1817, and the second section of the treaty between the United States and the Cherokee Indians, of February 27, 1819; and that so much of the ninth and tenth sections of an act approved March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855," as is inconsistent herewith, be, and the same are hereby, repealed.

Mr. WASHBURN, of Illinois. I would inquire, what is the object of this bill?

Mr. RICE, of Maine. I have introduced the bill at this time merely for the purpose of having it referred to the appropriate committee.

Mr. WASHBURN, of Illinois. It should go to the Committee on the Judiciary.

Mr. RICE, of Maine. I have no objection. The bill was accordingly referred to the Committee on the Judiciary.

#### MEXICO.

The SPEAKER. The call of States for resolutions and bills on leave having been concluded, the next business in order is the consideration of a resolution calling for executive information, offered on yesterday by the gentleman from Kentucky, [Mr. McKEE], and laid over one day under the rule.

The resolution was read as follows:

Resolved, That the President be requested to communicate to this House, if in his opinion not incompatible with the public interest, any correspondence or other information in the possession of the Government relative to the present condition of affairs in our sister republic of Mexico, and specially any letters of the minister at Washington from said republic, and the French minister, relating thereto.

Mr. McKEE. I call for the previous question upon agreeing to the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. McKEE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CALIFORNIA RAILROAD GRANT.

The SPEAKER. The next business in order is the consideration of Senate bill No. 133, granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California, which, at the last session, was postponed till to-day after the morning hour.

Mr. BIDWELL. I move the further consideration of this bill be postponed till two weeks from to-day, after the morning hour, and that it be made the special order for that day.

Mr. WASHBURN, of Illinois. I object to this bill being made a special order; I have no objection to the postponement indicated.

Mr. BIDWELL. I will withdraw that part of my motion which proposes to make this bill a special order. I move that its further consideration be postponed till Tuesday, the 18th instant, after the morning hour.

The motion was agreed to.

#### PERSONAL EXPLANATION.

Mr. BOUTWELL. I ask consent of the House to make a statement in regard to a matter which has a personal reference to myself.

The SPEAKER. Is there any objection to the gentleman from Massachusetts [Mr. BOUTWELL] making a personal explanation?

There was no objection.

Mr. BOUTWELL. Mr. Speaker, I have observed in some of the newspapers what purported to be a report of some remarks made by me in a caucus of the Union members of the House on last Saturday evening. The report to which I refer is in many particulars quite incorrect. What I said was said very coolly; and I will repeat it substantially to the House.

I gave notice in the caucus that it was my purpose to introduce in this House at an early time a resolution calling for the correspondence between the State Department and our minister at Rome in reference to John H. Surratt; and I expressed a desire that my friends should support the passage of the resolution, if there should be any opposition to it. I then said—and I spoke just as coolly as I am speaking now—that I had good reason to believe that the executive department had had knowledge for many months of the place where Surratt was; that he was serving in the army of the Pope of Rome; that the department had for many months known the regiment and company in which and the name under which he was serving; and that they had observed a report of his arrest and escape; and I remarked that I thought, under all the circumstances, it was right that the country should know whether these were the facts or not. Therefore I desired that the resolution which I announced my intention to introduce, and which I did introduce yesterday, should be supported by the Union members of the House.

Now, sir, I will say that I have good reason—the very best of reasons, I believe—for thinking that as early as May last the executive department of this Government had knowledge where Surratt was. I did not say on last Saturday night, nor do I say now, nor have I said anywhere, that the Government has been at fault in not procuring his arrest; but when I left this city in July last I did expect that very soon the country would have knowledge that the arrest had been made. When week after week had passed away, and month after month elapsed, and there was no public information that the arrest of Surratt had been made, I did say in public speeches that I had good reason to believe that the Government had knowledge of his whereabouts.

I have this to say further: when the correspondence which has been called for shall appear, the House and the country will see whether the executive department had that knowledge or not. The House and the country will also see whether the Government has taken such measures as were in its power to secure Surratt's early arrest. Upon that point I have no knowledge whatever. Now, sir, if it shall appear that I have been mistaken as to the fact that the Government had such knowledge as I have stated, there is no person in this House or in the country who would be more willing to make the proper retraction than I will be.

I will say further, although it is a little aside from the matter with reference to Surratt, that while I am opposed to the President of the United States and his policy, I shall make no warfare upon him that I do not consider fair and legitimate. I shall not attempt, here or elsewhere, to misrepresent or abuse him; but what I do mean to undertake, and to perform

to the extent of my ability, is to ascertain whether he has been true in the great office that he holds. I intend, as one member of this House, to bring to that inquiry a judicial mind. If it shall appear that he has been true, there is no citizen of this country who will recognize the fact more readily than myself. If, on the other hand, it shall prove otherwise, then, as a citizen and as a Representative, I shall perform my duty to the country.

#### NATIONAL ASYLUM FOR DISABLED SOLDIERS.

Mr. SCHENCK, by unanimous consent, introduced a joint resolution to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies; which was read a first and second time.

Mr. SCHENCK. I desire that this resolution may be considered at the present time, as it is a matter of immediate importance.

The joint resolution was read at length. It provides that Erastus E. Wolcott, of the State of Wisconsin, be appointed a manager of the National Asylum for Disabled Volunteer Soldiers, to fill the vacancy occasioned by the death of George H. Walker, of the third class of managers, for the term which expires on the 21st day of April, 1868; and that John S. Cavender, of the State of Missouri, be appointed a manager, to fill the vacancy occasioned by the resignation of P. Joseph Osterhaus, of the second class of managers, for the term which expires on the 21st day of April, 1870.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MUSTER-OUT ROLLS.

Mr. BLAINE submitted the following resolution; which was referred to the Committee on Military Affairs:

*Resolved*, That the Secretary of War be, and is hereby, instructed to furnish, on the application of the adjutant general of any State, certified copies of the muster-out rolls of any organization of volunteers from said State serving in the late war for the suppression of the rebellion, on the representation of said adjutant general that such muster-out rolls have not been returned by United States mustering officers to his department.

And then, on motion of Mr. WASHBURNE, of Illinois, (at five minutes to two o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. EGGLESTON: The petition of 65 citizens of the city of Cincinnati, who are engaged in manufacturing cigars, praying for a uniform tax on cigars.

By Mr. ORTH: The memorial of Robert C. Gregory, W. S. Galey, and H. Crawford, praying for relief as sureties of James T. Podlock.

#### IN SENATE.

WEDNESDAY, December 5, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### BILL INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 456) for the admission of the State of Nebraska into the Union; which was read twice by its title.

Mr. WADE. I move that that bill lie on the table for a moment until the committees are appointed.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

The bill was subsequently taken up, and referred to the Committee on Territories.

#### TELEGRAPHIC REPORTS.

Mr. SHERMAN. I offer the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to provide seats on the floor of the Senate for the

accommodation of one reporter for the New York Associated Press and one reporter for the United States and European News Association.

I will say a word in regard to this resolution. There were some complaints made at the last session of the reports of the proceedings of the Senate by the Associated Press. Since that time two associations have been formed, one reporting for the New York press, and one for the western press, and perhaps a portion of the New England papers. The gentlemen who report for these associations say that it is impossible for them to hear in the gallery the proceedings of the Senate, and that it is especially difficult for them to hear what is said by the Presiding Officer of the Senate. I think, myself, that this would be a wise disposition of the matter, to allow these two representatives of semi-official associations seats on the floor wherever it will be convenient for them and convenient for the Senate, and will probably enable them to make more accurate reports. If any Senator desires it, I have no objection to the resolution being referred, but I suppose it is a matter that every one is familiar with, and I therefore ask for the present consideration of the resolution.

The PRESIDENT *pro tempore*. Is the present consideration of the resolution offered by the Senator from Ohio objected to?

Mr. CONNESS. I hope no action will be taken at present upon this resolution.

The PRESIDENT *pro tempore*. The Chair asks the Senate if there is any objection to the present consideration of the resolution.

Mr. CONNESS. I desire to add a few words.

The PRESIDENT *pro tempore*. The Chair will understand, then, that there is no objection to the present consideration of the resolution.

Mr. CONNESS. I rise to offer an objection, desiring to add a few words.

Mr. SHERMAN, [to Mr. CONNESS.] It can be taken up and then put over after you have said your few words, if you desire.

Mr. CONNESS. Very well; let it lie over.

Mr. SHERMAN. The Senator does not understand me as objecting to his making any remarks.

Mr. CONNESS. I understood the objection rather to come from the Chair.

Mr. SHERMAN. No. I think there would be no objection to the consideration of the resolution; but if the Senator desires further time, I have no objection to its going over, being committed, or taking any other course which he deems best.

The PRESIDENT *pro tempore*. The Chair, of course, decides no question about objections to the resolution. The Chair simply asked of the Senate if there were objections to the present consideration of the resolution. Hearing none, the Chair says there is no objection.

Mr. CONNESS. Mr. President, I rise simply to say, that for one I have no objection to such an arrangement in the Senate as shall give what I have heretofore called a true reflex of the proceedings of this body to the country. That is my desire as a Senator here; but my experience in that respect demands that I should now say that before that is done, or in connection with doing it, the Senate should take care that when the privilege of seats on the floor of this body is to be conceded or given to reporters, they shall have it connected with such regulations or control by this body as shall secure true reports. It is true that it is inconvenient to the reporters in the Senate gallery, and that they cannot always distinguish clearly there what is said in the Senate; but I incline to think that a disposition foreign to the question of the capacity to understand the proceedings of the Senate has governed in the case of reporting. I prefer at present that the matter should lie over, and let the resolution go to the Committee on Printing when the committees shall have been organized.

Mr. SHERMAN. I have no objection to letting it lie on the table. I will call it up to-morrow.

The PRESIDENT *pro tempore*. This resolution will be laid on the table, at the instance of the mover.

#### STANDING COMMITTEES.

Mr. ANTHONY. I move that the Senate proceed to the election of the standing committees of the body.

The motion was agreed to.

Mr. ANTHONY. I ask unanimous consent to suspend the rule which requires that the committees be elected by ballot.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks that the rule requiring the committees to be elected by ballot may be waived at the present time. Is there any objection? No objection being made, the rule will be considered waived.

Mr. ANTHONY. I offer a list of nominations for the several committees,

The PRESIDENT *pro tempore*. The resolution embodying the names of the gentlemen to compose the standing committees will now be read for the information of the Senate:

The Secretary read, as follows:

*Resolved*, That the following be the standing committees of the Senate during the present session, namely:

*On Foreign Relations*—Messrs. Sumner, (chairman,) Harris, Wade, Fowler, Fogg, Johnson, and Doolittle.  
*On Finance*—Messrs. Fessenden, (chairman,) Sherman, Morgan, Williams, Cattell, Van Winkle, and Guthrie.

*On Commerce*—Messrs. Chandler, (chairman,) Morrill, Morgan, Edmunds, Creswell, Sprague, and Patterson.

*On Manufactures*—Messrs. Sprague, (chairman,) Pomeroy, Fowler, Riddle, and Dixon.

*On Agriculture*—Messrs. Sherman, (chairman,) Cattell, Wilson, Cowan, and Guthrie.

*On Military Affairs and the Militia*—Messrs. Wilson, (chairman,) Lane, Howard, Sprague, Brown, Nesmith, and Doolittle.

*On Naval Affairs*—Messrs. Grimes, (chairman,) Anthony, Willey, Ramsey, Cragin, Nye, and Hendricks.

*On the Judiciary*—Messrs. Trumbull, (chairman,) Harris, Poland, Stewart, Frelinghuysen, Johnson, and Hendricks.

*On Post Offices and Post Roads*—Messrs. Ramsey, (chairman,) Conness, Pomeroy, Anthony, Kirkwood, Van Winkle, and Dixon.

*On Public Lands*—Messrs. Pomeroy, (chairman,) Stewart, Harris, Kirkwood, Edmunds, Cattell, and Hendricks.

*On Private Land Claims*—Messrs. Harris, (chairman,) Howard, Poland, Riddle, and Norton.

*On Indian Affairs*—Messrs. Henderson, (chairman,) Trumbull, Morrill, Ross, Nesmith, Buckalew, and Doolittle.

*On Pensions*—Messrs. Lane, (chairman,) Kirkwood, Edmunds, Ross, Frelinghuysen, Van Winkle, and Saulsbury.

*On Revolutionary Claims*—Messrs. Yates, (chairman,) Chandler, Fogg, Nesmith, and Saulsbury.

*On Claims*—Messrs. Howe, (chairman,) Williams, Sherman, Willey, Fogg, Frelinghuysen, and Davis.

*On the District of Columbia*—Messrs. Morrill, (chairman,) Wade, Sumner, Henderson, Nye, Patterson, and McDougall.

*On Patents and the Patent Office*—Messrs. Willey, (chairman,) Lane, Grimes, Norton, and Cowan.

*On Public Buildings and Grounds*—Messrs. Brown, (chairman,) Trumbull, Grimes, Poland, and McDougall.

*On Territories*—Messrs. Wade, (chairman,) Yates, Nye, Cragin, Fowler, Davis, and Cowan.

*On the Pacific Railroad*—Messrs. Howard, (chairman,) Sherman, Morgan, Conness, Brown, Yates, Cragin, Ramsey, and Stewart.

*To Audit and Control the Contingent Expenses of the Senate*—Messrs. Williams, (chairman,) Henderson, and Buckalew.

*On Engrossed Bills*—Messrs. Cragin, (chairman,) Sumner, and Norton.

*On Mines and Mining*—Messrs. Conness, (chairman,) Stewart, Chandler, Morgan, Creswell, Wilson, and Buckalew.

*Joint Committee on Printing*—Messrs. Anthony, (chairman,) Ross, and Riddle.

*Joint Committee on Enrolled Bills*—Messrs. Nye, (chairman,) Howe, and Dixon.

*Joint Committee on the Library*—Messrs. Creswell, (chairman,) Howe, and Fessenden.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution as just read.

The resolution was adopted.

#### RESTORATION OF CONFISCATED PROPERTY.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the joint committee on retrenchment be instructed to make inquiry as to the power of the President to restore property confiscated under the laws of the United States to its original owners, or, if such power exists, to what extent it can right-fully be exercised under existing laws; and also to make inquiry into the power of the Secretary of the

Treasury to deliver to private claimants therefor, without judicial proceedings, property, or the proceeds of property, seized by the United States as captured or abandoned during or since the late rebellion, and report by bill or otherwise.

CHARLES CLARK.

Mr. FESSENDEN. I desire to introduce a joint resolution for the relief of Charles Clark, marshal of the United States for the district of Maine. The resolution is to authorize the Secretary of the Interior to allow, in the settlement and adjustment of Mr. Clark's accounts, for a sum of money that was burnt and destroyed in the safe in the marshal's office at Portland during the great fire there. I should like to call the attention particularly of the Committee on the Judiciary to it. I propose to refer it to that committee, as it relates to money connected with the judicial department of the Government. I move that it be referred to the Committee on the Judiciary.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine; which was read twice by its title, and referred to the Committee on the Judiciary.

#### POWER OF AMNESTY AND PARDON.

Mr. TRUMBULL. I move now to take from the table House bill No. 828, to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

The motion was agreed to; and the bill was read twice by its title.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole.

Mr. TRUMBULL. I move that it be referred to the Committee on the Judiciary.

Mr. CHANDLER. I hope the bill will not be referred to that committee or any other. The bill is very simple indeed, and very brief. The section proposed to be repealed is in these words:

"Sec. 13. And be it further enacted, That the President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare."

The repeal of that section simply takes away all power of amnesty and pardon from the President except what he possesses under the Constitution. The House of Representatives by the very decided vote of 111 to 89 suspended the rules and passed the bill in the first half hour of their session. If there is any member of this body who does not understand just what that thirteenth section means, I advise him to get a dictionary and attempt to comprehend it, after taking a small edition of Webster; that will be large enough. It simply takes from the President all power of amnesty and pardon except what the Constitution gives him. If he has the power of pardon before conviction, under the Constitution, it leaves it there. If he can only pardon after conviction, it leaves it there. It leaves the President with the powers that the Constitution gives him, no more and no less. The country understands this question, and I believe every member of the Senate understands it, and I shall ask for the yeas and nays on the reference.

Mr. DOOLITTLE. I do not rise to take part in this discussion on the subject of the reference of this measure, although I concur in the views which were expressed yesterday by the honorable Senator from Illinois, [Mr. TRUMBULL.] I simply rise to say that I suppose by some inadvertence, whoever reported the debate of yesterday, not for the Globe, but for one of the newspapers published in this city, has fallen evidently into a mistake and has stated that I took part in the discussion. I suppose the reporter mistook my colleague for Senator Howe, my colleague from Wisconsin, because I took no part in the discussion. It is but just to myself that I should

say that I concur in the opinion which was expressed by the Senator from Illinois as to the propriety of referring so important a question as this to some committee of the body.

Mr. GRIMES. Mr. President, as I understand this proposition, if compelled to vote to-day, I shall feel disposed to vote in favor of the passage of the bill. When it shall be reported back from the Judiciary Committee, with the sanction of that committee, I have no question that I shall vote for it; but I am not to be deterred by the threat of the call for the yeas and nays which the Senator from Michigan has given notice of from insisting upon a strict enforcement of the rules of the Senate, unless there shall be some more substantial reason given for overthrowing those rules than has yet been assigned. I should like to know why it is that it is necessary that we should in such hot haste pass this bill. Does the Senator or any gentleman suppose that it is going to have any more influence with the country at large because we, in a fit of temper, as they will judge, choose to pass this bill the first hour of the session, than if we shall detain it in the hands of the Committee on the Judiciary one day or two days, and have the authority and sanction and the weight of character which will be given to it by the action and recommendation of that committee? I apprehend not, sir.

As was said here yesterday by a Senator near me, [Mr. FESSENDEN,] we have upon several occasions, during the eight or nine years that I have been here, passed bills in hot haste without a reference to a committee, as it is proposed to pass this bill, and in almost every such instance we have found that we have perpetrated some wrong, some mistake, and were afterward compelled to take the back track. I do not know with what haste we passed the bill one section of which it is now proposed to repeal: I only know that we did pass it and that I voted for it. I am satisfied now that we ought not to have incorporated it into that bill; but I want to have the authority of the committee of this body whose business it is to investigate such subjects to ratify and confirm my present impression in regard to it. If it is feared that the President will issue a general proclamation of amnesty, let me ask, does this action deny him the power to do it? After we pass this bill by a unanimous vote, if the Senate should pass it by such a vote, he will have the power to retain it under the Constitution for ten days in his hands, and during those ten days I apprehend it would not be denied that he could issue his proclamation if he chose to do it.

Mr. President, I fear that the country will regard that this is rather an incitement to the President to do something of the kind, that it will be invoking the exercise of some such power on his part, rather than any very great display of wisdom and prudence and statesmanship on our part.

Mr. CHANDLER. Mr. President, it is a notorious fact, as notorious as the records of a court, that pardons have been for sale around this town, for sale by women, and more than one woman. The records of your court in the District of Columbia show this. Any Senator who desires that disgraceful business to go on of course desires that this clause shall remain; any Senator who desires to stop that disgraceful business, desires that the clause shall be instantly repealed. This is a matter of public record, a matter that every man knows who has read the newspapers, or examined the records of your courts, and I have it from one of the judges of the court of this District that such is the fact. No nation was ever so disgraced as this nation has been by this public sale of pardons, and that under the clause of the law which I have read to this body.

Of course the bill is in the hands of the Senate. If they desire to send it to a committee and delay the repeal of that clause, let them send it to a committee or let them lay it on the table, or let them refuse to vote at all upon it. I want to see it pass. I want this disgraceful business stopped, and stopped here and now.

I deny that I have any more excitement than I ought to have when such an outrage as this is being perpetrated under my eyes and under the eyes of every member of this body. I hope the Senate will not send it to any committee, but will pass it with the same promptitude that it was passed by the House of Representatives.

Mr. HENDERSON. Mr. President, yesterday I voted to take up this bill, but with a view when taken up of moving, unless some member of the committee himself should do so, to refer it to the Committee on the Judiciary. I know, of course, nothing about the facts referred to by the Senator from Michigan; nor do I apprehend that the passage of the bill now pending before the Senate would have any very good effect to do away with the difficulty that he suggests. The clause of the act of July 17, 1862, now proposed to be repealed, only authorized the President by public proclamation to grant amnesty to persons engaged in the rebellion, and the complaint that the Senator makes now is that private pardons, as I understand him, are being hawked around through the city. The repeal of the provision contemplated will do no good at all, but will increase, if possible, the difficulty that he refers to. It is not that the President has offered amnesty by public proclamation, but that he is pardoning individual cases that he ought not to pardon, as I understand the objection of the Senator from Michigan.

Now, Mr. President, I am not prepared to say how I shall vote after an examination of this subject; but I wish to assure the Senator from Michigan that it is not a question of such easy solution as he imagines. Some time during the last session of Congress I had occasion to look somewhat into this very question, and it is one of exceeding doubt in my mind whether the act of 1862 in this respect conferred any additional power upon the President; whether the President's power would not be equally great under the Constitution without the act of 1862 as it is with it. I am not prepared to say that such is the fact; but I am not prepared to say on the other hand that such is not the fact.

One of the most important inquiries to be made in this case is, whether the President, by virtue of the Constitution, can make public proclamation of amnesty at all. If so, it would be wholly unnecessary for us to repeal this provision of the act of 1862. Another very important question arises, whether a separate certificate of pardon granted in an individual case restores the property not already taken away from the individual. That is an important question, and one that was very learnedly discussed in the Supreme Court of the United States by the Senator who sits before me, [Mr. JOHNSON,] who held, I believe, the position that a pardon granted at any time restored an individual to all the rights that he had before.

Mr. JOHNSON. Not disposed of.

Mr. HENDERSON. Even where a suit had been commenced for the confiscation of property, if there had been no judgment of confiscation, the Senator held that the property reverted to the individual after pardon. In other words, that all the rights which had not been taken entirely from the individual by a decree of a court resulted back to him as a necessary consequence of the pardon.

That is a very important question to be considered, and I think that the proper place for this bill is the Committee on the Judiciary. I desire that this question shall be settled by that very learned committee. It is the proper place for the bill to go, and I really do not see the necessity of immediate action in the premises unless there be fear upon the part of the Senate that the President designs issuing a proclamation of amnesty to all the southern rebels. I have not heard any intimation of that sort, and I apprehend that he does not design anything of that character; perhaps he does not design to enlarge the privileges of pardon beyond what is contained in his amnesty proclamation of May, 1865. I apprehend not; but if there be any fears of that character, it might be well for the Senate so to say, and



then I might change my course in regard to the present consideration of the bill; but otherwise I am clearly of the opinion that this bill ought to go to the Committee on the Judiciary. It is a very important question, and one that cannot be disposed of by reference to the dictionaries. It involves some of the nicest political and legal questions, and I assure the Senator from Michigan that many difficulties will not be gotten rid of by the mere passage of this bill. I think, therefore, that the proper course is to refer it and let it be properly considered.

The PRESIDENT *pro tempore*. On the motion to refer this bill to the Committee on the Judiciary the yeas and nays have been called for. The Chair will put the question on seconding that demand.

The yeas and nays were ordered.

Mr. DIXON. Mr. President, I had no intention of entering into this debate; and I came into the Senate this morning just as the distinguished Senator from Michigan rose to address the Senate on the pending question, which I understand to be a question of reference. I certainly think that this important and grave matter ought to be referred to the Committee on the Judiciary; and if I had any doubts on that subject, my doubts would be removed by the remarks which have fallen from the Senator from Michigan. That Senator has taken it upon himself to say here, from his own knowledge, as notorious, he said, as the records of a court of justice—importing, therefore, absolute verity—that pardons granted by the President of the United States were for sale in the city of Washington, and had been, and that, too, by women of bad character. Now, sir, since that charge is made, and from so distinguished a source—a Senator of the United States in his place—I think it is very proper and becoming that the Senate should refer a measure of this kind to the Committee on the Judiciary; that they should not go forward and pass in hot haste a bill upon this subject with such a charge preferred against the President of the United States—a charge which, if true, I need not say, renders him liable to impeachment.

Well now, sir, without knowing much about this matter—I profess to have no personal knowledge—I take it upon myself, in my capacity as a Senator here, in my place utterly to deny the charge. I say the charge is not true. The Senator has been misinformed; he has been most grossly misinformed. The President of the United States is not guilty of the crime which he in his misinformation alleges against him; and I do not think it is proper that such a charge as that should be made against the President without a particle of proof being adduced to sustain it. I, of course, am not prepared to go into that case; I am not prepared to set before the Senate the real facts with regard to it; but I have heard that charge made, and I cannot sit here willingly and hear the charge without a denial; and I take it that my denial is as good as the Senator's assertion. I say that the distinguished Senator has been misinformed, and I feel that he will be as glad as any one else to hear it. While, as I said before, I am not prepared to go into details, and am not particularly conversant with the facts, I know enough of the case to be enabled to inform him—and I am sure he will be glad to hear it—that the charge is utterly untrue.

Mr. CHANDLER. I simply stated what was on the records of a court in sworn testimony. The charge has been established before a court. My information is derived from one of the judges of the court before which the case was tried. The records of the court show it, and therefore I called attention to the facts. But now, sir, as it seems to be the wish of the Senate that the bill should be referred to the Judiciary Committee, I desire to withdraw my call for the yeas and nays.

The PRESIDENT *pro tempore*. The call for the yeas and nays having been ordered, it can be withdrawn only by the unanimous consent of the Senate. Is there any objection? ["None."] No objection being made, the call is withdrawn.

Mr. TRUMBULL. There being now no objection to the reference of the bill, I do not know that I ought to detain the Senate; but I think that in consequence of what fell from the Senator from Michigan I ought to say a word, lest the impression might go out that those who favored the reference of this bill were opposed to the object contemplated by it. Now, the Senator from Michigan knows that he was no more zealous for an efficient confiscation bill during the war than myself. I believed during the war that we ought to have a confiscation bill that was effective, and I did all I could in this body to secure the passage of such a measure. The confiscation bill which did pass was emasculated and not effective; but such as it was, it has never been efficiently executed. And, sir, I think I go quite as far as the Senator from Michigan in opposing, in the manner it has been done, the restoration to rebels of property which was taken under the confiscation act. But here is a bill that comes to us now, proposing to repeal a section of that confiscation act which was never, in my judgment, as effective as it ought to have been; and we are asked to pass it at once, and without referring it to any committee.

Now, sir, I am not opposed to this; but I believe it better to do business deliberately and in order. We have our rules of proceeding in this body—established to promote the transaction of public business—and experience has shown that the object is best accomplished by their observance. The ordinary course of proceeding is to refer a bill to the appropriate committee; it is very seldom that a bill is passed by this body without a previous reference to some committee; and I think it safer to adopt that course in this case. I assure the Senator from Michigan that this course is not dictated by any opposition to the object of the bill; but I think the effect of its passage will be better on the country when it shall be seen that we act deliberately and in the usual way. Let us first see what duty requires, and then calmly, dispassionately, and resolutely perform it. I know of nothing to be gained by passing the bill to-day; and if it is proper that the bill should pass, as I think it is, a reference can do no harm; and whether it be advisable to pass it or not, I assure the Senator, as far as I am concerned, that its consideration shall not be unnecessarily delayed. The motion to refer was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced the passage by the House of a joint resolution (H. R. No. 212) to appoint two managers for the National Asylum for Disabled Volunteer Soldiers to fill certain vacancies; and also the adoption by the House of a concurrent resolution reappointing the joint committee of fifteen on reconstruction; in both of which the concurrence of the Senate was requested.

#### RECONSTRUCTION.

Mr. SUMNER. I now offer certain resolutions, which I ask to have read and printed.

The Secretary read the resolutions, as follows:

Resolutions declaring the true principles of reconstruction; the jurisdiction of Congress over the whole subject; the illegality of existing governments in the rebel States, and the exclusion of such States with such illegal governments from representation in Congress and from voting on constitutional amendments.

Resolved, 1. That in the work of reconstruction, it is important that no false step should be taken, interposing obstacle or delay; but that, by careful provisions, we should make haste to complete the work so that the unity of the Republic shall be secured on permanent foundations, and fraternal relations shall be once more established among all the people thereof. 2. That this end can be accomplished only by following the guiding principles of our institutions as declared by our fathers when the Republic was formed, and that any neglect or forgetfulness of those guiding principles must postpone the establishment of union, justice, domestic tranquillity, the general welfare, and the blessings of liberty, which are the declared objects of the Constitution, and therefore must be the essential object of reconstruction itself.

3. That this work of reconstruction must be con-

ducted by Congress and under its constant supervision; that under the Constitution Congress is solemnly bound to assume this responsibility; and that, in the performance of this duty, it must see that everywhere throughout the rebel communities loyalty is protected and advanced, while the new governments are fashioned according to the requirements of a Christian Commonwealth, so that order, tranquillity, education, and human rights shall prevail within their borders.

4. That, in determining what is a republican form of government, Congress must follow implicitly the definition supplied by the Declaration of Independence, and, in the practical application of this definition, it must, after excluding all disloyal persons, take care that new governments are founded on the two fundamental truths therein contained; first, that all men are equal in rights; and secondly, that all just government stands only on the consent of the governed.

5. That all proceedings with a view to reconstruction originating in executive power are in the nature of usurpation; that this usurpation becomes especially offensive when it sets aside the fundamental truths of our institutions; that it is shocking to common sense when it undertakes to derive new governments from that hostile population which has just been engaged in armed rebellion; and that all governments having such origin are necessarily illegal and void.

6. That it is the duty of Congress to proceed with the work of reconstruction, and to this end it must assume jurisdiction of the States lately in rebellion, except so far as that jurisdiction may have been already renounced, and it must recognize only the loyal States or those States having legal and valid "Legislatures" as entitled to representation in Congress or to a voice in the adoption of constitutional amendments.

Mr. SUMNER. Before the motion to print is put, I desire to say that at this stage I do not propose to discuss these resolutions. I have introduced them now as a statement of the case. I see no chance for peace in the rebel States until Congress does its duty by assuming jurisdiction over that whole region. These resolutions declare briefly the duty of Congress in that regard, and assign reasons therefor. I have said that I have no purpose now to discuss them; but I have in my hand a letter which I received yesterday from a friend of our cause in Texas, and which is so important in its statements and so direct in its bearing on the questions raised by these resolutions, that with the indulgence of the Senate I will read briefly to it.

Mr. McDOUGALL. Allow me to ask the Senator to read the signature. Let the name of the writer be given.

Mr. SUMNER. I shall not read the signature.

Mr. McDOUGALL. Ah! Ha!

Mr. SUMNER. And for a very good reason—that I could not read the signature without exposing the writer to violence, if not to death.

Mr. DAVIS. Mr. President, I rise to a question of order. I ask if the reading of the letter by the Senator from Massachusetts is in order?

The PRESIDENT *pro tempore*. In the opinion of the Chair, a Senator in making a speech to the Senate has a right to read from a letter in his possession if he deems proper.

Mr. DAVIS. I ask whether it is in order for the Senator from Massachusetts to make a speech at this time?

The PRESIDENT *pro tempore*. The Chair sees nothing disorderly in it. The Chair is of opinion that the Senator from Massachusetts is entitled to the floor; and while proceeding in order he cannot be seated by a question of order upon his general right to speak. The Chair thinks the Senator from Massachusetts is in order.

Mr. SUMNER. The letter is dated in Texas, November 19, 1866, and, as I have already said, it came to my desk here yesterday. I read as follows:

—, TEXAS, November 19, 1866.

DEAR SIR: The really loyal men in this part of Texas concur in thinking that the first move of the Republican party at the approaching session of Congress should be the passage of an act abolishing the sham State governments that have been set up in the South without authority of law, and declaring all their acts, except so far as on revision they may be affirmed by competent authority, to have been null and void from the beginning. If that is done we think that everything else required to be done will be easy. Petitions will be sent on from here to that effect. Governor Hamilton will be requested to have them presented.

Our so-called Legislature adjourned on Tuesday last. It was a worse and more disloyal body than the

convention. All its members, except about six, showed by their speeches, proposed bills, and acts, that they were not merely in law, but in fact, public enemies of the United States. The laws they have passed are infamous and amount to neither more nor less than a cunningly-devised system intended to effect a practical restoration of slavery. I refer to their public and general laws, and not to the batch of roguish charters and special statutes which they have enacted. Some of them do not contain the word "freedman," but they are aimed at the poor freedmen nevertheless. For example; the acts in regard to labor, trespasses, apprenticeship, stay of execution, exemption and regulating county courts, are intended to reestablish slavery, and that in a worse form than before, under which the responsibility for the sick and the very young and aged will not be attached to anyone in particular. The leading object of our legislators seemed to be to make contracts to labor specifically enforceable, and at the same time, by stay and exemption laws, the contracts to pay for the labor unenforceable. By the county court act they arranged it so that the freedmen could be got in the way of prosecution for offenses without the intervention of a grand jury.

I sincerely hope that Congress will declare that no statutes of limitation shall be held to operate in the insurrectionary States until they are reorganized and readmitted. The act of 1864 is not broad enough. Limitation should not, on principle, be held to run where there are no lawful tribunals.

I learn from persons of character that some of the members of our "Legislature" (Mr. Short, an ex-rebel captain, for instance) boasted in private that they had never taken the amnesty oath prescribed by the President, and that in one county of Texas where only thirteen of the inhabitants had taken that oath some two hundred voted at the last election. Will Congress prescribe an oath? If so, ought it not to require all inhabitants, without regard to sex, race, or color, under penalty of being precluded, in case of neglect or refusal, from inheriting, or asserting rights in any form in any court of justice, to register themselves and take the oath which may be prescribed? I have inserted the word "sex" after much reflection. The women keep the rebel spirit active in the South. All women fear to take a judicial oath, and in general observe one when taken. If the rebel women who now exult and exasperate only swear allegiance they will subside into quietude. Besides, the registration might furnish the census of the South now wanted.

We have been in a horrible state of suspense here. Had the earlier northern elections gone against the Republican party I should have had to promptly make my escape from Texas, if, indeed, I could have got off at all. *The spirit of rebellion down to that time had waxed fiercer and more intolerant than it was at the middle of 1861.* Many loyal men left, and all who could, and with whom I conversed, told me they were preparing to leave. Since those and the later elections the rebels, through policy, have been more quiet. Deeming it my duty to remain as long as practicable, in order not only to aid in any move thought advisable, but to keep the loyal press of the North informed of the actual condition of affairs here, I have remained and suffered. If Congress does not wipe out all that has been done, but abandon the loyal whites and the poor freedmen to rebel rule, I must and will emigrate. Many others will do the same. In what a horrible condition will those be who cannot get away!

I remain with high respect, your obedient servant,

HON. CHARLES SUMNER, of the United States Senate,  
Boston, Massachusetts.

That is a letter from a gentleman with whom I have been in correspondence now for some two years, whose character I know well, and for whom I vouch. I should not read the letter on this occasion if I were not entirely satisfied of the character and intelligence of the writer. It is in the nature of testimony which the Senate cannot disregard. It points out the way to our duty. We must, sir, follow the suggestions of this patriot Unionist and erase those governments under which these outrages are perpetrated. The writer calls them "sham governments." They are governments having no element of vitality. They are disloyal in origin, and they share the character of the rebellion itself. We must go forth to meet those governments and the spirit in which they have been organized, precisely as in years past we have gone forth to meet the rebellion. The rebellion, sir, has now assumed another form, and our conflict is no longer on the field of battle, but it is here in this Chamber and in the Chamber at the other end of the Capitol. Our strife is civic, but it should be none the less strenuous.

Mr. McDUGALL. Mr. President, "none the less strenuous" if "strenuous" will achieve the true victory. The Senator from Massachusetts reads a letter from Texas. I do not rise to answer his argument, because it is only on a motion to print; but it is somewhat within the confines of my memory that I was in Texas in 1836, and I am somewhat conversant with all that part of the world, of which I think the

Senator from Massachusetts is altogether ignorant. I have been through all that part of the world, although I was born further north than him, and denied the doctrine of slavery as early as he did; perhaps earlier; I do not know.

I rise to express principally my objection to his habit of getting up and reading letters from gentlemen from Texas, for I have been there, where I am known and have been known for at least thirty years. Whom does the letter come from? Probably an adventurer over there who writes very good English; perhaps he may have even graduated at Harvard, that the gentleman is conversant with and that I am not. As for the authority of the letter, I should like to have an indorser—the indorsement of the name of the man who wrote it and not the indorsement of a man who is ignorant, because it is my opinion that the Senator from Massachusetts never floated down the Mississippi, and never saw the State of Texas, and never saw a southern State. I do not say he did not; but I doubt whether he did. It has been my opportunity to have lived and been about all the States of this Union, and I belong to them all from Maine to Texas, California included. Of course this is not an argument, Mr. President. I only say that I do not like this thing of letters being read. I have my arms full of letters sometimes, but I never read a letter from a man who would not put his signature to it, and I have never said a word where my opinion was not on my sleeve.

The motion to print the resolutions was agreed to.

#### MANAGERS OF SOLDIERS' HOME.

Mr. WILSON. There has been sent to us a resolution from the House of Representatives to elect two managers for the Soldiers' Home, and I ask unanimous consent to put it on its passage now. The board meets to-morrow, and it is important that these managers should be elected to-day, perhaps in order to constitute a quorum of the board.

The motion was agreed to; and the joint resolution (H. R. No. 212) to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies, was read twice by its title and considered as in Committee of the Whole. It proposes to appoint Erastus B. Woolcott, of the State of Wisconsin, a manager of the National Asylum for Disabled Volunteer Soldiers, to fill the vacancy occasioned by the death of George H. Walker, of the third class of managers, for the term which expires on the 21st day of April, 1868; and John L. Cavender, of the State of Missouri, to fill the vacancy occasioned by the resignation of P. Joseph Osterhaus, of the second class of managers, for the term which expires on the 21st day of April, 1870.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### NAVY-YARD EMPLOYÉS.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate copies of all orders, instructions, and directions made or issued by him, or by the chief of any bureau in his Department, since the 1st day of April last, in relation to the employment of officers, master-workmen, mechanics, laborers, or other persons in the navy-yards of the United States; and that he transmit to the Senate copies of all communications received by him or by the chief of any one of the naval bureaus on the subject of the employment of persons in the navy-yard at Norfolk, Virginia, as well as copies of all communications from him or such chiefs of bureaus to any and all other persons touching the subject of employment at such yard.

#### PRESIDENTIAL TERM.

Mr. WADE. I move that the Senate take up, with a view to reference, the joint resolution that I offered early in the last session proposing an amendment to the Constitution of the United States so as to restrict the presidential office to one term.

Mr. McDUGALL. I ask the Senator,

does he change the term in his proposed amendment? Does he change it to six years?

Mr. WADE. The proposition is to restrict the office to one term of four years. My motion will be to refer it to the Committee on the Judiciary, not to consider it now. I only wish to say on this occasion that I believe it is the most favorable opportunity to make this amendment that there has been since the formation of the Constitution of the United States. It has been the opinion of some of the wisest statesmen, or those who were deemed the wisest, at almost every period during the existence of this Government, that it was a defect in that instrument that it failed to limit the occupancy of the office to only one term. I have no doubt that the reason which superinduced this was that General Washington was contemplated universally as the first Chief Magistrate, and in him such confidence was reposed that it seemed to throw the statesmen of that day off the ordinary caution that they exercised in almost every other portion of the Constitution.

Nobody can fail to see that in the vast and growing patronage and power of the presidential office there are temptations to the incumbent, all the time weighing upon his mind like gravity, to wield the concentrated powers of the Government in such a way as he believes will conduce to his reelection. I believe every one who has watched with vigilance the administration of our Government during all its periods will admit that this has been so. I do not wish now invidiously to point out the peculiar action of any particular Administration; but any one acquainted with the action of the human mind and the motives which govern it knows that it is not safe to leave in the hands of any man such temptations as arise from the fact that he can use these vast powers to promote his own ambition.

There has rarely been a time, however, when such a proposition could be moved and not seem to be invidious. I believe, in the progress of this nation from one Administration to another, that this idea, which shrewd statesmen saw early, has been growing, till now everybody seems to understand that there is an evil which needs correction. Without going into the argument, merely suggesting the great importance of the measure, I simply say that all parties for several years seem to have been of the opinion that this defect should be remedied. President Washington thought so. President Jackson and almost all our eminent statesmen from that time to this have seen this defect and wished it might be corrected. They did not, however, find an opportunity when it was probable that they could get the necessary vote to effect it. Such has been the condition of parties generally in this Government that it was almost a hopeless task to ingraft this amendment upon the Constitution. There now is an opportunity, and I believe every man is sensible that the correction ought to be promptly applied. I hope, therefore, that the Judiciary Committee will take up this great subject, consider the resolution that I send to them, and if it is not correct in their judgment, if it wants amendment, I hope they will apply the amendment, and at an early period report it back that Congress may act upon it.

Mr. McDUGALL. Mr. President—

The PRESIDENT *pro tempore*. The Chair will suggest that under the 21st joint rule which was brought to the attention of the Senate on the first day of the session, the motion made by the Senator from Ohio would not be in order, because it refers to business which cannot now be acted on under the decision made by my predecessor in this chair, which was that bills, resolutions, and all unfinished business could not be considered until after the first six days of the session. Under that decision this motion would not be in order.

Mr. McDUGALL. I understand that it was courtesy to the Senator to allow him to pursue his remarks. It will be courtesy to me if I make a remark—the courtesy of the Senate.

The PRESIDENT *pro tempore*. The Chair will interpose no objection even to the consideration of the resolution, but suggests simply that under the former decision it is not in order. The Chair recognizes the Senator from California.

Mr. McDUGALL. I desire simply to suggest that the amendment which the Senator from Ohio proposes would meet with my entire approbation if the term should be made six years, and at sometime I would like to advance that idea to the Senate supported by careful reasoning. It will come up, of course, afterward. His amendment is simply to limit the Presidency to a single term. I say a single term of six years. I only want to suggest it that it may be recorded. I agree with the Senator from Ohio; I think he is correct.

The PRESIDENT *pro tempore*. If no objection be made to the consideration of this subject, the Chair will put the question. The Chair deemed it his duty to state that the motion was obnoxious to the question of order if any Senator thought proper to raise it.

Mr. McDUGALL. Is it a question of consideration or a question of reference?

Mr. WADE. I wish to say about that rule of order that I understand it is construed very differently in the House from what it is in this body, and I cannot see the force of it any way. I saw that the Chair, when the question was first raised, put a very different construction on it, and a different construction I understand prevails now in the House. I think this is a very inconvenient one and almost destroys all business for the first six days of the session. I wish that the decision might be reconsidered and our practice made to conform to what I understand is the construction placed on the rule by the Speaker of the House.

The PRESIDENT *pro tempore*. The Chair will suggest that there has been no objection made to the consideration of this subject, and the Chair will put the question to the Senate on taking up the joint resolution and referring it.

Mr. McDUGALL. If it is a question of reference, I have no objection. If it is a question of present consideration, I have objection.

The PRESIDENT *pro tempore*. The motion is that the Senate proceed to the consideration of the joint resolution named by the Senator from Ohio.

The motion was agreed to; and the Senate proceeded to consider the joint resolution (S. R. No. 33) proposing an amendment to the Constitution of the United States.

Mr. WADE. Now, I move to refer the resolution to the Committee on the Judiciary. The motion was agreed to.

#### FINANCE REPORT.

Mr. FESSENDEN. I move that the report of the Secretary of the Treasury on the state of the finances be referred to the Committee on Finance, and also that five thousand extra copies be printed for the use of the Senate. The report itself has already been ordered to be printed, I understand.

The PRESIDENT *pro tempore*. The motion to refer the report to the Committee on Finance will be considered as agreed to, if there be no objection, and the motion to print extra copies will be referred to the Committee on Printing.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion of Mr. SUMNER, it was

*Ordered*, That so much of the President's message as concerns our foreign relations be referred to the Committee on Foreign Relations.

On motion of Mr. FESSENDEN, it was

*Ordered*, That so much of the President's message as relates to the finances of the United States be referred to the Committee on Finance.

On motion of Mr. POMEROY, it was

*Ordered*, That so much of the President's message as relates to the homestead law and the public lands of the United States be referred to the Committee on Public Lands.

On motion of Mr. HOWARD, it was

*Ordered*, That so much of the President's message as relates to the Pacific railroad be referred to the Committee on the Pacific Railroad.

On motion of Mr. RAMSEY, it was

*Ordered*, That so much of the President's message as relates to the Post Office Department and the postal system be referred to the Committee on Post Offices and Post Roads.

#### REFERENCE OF BILLS.

On motion of Mr. SHERMAN, the bill (S. No. 452) to prevent and punish the illegal appointment of officers of the United States, heretofore introduced by him, was taken from the table, referred to the Committee on the Judiciary, and ordered to be printed.

On motion of Mr. WILLIAMS, the bill (S. No. 453) to regulate the tenure of offices, heretofore introduced by him, was taken from the table and referred to the joint-select committee on retrenchment.

#### SUFFRAGE IN THE DISTRICT.

Mr. MORRILL. I move that the Senate bill No. 1 be printed. It is the bill referred to in debate the other day, to regulate the elective franchise in the District of Columbia. I desire to say that I hope the Senate will indulge me on Monday next in calling the bill to their attention. I move now that it be printed, together with the amendments which have been adopted and those which have been proposed.

The motion was agreed to.

#### JOINT COMMITTEE ON RECONSTRUCTION.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

*Resolved*, (the Senate concurring,) That the joint committee of fifteen on reconstruction, appointed during the last session of Congress, shall be reappointed under the same rules and regulations as then existed, and that all the documents and resolutions which were referred then be now considered as referred to them anew.

The resolution was concurred in.

#### WIDOW OF HON. J. H. LANE.

Mr. POMEROY. I move that the resolution which I had the honor to present on the first day of the session, relative to the payment to Mrs. Lane of the balance due to her deceased husband, be taken up for reference.

Several SENATORS. Let us pass it now.

The motion was agreed to; and the resolution received its second reading.

Mr. POMEROY. If there is no objection, I should like to ask for the present consideration of the resolution.

Mr. JOHNSON. I was about to rise to make a motion for that purpose. I see no necessity for a reference to a committee of a resolution of this kind. I believe it is in the usual form in such cases.

Mr. POMEROY. It is.

The resolution was read the third time, and passed, as follows:

*Resolved*, That the Secretary of the Senate be, and is hereby, directed to pay out of the compensation fund of the Senate, to Mrs. — Lane, widow of Hon. James H. Lane, deceased, late a Senator from the State of Kansas, the amount of compensation due the deceased at the time of his death.

#### SUPERINTENDENT OF PRINTING.

Mr. LANE. I move to take up the resolution which I introduced on Monday, on the subject of the election of a Superintendent of Public Printing, with a view to refer it to the Committee on Printing.

The motion to take up the resolution was agreed to; and the resolution was adopted as follows:

*Resolved*, That the Committee on Printing be directed to inquire into the expediency of providing by law for the election of Superintendent of Public Printing by a concurrent vote of both Houses of Congress, and to report by bill or otherwise.

On motion of Mr. DOOLITTLE, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The following members appeared in addition to those heretofore reported:

New York—Hon. James M. Marvin and Hon. Giles W. Hotchkiss.

Tennessee—Hon. Edward Cooper.

New Jersey—Hon. E. R. V. Wright.

Maryland—Hon. Hiram McCullough.

#### CORRECTION.

Mr. THAYER. Mr. Speaker, I ask unanimous consent to make a correction of the proceedings of the House as reported in the Globe. I am reported in the Globe of yesterday as having voted against the passage of the bill introduced by the gentleman from Massachusetts, [Mr. ELLIOT]—a bill to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862. I desire to state that was an error, as I was unavoidably absent from the House when the vote was taken, and if present would have voted for the bill.

#### LAWS OF DAKOTA.

The SPEAKER laid before the House the laws of the Territory of Dakota for 1865 and 1866; which were referred to the Committee on Territories.

#### REPORT OF GENERAL BABCOCK.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to the House the report of the tour of inspection of Brevet Brigadier General Babcock, made during the past season, or such portions thereof as he may deem proper to communicate.

#### REMOVALS FROM OFFICE.

Mr. WILLIAMS. Mr. Speaker, I call up the motion to reconsider the vote by which House bill No. 664, for the regulation of appointments and removals from office, was recommitted. The motion to reconsider was made by myself at the last session of Congress.

The SPEAKER. The motion is now before the House, and the gentleman from Pennsylvania is entitled to the floor.

Mr. WILLIAMS. With the indulgence of the House I will now proceed to state the objects of the bill reported by your committee, along with some of the considerations which have commended it to their judgment as a measure of great national concern, and one which falls within the constitutional powers of this Congress.

The first section enacts that no officer who has been appointed by and with the advice and consent of the Senate shall be removable except by the same agencies, with the proviso, however, that in case of disability or misconduct in office during the recess of that body, the President may, with the advice of the Attorney General, suspend the incumbent and commission another until the next session, at which it shall be his duty to report the fact, along with the causes of removal, and the name of the officer so appointed, or such other person as he shall choose to nominate; and that in case of the refusal of the Senate to approve the act, the officer so suspended shall resume his functions, without any allowance, however, of compensation in the meanwhile.

The second section provides that no officer renominated shall continue to hold after his rejection, and that the party so rejected shall not be again appointed.

The third section I propose, with the approbation of the committee, to strike out, and insert two others—one to the effect that where a vacancy happening during the recess may have been filled by the President, it shall be his duty



to make a nomination before the end of the next session, and in case of the nomination of any other person or persons than the one so commissioned, and the refusal of the Senate to advise and consent thereto, the office shall not be considered as vacant upon its adjournment, but the person so commissioned shall continue to hold and enjoy the same during the recess, and until he shall be either nominated and rejected, or duly superseded by a new appointment; and the other providing that the heads of Departments shall hold their offices for the term of four years unless removed with the concurrence of the Senate; and shall moreover nominate, and by and with the advice and consent of the Senate appoint, all their assistants and subordinates, to hold for the like period, unless removed in the same manner.

The bill rests, therefore, on the hypothesis that the power of removal does not rightfully belong to the President alone—even if he can be properly claimed to have any share of it, under the Constitution—and cannot be safely left with that officer without any restraint upon its exercise; and this as a general principle, and without any reference to the merits or demerits of the existing functionary. It proposes to improve the rare advantage of a dissociation between the party in power here and the President of its own choice, for the correction of a great evil, by a surrender and dedication of the spoil which that party may be supposed to have won, upon the public altar, and for the nation's benefit, through all coming time.

It aims at the reformation of a giant vice in the administration of this Government, by bringing its practice back from a rule of its infancy and inexperience, resting mainly, perhaps, on its unbounded confidence in the personal virtues of its first Chief Magistrate, to what are believed to be the true spirit and meaning of its fundamental law.

To accomplish this object it disturbs no title, and attacks no judicial precedent. It strikes not even at any prescription with "the hoar of innumerable ages" upon it. It contemplates but the review of a legislative opinion of yesterday, under the lights that a miraculous growth and an era of revolution have shed upon it, along with the resumption of a constitutional power that has been heretofore surrendered.

Nor is this the first occasion on which that opinion has been questioned. It was anticipated by a denial of an authoritative character. It was the opinion of a divided court. There has been no time, I think, at which its soundness has not been disputed. It has been subjected again and again to the most damaging criticism by the best professional minds of the nation. It has found no favor anywhere, I think, upon the score of reason. It is not even old enough to be venerable. There is nothing irreverent, therefore, in its impeachment, even though time might be supposed to consecrate error, or a prescription to run against truth or reason in the forum of the statesman.

To estimate justly, however, the weight to which it is entitled, it is necessary to show its precise extent, the circumstances by which it was attended, and the argument on which it was sustained, before proceeding to discuss the question on original grounds and with a sole reference to the Constitution itself, on the hypothesis that it is still an open one.

It is to be noted, then, that while it was objected widely in advance of the adoption of the Constitution, by those who were opposed to it, that it would give to the Executive the powers of a King, it does not seem even to have occurred to those who were the most ingenious in exploring and exaggerating its defaults, that there was anything in it which could be construed to bestow on the President the eminently regal power of displacing the officers of the Government at his own individual will. It does appear, however, to have been argued by its friends, in answer to the objection of instability through frequent changes of administration, that inasmuch as the Senate was to

coöperate in the business of appointments, and "its consent would therefore be necessary to displace as well as to appoint, a change of the Chief Magistrate would not occasion so violent or so general a revolution as might be expected if he were the sole disposer of the offices." (Federalist, No. 77.) The undisputed assumption, therefore, that the President could not remove, was one of the arguments on which the briefness of his tenure and the frequency of elections were defended, and the instrument itself commended to the support of the people of the States by the leading spirits who presided at its formation.

When the First Congress met, however, to inaugurate the Government then newly formed, the question arose at once, on the establishment of the Department of Foreign Affairs, whether the head of that bureau should be made, in terms, removable by the President; one party claiming that the power of removal was included in the power to appoint, and could, therefore, be exercised only in connection with the Senate, and the other, with Madison at its head, asserting with equal confidence, that it was a strictly executive function, and as such, conferred on the President by the first section of the second article of the Constitution. The result was, not a decision, but what better deserves to be characterized as a compromise or evasion of the question, by the substitution for the words, "to be removable by the President," of the phraseology, "whenever the said principal officer shall be removed by the President, or in any other case of vacancy, the chief clerk shall take charge of the papers," &c.; a result which by no necessary inference imported anything more than an implied or permissive authority, which the Opposition was ready to accord to the President on personal grounds, but which the friends of that officer, claiming it under the Constitution as his right, were not willing to accept as a grant. In this shape, however, after a protracted contest and a close division in the House, the bill was passed through committee in the Senate by the casting vote of the Vice President, and finally by one majority. It is worthy of remembrance, however, that the Vice President was John Adams, and the President himself a man without "that sin by which the angels fell," who had never betrayed a trust or abused a power; and that, moreover, the weight of the argument turned on the improbability of future degeneracy, and the liability to impeachment in case of possible corruption or profligacy in future times. But succeeding Congresses went still further, in making the tenure of offices over which the Constitution had endowed them with exclusive and unquestionable control, dependent on the pleasure of the Executive, and the nation acquiesced under an experience of forty years, which seemed to justify the confidence that the virtues of its first Chief Magistrate had inspired. It was not until it was startled from its security in 1829 by the new and atrocious doctrine, that the public offices were but the lawful plunder of contending factions, and the profligate cry that "to the victors belong the spoils," that it began seriously to inquire into the wisdom and lawfulness of a practice that had grown up *sub silentio*, and apparently fastened itself upon the Government. The result of that inquiry, however, was a general conviction that there was no warrant for it in the Constitution, and no more of force in the argument that had been allowed to prevail, than there was of the prophetic spirit in the statesmen who were so prodigal of their assurances that no evil could flow from it, and that the corrective would be an easy one. That conviction was shared by the very ablest men of the nation, who had been trained in the study of its Constitution under the light of nearly half a century's experience, and were agreed upon the necessity of such a reform as would bring the Government back to its true principles. Mr. Webster, in a speech made by him in the Senate in 1835, holds this emphatic language:

"After considering the question again and again

within the last six years, I am willing to say that in my deliberate judgment the original decision was wrong. I cannot but think that those who denied the power in 1789 had the best of the argument. It appears to me, after thorough and repeated and conscientious examination, that an erroneous interpretation was given to the Constitution, in this respect by the decision of the First Congress."

And again:

"I have the clearest conviction that they [the Convention] looked to no other mode of displacing an officer than by impeachment, or the regular appointment of another person to the same place."

And further:

"I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act hereafter upon that question as the safety of the Government and of the Constitution may require."

The like opinion was obviously held by both Kent and Story, and the same is inferrible from the report made by Mr. Calhoun to the Senate, on the subject of removals from office, in 1835. If earlier authority were necessary, however, it may be found, not only in the Federalist, but in a letter of Alexander Hamilton to James McHenry, then Secretary of War, written in 1799, and about ten years after the debate in Congress that is supposed to have settled this question.

It was in vain, however, that the statesmen of a later period, in view of the enormous abuses that threatened to overthrow the just balances of this Government, and to dwarf all its other departments under the overshadowing growth of the executive, pointed out the error into which we had fallen, and the rocks upon which the ship of state was driving with such headlong impetuosity. A triumphant party, supported, as it was almost sure to be, by an unscrupulous majority in both Houses, and looking to the offices of the Government as its lawful spoil, was sure to resist, and resist successfully, every attempt to get back to the true reading of the Constitution; while this power of resistance was equally sure to be strengthened by the increase of the means of corruption in the multiplication of the Federal offices. That increase was, even in ordinary times, but a natural and necessary result of our marvelous growth as a nation. The exigencies of the war through which we have just passed, and the new and heavy responsibilities it has left behind it, swelling our armies beyond example, and necessitating the establishment of a new department of the public service, that permeates the land, and enters the castle and unlocks and inspects the cupboard and the strong-box of every citizen, have administered to it an impulse that has carried it beyond the remotest point it was likely to have reached in the course of another century. The Executive of this nation, with its own tacit consent, now wields a power over the fortunes of its people, that would, in ambitious hands, and if adroitly used, be sufficient, not only to buttress and sustain a throne, but to make him the envy of the proudest potentates of Christendom. He has not hesitated to proclaim aloud that he intends to use it to enforce his will; and upon this hint I now propose to strip him of the ability to make good his menaces, by reasserting the authority of Congress, and taking back into its own custody, and for its own defense, the jewel with which it has so generously and improvidently parted in the honeymoon of its existence, when all was confidence and love.

And now as to the extent of the decision, the length and breadth of the swaddling-clothes that are supposed to fit us now, and cramp the movements of a giant State in the direction of reform. Confounded as it has been with a practice that has only followed out its spirit, its effect, I think, has been greatly magnified in the general estimation. In itself, and apart from the debate to which it gave rise, it decides absolutely nothing, except that in the absence of all legislation, the power of removal, in cases of appointments confided to the Executive by the Constitution, belongs to him alone. It rules nothing as to cases where the term is fixed, or as to inferior officers, where the mode of appointment is left entirely with

Congress. The question involved was as to the heads of the Departments only, and although the line of demarkation has never yet been authoritatively drawn between the superior and inferior officers of the Government, it may be safely assumed that as the head—which is the constitutional phraseology—is superior to all the other members of the body, so these functionaries are to be classed among the superior officers whose appointment is vested by the Constitution, though only *sub modo*, in the President. There was no question, however, as to the power to regulate the duration of the office. It stood indefinite on the bill. In that condition it was not disputed that the tenure must be either at pleasure, or during good behavior. The Constitution had assigned the latter to no other officers except the judges, and the inference was irresistible that all others must hold their places by the former, unless Congress should give some other duration to their offices. (2 Story's Commentaries, sec. 1537; 1 Lloyd's Debates, 511, 512.) The point in dispute was only at whose pleasure they were to be held; whether at that of the appointing power, or of the President alone. And this accords precisely with the statements of both Kent and Story, the two leading commentators on the Constitution, and unquestionably the highest authorities in the country. The former describes it as "a question whether the power of removal in case of officers appointed to hold at pleasure, or where the duration is not specially declared, resided anywhere but in the body that appointed." (1 Kent's Commentaries, sec. 14, pages 308-11.) The latter puts it in the same way, by condensing the whole issue into the two great questions: first, to whom, in the absence of all legislation regulating the duration of the office, does the power of removal belong? And second, if to the Executive, in cases confided to him by the Constitution, can Congress give any duration to the office not subject to the exercise of such power? (2 Story's Commentaries, sec. 1537, citing 1 Lloyd's Debates, 511, 12.) The latter of these two questions has not, he says, been raised, because all our legislation has recognized the executive power of removal as in full force, and the case here rests, of course, only on a silent practice, which had the recommendation of convenience, and was maintained by the harmonious coöperation of the several departments of the Government, and a well-authorized confidence in the Executive, which is now greatly disturbed, if not altogether destroyed. As regards, however, the former of these questions, they are equally agreed that the decision was an anomalous one. Judge Story speaks of it as "constituting the most extraordinary case, in the history of the Government, of a power conferred by implication on the Executive, by the assent of a bare majority in Congress, which has not been questioned on many other occasions." (2 Commentaries, 1543.) Chancellor Kent, referring to the fact that it had never been made the subject of judicial discussion, and that the construction given in 1789 had continued to rest on "this loose, incidental, and declaratory opinion of Congress," and although suggesting that it might now be considered "firmly and definitively settled," is constrained to speak of it, as "a striking fact in the constitutional history of our Government, that a power so transcendent as that which places at the disposal of the President alone, the tenure of every executive officer appointed by the President and Senate, should depend on inference merely, and should have been gratuitously declared by the First Congress in opposition to the high authority of the Federalist, and supported, or acquiesced in, by some of those distinguished men who questioned or denied the power of Congress to incorporate a national bank." (1 Kent's Commentaries, sec. 14, pages 308-11.) The Chancellor does not speak with the precision of the lawyer, and forgets his own statement, when he describes it as a power which places at the disposal of the President alone the tenure of every executive officer appointed by the President and

Senate. He does show, however, the training of the judge, in his remark that the construction based on such foundations might now be considered as "firmly and definitively settled." Nobody but a man with a religious reverence for precedents, could have supposed that an ephemeral practice of forty years' continuance, upon a question of governmental power so important as this, could settle forever the meaning of the fundamental law of a great State. It required six centuries of struggle to settle down the constitution of England on the basis of the Great Charter, and no parliamentary precedent of the reigns even of the Plantagenets or the Tudors, was allowed to stand in the way of the progressive movement that culminated in the Revolution of 1688.

It is worthy of remark, moreover, that neither of these justly distinguished jurists has intimated a doubt as to the power of Congress to regulate the duration of the inferior offices in such a way as to take them entirely out of the control of the Executive. Judge Story, on the contrary, observes that "as far as Congress has the power to regulate and delegate the appointment of inferior officers, so far they may prescribe the term of office, the manner in which and the persons by whom the removal as well as the appointment to office shall be made." (2 Story's Commentaries sec. 1537, citing *Marbury vs. Madison*, 1 Cranch, 137, 155.) And again: "If there has been any aberration it will be difficult, perhaps impracticable, now to recall the practice to the correct theory. But at all events it will be a consolation to those who love the Union, and honor a devotion to the patriotic discharge of duty, that in regard to inferior offices, which probably include ninety-nine out of the hundred, the remedy for any permanent abuse is still within the power of Congress by the simple expedient of requiring the consent of the Senate in such cases." (*Ibid.*, sec. 1544.) And Chancellor Kent indorses this in a note, referring to the frequency of the exercise of this power by President Jackson, as having created serious doubts as to the propriety of the concession by the First Congress, and remarking that a high authority had declared it to be in the power of Congress to correct this by placing the appointment of inferior officers in other hands. (1 Kent's Commentaries, 309-11, citing 3 Story, 394-7.)

And this is in accordance also with the legislation of the Government on more than one occasion, although it is assumed by those who rest upon the practice, that it has been invariably the other way. The early case of *Marbury vs. Madison* proves this beyond dispute. Marbury was a justice of the peace for this District, appointed by John Adams just before his retirement, under the authority of an act of Congress of 1801, fixing the term at five years. President Jefferson withheld the commission after it had been signed and registered. If he could have removed the officer, it would have been idle to stand upon the delivery of the commission, but it was assumed by the court, and conceded on all hands, that he was not removable, except for cause, until the expiration of his term.

But even in the case of an office determinable at pleasure, as that of deputy marshal, an act passed by the very Congress of 1789 itself, not only recognizes and asserts the right to take the power of removal from the President, but to sever it from the appointing power itself, by vesting it in the judges of the circuit and district courts. (Act of 24th September, 1789.) And in a still later case, (act of March 3, 1865, section twelve,) it has been provided that where an officer in the military or naval service, who may be dismissed by the authority of the President, shall demand a trial, he shall convene a court-martial, and if they shall not award the punishment of dismissal or death, or the court shall not be convened within six months, the order of dismissal shall be void; and this notwithstanding the fact, that the punishment by impeachment is confined by the Constitution to civil officers, and therefore, by necessary inference, all others are removable in a

different way, and although, too, the President is, by virtue of his office, the Commander-in-Chief of the Army and Navy of the United States.

To show, moreover, that this was the interpretation given to the legislative action of 1789, and is in accordance with judicial opinion in the States, upon analogous provisions in their own constitutions, it is only necessary to refer to a decision of the supreme court of Pennsylvania, made as early as 1820, and when its judges were unusually eminent, to the effect that the tenure of ministerial offices in general is during pleasure, unless the law establishing the office orders it otherwise. (*Com. ex relatione vs. Bassier, &c.*, 5 S. & R., 457.)

And now, having, as I think, ascertained and defined the precise extent of the decision supposed to have been made in 1789, let us proceed to look into the argument by which it was sustained, and ascertain what the Constitution itself has to say on this subject.

It is agreed, then, on all hands, that the power of removal must reside somewhere, when the term is indefinite. This bill denies it to the President alone, in all cases where the Senate has shared in the appointment; or, in other words, declares that nothing short of the power that makes shall unmake—which is but the logical result of the doctrine of the minority in 1789, that the power to remove is included in or but an incident to the power to appoint; a doctrine, which is now sustained, as I shall show hereafter, by the authority of the Supreme Court of the United States.

On this point, however, the Constitution is silent, except so far as it is made a part of the judgment in cases of conviction on impeachment for "treason, bribery, or other high crimes and misdemeanors." Nobody has ever pretended that it was anywhere expressly conferred but in this single case, where it is lodged exclusively with Congress. If it exists, therefore, at all, it is only by implication or inference.

Taking it, however, to rest, as claimed, either upon the power to appoint, as an inseparable incident thereof, or on the general assignment of executive powers to the President alone, it becomes important to look into the provisions of that instrument which bear upon these two subjects.

And first, it is to be observed, that the Constitution nowhere vests the appointing power in the President alone. It authorizes him to nominate, but only by and with the advice and consent of the Senate to appoint, the officers therein described, and "all others that might be established by law." This, therefore, is the general rule.

The exceptions, if they can be so termed, are first, that "in cases of vacancy happening during the recess of the Senate," and when that body is, of course, in no condition to be consulted, and to coöperate; or, in other words, where an appointment is impracticable, for the time being, under the rule, the President shall, not appoint, but merely supply the interregnum, or "fill up the vacancy" by a commission which shall only endure "until the end of the next session," or until they shall be in a condition to exercise their power of concurrence in or rejection of an appointment: and secondly, that in cases of inferior officers, the Congress may bestow on "the President alone," or the heads of Departments, or the courts, the privilege of appointing without the advice or consent of the Senate, which is a recognition of the rule, and makes a solemn act of the Legislature necessary to dispense with it even in inferior cases.

It would seem, therefore, too clear for dispute, if it has not the force of a self-evident proposition, that the framers of the Constitution intended to place an effective check upon the President in this important matter, by denying to him in all cases the right to wield this formidable power alone, except where the accidents of administration might render it temporarily necessary, or the insignificance of the place might make it safe, in the judgment



of the Legislature, to intrust it to him from time to time.

It is claimed, however, in the absence of any direct authority to appoint, and in the face of the strongest implications to the contrary, that the President may practically defeat the obvious purpose of the framers of the instrument, by the exercise of the power to remove in the recess, and thereby create a vacancy, which he may fill up without the concurrence of the Senate, or by appointing to an office already full, and thus accomplishing by indirection the very same thing.

But what does the Constitution say on the subject? Why, only that "the President shall have the power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions that shall expire at the end of their next session."

The power, then, is not to appoint, but to "fill up." The vacancy is not one that may be created, but one that may "happen." And the commission is not one that is indefinite, but one that shall expire, by its own limitation, at the end of the next session, so as to give the President the whole of that session to nominate.

Upon this transparent phraseology one would think that there could be no ground left for dispute. The case provided for is that of "all vacancies that may happen." Hap is but another word for chance. *Ex vi termini*, it imports accident or casualty, without any agency on the part of the President in bringing it about. And such is the construction which it has received from the best intellects of the nation. Mr. Hamilton, in his remarks in No. 77 of the *Federalist*, on the same language precisely, as applied to Senators, describes it as "an express power given in clear and unambiguous terms to fill casual vacancies." And again, in his letter to James McHenry, ten years afterward, he asserts that they imply casualty, and denote "such offices as, having been once filled, become vacant by accidental circumstances."

And in accordance with this idea, when Mr. Madison, during the recess of 1813, appointed ministers to negotiate the treaty at Ghent, upon a question made whether it was the case of a vacancy or a new creation, the Senate is reported as having entered its protest against it.

Again, on the 20th April, 1822, it was held by the same body, that the President could not create the office of a minister, and make appointments during the recess, it being their understanding that the vacancies provided for were such as occurred from death, resignation, promotion, or removal; that the word "happen" had relation to some casualty not provided for by law, and that if the Senate was in session when the office was created and no nomination then made, he could not appoint during the recess, because it was not a vacancy, happening at that time. In many instances where new offices were created a special power had been conferred on this account to fill them during the recess, and it was then said that in no other instances had the President filled such vacant offices without special authority of law. (2 Story's Commentaries, 1559, citing *Sergeant on the Constitution*; 2 Executive Journal, 515, 500; 3 Executive Journal, 297.)

And this opinion is affirmed by the second section of the act of 9th February, 1863, which provides that no money shall be paid out of the Treasury as salary to any person appointed, during the recess of the Senate, to fill any vacancy in any existing office, which vacancy existed while the Senate was in session, and is required by law to be filled by and with the advice and consent of the Senate, until such appointee shall have been confirmed.

And to show, moreover, that the earlier practice had conformed to this theory, may be added the remark of Mr. Calhoun in his report to the Senate in 1835, on the corrupting influence of the President's power of removal, that "so long as it was the practice to continue in office those who had faithfully performed their duties, this patronage, in point of fact, was

limited to the mere power of nominating to accidental vacancies, or newly created offices."

It is perfectly obvious, moreover, from the tenure of the commissions required in such cases, that this exceptional provision was only intended to meet the case of an accident occurring at a time when the Senate was not at hand to be consulted. To supply a vacancy is one thing, and a thing easily understood; to create a vacancy is a thing so different, as must have necessitated a different phraseology, and suggested a more stringent rule. Nobody would pretend that a removal, by the usual process, by the President, while the Senate was in session, was a case of vacancy happening at that time, or indeed any case of vacancy at all. A new nomination approved by it, in a case where the term was not fixed, would operate, no doubt, as a *supersedes*, by determining the office, but without making any vacancy whatever; and this I believe is the way in which the thing has been generally done. I do not know that there are any instances wherein a removal has been made in the first place, except, it may be, where the office was made expressly determinable at the will of the President. If he may make a vacancy in any case, he may do it in all, divest the Senate of its advisory power, and make the exception the rule. All he has to do is to withhold the appointments so made until the expiration of the session, or, upon rejection of any of his creatures, recommitment them after the adjournment, and thus perpetuate the power in himself, in defiance of the clear intention of the framers of the Constitution. And this he has actually done to such an extent, that if not seasonably checked, the Senate itself will soon have practically ceased to share all that part of the appointing power which it may not already have substantially surrendered by its complaisance.

Nor does it seem improbable that this has been the studied purpose in high quarters, in view of the imputed illegitimacy of the body which is now supposed to be "hanging, as it were, on the verge of the Constitution." The law officer of the Government has just been asked, with special reference, perhaps, to the act of 1863, whether a vacancy happening during the session, is not a vacancy happening during the recess; and he answers in the traditional spirit of an Attorney General, with an opinion that blots out of the Constitution the words "that may happen during the recess of the Senate," by making it entirely indifferent what may be the causes by which that vacancy is produced, or at what time it may occur. Nay, more. The very commissions now issued will be found to run, not only at "the pleasure of the President," where the tenure is indefinite, but even in cases of appointments made during the recess, where the very terms are prescribed by the Constitution itself, are interpolated with the same anti-republican phraseology, in utter disregard of the express provisions of that instrument.

To the whole claim, however, of so formidable a prerogative, it ought to be a sufficient answer: first, that the Constitution nowhere confers any such power, except in the cases already stated, and that from this exception, by well-settled rules of construction, the inference is a legitimate one, that it was not intended to be exercised in any other way, in civil cases at all events; and second, that the exception which gives to Congress the authority to vest the appointments to inferior offices in the President alone, is as utterly irreconcilable with the idea that he can remove alone, and without cause, in the case of superior offices, as is the provision for impeachment and trial, with the notion of a summary ejection without any hearing at all.

But, then, it is insisted that this mode of removal would be inconvenient, because the machinery is too elaborate for ordinary use, and would be entirely inadequate to meet the exigencies of a vast and multiplied service, and the many unforeseen contingencies that might necessitate the existence of a jurisdiction more

summary and extended; and hence the illogical inference of a power in the President to remove where the Constitution itself has not spoken.

I will not stop to examine the argument *ab inconvenienti*, even though so great a name as that of Coke may be invoked to show that it prevails in law, where one construction would be more mischievous than another. It may be inconvenient to impeach in all cases. It was hardly expected, perhaps, that it would be necessary. It may be inconvenient to the President and his southern friends, that he is not endowed with dictatorial powers, such as he has been claiming and exercising. It may be inconvenient to him that he cannot indulge the parasites who swarm around him, by the unrestricted use of the guillotine under which so many heads have already fallen. It would be certainly very convenient to him and his southern friends, but very inconvenient to the nation, that he should be allowed to do all the things that this bill is intended to prevent. But all this is only an argument in favor of a change in the law, or an amendment of the Constitution, which, in the view of the President, is not now amendable, for reasons that would dethrone Congress, and unseat himself.

Is it, then, a necessary power? And if so, why? Because, it is said, the officer may prove incompetent or unfaithful, and the public interests may therefore require his dismissal. Granted that they may. What follows? That he may remove him? That is a *non sequitur*. The result of an admitted necessity, without any constitutional provision to meet it, would seem rather to be that the case was left to be provided for by law, than that a power so dangerous should be raised by implication in the President. If there be a necessity, Congress can provide for it, under its authority "to make all laws which shall be necessary or proper for carrying into execution all powers vested in the Government, or in any department thereof." It is a capital error to suppose that the Executive is endowed with the incidental power to legislate for constitutional defects which touch his office. To claim that it belongs to him, in virtue thereof, is no more or less than the assertion of a dictatorial power to the extent of the very terms used by the Romans in conferring it. If the President is to do everything which in his opinion the public interests may require, then every defect in the Constitution or laws is to be supplied, and every disproportion symmetrized by him. And this, it seems, is the opinion of the present law adviser of the Government, as expressed in his recent answer to the inquiry as to the power of the President to fill vacancies occurring during the session of the Senate. It is with him a necessary power, and though it may be so wielded, as he admits, as to oust the jurisdiction of the Senate entirely, he marches up to the *reductio ad absurdum* with a courage that might have graced a better cause, and thinks to put us off with the answer, that it is no objection to a power that it may be abused. If it had been an express power, the argument would have been a good one. Where, however, it is only implied, as here, a well-trained lawyer, who could forget his office in his profession, would have said at once that the possibility of such an abuse was a conclusive argument against the existence of the power. It would be asking, perhaps, too much, to expect that an officer who holds his life at the pleasure of the President should be found standing in the way of the prerogative in times like these. When was it ever heard that an Attorney General in High Prerogative times had faltered in the support of the most extravagant of the pretensions of the Crown? How many judges have proved capable of emulating the sturdy virtue of Sir Edward Coke, before the Act of Settlement that made their tenure independent of the royal will? Possibly there are men here who are prepared to indorse such slavish views. Every traitor in the South, and every Democrat in the North who sympathized with him, would doubtless agree to them, as they have agreed so generally, that the President

might organize State governments, and ordain State constitutions, while we are denied the humble privilege of suggesting amendments in the interests of liberty, and denounced as no better than "tinkers"—I was going to say tailors—by the minions and upstarts, the pampered and insolent menials, who lick the royal hand, and look up beseechingly for the "bread and butter" that are flung contemptuously into their hungry jaws.

In default, however, of the arguments from inconvenience and necessity, is there anything in the suggestion that this power of removal is a part or incident of the power of appointment? If there were, it would not help the case, because the appointing power is nowhere lodged in the President alone—the power to act during the recess being a mere authority to fill up vacancies *ad interim*—and the power to remove, on this argument, could only be exercisable in conjunction with the Senate.

But the Supreme Court of the United States has solemnly decided that there is, and has on this point affirmed the opinion of the minority in the Congress of 1789. The case *Ex relatione Heenan* (18 Peters, 280), which was that of the removal, by the presiding judge, of a clerk of the district court of Louisiana, distinctly rules that, in the absence of all constitutional provision, or statutory regulation, it is a sound and necessary rule to consider the power of removal as incident to the power of appointment. The removal there was by the judge who appointed. Upon the theory of the majority the power would have resulted to the President.

And here I might rest the argument with those who stand upon authority, and are willing to accept a judicial opinion in the place of a legislative precedent.

But assuming that this power is but an incident, and so belonging to the Senate, in conjunction with the President, it is not only insisted that where no tenure is prescribed, the officer must necessarily hold at the will of the appointing power, but assumed that no other tenure is admissible.

It is not necessary, however, that the tenure should be indefinite; and it is perhaps not safe, and not strictly in harmony with the spirit of our institutions, to leave it so, if the power claimed resides with the President, and may be exercised without cause, or without other reason than the want of personal subserviency to himself.

The Constitution looks to the creation and establishment of all offices under it by the act of the law-making power, and in no case but that of the judges, and appointments made to fill up vacancies *ad interim*, undertakes to prescribe the tenure by which they are to be held. But the power to create an office involves, of course, the power to determine upon its duration and duties, to say what it shall be and when it shall expire; the power, in short, to make all laws which may, in the judgment of Congress, be necessary and proper for its regulation, including the period of service and the causes of removal. I know no limitation on the power of Congress here, except in the assignment to the President, in all cases but those of inferior offices, of the right to nominate, and, by and with the advice and consent of the Senate, to appoint. Whenever an office is created of the superior class, that power devolves, under the Constitution, upon him, and cannot, of course, be taken away. But with this exception only, and the cases of judges, and of appointments to fill vacancies, their jurisdiction over the subject is absolute. If there be anything to restrain or limit it beyond this, it behooves those who so assert to show where it is to be found.

It is a fair inference from the provisions just recited, that the framers of the Constitution intended to leave the question of official tenure in all other than the excepted cases to congressional regulation. To suppose that they designed it to be indefinite, and therefore determinable at the mere will of the appointing power, and without responsibility for abuse, even though

that power were understood to comprehend the Senate, would be a violent presumption indeed. To conclude that they intended to make it determinable at the mere will of the President, either with or without cause, in view of the extreme jealousy with which that department was regarded, is absolutely incredible.

I take it, therefore, that Congress may dispose of this question, even in the case of the superior offices, by defining the tenure and changing the character of the estate, so as, in effect, to substitute its own will for that of the President, by giving to it the form of law, in accordance with the principles on which this Government is founded. An executive will is only admissible in the case of a despotic Government, of which it is the very essence and expression. The "*sic volo, sic jubeo; stet pro ratione voluntas*," is not the maxim for a republican State.

But there is another ground—the one assumed by Madison, and perhaps the only one on which these royal pretensions have ever been plausibly defended—and that is, that the exercise of the power of removal, the same being in its very nature an executive function, falls necessarily within the meaning of that clause of the Constitution which declares that "the executive power shall be vested in a President of the United States;" that all executive powers not denied or lodged elsewhere, are thereby vested in the President; and that every participation of the Senate is an exception to a general principle, and ought to be taken strictly.

This argument assumes, in the first place, that the power of removal is essentially an executive power, as I understand it to be just now asserted by the Attorney General to be. I know no reason to warrant the assumption. Whether it be so or not, will depend, I suppose, on what the Constitution makes it. There is nothing in the act itself, that decides it to be a ministerial function only. It involves the exercise of a discretion that does not belong to ministerial officers. So far as the Constitution makes provision for its exercise, it gives it a judicial character entirely. True to the idea on which our institutions rest, it leaves nothing here to the mere will of the Executive. No man's fortune is made dependent on a caprice that would make him a slave. If an officer is to be removed, it declares in what manner it shall be done, and that it shall be only on sufficient cause, and with the privilege of an impartial hearing, which this bill is intended to secure. To infer, as seems to be imported by the argument, that it is an executive function, merely because the officer who is the subject of it may happen to be an executive officer, would be the most inconsequent of conclusions. If it were true, then the election or removal of a President, or a Congressman, or a judge, would be an executive, legislative, or judicial act, according to the quality of the subject with which it had to deal, and without reference to the manner in which the act might be performed. It is the manner of performance, however, that is to determine the character of the act. It is a possible case, I suppose, that a man may be legislated out of office, by repealing the law creating it, or making the tenure dependent on the will of Congress. Clearly a circuit or a district judge may remove the clerk whom he has appointed, because that power is held to be an incident of the power to appoint, wherever the tenure is indefinite; but nobody has ever claimed that the President can do it, or would think of calling the act an executive one. If Mr. Madison and the Attorney General were right, however, in claiming it as an essentially executive function, the decision in *ex parte Heenan* was erroneous, and the power belonged to the President alone.

If, however, the assumption, that the power of appointment or removal was a purely executive one, was without warrant, as I think it was, there is an end, of course, to the argument

based upon it, that the participation of the Senate was an exception to a general principle, and ought, therefore, to be strictly construed.

But even though the function were, in its essence, an executive one, it does not then follow that it was conferred on the President, by the clause which vests the executive power in him, unless it can be held that all power that would be regarded as executive in England, passed by the general grant—as it is claimed to be—whether it was embraced within the scope and purview of the Constitution or not. Mr. Madison insisted that the clause in question carried everything that was not either expressly denied, or lodged in other hands. If it did, there is no prerogative of the British Crown that might not be claimed for him, because there are no negative words to restrain his powers. We must look, however, to the Constitution itself in order to interpret the intent of the grant—if it is to be so considered. It is bad logic to infer that anything passes by it that is not to be found in the Constitution at all, because that would enlarge the grant beyond the purview of the instrument. If he had qualified his statement, by saying that it carried everything within the scope and spirit of the Constitution, that was purely executive, and not denied expressly or by implication, he would have conformed to a rule of construction, that in the search for truth is universally recognized, and absolutely essential to light up the devious passages and darkened chambers, that so often perplex the inquirer in the exploration of the meaning of the lawgiver. There was no more reason for excepting an express denial than an implied one, and no excuse for the omission when he was arguing the case of an implied or inferential power. But to infer the existence of that power from language so general, without reference to the context, or the subject-matter, and in the face of an express provision pointing out the method of impeachment, is something in the way of argument, that not even the deservedly great reputation of Mr. Madison himself can commend to the favorable judgment of a disciplined logician of the present day.

It seems to have been considered, however, that the power of removal was conferred by a sort of necessary implication, because the President is the responsible head to whom all others are subordinate, and bound by his oath for the faithful execution of the law, and that the power was incidental to the duty, and might be requisite for its fulfillment.

Whether this much-talked of responsibility of the President amounts to anything in practice, or can be held to go beyond an honest endeavor on his part to see that the laws are faithfully executed, so far as he is endowed with the means of enforcing them, is more than can be safely assumed, and more, I think, than any friend of the Executive would care to affirm. It does not, however, follow, *ex necessitate*, that although there were a failure of duty on the part of the officer, the power of removal would then belong to him either *qua* Executive, or as general residuary legatee or trustee under the Constitution. It is neither essential nor desirable that the officer should be responsible to him, or subject to his will. This would be to turn the faces of the public servants in the direction of the President, just as the fire worshippers salute the opening glories of the king of day, or the sun-flower is supposed to "swing the circle" of the horizon in adoration of its God. There is a responsibility to the law, as there is a way of removal indicated by it, which is in nowise dependent on the executive will, that holds the officer to the performance of his duties, and is the only practical security for those who are interested in it. Any other is more imaginary than real, so long as it is enough for the President himself to say that he is irresponsible because he is without power in the premises. He would be equally so in effect with all the power that he claims. He may say that he wants more than the Constitution

intended to give him, that it is our interest that he should be gratified, and our necessity that he should be enabled to do our work; and a facile Attorney General, holding his own place by what he regards as the necessary tenure of executive pleasure, will be always found to attribute to him all he covets, upon the convenient plea of an overruling public necessity. He will do this naturally, because he sees no power in the state, except the one under whose shadow he reposes. If he cannot torture the Constitution into a grant of it, he will raise an incidental authority out of a supposed necessity, for the fulfillment of a general duty. The framers of the Constitution supposed that it might require an express grant even to the legislative department, to make such laws as might be necessary and proper for carrying into execution all the powers vested in the Government. But they did not stop here. They looked to legislation only to supply the needs of the other departments, and provided them an auxiliary in Congress to aid them in the execution of their duties. They have done away, therefore, with the necessity of a resort to incidental powers in the Executive. If there is a *casus omissus* in the law it is for Congress to apply the remedy. But it required no constitutional provision for this purpose. Every Government has the inherent, because necessary, power of regulating the tenure and conduct of its own officers, and displacing them at its own will, except where it is expressly forbidden by its fundamental law. If the law is silent or defective it imports no surrender of so important a function, and no lapse to the executive magistrate.

But what is there at last in the clause that vests the executive power in the President? Nothing more than in the corresponding clauses that vest the legislative power in Congress, and the judicial in the courts. In any sense, it is but a distribution or assignment to each of these departments, of its appropriate share of the powers actually conferred on the Government by the Constitution. To say that this is in the nature of a grant that passes all power that may in any sense be regarded as executive, whether conferred by that instrument or not, is something in the way of construction, that can find no more favor with the statesman than with the lawyer. In an absolute monarchy, where everything depends upon a single will, all powers may be said to be executive, because there is no law but that will, which judges and executes itself. It will hardly be contended that the clause in question was intended to make the will of the Executive so large a part of the administration of this Government.

Is it true, then, that upon such a case as this, a mere acquiescence, or even a vicious practice of three quarters of a century, is to canonize a doctrine that is so manifestly in conflict with the spirit of our Government, and the very letter of our Constitution? I have asked on another occasion—I now repeat the question—what is a century in the life of a State? What would be thought, moreover, of a constitutional amendment, or a declaratory law, broadly enunciating and establishing the doctrine, that the President may appoint and remove all officers whose tenure is not made by the Constitution dependent on good behavior, of his own unassisted volition, and without regard to the merits or defaults of the objects of his bounty or his displeasure? Would Congress or the people agree to such a proposition? And yet this is precisely what is now claimed for him, and what he is now actually doing, on the hypothesis of a Cabinet minister, that the offices of the Government, as the rightful appanage of the Crown, are his property, and those who fill them were intended to be the mere creatures of his will.

When it was suggested in the debate of 1789, that this enormous power might be thus abused to the destruction of our liberties, the answer was, that this was impossible, and would constitute a clearly impeachable offense, if done, and upon this point there was apparently no divided

sentiment. Since that time, and especially after the lapse of the first forty years, it is not to be denied that the patronage of the Government has more than once been brought in conflict with the freedom, not only of elections, but of opinion. It was reserved for us to hear it publicly and defiantly declared, for the first time in our history, to be the settled intention of the Executive to use the patronage we gave him—ay, to foot the objects of his predecessor's trust, as he "would spurn a stranger cur, over his threshold"—for the purpose of overruling the judgment of Congress, and bending the whole nation to his will; and the results of the elections in Philadelphia and New York, so happily overruled by the healthful influences of the country, show that it was no idle menace on his part.

But what avails either the supervisory power of the Senate, or the remedy by impeachment, which was relied on by the Congress of 1789, as against a high delinquent who holds the spoils of a nation in his hands? Has the constitutional brake been put down even where it might have been? And if it were, how is it to help us, when the jurisdiction of the Senate is ousted by the many ingenious devices of tyranny, that have found a ready support in the opinions of the law officers of the Government? May it not be said with truth, and without offense, that the Senate itself has tacitly countenanced, if not approved, removals for opinion's sake—the very offense that would have warranted an impeachment, in the judgment of the Congress of 1789—by confirming nominations made obviously on no other grounds? What, then, are we to hope from the slow and doubtful and, perhaps, obnoxious process of impeachment, where the criminal is a President, and a vote of two thirds is required to convict? If you would impeach successfully, you must strip him of his power over the fortunes of the citizen. No glittering bauble must be allowed to dazzle the vision, or tempt the cupidity or the ambition of either the prosecutor or the judge. No army of stipendiaries must be allowed to surround his person and depend upon his will. Invested with all these imperial prerogatives, and backed by the power of the sword, another President, with more discretion and wiser counselors, may threaten the public peace, and threaten it more successfully, by flinging himself into the arena, with an array more formidable than either the Household Swiss or the incipient Prætorian guard who lately mustered on the royal summons, and disputing with you the mastery of the empire.

Have not the people been already told by the Executive himself that we were too lavish of our confidence, and that they owed it to his forbearance and humility alone that he had not accepted the crown, and endued himself in the purple that we had offered him? Have they not been asked by his chief adviser whether they would have him for President or King? Reduced to his constitutional nakedness, he is still formidable enough, but not so formidable as to endanger our liberties. What is he without the use of the unrestricted patronage that he commands? But for that, is it within the range of probability that any Executive would have ventured to insult and defy the loyal people of the nation, by denouncing its high legislative council—the constitutional depository of its will—as a body of usurpers—"traitors on the other end of the line"—in actual rebellion against the South, and proclaiming that it was to his self-denial only that they were indebted for the preservation of their liberties? But for the prestige which it gives him, who would have thought it necessary to inquire whether the President would recognize the next Congress, or submit to the public will, or favor the adoption of the constitutional amendment by the rebel States? If he were indeed the "humble individual" we have so often heard of, who would send, or who would listen to the daily bulletins announcing royal conferences upon the settlement of the nation, or imperial resolves upon the great questions of war and

peace with neighboring States? Without the power to reward his favorites, by putting a gold chain about their necks, and lifting them to the highest places in the kingdom, where was that spoil-engendered and spoil-inspired array—that formidable shape—

"If shape it might be called that shape had none Distinguishable in member, joint, or limb, Or substance might be called that shadow seemed"—

"the National Union party?" Who is there, in that case, of all the menials who have reechoed the classic oburgations with which the representative body of this nation has been assailed, that would have been so poor to do their author reverence? What else than the abject servility that flatters and intoxicates—unless it were the Providence that sent out Pharaoh with his captains in the pursuit of the fugitives of Israel—could have inspired the royal progress and the royal speech, and launched its victim on that crusade which ended so unhappily for himself? May I not ask, "Upon what other meat has this our Cæsar fed that he is grown so great?" Pass this bill, and the bloated and exaggerated power that now "bestrides this land like a Colossus," and bids us all "to hide between its legs and find ourselves dishonorable graves," will sink down at once into its constitutional and healthful proportions. Pass this bill, and you may dispense with the dead letter of the impeaching power, because no future President will then presume either to depose, or ignore the legislative authority of this nation, or to refuse obedience to the high behests of the people, as expressed through their Representatives. Heed not a vicious precedent, as big with ruin as the primal fault, the plucking of the fruit, "whose mortal taste brought death into the world." What though the Fathers may have erred, as did the first? Their fault may be repaired. It is of no consequence to us what the Congress of 1789 may have decided, or what any of their successors may have acquiesced in, if they were wrong, and the life of the nation has been imperiled by their error. The public interests, the safety of the State, the sentiments of the people, all demand some measure of the kind which this bill proposes; and this Congress will fail in its duty, and disappoint the just expectations of its constituents, if it adjourns without providing it. Reject it, and the golden opportunity—the ebb of the tide that has gone back under the earthquake shock of the ballot-box, and now invites you to build up a dike that the returning waters shall never overleap—is gone, perhaps, forever. It is not often that a President comes in with that kind of courage which is required for the betrayal of his party and his country, or the abandonment of the principles and pledges on which he was elected. It has never happened before—and perhaps never will again—that the party so betrayed has been honest enough, to fling the offices of the Government behind it, like the temptation in the wilderness, and strong enough, and courageous enough, to grapple successfully with the hydra it had unwittingly engendered.

The people are now here in their unclouded power. They have taken the Government into their own hands. They have rebuked and trodden down the arrogant pretensions of the Executive. They have stricken the veto dead in his hands. They have declared that he shall not stand at your doors to arrest your legislation, as he has publicly threatened that he would do. They have degraded him, for the time being, from your associate in council, to the mere minister of your will. It is their high and irreversible decree, that the public servant who presumed to deny their jurisdiction and yours, over the most momentous question of your history, shall stand aside until you have disposed of it, and then execute your judgment in good faith, whether it be agreeable to him or not. They have now reviewed and reaffirmed their decision of 1864, and again instructed you to enact such laws as you may think proper, and to see that they are hon-



estly enforced, or that the impediment is removed. Pass this bill, as the first in the order of necessity, and the residue of the work will be of easy accomplishment. Reject it, and posterity will grieve that the courage which had conquered treason twice was not seconded by the spirit that might have shorn its locks, and bound it in everlasting chains.

We make history to-day. The classic Muse who looks down from her pedestal on this Chamber, stands ready, with uplifted style, to write the chapter that is to record the doings of this session. It behooves us to see that the judgment of a nation is not made void by the faint-heartedness of its Representatives. There is no time now for dalliance with the power that we have conquered. No gentle speech, "no candy courtesies," no dull oblivion of the pregnant past, befits the crisis that is on us now. We have just trodden the wine-press of Revolution, to encounter at its closing doors the bloodier form of Anarchy, while the untamed fiends of the rebellion, their appetites inflamed and their hands dripping with the blood of the martyrs, laughed—as none but the damned could laugh—at the rising vision, but dimly foreshadowed by the St. Bartholomews of Memphis and New Orleans, of the opening of another seal, which should turn our rivers into blood, and visit upon us and our children more than apocalyptic woes.

Over that precipice of ruin this nation has hung trembling for the last few months. The virtue and intelligence of a free people, inspired and directed by the providence of God, have bridged the fathomless abyss that yawned before us, and saved us from the horrors of this second death. We can now look back and measure the danger, and detect its source. We know its cause. *Executive usurpation—despotic will—* encouraged and reinforced by the unlimited command of all the offices of the Republic, and all the corrupting influences which they can employ, is written in flaming characters upon every rock that has threatened us with shipwreck. This giant power must be abridged if our peace is to be maintained, and our liberties made sure. The time is now to put a hook in the jaws of this leviathan that has tempested the waters, and moor him to his proper place under the Constitution. If we fail, the evil will go on swelling in volume, and accumulating a resistless momentum as it flows, until the one-man power, become all in all, enthroned in solitary state, like some volcanic peak, shall tower aloft, uncontrollable and supreme, over a nation of slaves.

Before the conclusion of the above remarks, Mr. WILLIAMS's hour having expired, on motion of Mr. SHELLABARGER, by unanimous consent, his time was extended.

The SPEAKER. The question is on the motion to reconsider.

Mr. WILLIAMS. I desire to say now to the House, with their consent, I will ask for a vote on the motion to reconsider. I do not propose to urge the passage of this bill with any unnecessary rapidity. It is a matter of great consequence and requires careful deliberation. I demand the previous question.

Mr. SCHENCK. I ask the gentleman to withdraw the demand for the previous question.

Mr. WILLIAMS. With pleasure.

Mr. SCHENCK. If the motion to reconsider prevails, I desire then to submit a motion to refer this bill to the joint-select committee on retrenchment. This whole subject was expressly referred to that committee, and they have been engaged all of the present morning and have adjourned to resume the work to-morrow morning, in preparing a bill on the subject. They have before them the bill introduced by the select committee on the civil service, at the head of which is the gentleman from Rhode Island, [Mr. JENCKES,] who is also a member of the joint committee on retrenchment, and they have before them also a bill introduced by the gentleman from Pennsylvania, [Mr. BROOMALL.] These bills, together with one which is now pending in the Senate, introduced by the Senator from Ore-

gon, the committee propose to consider, and upon examination of the whole subject to present their views to the House in the shape of a bill as the result of their conviction of the necessity of some such legislation. I ask, therefore, that this motion may be reconsidered with a view to referring the bill to the select committee on retrenchment, promising that they will make a very early report—probably within the next forty-eight hours.

Mr. STEVENS. I do not see what this committee has to do with this bill at all. I think we had better, while we have hold of it, keep it. It is in good hands, and I hope it will not be put in worse.

Mr. SCHENCK. I do not pretend to make a comparison between the merits or capability of this committee and my friend from Pennsylvania; but as to the authority upon which I act, I beg leave to read it to the House. We were instructed "to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for the selection of subordinate officers after due examination by proper boards, their continuance in office during specified terms unless dismissed upon charges preferred and sustained before tribunals designated for that purpose; and for withdrawing the public service from being used as an instrument of political or party patronage."

In short, this whole subject is by express provision referred to that particular committee. They were to take testimony in respect to what has been done in the nature of abuse under the law as it now stands, and are engaged in the consideration of the subject with all these various bills before them, and hope to be able to report in forty-eight hours such a bill as will provide a remedy for the evil. That is my answer to the gentleman. This should be referred to that committee, simply because they have been intrusted with the whole subject and have been at work during the greater part of the vacation since the last adjournment in looking into the entire matter.

Mr. STEVENS. I understand this bill comes from the Committee on the Judiciary, having been reported by them at the last session after great deliberation, and, as some of us thought, very unnecessary delay. It ought to have been passed before this for the purpose of stopping some of the evils that have already taken place. The bill is now before us and open to amendment, and I hope it will not be referred to any other committee.

Mr. WILSON, of Iowa. I will state in regard to this bill that it is the purpose of the gentleman from Pennsylvania, [Mr. WILLIAMS,] who has charge of it, to propose sundry amendments, one of which is to strike out the third section of the bill, and substitute thereof two other sections which he has prepared, and which have the concurrence of the committee. I have also an amendment which I shall offer at the proper time, and it seems to me that with these amendments we will present to the House a very perfect measure, as much so perhaps as any committee could present. It is not the purpose of the gentleman from Pennsylvania to urge a final vote upon this bill now, but it seems to me that the better course will be to keep it in the House until it is perfected here, and then pass it without any delay. It was first the intention of the gentleman from Pennsylvania to ask a recommitment of the bill. I think the amendments would be agreed to if presented before the House, and I think we may as well consider the bill now. I hope, therefore, the bill will neither be recommended to the Committee on the Judiciary, nor to any other committee, but that we may have final action upon it without unnecessary delay.

Mr. KASSON. I wish to inquire of my colleague whether, by the proposed amendments, any change has been made in the first section, which seems to conflict, unintentionally of course, with the Constitution where it says that no officer shall be removable except by the same agency which concurred in his appointment, not seeming to contemplate any

impeachment? I find, also, that no provision is made excepting the heads of Departments from the operation of this law. I apprehend that very few of the members of the committee would desire to deprive an incoming President of the opportunity of choosing his constitutional advisers. I mention this for two purposes: one is to ask that the amendments be printed, and the other to suggest for the consideration of the committee the two points I have made in relation to the measure.

Mr. SCHENCK. In behalf of the committee on retrenchment I do not wish to be very tenacious about this matter, but I cannot see that the proposition which I have made is in any respect improper. After this bill was reported by the Committee on the Judiciary, this House concurred with the Senate in raising a joint-select committee, consisting of three Senators and five members of this House, to which, by express provision and description of the service in which that committee was to be engaged, they intrusted the authority of considering and reporting upon this whole matter. This justifies, at least, the motion that I have made.

The select committee, although it may be inferior to the Judiciary Committee, think that from the testimony taken by them during the recess, they obtained some light for their guidance to enable them to legislate wisely and well upon this subject. They may be mistaken in their views. There may be a difference between their views and the views of other gentlemen upon this subject; but a bill of this kind ought to be very carefully prepared. The select committee took up this subject at its first meeting this session; they were engaged in its consideration this morning, and they have determined to take up the subject again to-morrow, when they hope to complete it.

In the course of this work we have considered five or six bills on this subject now pending in this House and the Senate, endeavoring out of the whole to select whatever was good, whatever was best expressed, and by a combination of the matters which seems best, to prepare a bill which shall meet the approval of both the House and the Senate. We have endeavored to discharge our duty according to the instructions of the two Houses. It is said now that this bill is as good as it can be made and ought at once to have the action of the House, and yet at the same moment we are told that it is defective and that several amendments have been prepared and will be offered to it, and then, the chairman of the Judiciary Committee tells us, it will be perfect.

Mr. WILSON, of Iowa. I will observe to the gentleman who is at the head of the committee on retrenchment, that the chairman of the Judiciary Committee has not made any such claim.

Mr. SCHENCK. I do not happen to be at the head of the committee on retrenchment, but am only by the concurrence of my colleagues put forward to make this motion. I only quoted the expression of the chairman of the Judiciary Committee, who said that the amendments proposed would make the bill perfect.

Mr. GRINNELL. He said he hoped the amendments would make the bill perfect.

Mr. SCHENCK. Well, he said he hoped the bill would be perfect. I give the qualification. I do not wish to misrepresent the gentleman. I do not know that we shall be able to make a perfect bill. The only claim I make is that out of all the material before us, and with the amount of labor we have expended upon it, we think, if the House means to sustain the committee to which they intrusted this whole subject, and that, too, after this bill was reported by the Committee on the Judiciary, it would be well perhaps to allow us to have formally and officially before us whatever may be in this bill, in order that we may report upon it along with the other matters which we have under consideration.

Of course we shall avail ourselves of what this bill contains, even if it is not formally

referred to us. And if we can complete a bill better than anything contained in any other one bill—and we find something good in them all—we can move it as a substitute for this or any other bill under consideration. But I think it would be more regular to refer each bill upon this subject to the committee specially charged with its consideration. And in contrast with the obstinacy exhibited in relation to this bill—I do not use the word “obstinacy” in any offensive sense—let me state that the gentleman from Rhode Island, [Mr. JENCKES] is himself the chairman of a committee to which this subject was specifically intrusted, and has reported a bill from that committee which is now pending. But he is perfectly willing that his bill should go to the committee to which this whole subject was committed, and I commend his example to other gentlemen who are interested in this subject.

Mr. STEVENS. I understand the vote has not yet been taken upon the motion to reconsider.

The SPEAKER. It has not. The Chair will state the question before the House. On the 11th of June last this bill was reported from the Committee on the Judiciary, ordered to be printed, and re-committed. The gentleman from Pennsylvania [Mr. WILLIAMS] entered a motion to reconsider the vote by which the bill was re-committed; which motion he has now called up for the action of the House. If the motion to reconsider shall prevail, then the question will recur upon the motion to recommit; which motion will be amendable, should the House desire it, so as to refer the bill to any other committee.

Mr. WILLIAMS. It may be considered ungracious in me, having already occupied so much of the time of the House, to call the previous question at this time. But I understand that the previous question, if seconded, will exhaust itself upon the motion to reconsider.

The SPEAKER. The gentleman is correct. Mr. WILLIAMS. As there will be ample opportunity for discussion after that motion shall have been disposed of, I will now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurred upon the motion to recommit the bill.

Mr. SCHENCK. I move to amend that motion so as to refer this bill to the joint committee on retrenchment.

Mr. WILLIAMS. Would it be in order for me now to withdraw the motion to recommit?

The SPEAKER. It would, and then the motion of the gentleman from Ohio, [Mr. SCHENCK,] being in the nature of an amendment, would fail.

Mr. WILLIAMS. I withdraw the motion to recommit. And now I move to amend by striking out all of section three after the enacting clause, as follows:

That no office shall be considered as inferior, within the meaning of the Constitution, the salary and emoluments whereof exceed in amount the sum of \$1,000 per annum; and in all such cases the appointments thereto shall hereafter be made on nomination by the President, by and with the advice and consent of the Senate, subject to the same conditions and limitations as to removals and renominations as are prescribed in the foregoing sections of this act.

And I move to insert in lieu thereof the following:

That whenever a vacancy in any office, happening during the recess of the Senate, may have been filled up by the President in accordance with the provisions of the Constitution, by granting a commission to expire at the end of their next session, it shall be the duty of the President to make a nomination for the said office before the end of the next ensuing session of that body; and in case of the nomination of any other person or persons than the one so commissioned, and the refusal of the Senate to advise and consent thereto, the office shall not be considered as vacant upon the adjournment of the Senate, but the person so commissioned shall continue to hold and enjoy the same, and exercise the functions thereof during the recess of the Senate, and until he shall be either nominated and rejected, or duly superseded by a new appointment, by and with the consent of that body.

Sec. 4. That the several heads of Departments shall

hold their offices respectively for the term of four years, unless removed by the President, by and with the advice and consent of the Senate, and shall severally nominate, and by and with the advice and consent of the Senate appoint, all their assistants and other officers within their respective Departments, to hold for the like period of four years, unless removed by them, with the concurrence of the Senate.

Mr. WILSON, of Iowa. I desire, whenever it may be in order, to offer an amendment, to insert the following as a new section:

That any officer of the Government of the United States, who shall appoint or commission any person to an office, in violation of the provisions of this act, shall be deemed guilty of a misdemeanor in office, and on conviction thereof, by impeachment or otherwise, shall be dismissed from office.

I will suggest to the gentleman from Pennsylvania [Mr. WILLIAMS] that these amendments be printed, and the bill postponed until to-morrow, when we can have all the amendments before the House. In the mean time the committee on retrenchment may have their bill prepared, and may present it as a substitute for this bill. We then can have the whole subject before the House, with all the different propositions.

Mr. SCHENCK. I will state that the suggestion of the gentleman from Iowa is a very acceptable one, because we think the committee on retrenchment will be ready to-morrow to report a bill as a substitute for all these propositions.

The SPEAKER. If there be no objection, it will be understood that by unanimous consent the various amendments suggested by different gentlemen may be presented now to be printed with the bill and to come up to-morrow in regular order.

There was no objection.

Mr. KASSON. The amendment which I suggested a few moments ago, is as follows:

Strike out in the fifth and sixth lines of the first section, the words, “by the same agencies which concurred in his appointment,” and insert in lieu thereof the words, “by virtue of impeachment, or by the President, with the consent of the Senate;” so that the clause will read:

That no officer of the United States appointed on the nomination of the President, by and with the advice and consent of the Senate, shall be removable except by virtue of impeachment, or by the President, with the consent of the Senate.

Add at the end of the first section the following: And provided further, That the provisions of this act shall not apply to the removal and appointment of the heads of the several Executive Departments.

Mr. STEVENS. I have an amendment which I desire to offer. It is as follows:

Amend the second section by striking out in the fifteenth and sixteenth lines the words, “the same office for which he had been previously nominated,” and inserting in lieu thereof the words “any office;” so that the clause will read:

And in no case shall any person who has been nominated by the President for any office and rejected by the Senate, or on whose nomination that body has failed or declined to act in the way of consent or refusal, be appointed or commissioned by him after the adjournment and during the recess of that body to hold any office.

Mr. HALE. I propose to amend the amendment of the gentleman from Pennsylvania [Mr. WILLIAMS] by striking out, in section four, after the words “shall severally nominate and,” the words “by and with the advice and consent of the Senate;” so as to provide that the heads of the Departments shall “severally nominate and appoint all their assistants and other officers,” &c. I think that the terms of the gentleman’s amendment in its present form are inconsistent with the provisions of the Constitution in regard to appointments to office.

Mr. GARFIELD. I desire to inquire of the gentleman from Pennsylvania, [Mr. WILLIAMS,] who has charge of this bill, whether the amendment which he has offered makes it a misdemeanor for any disbursing officer to pay persons who are appointed to office in violation of the provisions of the bill.

Mr. WILLIAMS. There is nothing of that kind in my amendment.

Mr. GARFIELD. Then I desire the privilege of offering the following amendment:

Add as a new section the following:

That any public officer who shall pay or receive any moneys, or advise or connive at, or consent to the payment of any moneys, in violation of the provisions of this act, shall be held guilty of a misdemeanor in office, and, on conviction thereof, by im-

peachment or otherwise, shall be sentenced to removal from office, and shall pay to the United States a sum equal to the amount of moneys so paid or received, to be recovered, with costs, by action of debt, in the name of anybody who may institute such action, for the use and benefit of the United States.

Mr. WILLIAMS. I now move that all the amendments be printed, and that the bill be postponed, and made a special order for to-morrow morning, immediately after the reading of the Journal.

The motion was agreed to.

#### MORNING HOUR.

The SPEAKER stated the morning hour had commenced, and the first business was the call of committees for reports.

#### CRIMINAL CASES.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back House bill No. 635, to amend an act regulating proceedings in criminal cases, and for other purposes, approved March 3, 1865, with an amendment.

The bill provides that on the trial of any offense in which the right of challenge to jurors now exists the defendant shall be entitled to only two peremptory challenges; provided that nothing herein shall apply to the trial of treason or capital offenses.

The amendment of the committee was to strike out “two” and insert “four.”

The amendment was agreed to; and the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### QUALIFICATIONS OF JURORS.

Mr. LAWRENCE, of Ohio, also from the same committee, reported back House bill No. 418, in relation to the qualifications of jurors in certain cases, with a substitute.

The bill provides that in trials for treason against the United States, and in trials for all other high crimes and misdemeanors against the United States committed by organized military force, with strong hand and by multitude of people, no juror shall be, by reason of having formed or expressed an opinion of the innocence or guilt of the accused, based upon public rumor, statements in public journals, or the common history of the times, provided he be otherwise competent, and upon his oath declare, and it appear to the satisfaction of the courts that, notwithstanding such opinion, he can and will impartially try the accused upon the crime charged in the indictment, and a true verdict give upon the evidence to be produced upon the trial.

The substitute was read, as follows:

That upon the trial of any person charged with treason, or with setting on foot, assisting, or engaging in any rebellion or insurrection against the authority of the United States or the laws thereof, or with giving aid and comfort to any person engaged in any such rebellion, or with engaging in or giving aid and comfort to any rebellion or insurrection, whether such crime shall have been heretofore or may hereafter be committed, if any juror or jurors in such case and under examination as to his competency as such juror, shall state that he has formed and expressed an opinion as to the guilt or innocence of the accused and shall be objected to for that reason, the court shall thereupon proceed to examine said juror as to the ground of his opinion; and if it shall appear to have been founded on reading newspaper reports or upon rumor or hearsay, and not upon conversation with witnesses of the transaction or hearing them testify, and the juror shall say he feels able, notwithstanding such opinion, to render an impartial verdict upon the law and evidence, the court, if satisfied that said juror will render such impartial verdict, may in its discretion admit such juror as a competent juror in such case.

Sec. 2. And be it further enacted, That the several courts of the United States, in addition to the authority now exercised by them, shall have power to select or order to be selected, by lot or otherwise, in such manner as they may respectively deem proper, or as the Supreme Court may by rule from time to time prescribe, such jurors as may be deemed necessary for the due administration of justice, and to issue and enforce process therefor, or order the same to be done in term time or in the vacation of said courts.

Mr. LE BLOND. Mr. Speaker, this I un-



derstand is an amendment, coming from the committee, to the original bill.

The SPEAKER. A substitute.

Mr. LE BLOND. I would ask my colleague if it has been printed.

Mr. LAWRENCE, of Ohio. The substitute reported by the committee has not yet been printed. I will state, however, for the information of my colleague and the House, that the first section of the bill, or rather of the substitute, is copied substantially from the law of Ohio regulating the qualifications of jurors. That law my colleague is familiar with. It has been recently sustained by a decision of the supreme court of Ohio, in the case of the State vs. Cooper, decided at the last term of the court. I have never heard any objection to it from the bench or bar of Ohio. This substitute has been maturely considered by the Committee on the Judiciary, and I have been instructed, without any dissent, I believe, from any member of the committee, to report it and recommend its passage. I think there can be no objection to it.

Mr. LE BLOND. I wish to make this suggestion to my colleague, that inasmuch as this substitute changes entirely the qualifications of jurors, it would be but wise and proper that it should be printed, so that all the members of the House might see it and come to some conclusion on the subject. It proposes a very decided change from what has existed in former years. I am aware that Ohio has a provision substantially like the one that has been reported by this committee; but, sir, in the minds of legal men in that State, it is very questionable whether it is an improvement upon the old law. I believe in the main it is considered not to be; and that being so, gentlemen will at once see the necessity of weighing this question thoroughly before enacting it into the laws of the United States.

Why, sir, if an individual who is called upon to act as a juror in a case has expressed or formed an opinion, even from newspaper reports or from hearing A, B, or C express an opinion in regard to the facts of the case, is it not apparent that that man's mind is so biased that it will require some evidence in order to disabuse his mind before he can become an impartial juror? I am not, for one, prepared to say that this is a proper change for this Congress or for any State to make in regard to the qualification of jurors. We should seek to have men upon juries who are entirely free from any bias, who have neither expressed nor formed an opinion in the case. Then they are qualified to give due weight and credit to the testimony, and to render a verdict according to the preponderance of evidence. But by the provisions of this amendment they are not so qualified, because at the very outset you have got to overcome the bias that has been created by newspaper or neighborhood reports. I hope that my colleague will permit this substitute to be printed so that we may know better how to act in the premises.

Mr. LAWRENCE, of Ohio. This amendment contains but a single proposition which any member can understand from hearing it read. This subject has long been before Congress. A bill was introduced in the Senate on the 5th of December last and was considered there. The same bill has been considered by the Judiciary Committee of the House, and as the substitute for the first section contains but a single proposition, which will be readily understood, it seems to me there can be no necessity for printing it. I hope the bill will be disposed of. I have never yet in Ohio, where a similar law is in force, heard any objection made by any lawyer, judge, or citizen to its operation.

Mr. STEVENS. Mr. Speaker, this bill may be all right, but of course it means to change the qualifications of jurors or else there is no necessity for it. If it does propose any such change I would like to see what it says. Whether it is very important that this amendment should be adopted I do not know, but in the present state of things I think we should be very cau-

tions in making any changes in regard to our legal tribunals. While crimes ought to be punished and criminals brought to justice, I think it is better that they should be tried by no new law, no new qualification. I hope the gentleman will let it go over till Monday, and have it printed.

Mr. LE BLOND. I believe the previous question has not been seconded, and if not, I will move that the bill be laid upon the table and printed.

Mr. WILSON, of Iowa. Oh, no; not laid upon the table; let it be printed.

Mr. LE BLOND. Let it be postponed and printed.

Mr. STEVENS. I move that the further consideration of the bill be postponed until Monday next, and that it be printed.

The SPEAKER. The Chair will state that there are two or three postponed special orders which will be anterior to this.

Mr. STEVENS. Then I will move to postpone it until Tuesday, and that it be printed.

Mr. LAWRENCE, of Ohio. I have no objection to the postponement of the bill until Tuesday, so that it may be printed and the House may see it. I think it will be found that there is no objection to it.

Mr. STEVENS's motion was then agreed to.

#### RIGHT OF ACTION OF LOYAL CITIZENS.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back bill of the House No. 693, to protect the right of action of loyal citizens, with two amendments; which were agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The bill, as passed, provides that in all cases where a citizen of the United States, who always remained loyal thereto and did not voluntarily give any aid or encouragement to any persons engaged in rebellion, shall bring an action to recover damages for injury to person or property, or the value thereof, no such action shall be defeated, or any defense allowed, by virtue of the authority of the late so-called confederate States of America, or of any State declared in rebellion by proclamation of the President of the United States.

#### PAYMENT OF PENSIONS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with the recommendation that it do pass, bill of the Senate No. 69, to provide for the payment of pensions.

The bill was read. It authorizes the President of the United States to establish agencies for the payment of pensions granted by the United States wherever in his judgment the public interest and the convenience of pensioners requires, and by and with the advice and consent of the Senate to appoint pension agents who shall hold their offices for four years, and until their successors shall be appointed and duly qualified; provided, that no existing office shall be considered as vacated prior to an appointment by the President as provided by the bill.

Mr. WASHBURNE, of Illinois. There are two or three amendments which I would like to suggest to that bill, and I will state them, if the gentleman from Maine will yield to me for that purpose.

Mr. PERHAM. I will yield for that purpose.

Mr. WASHBURNE, of Illinois. If the House paid attention to the reading of the bill, it will have seen that there is authority given to the President to establish agencies for the payment of pensions granted by the United States wherever, in his opinion, it may be necessary. Now, sir, I am opposed to giving that

sort of authority to the President or to anybody else. I think we have a sufficient number of pension agents already established. And I am entirely indisposed to grant this further power to the President. I shall therefore move to strike out that part of the bill. And I will also move an amendment to the proviso, so that it shall be the duty of the President to send into the Senate the names of all the pension agents. There have been many removals during the past season of the most trustworthy pension agents we have, and most objectionable men have been appointed to their places. In my own State a pension agent was removed, and probably the most objectionable man in the State, particularly to the soldiers, appointed to his place. I want that man's nomination sent to the Senate, and have it pass that ordeal if it can.

Mr. BINGHAM. You will leave nothing in the bill.

Mr. WASHBURNE, of Illinois. I propose to have this bill amended, let it affect it as it may. I propose to amend the bill so as to compel the President to send the names of all these pension agents to the Senate; making them in fact presidential appointments, instead of being made as they now are by the Secretary of the Interior.

Mr. WILSON, of Iowa. I suggest to the gentleman from Maine [Mr. PERHAM] whether it would not be proper to postpone the further consideration of this bill for say a week from Monday next; or until after the bill regulating the appointing power of the President shall have been acted upon, for the subject of this bill is involved, to a greater or less extent, in that bill.

Mr. PERHAM. There are some reasons why the Committee on Invalid Pensions desired immediate action upon this bill. I would therefore prefer that the bill should be acted upon now. But the committee will not make any objection to such amendments as the House may see proper to make.

Mr. WASHBURNE, of Illinois. I move to amend the proviso, by striking out after the word "provided" the following:

"That nothing herein contained shall be so construed as to vacate any existing office prior to an appointment by the President, as herein provided."

And inserting in lieu thereof the following:

"That the number of pension agencies in any State or Territory shall not in any case exceed three; and that no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of \$500,000."

Mr. FARNSWORTH. I think the bill should be further amended so as to embrace those appointments which have been made since a certain date, so as to cover appointments that have been made during the last year, and require their names to be sent in to the Senate for their action. The abuse has already been committed. In my own State one of the worst Copperheads in the State was appointed pension agent at Springfield not long ago. I want his name sent to the Senate, and let them pass upon it.

Mr. PERHAM. I can only seek to perform the duty imposed upon me by the committee, and that is to ask that the bill be put upon its passage. At the same time I will be willing to consent to any amendments which the House may think proper to adopt.

Mr. WILSON, of Iowa. I move that this bill, with the accompanying amendment, be recommitted to the Committee on Invalid Pensions. I think there have been suggestions made which that committee would do well to consider.

Mr. PERHAM. I have no objection.

Mr. BINGHAM. I hope the motion will be modified so as to include an order to print the bill.

Mr. WILSON, of Iowa. I will modify my motion accordingly.

The motion, as modified, was agreed to.

Mr. WASHBURNE, of Illinois. I move that the committee have leave to report at any time.

The SPEAKER. That motion will require unanimous consent.

No objection was made.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, without amendment, the joint resolution of the House (No. 212) to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies.

The message further informed the House that the Senate had agreed to the concurrent resolution of the House for the reappointment of the joint committee on reconstruction.

#### TENNESSEE CONTESTED ELECTION.

Mr. COOPER. I rise to a question of privilege, and present the petition and papers of Dorsey B. Thomas, contesting the seat of Hon. SAMUEL M. ARNELL, as a Representative from the sixth district of Tennessee.

The SPEAKER. The petition and papers will be referred to the Committee of Elections.

#### CAPTAIN WILLIAM F. AUSTIN.

Mr. MORRILL, from the Committee of Ways and Means, submitted an adverse report upon the petition of Captain William F. Austin, praying to be granted the privilege of making and selling spirituous liquors free from the duties imposed by the excise laws; and the same was laid on the table.

And then, on motion of Mr. GRINNELL, (at half past two o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. DEMING: The petition of Jonathan B. Turner, for renewal of patent.

By Mr. GARFIELD: The petition of Jesse Baldwin, of Youngstown, Ohio, praying for a return to specie payment.

By Mr. HENDERSON: The petition of S. D. Maston, William Baker, C. M. Carter, William L. Colvig, and 240 others, citizens of the State of Oregon, praying the just payment of the Oregon and Washington Territory war claims of 1865 and 1866.

By Mr. HULBURD: The petition of Professor E. Fisher and sundry citizens of the State of New York, asking modification of the income tax provision of the internal revenue laws.

By Mr. JULIAN: The petition of 39 citizens of Randolph county, Indiana, praying an amendment of the Constitution providing that no inequality among citizens shall be allowed on account of race, birth, or color, and that laws be at once enacted enforcing this principle in the District of Columbia and the Territories of the United States.

By Mr. KELLEY: The petition of soldiers, seamen, firemen, coal-passers, and marines, citizens of Philadelphia, Pennsylvania, who served in defense of the Union in the late rebellion, praying Congress for a law giving to the above who entered the service of the United States during the rebellion, on and after the 15th day of February, 1861, a bounty of \$100 a year, &c.

By the SPEAKER: The memorial of Walker Pearce, asking an investigation into a certain alleged violation of his rights as a citizen, by an armed mob at Fayetteville, North Carolina.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rule:

By Mr. DAVES: A bill to fix the time for the election of Representatives and Delegates in the Congress of the United States.

By Mr. MILLER: A bill granting pensions to soldiers of the war of 1812 with Great Britain.

#### IN SENATE.

THURSDAY, December 6, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

Hon. EDGAR COWAN, of Pennsylvania, appeared in his seat.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented six petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. NESMITH presented the memorial of

W. L. Adams, collector of customs for the district of Oregon, praying to be relieved from all liability on account of money stolen from him while being transported to San Francisco; which was referred to the Committee on Claims.

Mr. POLAND presented four petitions of officers of the Army of the United States, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. EDMUNDS presented the memorial of M. E. Finney, praying to be allowed the three months' extra pay due her late husband, Solon H. Finney, first lieutenant sixth regiment Michigan cavalry; which was referred to the Committee on Pensions.

Mr. HARRIS presented the memorial of the Commercial Navigation Company of the State of New York, praying for aid in the establishment of a regular line of steamships, sailing under the flag of the United States and owned by American citizens, for the conveyance of the foreign mails of the United States between New York and Bremen, touching at Southampton; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN presented the memorial of Edward Dodge, of Brooklyn, New York, praying that the name of the yacht Mayflower may be changed to Silvie; which was referred to the Committee on Commerce.

Mr. WILLIAMS presented the petition of citizens of Oregon, praying for the establishment of a weekly mail route from Salem to Silverton, via Howell Prairie, in said State; which was referred to the Committee on Post Offices and Post Roads.

Mr. TRUMBULL presented the memorial of Ernestine Becker, widow of Leopold Becker, late captain of company D, twenty-fourth regiment Illinois infantry, praying for a pension; which was referred to the Committee on Pensions.

Mr. HOWE presented the petition of William Blake, a soldier of the war of 1812, praying that his pension may be dated back to the time of his discharge from the service; which was referred to the Committee on Pensions.

Mr. NORTON presented the petition of citizens of Minnesota, praying for the establishment of a mail route from Paynesville, via Burbank and Norway Lake, to School Lake, in that State; which was referred to the Committee on Post Offices and Post Roads.

#### POWER OF AMNESTY AND PARDON.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 828) to repeal section thirteen of the act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, have instructed me to report it back to the Senate with a recommendation that the bill pass; and if there be no objection, I will ask for its present consideration.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the bill on the day it is reported.

Mr. HENDRICKS. I wish to look into the questions involved in that bill, and therefore I object to its present consideration.

The PRESIDENT *pro tempore*. The present consideration of the bill being objected to, it lies over under the rule.

#### BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 457) to provide for the defense of the northeastern frontier; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 458) to extend the jurisdiction of the Court of Claims; which was read twice by its title.

Mr. ANTHONY. I introduce that bill by request. I do not know whether it should go to the Committee on the Judiciary or the Committee on Claims. It is to give the Court of

Claims jurisdiction of some claims arising under an Indian treaty.

Mr. FESSENDEN. It should go to the Committee on the Judiciary.

Mr. ANTHONY. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes; which was read twice by its title, and referred to the Committee on Finance.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 603) to protect the rights of action of loyal citizens; and

A bill (H. R. No. 635) to amend an act regulating proceedings in criminal cases, and for other purposes, approved March 3, 1865.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 212) to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies; which was thereupon signed by the President *pro tempore* of the Senate.

#### CLAIMS FOR SERVICES OF COLORED SOLDIERS.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to inform the Senate whether he has appointed the commission provided for in section twenty-four of the act entitled "An act to amend an act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863," approved February 24, 1864, and if so, that he report the names of all such commissioners, and whether they have made any report, and if so, that he communicate a copy of said report.

#### LEGISLATIVE RESOLUTIONS.

Mr. POLAND presented the following resolutions, adopted by the Legislature of the State of Vermont: which were read, and ordered to lie on the table and be printed:

Joint resolution relating to the protection of American industry.

*Resolved by the Senate and House of Representatives*, That it is the sense of the General Assembly of the State of Vermont that an efficient system of protective duties is indispensably necessary to the best and permanent prosperity of the country.

*Resolved*, That it is the duty of the General Government to protect the labor and industry of the country against foreign competition; and that the material interests developed by the wool producers of Vermont demand that the protection in favor of wool in the tariff bill presented at the last session of Congress should receive its early attention and sanction.

*Resolved*, That our Senators and Representatives be requested, at an early day of the next session, to earnestly and faithfully urge this subject upon Congress.

*Resolved*, That the secretary of state communicate a copy of these resolutions to each of our Senators and Representatives in Congress.

JOHN W. STEWART,  
Speaker of the House of Representatives.

A. B. GARDNER,  
President of the Senate.

Mr. EDMUNDS presented the following resolutions adopted by the Legislature of the State of Vermont; which were read, and ordered to lie on the table and be printed:

Joint resolution relating to equal suffrage.

*Resolved by the Senate and House of Representatives*, That laws ought to be in force in all of the United States, guaranteeing equal and impartial suffrage, without respect to color.

*Resolved*, That it is the duty of Congress to pass laws giving this right in all places where it can be done constitutionally.

*Resolved*, That we hereby request our Senators and Representatives in Congress to use their influence for the passage of a law, giving equal and impartial suffrage in the District of Columbia as early as possible at the next session of Congress.

JOHN W. STEWART,  
Speaker of the House of Representatives.

A. B. GARDNER,  
President of the Senate.

## LEAGUE ISLAND.

On motion of Mr. ANTHONY, it was

*Ordered*, That the bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia, be recommitted to the Committee on Naval Affairs.

## HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 603) to protect the rights of action of loyal citizens; and

A bill (H. R. No. 635) to amend an act regulating proceedings in criminal cases, and for other purposes, approved March 3, 1865.

## SELECTION OF JURORS IN UTAH.

Mr. WADE. I move that the Senate take up Senate bill No. 404.

Mr. JOHNSON. What bill is it?

Mr. WADE. It is a bill to amend the charter of Utah.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes.

Mr. McDUGALL. I wish to inquire of the Senator from Ohio whether he intends to ask for the present consideration of the bill.

Mr. WADE. No. I have moved to take it up in order that an amendment may be offered by the Senator from Michigan, [Mr. HOWARD,] and ordered to be printed, and then the bill can be laid upon the table. I design to call it up, however, at a very early period of the session.

The PRESIDENT *pro tempore*. The bill is before the Senate.

Mr. HOWARD. I do not suppose that the Senate will enter upon the consideration of this bill at the present time. It is only brought up by the honorable Senator from Ohio now for the purpose of enabling me to offer an amendment with a view to have it printed. The amendment is of considerable importance, and I therefore beg to present it to the Senate and ask that it be printed, and then the bill itself can lie over.

The PRESIDENT *pro tempore*. The order to print the amendment will be made, if there be no objection.

Mr. SHERMAN. I suppose that the bill is to lie on the table now; I believe that is the understanding. I desire to take up the resolution that I introduced yesterday in regard to the admission of reporters to the floor of the Senate, with a view of having it referred to the Committee on Printing.

The PRESIDENT *pro tempore*. The bill and the amendment will lie on the table, no objection being interposed.

## TELEGRAPHIC REPORTS.

Mr. SHERMAN. I now make my motion. The motion was agreed to; and the Senate resumed the consideration of the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to provide seats on the floor of the Senate for the accommodation of one reporter for the New York Associated Press, and one reporter for the United States and European News Association.

Mr. SHERMAN. I now move that the resolution be referred to the Committee on Printing.

The motion was agreed to.

## BANKRUPT LAW.

Mr. POLAND. I desire to give notice to the Senate that on Monday next I shall move to take up for consideration House bill No. 598, to establish a uniform system of bankruptcy throughout the United States.

## ADJOURNMENT TO MONDAY.

On motion of Mr. GRIMES, it was

*Ordered*, That when the Senate adjourn to-day, it be to meet on Monday next.

## DISBANDMENT OF MILITIA.

Mr. WILSON. I give notice that early next week I shall move to take up the joint resolution (S. R. No. 32) to disband the militia forces in certain States and to prohibit their reorganization.

Mr. McDUGALL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, December 6, 1866.

The House met at twelve o'clock m. Prayer by Rev. MANSFIELD FRENCH.

The Journal of yesterday was read and approved.

## WITHDRAWAL OF PAPERS.

Mr. HUNTER. I ask leave to withdraw from the files of the House the papers of James S. Purdy, which were referred at the last session to the Committee of Claims.

Mr. THAYER. I suppose it is understood that the withdrawal shall be made on the usual condition—that copies of the papers be left.

The SPEAKER. That will be understood, and if there be no objection, the leave asked will be granted.

There was no objection.

## ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 212) to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies; which was thereupon signed by the Speaker.

## RETURNS OF CUSTOMS COLLECTORS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of Congress of March 2, 1799, an abstract of returns made by collectors of customs in pursuance of the act of May 23, 1796; which was referred to the Committee on Commerce, and ordered to be printed.

## EXCUSED FROM COMMITTEE SERVICE.

The SPEAKER. In consequence of service on other committees, the gentleman from Iowa [Mr. ALLISON] desires to be excused from further service on the Committee on Mines and Mining; the gentleman from Indiana [Mr. FARQUHAR] from service on the Committee on the Militia; and the gentleman from Wisconsin [Mr. COBB] and the gentleman from New York [Mr. HART] from service on the Committee for the District of Columbia. If there be no objection, the Chair will understand that these gentlemen are excused.

There was no objection.

Mr. PAINE. I ask the House to excuse me from further service on the Committee of Elections.

There being no objection, Mr. PAINE was excused.

## GOVERNMENT CONTROL OF TELEGRAPHS.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of conferring upon the Post Office Department the same jurisdiction and control over the various telegraph lines, now in operation or hereafter to be constructed, that is now exercised over post offices and post roads, and to report by bill or otherwise.

## REGISTRY OF VESSELS.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire into the expediency of granting American registers to the bark Termitus, the schooner Etowah, and the schooner Wirritite, all of Cleveland, Ohio, and that said committee have leave to report by bill or otherwise.

## TENNESSEE CONTESTED ELECTION.

Mr. COOPER, by unanimous consent, sub-

mitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That Dorsey B. Thomas, who contests the seat now occupied in this House by Hon. SAMUEL M. ARNELL, from the sixth district of Tennessee, be allowed a seat on the floor of the House during the pendency of such contest.

## DESERTION OF DRAFTED MEN.

Mr. PAINE. Mr. Speaker, I offered, on last Tuesday, a resolution calling on the Secretary of War for certain information in regard to deserters from the draft. The consideration of that resolution at that time was objected to by the gentleman from Pennsylvania, [Mr. ANCONA.] That gentleman is now willing that the House shall act upon it; and I ask that by unanimous consent it be taken up for consideration.

There was no objection; and the House proceeded to the consideration of the resolution.

Mr. PAINE. I desire to modify the resolution in one or two particulars, in accordance with the suggestion of a member. I wish to specify the period to which the inquiry is intended to apply, namely, since the commencement of the late rebellion. I also wish to include a provision requiring the Secretary of War to furnish us the reasons for which any drafted men have been exempted.

The resolution, as modified, was read and agreed to, as follows:

*Resolved*, That the Secretary of War be directed to communicate to this House the names of all persons who, having been duly enrolled and drafted into the military and naval service of the United States, failed to report to the proper authorities under such draft, or were for any reason exempted therefrom, showing the districts and sub-districts in which they were severally enrolled and drafted, and the grounds upon which any persons so enrolled and drafted were exempted; also, the names of all persons who, under the provisions of the twenty-first section of the act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," approved March 3, 1865, forfeited their rights of citizenship and their right to become citizens, and became forever incapable of holding any office of trust or profit under the United States, or of exercising any right of citizens thereof, by desertion from the military or naval service, showing the residence and the company and regiment or ship of each deserter.

Mr. PAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## REMOVALS OF POSTMASTERS.

Mr. DRIGGS. I rise for the purpose of calling up a similar resolution offered day before yesterday, calling upon the Postmaster-General for information, and which laid over one day under the rules, objection being made.

The Clerk read as follows:

*Resolved*, That the Postmaster General be, and is hereby, requested to communicate to the House the following information:

1. The number and names of all postmasters in each of the States that have been removed since the adjournment of the last session of Congress.

2. The reasons in the case of each officer so removed.

3. The names of all new appointees.

4. Whether the salaries of any or all of the new appointees have been increased over that of their predecessors, and if so, to what extent in each case, and for what reasons, and to what sums such increase will amount in the aggregate.

Mr. ELDRIDGE. I object.

The SPEAKER. It will have to lay over until regularly reached.

## PENSION BUREAU.

Mr. TAYLOR, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the expediency of reorganizing the Pension Bureau, and providing clerical force and other assistants equal to the demands of its increased business, and report by bill or otherwise.

## BUREAU OF REFUGEES, ETC.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of May 28, 1866, in regard to the amount of funds received by the Bureau of Refugees, Freedmen, and Abandoned Lands, from what source



received, how expended, &c.; which was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

#### REMOVALS FROM OFFICE.

The SPEAKER stated the first business in order to be the consideration of House bill No. 664, for the regulation of appointments to and removals from office, postponed till this morning after the reading of the Journal.

Mr. SCHENCK rose.

The SPEAKER. The gentleman from Pennsylvania [Mr. WILLIAMS] is entitled to the floor.

Mr. WILLIAMS. I desire that the bill and amendments shall be made a special order for the same day as the one presented by my colleague, [Mr. STEVENS.] I will modify my amendment offered yesterday so that it shall read as follows:

Strike out section three, and insert:

SEC. 3. *And be it further enacted*, That whenever a vacancy in any office, happening during the recess of the Senate, may have been filled by the President, in accordance with the provisions of the Constitution, by granting a commission to expire at the end of their next session, it shall be the duty of the President to make a nomination for the said office before the end of the next ensuing session of that body, and in case of the nomination of any other person or persons than the one so commissioned, and the refusal of the Senate to advise and consent thereto, the office shall not be considered as vacant upon the adjournment of the Senate, but the person so commissioned shall continue to hold and enjoy the same, and exercise the functions thereof during the recess of Senate, and until he shall be either nominated and rejected, or duly superseded by a new appointment, by and with the advice and consent of the Senate.

SEC. 4. *And be it further enacted*, That the heads of the several Departments of the Government shall hold their offices, respectively, for the term of four years, unless removed by the President, by and with the advice and consent of the Senate, and shall severally appoint their assistants and all other subordinate officers appertaining to their respective Departments, subject to the approval of the Senate, on report to be made to that body if then in session, or if during the recess, at the next meeting thereof, to hold for the period of four years unless removed with the like concurrence of that body.

The SPEAKER. The modification will be made.

Mr. WILLIAMS. I move that the bill with the pending amendments, together with the bill submitted by my colleague, [Mr. STEVENS,] be postponed till Monday next, after the morning hour, made the special order until disposed of, and ordered to be printed.

The motion was agreed to.

Mr. SCHENCK. The committee on retrenchment have nearly completed a bill, and only meet to-night to put their work artistically together; and I ask leave that the bill shall be ordered to be printed in advance of the report. Perhaps they will be ready to report before to-morrow morning.

There was no objection, and it was agreed to accordingly.

#### MORNING HOUR.

The morning hour having commenced, the first business in order was the call of committees for reports.

No reports were offered.

#### RESOLUTIONS.

The SPEAKER stated as the next business in order the calling of the States for resolutions, commencing with the State of Maine.

#### MURDER OF SOLDIERS

Mr. PIKE offered the following preamble and resolution; which were read, considered, and agreed to:

Whereas three soldiers of the Army of the United States were murdered in October, 1865, in South Carolina, under circumstances of peculiar cruelty, and several persons were arrested, tried, and condemned by a military commission for said murder; and whereas said persons, so condemned, were subsequently reprieved and transferred to Fort Delaware, from which they were taken by writ of *habeas corpus* and set free: Therefore,

*Resolved*, That a committee of three be appointed by the Speaker, whose duty it shall be to investigate the circumstances attending said murder, and by whose procurement and action said reprieve, transfer, and discharge were made, the consideration for the same, the reasons therefor, and all the facts connected with the same, and to recommend to the House such action, if any, as they deem the case requires; said committee to have power to send for persons and papers and to examine witnesses under oath.

Mr. PIKE moved to reconsider the vote by which the preamble and resolution were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### CONGRESSIONAL ELECTIONS.

Mr. DAWES introduced a bill to fix the time for the election of Representatives and Delegates in the Congress of the United States; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

#### HARBORS IN CONNECTICUT.

Mr. HUBBARD, of Connecticut, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of making appropriations for such harbors on the coast of the State of Connecticut as have been surveyed by the General Government during the current year, upon official report or estimates by the engineer of the Department for the same, and that they report by bill or otherwise.

Mr. HUBBARD, of Connecticut, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUNKEN VESSELS AT SANDY HOOK.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations be requested to inquire into the expediency of making an appropriation for the removal of sunken vessels in the vicinity of Sandy Hook, port of New York.

#### ARMY AND NAVY SUPPLIES.

Mr. BROOMALL offered the following resolution:

*Resolved*, That the Secretary of War and Secretary of the Navy be requested to furnish to the House of Representatives a statement of all ordnance or ordnance stores now in possession of the Government, and a copy of all contracts or orders for the purchase or construction of any additional supplies to those now being furnished.

The resolution being a call for executive information, was considered by unanimous consent, and agreed to.

#### UNITED STATES TROOPS IN MEXICO.

Mr. THAYER offered the following resolution:

*Resolved*, That the President of the United States be requested to inform this House whether any portion of Mexican territory has been occupied by troops of the United States, and if so, by what authority, and for what purpose.

The resolution being a call for executive information, was considered by unanimous consent, and agreed to.

Mr. THAYER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### AGRICULTURAL REPORT OF 1865.

Mr. ANCONA submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Printing be requested to inquire and report to the House why the report of the Commissioner of Agriculture for 1865 has not been printed and delivered for distribution by members.

#### PROTECTION OF LOYAL CITIZENS.

Mr. MILLER introduced a bill to protect all loyal persons in the insurrectionary States; which was read a first and second time, and referred to the Committee on the Judiciary.

#### PENSIONERS OF THE WAR OF 1812.

Mr. MILLER also introduced a bill granting pensions to the soldiers of the war of 1812 with Great Britain; which was read a first and second time.

The bill provides that the surviving commissioned and non-commissioned officers, musicians, and privates of the Army, and the surviving commissioned and non-commissioned officers and seamen in the Navy in the war of

1812, who have received honorable discharges and are in necessitous circumstances, and have not taken part in the late rebellion, and the widows of the deceased, shall have their names placed upon the pension-list of the United States at the rate of eight dollars a month during their natural lives, the pensions to be computed from the 1st day of April, 1865.

Mr. MILLER. I would like to have that bill passed now; and I demand the previous question upon it.

Mr. PERHAM. I hope that that bill will be referred to the Committee on Invalid Pensions, and I desire to make that motion.

Mr. GARFIELD. Will the gentleman from Pennsylvania state whether this bill comes from a committee or not?

Mr. MILLER. It does not.

Mr. GARFIELD. Then I hope the House will not pass the bill.

Mr. MILLER. I insist on the demand for the previous question.

The question was taken on the demand for the previous question; and there were—ayes 29, noes 74.

So the House refused to second the demand for the previous question.

Mr. PERHAM. I now move to refer the bill to the Committee on Invalid Pensions.

Mr. MILLER. I move to amend that motion so as to refer the bill to a select committee of five.

The SPEAKER. Under the rules of the House, a motion to refer to a standing committee takes precedence of a motion to refer to a select committee. The question will first be taken on the motion to refer to the standing Committee on Invalid Pensions.

Mr. BOUTWELL. Is that a debatable question? I would like to hear the reason why a special committee is desired.

Mr. MILLER. The reason why I ask that the bill be referred to a special committee is that last session the standing committee reported adversely upon it, and it was referred back to the committee with instructions to report in favor of it. The committee have a great deal of business on hand, and I have no doubt that if the subject shall be referred to a select committee, that committee will be able to report upon it at once. There are a few of these old soldiers left, and if we intend to give them pensions, now is the time to do it.

Mr. WASHBURN, of Illinois. I would inquire if the Committee on Invalid Pensions has not time to attend to the whole matter.

Mr. PERHAM. The Committee on Invalid Pensions have heretofore attended very carefully to all the matters that have been referred to us. I now demand the previous question on the motion to refer.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. PERHAM's motion was agreed to.

Mr. PERHAM moved to reconsider the vote by which the bill was referred to the Committee on Invalid Pensions; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. MILLER. I move that the bill be printed.

The motion was agreed to.

#### NEW ORLEANS RIOT.

Mr. ELIOT. I offer the following resolution:

*Resolved*, That a committee of three members be appointed by the Speaker, whose duty it shall be to proceed without unnecessary delay to New Orleans, in the State of Louisiana, to make an investigation into all matters connected with the recent bloody riots in that city, which took place the last of July and first of August, 1866, and particularly to inquire into the origin, progress, and termination of the riotous proceedings, the names of the parties engaged in it, the acts of atrocity perpetrated, the number of killed and wounded, the amount and character of the property destroyed, and whether and to what extent those acts were participated in by members of the organization claiming to be the government of Louisiana, and report all the facts to the House; and the Sergeant-at-Arms or his deputy, and the stenographer of the House, are directed to accompany the said committee; and that all the expense of this investigation be paid out of the contingent fund of the House. The said committee shall have power to send for persons and papers and examine witnesses under

oath; also to appoint a clerk, and to report such appropriate legislative action as may be required, in view of the condition of affairs in the State of Louisiana.

Mr. NIBLACK. I would ask the gentleman from Massachusetts [Mr. ELIOT] to accept an amendment to his resolution.

Mr. ELIOT. I will hear it.

Mr. NIBLACK. The amendment I would suggest is that the select committee also proceed to the city of Indianapolis, in the State of Indiana, and investigate the riot that occurred there at the time of the visit of the President, in September last.

Mr. ELIOT. That is a distinct matter; and if the gentleman desires an investigation of it he can move a select committee for that purpose. The committee I desire to have appointed will have as much as they can attend to.

Mr. NIBLACK. It would be very little out of the way for the committee to go to Indianapolis. I think the same committee can investigate both subjects.

Mr. ELIOT. I call the previous question upon agreeing to the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. ELIOT moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### BRIBERY AT ELECTIONS.

Mr. GARFIELD submitted the following resolution, upon which he called the previous question:

Whereas it appears that the corrupt use of money to carry elections is becoming prevalent to an alarming extent: Therefore,

*Resolved*, That the Committee on the Judiciary be directed to inquire into the expediency of passing a law to provide more perfectly for punishing all bribery at elections, and to make any person ineligible to office who shall be found guilty of purchasing votes.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### COURTS IN ILLINOIS.

Mr. MOULTON introduced a bill to provide for additional terms of the circuit and district courts of the United States, in the southern district of Illinois; which was read a first and second time, and referred to the Committee on the Judiciary.

#### IMPARTIAL SUFFRAGE.

Mr. MORRILL presented a joint resolution of the Legislature of the State of Vermont, in regard to guarantying equal and impartial suffrage; which was referred to the joint committee on reconstruction and ordered to be printed.

#### PROTECTION OF WOOL.

Mr. MORRILL also presented a joint resolution of the Legislature of the State of Vermont, asking that the protection in favor of wool provided by the tariff bill presented at the last session of Congress receive its early consideration and attention; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### APPOINTMENTS IN INTERIOR DEPARTMENT.

Mr. DRIGGS. I submit the following resolution for consideration at the present time:

*Resolved*, That the Secretary of the Interior be, and he is hereby, requested to communicate to this House the following information, namely:

1. The number and names in each of the States and Territories of all registers and receivers of land offices, Indian agents, commissioners, and other persons employed in his Department, who have been removed since the adjournment of the last session of Congress, together with the names of their successors, and the causes and reasons in each case for such removals and appointments.

2. Whether the salaries or emoluments of persons

so appointed have been increased over those of their predecessors; and if so, to what extent in each case and in the aggregate.

The SPEAKER. This being a call for executive information, requires unanimous consent for consideration on this day.

Mr. ELDRIDGE. I object.

The resolution was accordingly laid over one day under the rule.

#### ELECTORAL COLLEGE, ETC.

Mr. WILSON, of Iowa, submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether any legislation is necessary to more fully regulate the powers and duties of the Clerk of the House of Representatives relative to the organization of the House at the commencement of Congress; also what additional legislation, if any, is required to prevent the reception and counting of electoral votes, in the election of President and Vice President, from communities not entitled to participate in such election; and whether any other amendment of the law concerning the Electoral College is demanded by the interest of the country, and to report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MARTIAL LAW.

Mr. KASSON submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Judiciary Committee consider the propriety of providing by law that it shall be the duty of the President to establish martial law in every county or district of the States lately in rebellion wherein murders of citizens adhering to the Union shall take place and the local authorities do not promptly arrest, convict, and punish the murderers, and that said committee report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### EXCHANGE OF REGISTERED BONDS.

Mr. PRICE introduced, by unanimous consent, a bill authorizing an exchange of registered for coupon bonds; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HALE. I think this bill should be referred to and considered by a committee.

Mr. PRICE. I have no objection. I move that the bill be referred to the Committee on Banking and Currency.

Mr. WENTWORTH. The Committee of Ways and Means have charge of this subject. I move to amend the motion of the gentleman from Iowa, [Mr. PRICE], so that the bill shall be referred to the Committee of Ways and Means.

The amendment was adopted; and the motion, as amended, was agreed to.

Mr. WENTWORTH moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MERCHANDISE IN BONDED WAREHOUSES.

Mr. DARLING submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire into the expediency of determining by law the rates to be charged for storage of merchandise in all bonded warehouses, and also for cartage on the same, and report by bill or otherwise.

Mr. DARLING moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### FARM WAGONS.

Mr. TROWBRIDGE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means

be instructed to inquire into the expediency of placing farm wagons upon the free list in the internal revenue law.

#### SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. FARQUHAR submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to report an amendment to the election laws of the District of Columbia, excluding from the right of suffrage within said District all persons who voluntarily bore arms against the United States or accepted office from the rebels during the late rebellion.

Mr. FARQUHAR moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RECORDS OF RECRUITING, ETC.

Mr. COBB submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, directed to inquire into the expediency of providing by law for turning over to the State governments of the several loyal States all books, records, and papers of the late Provost Marshal General's Bureau now remaining in such States respectively, and which appertain to the subject of recruiting, drafting, or filling quotas of troops in such States during the late war; or if such action be deemed inexpedient, that provision be made for the collection of such books, records, papers, &c., at the seat of Government, their safe-keeping, and that duly certified copies thereof be made legal evidence in all courts and places.

Mr. COBB moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### TRAVEL OVER THE PLAINS.

Mr. DONNELLY submitted the following resolution; which was read, considered, and agreed to:

Whereas emigration, travel, and trade between the States of the Mississippi valley and the States of the Pacific coast have been and now are greatly interrupted by the hostility of the Indian tribes on the great plains; and whereas it is a reproach to our Government that its citizens cannot pass from one portion of the national domain to another without danger to life and property at the hands of a few thousand savages: Therefore,

*Resolved*, That the Secretary of War be requested to report to this House what addition to the force of the regular Army would be required to thoroughly protect communication by two great routes across the continent, to wit, a route upon the general line of the Union Pacific railroad, and a route upon the general line of the Northern Pacific railroad; and that he also be requested to communicate to this House the report of the tour of inspection made during the past season, under direction of General Grant, through the Territories of Dakota, Montana, and Idaho to the Pacific coast.

#### WITHDRAWAL OF PAPERS.

Mr. PHELPS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the personal representatives of Richard Hall have leave to withdraw their memorial praying compensation for losses sustained during the late war with Great Britain.

#### PROTECTION OF NATURALIZED CITIZENS.

Mr. BANKS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire what measures are necessary to secure the recognition by other nations of the principle that the naturalization by the United States of any native-born subject of another State exempts such naturalized citizen from the performance of military service under any foreign Government, and entitles him to all the privileges of citizens of the United States in foreign lands, so long as he does not voluntarily renounce its rights and benefits.

#### APPOINTMENT OF POSTMASTERS.

The House proceeded, as the next business in order, to consider resolutions calling for executive information, and lying over under the rule. The first resolution was the following, offered on last Tuesday by Mr. DRIGGS:

*Resolved*, That the Postmaster General be, and is hereby, requested to communicate to the House the following information:

1. The number and names of all postmasters in each of the States that have been removed since the adjournment of the last session of Congress.  
2. The reasons in the case of each officer so removed.  
3. The names of all new appointees.



4. Whether the salaries of any or all the new appointees have been increased over that of their predecessors, and if so, to what extent in each case, and for what reasons, and to what sums such increase will amount in the aggregate.

Mr. DRIGGS. I will modify this resolution by adding these words:

And whether in any case, where the salaries of postmasters have not been increased, clerks have been allowed increased salaries; and if so, how many, and what amount in each case and in the aggregate.

Mr. WARD, of New York. I desire to suggest to the gentleman from Michigan [Mr. DRIGGS] a further modification of his resolution, so as to provide that the inquiry be carried back to the 1st of last January. A number of removals which occurred before the adjournment of Congress ought, I think, to be inquired about.

Mr. DRIGGS. I think they have been the smartest on the home-stretch. [Laughter.] My resolution is sufficiently comprehensive.

The resolution was agreed to.

Mr. DRIGGS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### APPOINTMENTS TO OFFICE.

The SPEAKER stated the next proposition lying over to be the following one, submitted by Mr. MYERS:

Whereas, under the Constitution of the United States, the President of the United States has power to appoint officers of the United States, whose appointments are established by law, only by and with the advice and consent of the Senate, except temporarily to fill up vacancies that may happen in the recess of the Senate; and whereas the present Chief Magistrate, it is alleged, has, in numerous instances, failed to nominate such officers to the Senate for such advice and consent until its session had nearly closed, and then after rejection, reappointed them or designated others in their places, thus virtually exercising the sole power of appointment; and whereas in numerous other instances he has, it is alleged, appointed men to office and allowed a session of the Senate to elapse without sending in their names for confirmation; and whereas he has also, it is alleged, in numerous instances, during the recess of the Senate, made appointments to office where no vacancies had happened or existed:

*Be it resolved by the Senate and House of Representatives,* That the President of the United States be, and he is hereby, requested to communicate to this House as early a day as possible,

1. The names of all persons reappointed by him after rejection by the Senate, or the names of others appointed in their stead, with a designation of the offices to which they were so appointed and the dates of their several appointments, and of their nominations to the Senate.

2. A like list and designation of all persons appointed by him whose names were withheld from the Senate during its sessions.

3. A like list and designation of all appointments made by him during the recess of the Senate where no vacancy had happened, and if to fill vacancies, then a complete statement of how such vacancies occurred.

Mr. MYERS demanded the previous question.

Mr. NIBLACK moved the resolution be laid upon the table.

Mr. MYERS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 124, not voting 36; as follows:

YEAS—Messrs. Ancona, Boyer, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Humphrey, Hunter, Kerr, Latham, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Nelson Taylor, Thornton, Trimble, and Andrew H. Ward—30.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Dawes, DeFrees, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Jenekes, Julian, Kasson, Kelley, Kelso, Ketcham, Kootz, Kuykendall, George V. Lawrence, William Lawrence, Loan, Lynch, Marvin, Maynard, McClure, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Mouton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas,

Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—124.

NOT VOTING—Messrs. Delos R. Ashley, Baxter, Bergen, Blaine, Campbell, Chandler, Conkling, Cooper, Culver, Davis, Dawson, Delano, Denison, Dumont, Harris, Hill, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Johnson, Jones, Laffin, Longyear, Marston, McCullough, Patterson, Radford, Rogers, Stilwell, Nathaniel G. Taylor, Whaley, Winfield, Woodbridge, and Wright—36.

So the resolution was not laid upon the table.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. MYERS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. MYERS demanded the previous question on the preamble.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble was also adopted.

Mr. MYERS moved to reconsider the vote by which the preamble was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CHAPLAINS OF THE NAVY.

Mr. WASHBURN, of Indiana, offered the following resolution:

*Resolved,* That the Committee on Naval Affairs be instructed to inquire into the expediency of so amending the laws as to allow chaplains in the Navy, who have served with the land forces of the United States during the rebellion, to take rank from the date of such service.

This resolution being a call for executive information, was considered by unanimous consent, and agreed to.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RAILROAD GRANTS IN KANSAS.

The SPEAKER stated as the next business in order the consideration of a bill which was ordered to lie on the Speaker's table on the 26th of June, 1866, namely, Senate bill No. 320, to amend an act entitled "An act for a grant of land to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863.

Mr. CLARKE, of Kansas. I move to refer the bill to the Committee on Public Lands.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ADJOURNMENT OVER.

On motion of Mr. HOOPER, of Massachusetts, it was ordered that when the House adjourns to-day, it adjourn to meet on Monday next.

#### MEETING OF CONGRESS.

The SPEAKER. The morning hour having expired, the next business in order is the consideration of House bill No. 830 introduced by the gentleman from Ohio, [Mr. SCHENCK,] which was made the special order for to-day.

The bill was read. It provides, that the regular meeting of the Fortieth Congress of the United States, and each succeeding Congress thereafter, shall be at twelve o'clock meridian on the 4th day of March, the day on which the term begins for which the Congress is elected, and on the first Monday in January next thereafter, and on the second Monday in the November next preceding the end of the term for which the Congress is elected.

The second section provides that section seventeen of the act approved July 28, 1866, entitled, "An act making appropriations for

sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," be so amended that no Senator or Representative in Congress, who may be a member of an immediately succeeding Congress, shall receive any allowance for mileage for traveling to the place of meeting to attend the first session of such succeeding Congress.

Mr. SCHENCK. I do not propose to ask the attention of the House long to this bill. I hope that the House will not deem it necessary to occupy much time in disposing of a matter requiring, on some accounts, immediate attention. If this bill, or anything like it in its main features, is to become a law, it is important that it should be enacted into law as speedily as possible in order to afford to some three or four States, which have not held their elections for members of the next Congress, and whose present election laws will not permit them to be represented in that Congress as early as the month of March, an opportunity, either by extra meeting or regular session of their Legislatures, of making the change.

The bill which I have presented provides in the first place, as its main object, for the assembling of each Congress hereafter on the 4th of March, being the first day of the term for which the members of such Congress are elected. The reason for that must be obvious to every one. We have now an executive department represented by the President as the Chief Magistrate, with that officer inaugurated on the very day upon which his term begins, to take the place of his immediate predecessor. Thus there is a continuity given to that which represents the executive power of this country. In the same way the judiciary is continuous by successive appointment of the members who compose our Supreme and other courts. But the legislative department has, up to this period of our history, presented a very different condition of things, the inconvenience of which now makes us feel for the first time, perhaps, that a reform is necessary. That inconvenience so presses upon us now that I have very little doubt every one must have come to the conclusion that a change is needed.

Congress is elected for a term of twenty-four months, and yet under the existing laws providing for the meeting of Congress a period of nine months, from March to December, must expire without any organization of the legislative department of the Government. It consists for more than one third of its time, therefore, of a number of persons elected to be Representatives of the legislative power of the country, but who are without power to meet together even for the purpose of organization, so that the powers of the Government with which they are to be invested cannot be exercised unless they shall be called together at the pleasure of the executive department. There is therefore in regard to the legislative department of the Government no permission to continue until we change the law. There is an interregnum extending over one third of the congressional term at each succeeding two years. I propose to cure this by providing that Congress shall hereafter, as the regular time of meeting, assemble on the first day on which the term of Congress commences. This meeting will ordinarily be, perhaps, for not much more except for organization. It is not likely that this first session of Congress provided for in the scheme which I propose will last much more than ten, twenty, or thirty days, depending upon the exigencies of the country, but it will give Congress an opportunity to organize by the election of a Speaker and the appointment of its officers and its committees so as to be prepared for business. It will enable them at their discretion to meet afterward at their own desire, and, in short, put them in a position to have, as it were, the command of the situation.

The bill provides for a meeting at that time, and the length of the session will depend upon the will of Congress itself. It does not seem

to be necessary or proper to dispense with the other meetings of Congress as they now exist, although perhaps it may be, and I have so thought and provided in the bill, probably expedient to change the time of those present meetings. The Constitution requires that Congress shall meet at least once in each year. I have a provision for two other meetings, but for the sake of expediency and convenience I propose that the first session, as it now stands, which will then be the second session, instead of taking place on the first Monday in December, shall be thrown beyond the holidays, so as to get rid of a period of time in which not much business is ever done.

Some gentlemen have suggested to me that instead of throwing the meeting of Congress into January it would be better to bring forward the meeting of what is ordinarily the long session to November, and thus enable Congress to transact its business and adjourn before the dog-days of the following summer. I am willing to submit that question to the House, and therefore I leave it open that an amendment to that effect may be offered and the sense of the House taken upon it.

So far as the third session, now the second, or short session, is concerned, I have thought it expedient to bring it forward to the second Monday in November. The fixing it at that date will avoid any interference with the present time of holding elections in twelve or fourteen States. I propose to fix the second Monday of November as the day for the commencement of that session. Some gentlemen say that will interfere with the New York election. I think not. I think the election in that State is held on the first Tuesday after the first Monday in November. I have considered that point, and if I am right this bill cannot by any possibility interfere with the election. For that reason I took the second Monday instead of the first Monday. I think it exceedingly probable that either the present or some future Congress may change altogether the time for the election of members of Congress in the different States, so as to have uniformity in all the States by requiring the elections to take place everywhere at the same day; but that is a matter for future consideration. At present we have no uniformity in the day of election. I have conformed this bill to the rule in the greater number of States, whose elections do not come off until November.

There are, as I said at the outset, some three or four States which do not elect their members until after the term when the Congress for which they are elected commences. We should reform that by passing a bill of this kind. It has always seemed to me that it is a very anomalous condition of things that members should be elected to a Congress and should receive pay for a period antecedent to the time when elected. I hold that under all the circumstances the election should take place prior to the time when the term commences.

Mr. BINGHAM. I would suggest to my colleague, with his permission, that he make provision that, when the 4th of March occurs on a Sunday, Congress shall meet upon the following day.

Mr. SCHENCK. I would prefer that my colleague should make that motion, and I will leave it to the sense of the House.

I believe I need not add anything in further support of the view which I take of the necessity of some such legislation as this. Every one can see that if Congress had met on the 4th day of March, 1865, in all human probability, considering the then temper of the President of the United States, we should have been saved from that disagreement between himself and Congress which has led to our present difficulties. I venture to give it as my opinion, that if this Congress had been convened on the 4th of March, 1865, every State that had been in rebellion, accepting gladly the same terms which we offer them now, or terms very much more severe than those, would have been submissively obedient to the requirements made of them, and would now be represented upon this

floor. Nay, if one were permitted to speculate upon the possibilities of the past, it is not at all certain but the then Vice President of the United States, considering the exhibition made by him upon the 4th of March, would have been so dealt with by Congress, after its assembling, that we would not have been troubled with any consideration of the questions now before us.

Passing from the first section, it will be seen that the second section is simply a provision to prevent constructive mileage. It amends the law in regard to mileage, or rather adapts this proposed new condition of things to the law as it exists, so that mileage shall not be charged for going home and returning on the 4th of March, in the cases of those who are reelected to this House, or who being Senators hold over as members of the succeeding Congress, and who, sitting in their places, make no other transit than from one Congress to another. I think nobody will except to that.

With these remarks, not supposing that a protracted debate will be necessary, and yet not desiring to call the previous question, so as to prevent the offering of amendments, I will now yield to such amendments as my colleague [Mr. BINGHAM] and others may desire to offer.

Mr. BINGHAM. I move to amend the first section of this bill, by inserting after the words "on the 4th day of March, the day on which the term begins for which the Congress is elected," the following words:

Except when the 4th day of March occurs on Sunday, in which case the Congress shall assemble on the next succeeding day.

Mr. STEVENS. I would suggest to the gentleman from Ohio [Mr. BINGHAM] whether we ought not to allow this act to conform to the Constitution of the United States. That Constitution knows nothing of a 4th of March occurring on a Sunday. This bill is now precisely what the Constitution is. If the Constitution had made any provision for a 4th of March occurring on a Sunday, it might be well to have this bill amended accordingly; but it does not.

Mr. BINGHAM. There is nothing in the Constitution which, by implication or otherwise, ever did provide for the meeting of the Congress of the United States on a Sunday. The provision of the Constitution in relation to the times of meeting of Congress is as follows:

"The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

The House will take notice that the gentleman from Pennsylvania [Mr. STEVENS] is quite mistaken in supposing that the Constitution takes no notice of and ignores Sunday. In the provision which I have just read the House will perceive that provision is made for Congress to meet on the first Monday in December. This very text of the Constitution, naming a day of the week other than Sunday, affords an example which I respectfully ask this House to follow. If the framers had ignored Sunday as a Christian institution, instead of providing for the assembling of Congress on the first Monday of December, they would have provided for the first or other day of the month, careless whether it should occur on Sunday or any other day of the week.

And I beg leave, further, to say in this connection, that one of the first men of this country, Chancellor Kent, of New York, was pleased to remind the people of the United States that Christianity was part of the law of the land. That Christianity, in other words, was recognized in your Constitution and laws; and I do not believe there is any sort of propriety or any kind of necessity for providing in terms by law, or announcing in advance, as has been said here, that it is our intention that the Congress of the United States shall be authorized or required by law to assemble and organize on Sunday.

In this connection, I will call the attention of the House to a further provision of the Constitution, which reads as follows:

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have

been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

Thus the Constitution on its very face recognizes Sunday as a day not to be counted in the days for the performance of the secular duties imposed by the Constitution, and this exception in the text is doubtless made for the very reason that the framers of the Constitution were not unmindful of the words of the Congress of 1776, employed in the Declaration, in which it was declared that "a decent respect" ought to be had "for the opinions of mankind." I therefore insist on my amendment.

The question being taken on the amendment of Mr. BINGHAM, it was agreed to.

Mr. MORRILL. I move to amend by striking out in the seventh and eighth lines of the first section the words, "and on the first Monday in January next thereafter." These words provide for a meeting of Congress one month later than the time for the annual assembling of Congress, as now fixed. In my judgment, the effect of this would be merely to swap off a winter month for a month in the dog-days of summer. If this is to be the effect, I am opposed to it. The practice with most of us is to break up housekeeping at our homes for the entire winter, and we are quite as ready to come here on the first Monday of December as on the first Monday in January. I think, therefore, that this clause, instead of being an improvement to the bill, or upon our present practice, is an unwelcome feature which should not be adopted by the House.

Mr. DAWES. I desire to suggest to the gentleman whether his object will not be best accomplished by simply striking out "January" and inserting "December." The Constitution provides that the regular time for the meeting of Congress shall be the first Monday in December, unless some other time be designated by law. As this bill fixes the 4th of March as the regular time for the meeting of Congress, there will be no meeting on the first Monday in December, unless the bill so specify.

Mr. MORRILL. I accept the suggestion of the gentleman from Massachusetts, [Mr. DAWES], and modify my amendment so as simply to strike out the word "January" and insert in lieu thereof the word "December."

Mr. Speaker, the fact that the Christmas holidays occur during the first part of the congressional session, it appears to me is no great disadvantage. The early part of every session is occupied more or less by the work of the committees; and whether the House is in session or not the committees are at work. Certainly that has been my experience. I think, as I have already remarked, that the evident effect of fixing the first Monday of January for the meeting of Congress would be to extend our labors still later than at present into the hot season of the year. We should exchange the not undesirable month of December in Washington for the month of August, the worst of the whole season. Hence I am opposed to any such proposition and hope it will be rejected.

Mr. WASHBURN, of Illinois. The amendment of the gentleman from Vermont [Mr. MORRILL] will, as I understand, leave the time for the meeting of Congress precisely the same as it is at present.

Mr. MORRILL. It will as to one session.

Mr. FARNSWORTH. I move to amend by striking out the word "November" in the eighth line, and inserting in lieu thereof the word "December."

The SPEAKER. That is not germane to the pending amendment. It can be offered as a separate proposition after this is disposed of.

Mr. STEVENS. If it be in order, I move as an amendment to the amendment of the gentleman from Vermont, to strike out after the word "elected" in the seventh line to the end of the section, the following words:

And on the first Monday in January next thereafter, and on the second Monday in the November next preceding the end of the term for which the Congress is elected.

The SPEAKER. The motion of the gentleman from Vermont is to strike out and insert. A motion to amend the amendment must be confined strictly to the part proposed to be stricken out. The amendment of the gentleman from Pennsylvania [Mr. STEVENS] will have to be reserved.

Mr. STEVENS. My object is simply to provide for a meeting of Congress on the 4th of March, and to leave everything else as it is at present.

Mr. DAWES. The gentleman would have no other time fixed by law for the meeting of Congress?

Mr. STEVENS. No, sir. I would have the Congress meet on the 4th of March, and leave it with them to decide how long they should sit, and to what time they should adjourn.

Several MEMBERS. That is right.

The SPEAKER. The Chair, if there be no objection, will regard the motion of the gentleman from Pennsylvania [Mr. STEVENS] as coming prior to the motion of the gentleman from Vermont, which will be considered as an amendment designed to perfect the text before action on the motion to strike out the whole clause.

Mr. STEVENS. The Constitution now fixes the first Monday of December for a meeting of Congress, and we need not make any provision on that subject.

Mr. SCHENCK. With the leave of the gentleman from Pennsylvania, [Mr. STEVENS,] I wish to call his attention to a possible difficulty that may arise under his proposition. He proposes to strike out any provision for a second session, and depend upon each Congress to fix a time for an adjourned meeting. Now, Congress may take a "recess," though there is a little doubt what that may be; but there cannot be a regular meeting of Congress except on the first Monday of December, unless some other time be fixed by law. It is a question between an adjourned meeting and a recess, if any one can draw the precise distinction.

But the precedents are these, as I find on consulting the record: that the First Congress, sitting solely so as to make it expedient not to meet on the first Monday of December, passed a short enactment going through all the forms of a regular act of Congress, and approved by the President, changing the time by putting it January instead of December. And there are four or five other cases in which the early Congresses, beginning with the practice established by the first, seem to have interpreted the Constitution by passing enactments and not resolutions for this purpose, so as to claim that their power to make an adjourned meeting—to make a meeting of Congress other than that provided in the Constitution—must be done, as the Constitution itself requires, by law.

The language of the Constitution, I presume, every one is familiar with. Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day. I propose to get rid of all questions hereafter as to whether it is a recess or an adjournment, whether it is a regular meeting, a meeting in continuation of the same session, or whether it is one of the regular meetings of Congress under the Constitution, by fixing it by law. Congress which meets on the 4th of March, or either of these other times, may take a recess, and that is the only way they can accomplish a meeting between any two regular sessions unless by law, by enactment under all the forms of a statute.

I suggest that as a difficulty you escape in drawing the bill as mine has been drawn. I repeat that in four or five cases where the first and two or three successive Congresses acted on this subject, and changed the time fixed in the Constitution, they did it by enactment under all the forms of law.

Mr. FARNSWORTH. I move to strike out "the second Monday in November" and insert "the first Monday in December." If my amendment and the amendment of the gentleman from Vermont [Mr. MORRILL] be adopted it will leave the subsequent sessions of Con-

gress as they are now, only providing by law for extra sessions every two years to commence on the 4th of March. I think that will be better. The amendment of the gentleman from Pennsylvania [Mr. STEVENS] does not accomplish it for the reason that this section provides the regular time of meeting of the Fortieth Congress and each successive Congress. If you strike out that part you will only provide for one session of Congress.

Mr. SHELLABARGER. What is the question before the House?

The SPEAKER. The pending amendment is that of the gentleman from Illinois.

Mr. SHELLABARGER. I rose to move an amendment in relation to one matter, providing for elections in States which do not hold elections before the 4th of March.

Mr. STEVENS. I move to insert after the word "thereafter," in the sixth line, "in addition to the present day of meeting," so that the 4th of March will be fixed as a new day in addition to the present day.

The SPEAKER. That will be reserved until the other motions are voted on.

Mr. GARFIELD. I offer an amendment further to perfect, and it is to strike out in line seven from the word "elected" to and including the word "thereafter" in the eighth line, "and on the first Monday in January next thereafter," the same proposition offered by the gentleman from Vermont, a few moments ago; and it seems to me the section can stand precisely as printed, if these words be stricken out, and achieve the object we desire.

The SPEAKER. The amendment is not in order except by unanimous consent, as the power of amendment has been exhausted.

No objection was made, and the amendment was received.

Mr. GARFIELD. I wish simply to say, if my amendment prevail and the text be allowed to stand as it is now printed, two things will be done: first, we shall have provided by law that Congress shall meet one year on the 4th of March and the next year on the second Monday of November. That will cover the beginning of each Congress and satisfy the condition of the Constitution that Congress shall meet at least once in each year. It will make the first meeting, on the 4th day of March, to be continued as long or as short a time as the Congress may itself determine, with the power to adjourn to meet in the following November, or to meet in December or in January of the following year, if it pleases. But there must be a meeting, according to this bill, in the second year on the second Monday of November.

Now, I do not think we ought to determine here that there shall be three sessions of each Congress—two the first year and one the second; but let us declare by law that there shall be one meeting in each year, namely, the first, beginning on the 4th of March, and the second beginning, as provided here, in November, so that the last session of Congress shall be a four months' instead of a three months' session. The first session may be as short or as long as the Congress may determine. I therefore propose, in order to effect what I have just stated, to strike out all after the word "elected" in line seven to and including the word "thereafter" in line eight, so that it will read:

That the regular times of meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, shall be at twelve o'clock meridian on the 4th day of March, the day on which the term begins for which the Congress is elected, and on the second Monday in the November next preceding the end of the term for which the Congress is elected.

Mr. PRICE. I wish to make a motion to perfect the text.

The SPEAKER. It will require unanimous consent.

Mr. SCOFIELD. I hope there will be no more amendments offered until we dispose of the present ones.

The SPEAKER. The first proposition is to strike out "the first Monday in January," and insert "the first Monday in December."

Mr. STEVENS. If I may be indulged, I will state that if my amendment to strike out all after the word "elected" prevails, I shall then move to modify the section so that it shall read thus:

That in addition to the regular time of meeting of Congress as now fixed, there shall be a meeting of the Fortieth Congress, and of each succeeding Congress thereafter, on the 4th day of March, the day on which the term begins for which the Congress is elected.

We thus leave the matter as the Constitution fixes it, but we make a new meeting of Congress on the 4th of March according to this bill. That is what I want to get at. I am opposed to meeting before or after the beginning of December. My object is simply to confine the bill to another session on the 4th of March.

Mr. MORRILL. Why may we not legislate precisely as we think the exigencies of the country require? In the first place, this bill provides for the assembling of the next Congress, and of all succeeding Congresses, on the 4th day of March. I believe we all agree to that. Then the next meeting of Congress, unless there shall be circumstances requiring a different time, will be on the first Monday of December, as now. I think about that we are all substantially agreed. But it is known that the last session of Congress, as we have experienced in years past, is altogether too brief for the amount of labor which we are to perform. Therefore the bill which provides for an earlier meeting by about a month appears to be wise.

Now, if the amendment which I have proposed shall be adopted, we shall have one meeting of Congress on the 4th of March, which will be undoubtedly a brief one—will last for a week or ten days, or possibly longer—and then the next will occur, as now, on the first Monday of December, and the last session will occur a month earlier than December. It seems to me that is exactly what we are all after. I trust we shall incorporate it into a law so that it will be seen and read of all men.

Mr. WASHBURN, of Illinois. Does the gentleman propose that the second session shall commence in November?

Mr. MORRILL. Yes, sir, the last session.

Mr. WASHBURN, of Illinois. That may be very convenient for the gentleman from Vermont and those who have their elections in October, but it is not so convenient for those who have their elections in November.

Mr. MORRILL. I believe that the time fixed by the bill is six days after all the elections take place. It is the second Monday in November. For one, I should prefer to have them both in December, if there is any difference of opinion, but the amendment which I propose simply changes the bill as to the second session. If the gentleman from Illinois or others prefer to have the third or last session of Congress as now, they can move that amendment afterward.

Mr. WASHBURN, of Illinois. I hope that will be done, and I now demand the previous question on the pending amendments.

The previous question was seconded and the main question ordered.

Mr. MORRILL's amendment was agreed to.

The question recurring on Mr. FARNSWORTH's amendment, and being put, there were—ayes ninety-two, noes not counted.

So the amendment was agreed to.

The question was then taken on Mr. GARFIELD's amendment, and it was disagreed to.

The question recurred upon Mr. STEVENS's motion.

Mr. STEVENS. With a view of reaching what seems to be the opinion of the House, I propose to modify the amendment so as to strike out the whole section and insert a new section, which has been drawn with some care. It is this:

That in addition to the present regular time for the meeting of Congress, there shall be a meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, on the 4th day of March, the day on which the term begins for which the Congress is elected, except that when the 4th of March comes upon a Sunday the said meeting shall be upon the next succeeding day.



Mr. LE BLOND. I ask the unanimous consent of the House to make a statement on this subject.

No objection was made.

Mr. LE BLOND. I do not intend to make an argument upon this subject. I wish, however, to make some inquiries. We upon this side of the House are somewhat at a loss to know the particular object of this bill. We have an idea, however, that the President stands in the way of some gentlemen here. We are not fully advised, and I do not suppose that gentlemen opposite intend to advise us fully as to the object they have in making this change.

Mr. SCHENCK. May I reply to my colleague?

Mr. LE BLOND. Not at present.

Mr. SCHENCK. I understand my colleague to ask a question, and I wish to answer it.

Mr. LE BLOND. I will answer it myself; I will play the Yankee.

Mr. SCHENCK. All I wished to say was that we have not found that either the President or his supporters have stood in our way at all. [Laughter.]

Mr. LE BLOND. And my colleague might add with equal truth the Constitution. The conclusion that we upon this side have come to in regard to this matter is, that the whole object of this bill is to strip the Executive of any appointing power. They seem to have a controversy upon the other side of the House as to the best mode of accomplishing that object. The bill as originally introduced provides for three sessions of Congress. It is now proposed to strike that out and let the session commence upon the 4th of March and continue until the next session commences.

Well, sir, so far as these two propositions are concerned, I feel no particular interest in either of them, because the result of the adoption of either of them will be the same; but I judge that the country does feel an interest in this matter, and they are not willing that this Congress shall make any change in the present law so as to keep a perpetual session of Congress. It is unnecessary and uncalled for, and the expense that will attend it no man can calculate. The people at the proper time will feel these things, and I judge will act upon the matter in such a way as will not be very satisfactory to those who favor this system of legislation. And now all I desire is that gentlemen opposite will simply come out and make the thing plain, so that the people may understand it, and instead of legislating in the manner they do, say at once that we will have no Executive, but that we have merely a tenant at your will in the White House and with no appointing power, but that the Senate of the United States, so long as it shall remain radical, shall have the appointing power.

This is not the only bill looking to that end. There is already a proposition pending here, whereby the appointing power is proposed to be taken from the Executive and given to the Chief Justice of the United States. Now, I think it would be well enough, and I make the suggestion here, for the Secretary of the Interior to appoint the Chief Justice of the United States instead of the Chief Justice appointing certain officers in that Department of the Government.

Sir, I can see nothing but mischief to result from this system of legislation. If gentlemen are going to legislate in this way, I would much rather they should at once bring forward a bill to strike off the head of the Executive, for then the country would understand it. We upon this side of the Chamber have no interest in this contest, not the least, beyond sustaining the Constitution and free Government. The President is not the man of our choice; we did not put him where he is. We claim no benefits from him; certainly we received none from him in the late campaign. [Laughter.]

Mr. ASHLEY, of Ohio. That is rather unjust.

Mr. SPALDING. You have dropped him.

Mr. LE BLOND. We have never dropped

him, for we never took him up. There was no occasion for us to drop that which we never took up. We neither took him up, nor did he take us up. It is true that wherever he ran into our line of policy we were bound to sustain him, as we sustain every man who is right. But we have never blindly followed the lead of the President or any other man. The Democratic party has never recognized but one leader, and that is the Constitution, and laws passed in pursuance thereof. In this particular we widely differ from the gentlemen upon that side of the Hall. Their leader by the natural law must die, and that soon, while ours may live till the end of time if not strangled by its illegal guardians who are now trying by this and other bills to paralyze one of its most important limbs. But, sir, we have never undertaken to sustain indiscriminately that which the Radicals have put in place or power; to do so would destroy any party in the world. [Laughter.]

Mr. SCHENCK. I ask the unanimous consent of the House to answer the inquiry put by the gentleman upon the other side, [Mr. LE BLOND.]

No objection was made.

Mr. SCHENCK. The principal difficulty under which the leader of the opposite side—

Mr. LE BLOND. Not at all; we have no leader.

Mr. SCHENCK. The principal difficulty under which he labors in regard to our purpose appears to be that we have not done something in such manner as to make it plain to the people. Now, sir, my observation teaches me to believe that the people do not need any particular explanation; but they have recently proved to the world that they fully understand the questions submitted to them by Congress. And I do not know that we can make this thing any plainer than they seem to have considered those other matters which they have passed upon.

I congratulate my colleague, [Mr. LE BLOND,] however, upon the fact that he will escape from all the difficulties in relation to this question under which those who come back to any succeeding Congress will labor; and he will also be relieved at the same time from all responsibility of presiding over that portion of the deliberations in this Hall which goes on on that side of the Chamber.

But he has another apprehension; that we find the President or something else an obstruction in the way of our legislation here, and are endeavoring to overcome or get around that obstacle. I say to my colleague, as I attempted to say a few minutes since when I interrupted him, that he is entirely mistaken upon that point. We have not, according to our recent experiences, found either the President, or those who support him, at all in the way of a determination of the decisions of the Congress of the United States.

Now, what is the gentleman's objection? It is that we create a session of Congress which will continue until the subsequent session of Congress begins. Sir, there is no such provision in this bill. The gentleman certainly has not read it aright, nor does he comprehend the amendment which is proposed to it. It simply provides that in addition to the sessions of Congress prescribed by the Constitution, there shall be another session to begin on the 4th of March, the day on which the term of the Congress itself begins. As to the length of time that session shall last, both the bill and the amendment are equally silent. I suppose the session will continue until Congress shall choose to adjourn. That is the most either he or any one else can make of it. I hardly suppose the gentleman wishes us to attempt any legislation which will prevent Congress from adjourning just when it pleases, either at the end of the first, second, or third session of that body.

Now, the gentleman need not be at all afraid that this is done for the purpose of "taking up" the President, as he expresses it, or "taking up" anybody else; or that we are going to interfere with any relations between him and

his colleagues around him, and the President. I do not believe they took him up or he took them up. I do not believe it was a "taking up" at all; but that each took the other in and not up. Then finding that it was a mutual delusion, they are now ready to separate and dissolve the partnership.

There is no object, Mr. Speaker, in all this legislation except what appears upon its face; there is no "cat under the meal." We propose Congress shall continue as one of the coordinate branches of this Government, under such circumstances that there shall be no danger in any shape to the country by reason of an interregnum which shall leave suspended the functions of the legislative department during one third or any other portion of a congressional term. This is the whole of it. If, in addition to this legislation, we choose to proceed to other measures, to which the gentleman has alluded, but which are not in question now—if we take means to hedge round the President, and prevent some of that mischief in which he is now engaged—we shall perform a very laudable work; a work which I trust will go on until we have done all in that direction that may be possible or desirable.

The question being taken on the amendment of Mr. STEVENS, it was agreed to.

Mr. SHELLABARGER. I move to amend by inserting the following as a new section, to come in after section one:

And be it further enacted, That in each State which is represented in Congress at the time of the taking effect of this act, and which shall not, prior to the 4th of March, A. D. 1867, have elected Representatives from such State to the Fortieth Congress, nor have by law provided for such election prior to that day, the Governor of such State shall, by proclamation made at least two weeks before the 22d of February, A. D. 1867, order an election of such Representatives for such State to be held on said last-named day, such elections to be conducted in all respects according to the laws of said States regulating such elections.

I desire to make a suggestion or two in regard to this amendment, which has been shown, I believe, to the members of all or most of the States interested in it, and is substantially satisfactory to them. It provides for elections to be held on the 22d of February in each of the States which shall not have elected prior to the 4th of March next, or which shall not by their own laws have made provision for such election prior to that time.

Mr. DAWES. Will the gentleman permit me to make a suggestion? It occurs to me that it may be beyond our power to command the Governor of a State to issue a proclamation as proposed in the amendment.

Mr. SHELLABARGER. That may be true in the sense intended by the gentleman. But I presume it is competent for Congress, using the official appellation of the individual as a mere *descriptive personae*, to designate a Governor or other person as its minister or agent to make a proclamation. The Constitution, after providing that the Legislatures of the several States may, in the absence of congressional enactment, regulate the "times, places, and manner of holding elections for Senators and Representatives," provides "that Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." My amendment simply proposes that Congress shall exert this power conferred upon it by the Constitution; and for the purposes of this exigency alone, confining the provision to that, it provides a method by which elections may be held in each of the States whose laws do not provide for an election before the 4th of March. I trust that the amendment will be satisfactory to the House.

Mr. DAWES. Will the gentleman yield to me a moment?

Mr. SHELLABARGER. Certainly.

Mr. DAWES. I do not rise to oppose this amendment. I think it, or something equivalent to it, is necessary. I have prepared a bill, which is now before the Committee of Elections, to fix a uniform time throughout the United States for the election of Representatives in Congress. I suggest that the gentleman's



amendment might be improved by omitting all that machinery in reference to proclamations, and simply providing that in the States indicated in the amendment the 22d day of February or some other day shall be fixed for electing members to the Fortieth Congress, in conformity to the laws of those States. The purpose of the gentleman's amendment ought to be carried out; and perhaps its form is better than any I could suggest; but my proposition is designed to obviate a possible difficulty, where a Governor might neglect or refuse to issue a proclamation.

Mr. HIGBY. If the gentleman from Massachusetts [Mr. DAWES] has concluded, I ask the gentleman from Ohio [Mr. SHELLABARGER] to yield to me for a few moments.

Mr. SHELLABARGER. I do so with pleasure.

Mr. HIGBY. I conceive, Mr. Speaker, that the amendment proposed by the gentleman from Ohio would operate most disastrously with reference to the State of California, on account of the season of the year fixed for the election and the peculiar condition of our country at that season. My present judgment is that our State had better be left without any representation in Congress at the session beginning on the 4th of March, rather than that we should be required to hold an election at a season so unfavorable for the purpose. There is a very large portion of the population of our State living in remote districts, who are almost buried under the snow during the months of December, January, February, and March—so much so that in the towns in the mountains they have to burrow under the snow to cut a way from street to street.

I am, sir, stating what is the fact. The snow is twelve, fifteen, and twenty feet deep; and when we get below the snow belt, that is, in the mountain regions, we have winters when it is almost impossible for a month or six weeks for the people to get from town to town. It is, therefore, going to depend altogether upon the character of the season whether we can get our population to the polls or not. It will be impossible, if we have a winter such as we had in 1861 and 1862, for one quarter of the voters to get to the vicinity of the polls to vote. There were days and weeks when we had no intercourse between our towns during that winter. It was the same in 1862 and 1863. It is not so every winter. I am providing against this wet season which we have from time to time. It is my judgment that the bill should contain an alternative providing that the election can be held.

Mr. BIDWELL. Mr. Speaker, I agree entirely with what my colleague has said; but I will add there are other objections which may be urged to having the provisions of this bill applied to California. It is not so easy to hold elections in our State, with its immense territory and a sparse population in many portions of it. It costs something to hold an election in the State of California, and then, in order to have a fair election, it is necessary that the same expensive machinery shall be put into operation to hold a congressional election as to hold an entire State election. The State of California postpones the election of Congressmen until the general State election in next September. Then we elect all our State officers, from Governor to members of the Legislature, and members of Congress. We can hold an election then that will call forth the sentiment and be a fair election in the State of California; but if we attempt to hold a special election in the month of February, when it is almost impossible to travel, sometimes entirely so, from one portion of our State to another, at a time when great frauds may be committed in elections, it would hardly be an indication of the sentiment of our State.

I hope, therefore, this bill will be postponed so we can have further time to perfect it, so as not to make it necessary that an election should be held in the month of February, and to see whether we cannot make an exception in the case of the State of California, at least not to make it mandatory or binding on us to

attempt to accomplish what would be impossible, a physical impossibility.

Mr. SHELLABARGER obtained the floor. Mr. DAWES. I ask the gentleman to yield to me for a moment.

Mr. SHELLABARGER. Certainly.

Mr. DAWES. I wish to suggest a modification. I still think it were better if the gentleman from Ohio would postpone this provision until the consideration of the bill pending in the Committee of Elections. If this bill now before the House become a law without that provision, some section in the other bill might meet this exigency if carefully prepared. I have therefore stricken out and inserted, at his suggestion, so that it will read as follows:

*And be it further enacted, That in each State which is represented in Congress at the time of the taking effect of this act, and which shall not, prior to the 4th of March, A. D. 1867, have elected Representatives from such State to the Fortieth Congress, nor have provided for such election prior to that day, the second Tuesday of February next shall be the time fixed for the holding of such election in such State or States, such election to be conducted in all respects according to the laws of said States regulating said elections.*

I think that will accomplish just what the gentleman from Ohio [Mr. SHELLABARGER] is after. Still, I suggest whether, after all, it would not be better to leave this matter without action. It is very apparent that this will create a sudden emergency in all the States to which it applies. It is all to transpire between now and the 4th of March, less than three months; and to precipitate upon States that have made no preparation and no calculation for an election, especially the State of California, the necessity of holding an election, it seems to me, would be unfortunate.

Mr. SHELLABARGER. Mr. Speaker, it is perfectly obvious from the temper of the House and the indications we have had, that a bill is to pass this body which is to provide for the meeting of the first session of the Fortieth Congress on the 4th day of March. That fact being known, we may as well consider the propriety of this amendment from that standpoint.

This question, then, of the inconvenience of holding these elections so soon as February, comes to just this: the choice between being represented in the Fortieth Congress or holding an election between now and the 4th of March. The gentlemen from California, therefore, will see that their State will either not be represented in the first session of Congress, or else they must hold their election before the 4th of March next. Now, in the amendment which I have proposed I have postponed that election until within a week of the 4th of March, certainly not allowing more time than will be absolutely requisite to get the necessary returns.

Now, Mr. Speaker, I do not deem it meet or comely for this Congress to provide for the holding of a session of the Fortieth Congress without at the same time making provision by which all the States might at least be represented in Congress which are now recognized as entitled to representation. Let Congress at least do its duty in the way of providing a method by which the States may be represented. If the State of California or any other State, either on account of its snows or other circumstances, may not choose to avail itself of the methods provided by the act of Congress, that will be a matter which will concern the State itself. But I entreat this Congress, sitting as we now do, unfortunately and sadly deprived by the rebellion of some States of their wonted presence here, let us not pass a law providing for a meeting of the next Congress without providing a method by which the six States that have yet to hold their elections may be represented here, when the fact is that we can do so. The Constitution provides that another time for the meeting of Congress may be fixed by law. We are now passing a bill containing such a provision. Therefore let us make it possible that each State may be represented here. The question of convenience or inconvenience is one that does not seriously affect the propriety of passing this amendment.

My friend, the chairman of the Committee

of Elections, [Mr. DAWES,] suggests that we leave it for the purpose of being adjusted in a bill that that committee has under consideration. Now, I agree with that gentlemen entirely, provided we are sure that that bill will pass. I have preferred that method, and prefer it still. I have favored the bill he proposes, and still favor it. But that may not become a law, and hence I want this amendment to go on the statute-book along with this law, so that it shall not be said that Congress did not provide that six States should be represented here at the first session of the next Congress.

Now, after what I have said, if the members from the States that are interested prefer to run the risk of taking my colleague's bill without having this provision put in the law, I will withdraw my amendment. But I thought it was agreeable to the members from the States for whose benefit it was offered.

I now yield to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. I hope the gentleman from Ohio will not withdraw his amendment. The bill that is now before the House, if matured into a law, puts to great inconvenience all those States that have not held congressional elections, by precipitating upon them an election at an unusual and unexpected time. That inconvenience should, therefore, be made as little as possible. In order to do that it is important that this bill be matured into a law at the earliest practicable moment, and that in it there shall be a provision for holding elections in those States which have not already chosen members of Congress. Hence the importance of this amendment being attached to the bill is that as soon as this is published to the country, as a part of the law of the land, the country will know at the same time when elections must be held in the several States for members of the next Congress, and take measures accordingly.

I am aware that it will be a matter of inconvenience to many gentlemen here who might desire to attend the elections, and who might probably be desired by their constituents to become candidates for reelection. That, of course, every one perceives, but that is an inconvenience which we must submit to. If this bill passes there will be the still greater inconvenience on the part of the Representatives of some of the States of not being present at the commencement of the next Congress to take part in its organization and to find appropriate places on its committees, to say nothing of the drawing of seats. I happen to have felt this inconvenience in the Thirty-Seventh Congress, which was called in extraordinary session, and I have no desire that any successor of mine shall be subjected to the same inconvenience.

I trust, therefore, that this bill will pass at as early a moment as practicable, and that this provision, or something tantamount to it, will be a part of the bill, so that when the bill goes before the country it will fix the time when elections are to be held for the next Congress.

Mr. SHELLABARGER. I yield now to the gentleman from Connecticut, [Mr. BRANDEGEE.]

Mr. SCHENCK. Will the gentleman from Connecticut allow me to suggest a mode of compromising this whole difficulty?

Mr. BRANDEGEE. Let me first suggest an objection to the bill, and then I will yield.

Mr. Speaker, I am in favor of the object sought to be attained by the gentleman from Ohio, [Mr. SHELLABARGER,] and I understand that my delegation are in favor of that object. We think it a meritorious bill, and that the object is one necessary to be provided for; but I am fearful that some complication, especially for Connecticut, will arise out of the operation of the gentleman's amendment, if it becomes a law, that he has not contemplated, and it is one that it seems to me it is impossible to get rid of by any amendment proposed in so hasty a manner.

This bill, which seems likely to pass this Congress, or at any rate this House, provides that the next Congress shall meet upon the 4th of March next. If it does pass, Congress will then

meet with four States, and perhaps five States, unrepresented here that are now represented, and one of those States is Connecticut. I am, and the Connecticut delegation are, clearly of the opinion that the House ought to provide that when Congress assembles, in some way Connecticut should be represented by an election held prior to that time.

But the amendment of the gentleman from Ohio, as I understand it from the mere reading at the Clerk's desk, provides that the election of Representatives from Connecticut shall be held on the 22d day of February, under the laws of the State; and that unless the Legislature shall provide for an election on that day, the Governor by proclamation shall so provide. Our election is held now on the first Monday in April, and this amendment provides that it shall be held on the 22d of February. The registration law of our State, a most salutary and wholesome law, which has commended itself in its results to the people of the State, provides by its machinery that no man in the State shall vote except his name was registered upon certain days; and one of those days is the Wednesday prior to the first Monday in April, and hence if this bill passes and you provide that the election shall take place in Connecticut on the 22d of February, under the laws of the State no human being can vote at that election.

Mr. THAYER. Why not alter the law of the State?

Mr. BRANDEGEE. That would require the Governor to call the Legislature together, because the Legislature does not meet until the first Monday in April. If the Legislature were to meet before that time, there would be no necessity for this legislation by Congress. That is the difficulty in the case of Connecticut, and there may be other States similarly situated. While we are heart and hand with him, and thank the gentleman for bringing the subject to the attention of Congress and the country, yet it will produce a confusion there which will result either in no election at all, or in so many systems of voting that the Committee of Elections of the next Congress will have nothing to do but to determine contested-election cases from the State of Connecticut.

I would, therefore, suggest that a measure which will operate upon the detailed machinery of the elections in the different States, covering the whole country, is not one to be brought forward here upon a penciled amendment, after a five minutes' consultation, and adopted upon the ground merely that if it is not passed now it may not be passed at all. I prefer that the mischief should be remedied upon this bill, rather than trust to the uncertain chances of another bill which has not been as yet even reported, and which, if reported, may not pass here, or if passed here may not pass elsewhere, or which if passed elsewhere may meet a veto. I prefer that it should be considered in connection with this bill; but as it is a subject of great importance, one that should be carefully considered, I suggest that this bill be postponed for a time, in order to allow a provision to be properly prepared.

Mr. SHELLABARGER. I wish to make this statement in reply to the very pertinent suggestions of my friend from Connecticut, [Mr. BRANDEGEE.] I admit the practical difficulties to which he has alluded. And an amendment is now being prepared which, I trust, will meet those difficulties. That amendment, in substance, will provide that the elections shall be held on the day named, and that the laws of the State shall be pursued in so far as in their nature they are capable of being pursued; or something of that general idea substituted for the amendment now pending.

Now, my own opinion is, and I suggest it to my colleague, [Mr. SCHENCK,] that the proper way now would be to postpone this bill for a short time, and he can consider the suggestions made by gentlemen from States interested, and prepare a bill which shall be as near perfect in every respect as possible. I now yield to the gentleman from California, [Mr. BIDWELL.]

Mr. BIDWELL. I agree entirely in the object sought to be accomplished by the gentleman from Ohio, [Mr. SHELLABARGER.] But I can perceive this difficulty, that it will be impossible to hold upon the day he has named a fair election in the State which I have the honor in part to represent. A large proportion of the population of the State of California is composed of miners, who are during the summer months in the mountains; but who during the winter months are obliged to retire to the valleys. It would, therefore, be impossible to hold a fair election in the winter season, especially should the winter be inclement, as it often is in the mountainous regions of our State.

And further, if the amendment as proposed, and which is mandatory, should be adopted, and the States are obliged to hold their elections on the day therein specified or not at all, then the State of California would not be represented at all in the Fortieth Congress. Our elections are now held on the first Monday in September. If this amendment is adopted and we fail to elect in February, then we cannot be represented at all in the next Congress. Therefore I hope that the gentleman who is maturing an amendment to cover all these objections will take into consideration this fact, and provide that if the States fail to hold an election on the day named, they shall be permitted to elect at the times fixed by the statutes of their respective States.

Mr. SHELLABARGER. I now yield a short time to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. Without repeating any of the arguments I used when I addressed the House before, I think I can show the utter impracticability of the proposition of the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. ROLLINS. Will the gentleman from California [Mr. HIGBY] yield to me to make a proposition?

Mr. HIGBY. I will with the consent of the gentleman from Ohio, [Mr. SHELLABARGER,] by whose courtesy I now hold the floor.

Mr. SHELLABARGER. I have no objection.

Mr. ROLLINS. I would suggest that the House now adjourn, and let this subject come up again for consideration when we meet on Monday next. In the mean time the gentlemen representing the several States interested in this subject can consult together and prepare an amendment which will meet the objections which have been raised against this proposition. With that view I move that the House now adjourn.

The motion was agreed to; and accordingly, (at five minutes before three o'clock p. m.) the House adjourned until Monday next.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BENJAMIN: The petition of William Crooks, of Clark county, Missouri, a soldier in the war of 1812, for a pension.

By Mr. COBB: The memorial of Thomas Garvey, a wounded soldier of the seventh Veteran regiment, Wisconsin volunteer infantry, for redress of grievances.

By Mr. ECKLEY: The petition of John Harris, and 170 others, citizens of Salem, Columbiana county, Ohio, in favor of impartial suffrage.

By Mr. LAFLIN: The petition of L. L. Merry, of Ilion, New York, for relief from payment for stamps burglariously taken.

By Mr. VAN HORN, of New York: The petition of 118 citizens of Monroe county, New York, asking the passage of a law granting pensions to the survivors of the war of 1812.

#### IN SENATE.

MONDAY, December 10, 1866.

Prayer by Rev. J. W. PARKER, D. D., of Boston.

The Journal of Thursday last was read and approved.

Hon. WILLIAM SPRAGUE, of Rhode Island, and Hon. B. GRATZ BROWN, of Missouri, appeared in their seats.

#### PETITIONS AND MEMORIALS.

Mr. WADE. I present the memorial of D. A. Moffit, and many other citizens of Colorado, praying for the admission of Colorado as a State. It sets forth a great many statistical facts that are officially certified. As the memorial is short and contains authentic information with regard to the number of inhabitants, the condition of the Territory, &c., I move that it be printed, and referred to the Committee on Territories.

The motion was agreed to.

Mr. POMEROY presented the memorial of L. Pomeroy & Son, remonstrating against an extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845; which was referred to the Committee on Patents and the Patent Office.

Mr. HENDRICKS presented the petition of Patrick Meehan, of Decatur, Indiana, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented two petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Thomas Rice and many other persons who served in the United States Navy during the late rebellion, praying to be allowed a bounty; which was referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN presented the petition of John C. Evans, praying compensation for services rendered as assistant assessor of the first district, first division, in South Carolina; which was referred to the Committee on Finance.

He also presented the petition of Samuel W. Maurice, praying compensation for services rendered as assistant assessor of internal revenue for the first district of South Carolina; which was referred to the Committee on Finance.

He also presented the petition of a large number of clerks in the Second Auditor's office of the Treasury Department, and also the petition of a large number of clerks in the Sixth Auditor's office of the Treasury Department, praying, in aid of the recommendation of the Secretary of the Treasury, that there be a reorganization of the Treasury Department, and for increased pay to the clerks in the Department; which were referred to the Committee on Finance.

Mr. MORGAN presented resolutions and other proceedings of the Chamber of Commerce of the State of New York, adopted on the 6th instant, being a practical protest against the assumption of the Earl of Derby of the telegraphic dominion of Great Britain over the sea, and petitioning for immediate soundings by our Navy of other lines in the Atlantic bed between our coast and the western coast of France and southern Europe; which were referred to the Committee on Foreign Relations.

He also presented the memorial of the Chamber of Commerce of the State of New York, in relation to the records and other papers in the office of the clerk of the United States court for the southern district of Mississippi which have been lost or destroyed by fire; which was referred to the Committee on the Judiciary.

He also presented fourteen memorials of citizens of the United States, remonstrating against an increase of the tariff on foreign linseed; which were referred to the Committee on Finance.

Mr. MORGAN. I also present a communication from Hon. Thomas Hillhouse, comptroller of the State of New York, reviewing with much care the effects of our present system of taxes and containing an argument in favor of providing for the payment of the war debt created by the several States, or giving to the States some particular source of revenue now under the control of the General Government to be appropriated and used by the States

for that express object. I move that this communication, which although addressed to me assumes the form of a petition, be referred to the Committee on Finance and printed.

The motion was agreed to.

Mr. WILLEY. I offer the memorial of William H. Harman, of Floyd county, Virginia, setting forth that some months ago he was assessed \$1,012 upon whisky at his distillery in that county, and before he had time to remove it the distillery was burned, together with the whisky assessed, by which he sustained a very large loss. He asks Congress to relieve him from the payment of that tax, and grant him such other relief as the premises will justify. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. FRELINGHUYSEN presented the petition of ribbon manufacturers, silk throwsters, dyers, dealers, and others, of New Jersey, praying for a specific tax on thrown silk and silk cloths of every description, or for an increase of the present rate of *ad valorem* tariff; which was referred to the Committee on Finance.

Mr. SUMNER presented the memorial of William Cornell Jewett, praying that Hannibal Hamlin be declared by Congress the constitutional President of the United States of America under the second section of the first article of the Constitution; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I also offer the memorial of William Rogers Hopkins, formerly professor of mathematics in the Naval School, in which he sets forth his former relations to that school, and now makes recommendations with regard to a survey in the State of New York, with a view to opening a water communication between the Atlantic coast and the West. I do not know to what committee this memorial should be referred. If one of the western Senators will suggest to me—

Mr. RAMSEY. The Committee on Commerce.

Mr. SUMNER. The Committee on Commerce is suggested. I move the reference of this memorial to the Committee on Commerce. It was so referred.

Mr. POLAND. I offer certain resolutions adopted by a convention of wool-growers held at Bellows Falls, Vermont, on the 12th of November, 1866, in favor of an increase of the duty on all importations of foreign wool, which I ask to have printed and referred to the Committee on Finance.

Mr. SUMNER. Before those resolutions are received, I should like to ask the Senator whether they are in writing or merely taken from a newspaper? I merely ask the question with reference to the usage of the Senate.

Mr. POLAND. They are from the secretary of the convention.

Mr. SUMNER. In writing or in printed form?

Mr. POLAND. In writing.

The PRESIDENT *pro tempore*. Is the reading of the resolutions asked for?

Mr. POLAND. The resolutions are somewhat lengthy. I do not deem it necessary that they be read. I move that they be printed and referred to the Committee on Finance.

The motion was agreed to.

#### PAPERS WITHDRAWN.

On motion of Mr. WILSON, it was Ordered, That Selena Barclay have leave to withdraw her petition and papers (praying for compensation for losses sustained by her in the destruction of the Gosport navy-yard in April, 1861) from the files of the Senate.

#### REPORTS FROM COMMITTEES.

Mr. WADE from the Committee on Territories, to whom was referred the bill (S. No. 456) for the admission of the State of Nebraska into the Union, reported it without amendment.

#### OFFICIAL TENURE.

Mr. EDMUNDS. The joint select committee on retrenchment, to whom was referred the bill (S. No. 453) to regulate the tenure of

offices, have had the same under consideration, and have instructed me to report the bill back, with a recommendation of certain amendments, which being adopted the committee are of opinion that the bill ought to pass. I beg leave to say in connection with this report that we have reported this bill and these amendments regulating removals from office and appointments to office so far as concerns officers whose nominations require the confirmation of the Senate, and have adopted what appears to us to be a feasible scheme in that respect, in no spirit of hostility to any party or administration whatever, but in what we conceive to be the true republican interest of the country under all administrations, under the domination of all parties in the growth which is before us in the future; and in that spirit I shall ask the attention of the Senate to the bill when it comes to be considered. I move that the amendments be printed, and that the bill be made the special order for Thursday next, at one o'clock.

The PRESIDENT *pro tempore*. The amendments will be printed with the bill under the rule. A motion in regard to the bill can be entertained only by unanimous consent, as no action can be had on a bill on the day it is reported except by unanimous consent. The Senator from Vermont moves that this bill be made the special order for Thursday next, at one o'clock in the afternoon. No objection being made to the motion, the Chair will put it to the Senate.

Mr. FESSENDEN. I do not know that I shall object; I would as soon agree that this bill be made a special order as any other; but I wish to warn the Senate against embarrassing themselves at this early period of the session with special orders. They have been found heretofore exceedingly embarrassing. They generally interfere with each other, and I think effect nothing in the way of facilitating action upon any particular bill. I suggest to the Senator whether it would not be as well for him to give notice that he will call it up on that day, and thus, I think, effect all his purpose without having these special orders entered, as there will be many of them on the Calendar. I shall not, of course, interpose any objection, but I rose merely to make the suggestion to my friend from Vermont in case he considers it favorably.

Mr. EDMUNDS. I am quite willing to adopt the suggestion of the honorable Senator from Maine. I agree to the propriety of what he says, and as he has been here long enough to take the responsibility of initiating such a course of proceeding, I am quite willing to follow it, and to waive the motion that I have made, with the understanding that if I think it proper hereafter I shall insist upon the same objection, which I conceive myself is advantageous to the administration of business.

The PRESIDENT *pro tempore*. The motion to fix Thursday next as the day for the special consideration of this bill is withdrawn.

#### BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 460) in relation to persons imprisoned under sentence for offenses against the laws of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 462) to admit the State of Colorado into the Union; which was read twice by its title, and referred to the Committee on Territories.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 463) for the relief of Rev. Samuel M. Beatty, of Ohio; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 464) in relation to the records and other papers in the office of the Clerk of the United States court for the southern district of Mississippi, which have been lost or destroyed; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 147) amending the ninth section of an act to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852; which was read twice by its title, and referred to the Committee on Commerce.

#### PAYMENT FOR PREEMPTIONS.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Public Lands be directed to inquire into the expediency of making the agricultural and mechanical college land scrip receivable in payment for preemptions.

#### REPORT OF COLUMBIAN INSTITUTION.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and referred to the Committee on Printing:

*Resolved*, That the Public Printer be, and he is hereby, directed to cause to be engraved the drawings accompanying the annual report of the Columbian Institution for the Deaf and the Dumb; and he is also directed to print for the use of the institution one thousand additional copies of said report, inserting therein, as well as in the copies already printed, impressions of the drawings above ordered.

#### GOVERNMENT TELEGRAPHING.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of authorizing the Post Office Department to construct and operate telegraph lines along the principal mail routes, or such of them as it may deem necessary, or to contract with such lines as may be already established, if that shall be deemed more advisable, for the use and control of such lines, and in connection with its postal business to establish offices at such points as may be determined upon, open at all hours to the public and the press for safe and speedy transmission of dispatches under proper regulations and at fixed minimum rates; the committee to report by bill or otherwise.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate certain bills received from the House of Representatives just prior to the adjournment of the last session, which were laid upon the table and remained undisposed of at the adjournment.

The bills were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 632) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 715) setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota—to the Committee on Territories.

A bill (H. R. No. 793) to provide increased revenue from imported wool, and for other purposes—to the Committee on Finance.

A bill (H. R. No. 811) for the relief of certain drafted men—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 818) for the relief of Norman Ward—to the Committee on Claims.

A bill (H. R. No. 819) for the relief of Richard A. Vervalen, and others—to the Committee on Patents and the Patent Office.

#### DIRECT TAX OF WEST VIRGINIA.

The joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia, which had been returned from the House of Representatives at the close of the last session with



an amendment, was taken from the table, and, with the amendment, referred to the Committee on Finance, and ordered to be printed.

#### BILL RECOMMENDED.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 279.

The motion was agreed to; and the Senate proceeded to consider the bill (S. No. 279) for the relief of loyal citizens of Loudoun county, Virginia.

Mr. HOWE. I now move that it be recommended to the Committee on Claims.

The motion was agreed to.

#### POWER OF AMNESTY AND PARDON.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill (H. R. No. 828) to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

Mr. MORRILL. Mr. President, I gave notice last week, as the honorable Senator from Illinois may recollect, that to-day I would endeavor to call up the bill which has been so long before the Senate, for the extension of suffrage in this District. As the motion which the honorable Senator has now made will probably involve discussion, I hope he will allow me to go on with that bill at this time. I appeal to the Senator from Illinois to yield to me, and allow me to take up that bill, of which notice was given in the early part of last week.

Mr. TRUMBULL. The bill to which I have called attention is very short, and consists of but a few lines. There was manifested on the part of the Senate some days ago, when the motion was made to refer the bill, an anxiety to have it acted upon. The Judiciary Committee have since considered it and reported it back. I imagine that it is not a bill which will give rise to any very considerable discussion. I should presume not, though I do not know what may be the temper of the Senate. I do not wish to antagonize one bill with another; but this is the morning hour, and it is possible that the bill may be passed before the hour of one o'clock arrives.

Mr. SUMNER. The Senator from Indiana [Mr. HENDRICKS] has given notice that he intends to discuss it.

Mr. TRUMBULL. If Senators are disposed to discuss the measure, we may as well hear their speeches now as at any other time. It is not by way of antagonizing it to any other bill that I move to take up this bill now, but because there was manifested on the part of the Senate last week a disposition to have early action upon it, and I considered it my duty, having charge of the bill from the Committee on the Judiciary, to move to take it up at the earliest opportunity. I submit the matter to the Senate. If there is a disposition not to take it up, be it so; I shall have discharged my duty in reference to it. I leave it to the Senate to do as they think proper. I do not know but that we can consider both measures during the day. I certainly do not wish to be put in the position of antagonizing this bill against the one which the Senator from Maine has in charge.

Mr. MORRILL. If I am to understand that the Senator will be content to go on with his bill until one o'clock and will allow my bill to come up at that time, I certainly shall not object. While I disclaim any personal desire on the subject, this bill is so situated, and my own connection with it has been such, that I shall feel obliged to ask a decision of the Senate on the question of taking up the bill named by the Senator from Illinois, if it is insisted upon.

Mr. SUMNER. The bill which the Senator from Maine has in charge is entitled "No. 1" on the Calendar of the Senate. It is No. 1 in time, and I think it may also be called No. 1 in importance. I think we ought not to lose any opportunity to take that bill up and pass it. We ought not to allow any other measure to be interposed. Therefore, while I am very

earnest for the proposition of my friend from Illinois, I must express the hope that he will allow it to be proceeded with after we have disposed of the other question, which has been so much longer on the Calendar of the Senate. Let us, so far as the Senate can do it, give suffrage to the colored race in the District on this day; let us signalize this first day of actual business by finishing that great act; and then during the remainder of the afternoon we can proceed with the bill of the Senator; but I hope that he will not press his bill to the exclusion of this other.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion of the Senator from Illinois, that the Senate now proceed to the consideration of House bill No. 828?

The motion was not agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 380) to fix the times for the regular meetings of Congress, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the bill (S. No. 327) granting a pension to Mrs. Katharine F. Winslow.

The message further announced that the House had passed the bill (S. No. 69) to provide for the payment of pensions with an amendment, in which the concurrence of the Senate was requested.

#### PENSION AGENTS.

Mr. LANE. I ask to have the bill just returned from the House with reference to pension agents taken up, with a view to refer the bill and the amendment of the House.

The PRESIDENT *pro tempore*. If there be no objection the Chair will lay before the Senate the bill (S. No. 69) to provide for the payment of pensions, which has been returned from the House with an amendment.

Mr. LANE. I move to refer the bill and the amendment to the Committee on the Judiciary. There is simply a legal question raised by the amendment of the House, which I think should go to that committee instead of to the Pension Committee, although the subject-matter would seem to belong to the Pension Committee. The question raised is this: the House propose by their amendment that the pension agents appointed since the 1st of December shall not exercise the duties of their office until they shall be confirmed by the Senate. Under the present laws the Secretary of the Interior has a right to make those appointments. The question now is, whether, he having made the appointments under the existing law, the offices can be vacated by a law of Congress. I suppose that to be a proper question for the consideration of the Judiciary Committee.

Mr. TRUMBULL. Why, Mr. President, that certainly is no question at all. There is no judicial question about that. As a question of power Congress may abolish the office of pension agent any day. It may abolish the whole of them, if it thinks proper, to-morrow. It is a mere question as to the propriety of the mode of appointing these officers. There can be no doubt that Congress has authority at any time to abolish any office which it has created by law. I apprehend that the bill had better remain with the Committee on Pensions, who have had charge of it heretofore.

Mr. LANE. I have no doubt now of the propriety of referring it to the Judiciary Committee, inasmuch as the learned chairman of that committee seems so perfectly confident with reference to that question. It is not a question as to whether Congress has the power to abolish pension agents or not, but it is a question whether the pension agents having been appointed legally, and they having entered upon the discharge of their duties, we may say that the offices shall then be vacated until further conditions are complied with. I think it does involve an important legal question, and I

should like very much to have the light of the Judiciary Committee upon it, inasmuch as the Pension Committee have already reported the bill without such an amendment and adverse to it.

Mr. TRUMBULL. I of course cannot answer for the Judiciary Committee; I only speak for myself; but as a question of power, it seems to me there can be no doubt about it at all. If the Senator from Indiana has doubts he had better investigate it, for I really should not know how to enter upon the investigation of the question as to the power of Congress to limit the tenure of an office that has been created by law. I suppose that it manifestly has that authority. Whether it is proper to abolish the office of pension agents or to limit the tenure by which they hold them is another question, and one very proper for the Committee on Pensions, which has been considering this matter. It seems to me that is the proper place for this bill. However, sir, I shall enter into no controversy with the Senator about it. I suggest to him that the proper disposition of it is to refer it to the Committee on Pensions. If the Senator thinks proper to send it to the Judiciary Committee, as one member of the committee I certainly shall try and dispose of it as best we can. It is a matter, however, that that committee has not investigated at all. We have not been looking into the question of pensions, as to their mode of payment, or the appointment of the pension agents, as it, of course, would involve an investigation of questions not appropriately belonging to that committee.

Mr. LANE. The Senator from Illinois does not seem to take the distinction. This is not a proposition to abolish the office of pension agents, but it is simply this: pension agents who have been appointed under the existing law and have entered upon the discharge of their duties, by this amendment are not permitted to go on until they have been confirmed by the Senate. This will be a law passed altogether after they have entered on the discharge of their duties. It is not to abolish the office. The same agents are continued under it on the condition of confirmation; but they are not to continue if they are not confirmed, although they have been appointed under the existing law and their appointment is entirely legal up to this point. It is retrospective. Their appointment when made was legal. We purpose now to make it illegal by a subsequent act, retroactive in regard to a subject over which I fear we have no power. I wish to do all that the amendment contemplates, but I doubt very much whether we have the power to do it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, to refer the bill and amendment to the Committee on the Judiciary.

The motion was agreed to.

#### SUFFRAGE IN THE DISTRICT.

Mr. MORRILL. I move to proceed to the consideration of Senate bill No. 1.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1) to regulate the elective franchise in the District of Columbia.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole, and the question is on an amendment moved by the Senator from West Virginia [Mr. WILLEY] to the amendment reported by the Committee on the District of Columbia. The amendment reported by the committee and the amendment to that amendment will be read.

Mr. MORRILL. As the bill is not a long bill, and has not been read this session, I ask for the reading of the whole bill.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read the original bill, which was introduced by Mr. WADE, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act.



each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and who is a citizen of the United States, and who shall have resided in the said District for the period of six months previous to any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

SEC. 2. *And be it further enacted*, That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall willfully refuse to receive or who shall willfully reject the vote of any person entitled to such right under this act, shall be liable to an action of tort by the person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

SEC. 3. *And be it further enacted*, That if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not to exceed \$1,000, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

SEC. 4. *And be it further enacted*, That it shall be the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court.

SEC. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

The Secretary next read the amendment reported by Mr. MORRILL, from the Committee on the District of Columbia, which, as amended by the insertion of the words in *italics*, was to strike out all after the enacting clause of the bill and in lieu thereof to insert:

That, from and after the passage of this act, each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and *excepting persons who may have voluntarily left the District of Columbia to avoid aid and comfort to the rebels in the late rebellion*, and who is a citizen of the United States, and who shall have resided in the said District for the period of six months previous to any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

SEC. 2. *And be it further enacted*, That any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall willfully refuse to receive, or who shall willfully reject the vote of any person entitled to such right under this act, shall be liable to an action of tort by the person injured, and shall be liable, on indictment and conviction, if such act was done knowingly, to a fine of not exceeding \$5,000, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

SEC. 3. *And be it further enacted*, That if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not to exceed \$1,000, or be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

SEC. 4. *And be it further enacted*, That it shall be the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court.

SEC. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

SEC. 6. *And be it further enacted*, That the mayors and aldermen of the cities of Washington and Georgetown, respectively, on or before the 1st day of March in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election; and said mayors and aldermen shall be in open session to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said list, on two days in each year, not exceeding five days prior to the annual election for the choice of city officers, giving previous notice of the time and place of each session in some newspaper printed in said District.

SEC. 7. *And be it further enacted*, That on or before the — day of — the mayors and aldermen of said cities shall post up a list of voters thus prepared in one or more public places in said cities, respectively, at least ten days prior to said annual election.

SEC. 8. *And be it further enacted*, That the officers presiding at any election shall keep and use the check-list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single.

The Secretary next read the amendment of Mr. WILLEY, which was to strike out the first section of the committee's amendment, and in lieu thereof to insert:

That in all elections to be held hereafter in the

District of Columbia the following described persons, and those only, shall have the right to vote, to wit:

First. All those persons who were actually residents of said District and qualified to vote therein at the elections held therein in the year 1865, under the statutes then in force.

Second. All persons, residents of said District, who have been duly mustered into the military or naval service of the United States during the late rebellion, and have been or shall hereafter be honorably discharged therefrom.

Third. Male citizens of the United States who shall have attained the age of twenty-one years, (excepting paupers, persons *non compos mentis*, or convicted of an infamous offense,) and who, being residents of the ward or district in which they shall offer to vote, shall have resided in said District for the period of one year next preceding any election, and who shall have paid the taxes assessed against them, and who can read, and who can write their names.

Mr. MORRILL. Mr. President, the bill has been so long before the Senate that perhaps I shall be justified in stating to the Senate briefly what is proposed by the bill, its scope, and its provisions substantially, perhaps with some observations touching the principle which is involved in the bill itself. It had some consideration in opposition by the opponents of the bill at the last session, but I believe nothing has been said on the affirmative side in explanation or by way of argument.

It will be seen, sir, that the measure purports to be a measure to regulate the suffrage, the elective franchise in the District of Columbia. It is a little more than that. It not only regulates the elective franchise in this District, but it extends it and enlarges it. The principal feature perhaps of the bill, that which is of most interest to the Senate and to the country, and that which probably challenges the objection to the bill, is that it embraces the colored citizens of the District of Columbia. In this particular it is novel, and in this particular it is important. In this particular it may be said to be inaugurating a policy not only strictly for the District of Columbia, but in some sense for the country at large. In this respect it is, I suppose, that this bill has received so large a share of the public attention during the last session and the recess of the Congress of the United States.

If I were to define this bill in a single phrase, I should say that it is impartial restricted suffrage; that is to say, it proposes to be impartial among all the male citizens of the United States resident in this District. To that extent it is impartial. It is restricted in that it is confined to the male sex; and in that it is confined to persons of adult age; and in that it excludes paupers, insane persons, persons *non compos mentis*, and persons who have rendered themselves, by crime—treason, felony, or otherwise—infamous, and so not to be trusted in public affairs. Therefore, sir, as a definition, I say it is what may be called impartial restricted suffrage, as distinguished from universal and manhood suffrage, of which we hear so much in these days.

These principles are attempted to be enforced by appropriate provisions in the bill which make it really an election bill.

And now, Mr. President, with this general statement of the objects and scope and provisions of this bill I content myself; but I trust I shall be pardoned for making a single remark in regard to the position of this measure before the Congress of the United States, and possibly before the country.

It will be seen by the bill that it was introduced into the Senate on the first day of the last session of Congress. I believe a similar bill was introduced into the other branch of the Legislature on the same day, which came to the Senate, which was referred to the Committee on the District of Columbia, and which was not reported upon to the Senate. This, perhaps, may be regarded as a substitute for it. Allow me to say, and I think I am called upon to say, owing to the public misapprehension on the subject, that bill the committee considered anomalous in its character. While it was a bill proposing legislation, in fact, it was simply a declaration of a principle with no provision whatever for its enforcement. There-

fore in effect it gave no right whatever, and enlarged no privilege whatever. While it declared that the principle of "white," which was an exclusion, and which deprived the colored citizen of his right to vote was wrong, it had no provision to correct the evil; and so, Mr. President, the committee of this body (agreeing with the sentiment of that bill, that the principle of discrimination or exclusion in that case was wrong, and if it were wrong, it was the duty of Congress that declared it to be a wrong to provide the remedy) as that bill did not provide a remedy substituted this for it.

I feel called upon to make this statement on account of the misapprehension on this subject here and elsewhere. It seems to have gone out to the country that the other branch of Congress passed a suffrage bill which gave to the colored citizens the right of suffrage, and that somehow or other the Senate had not concurred with the House. It will be found upon examination that this bill is in harmony with the principle which was sought to be initiated in the House, but which failed of any effect at all for want of any provision in their bill to enforce it; and that, I submit, is a sufficient answer to any imputation or charge upon the Senate, that it had not acted in concurrence with the House of Representatives upon the suffrage bill. The House has sent us no such bill.

Mr. President, there has been a misapprehension in the public press of the country upon this subject which I feel authorized to refer to, and I take occasion to say, and I say it deliberately, that the misapprehension of the public press in regard to this subject is disreputable to American journalism. Sir, we publish the debates of this body accurately and with fidelity. There is no occasion for misapprehension and still less for misrepresentation of what is done in this body; and yet, since the last session of Congress began, on this subject the public press have not only misconceived and misapprehended, but misrepresented this question, to the public detriment, as I think. I do not stand here to complain. I have no personal grievance to speak of; but influential and leading presses of the country who have undertaken to speak most on this subject have misrepresented and misapprehended most, and the Congress of the United States, particularly this branch of it, has been put in the attitude of withholding action upon the question of suffrage in the District of Columbia when the record published to the country shows that the Senate has acted promptly on this question, and acted in harmony with what were understood to be the sentiments of the other branch.

Mr. President, with these remarks I proceed to notice some objections to this bill of a local character, and then I shall have occasion to advert to some of a more general character and to briefly state the principle on which this bill proceeds. Of course, in its most intimate relations, this bill is local. It affects the people of this District, and as you would expect, as it was reasonable to expect, those people have expressed their opinions to Congress upon the subject. Here is a communication from the mayor of the city of Washington, which perhaps I may as well send to the Clerk and ask him to read, which states the position of the corporation, the mayor and aldermen, and the electors of this District on that subject.

The Secretary read the following communication:

WASHINGTON CITY, D. C.,  
MAYOR'S OFFICE, CITY HALL,  
January 6, 1866.

SIR: I have the honor, in compliance with an act of the councils of this city, approved December 16, 1865, to transmit through you to the Senate of the United States the result of the election held on Thursday, 21st December, "to ascertain the opinion of the people of Washington on the question of negro suffrage," at which the vote was 6,626, segregated as follows:

Against negro suffrage.....	6,591
For negro suffrage.....	35

Majority against negro suffrage.....	6,556
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This vote, the largest with but two exceptions ever polled in this city, conclusively shows the unanimity

of sentiment of the people of Washington in opposition to the extension of the right of suffrage to that class; and that its integrity may be properly appreciated by the Senate, I give the aggregate of the vote cast at the five elections immediately preceding for mayor:

1856.....	5,840
1858.....	6,813
1860.....	6,975
1862.....	4,816
1864.....	5,720

No others, in addition to this minority of thirty-five, are to be found in this community who favor the extension of the right of suffrage to the class and in the manner proposed, excepting those who have already memorialized the Senate in its favor, and who, with but little association, less sympathy, and no community of interest or affinity with the citizens of Washington, receive here from the General Government temporary employment, and having at the national capital a residence limited only to the duration of a presidential term claim and invariably exercise the elective franchise elsewhere.

The people of this city, claiming an independence of thought and the right to express it, have thus given a grave and deliberate utterance in an unaggravated way to their opinion and feeling on this subject.

This unparalleled unanimity of sentiment which pervades all classes of this community in opposition to the extension of the right of suffrage to that class engenders an earnest hope that Congress, in according to this expression of their wishes the respect and consideration they would as individual members yield to those whom they immediately represent, would abstain from the exercise of its absolute power, and so avert an impending future apparently so objectionable to those over whom, by the fundamental law of the land, they have "exclusive jurisdiction."

With much respect, I am, sir, your own and the Senate's obedient servant.

RICHARD WALLACH, Mayor.

Hon. L. F. S. FOSTER, President of the Senate of the United States.

Mr. MORRILL. It will be seen, Mr. President, that the mayor informs the Senate of the United States that the corporation of Washington has held an election on this question of the elective franchise, and that at that election the qualified electors, the persons who were qualified to vote in the ordinary affairs of the corporation, its prudential concerns, have voted on this question of popular rights, and the mayor is pleased to say that there was unparalleled unanimity in that vote; and from the certificate of the election it would seem to be so. It would seem that out of all the votes cast, some 6,500, more or less, were opposed to the extension of the elective franchise, while only 30 or 40 were in favor of it. This the mayor calls ascertaining the opinions of the people, and this he proclaims as an unparalleled expression of the people of this District in opposition to this bill!

Now, Mr. President, I do not desire to say anything harsh or severe on that subject, but the enthusiasm of his honor the mayor in making this announcement to the Senate, and his self-delusion in persuading himself that this election of the qualified electors is an expression of public opinion of the people of this District, allow me to say is only equaled by the ingenuity of the device by which the electors of this District qualified to vote in its prudential affairs seek to foreclose a question of popular rights by voting it done at the polls over which they have the exclusive control. Certainly, Mr. President, these six or seven thousand voters who are said to have made this expression are only one in thirty at most of the people of this District, and it is very difficult to understand how there could be more significance or probative force attached to these six or seven thousand votes than to an equal number of voices independent of the ballot, under the circumstances.

I dismiss, then, this objection with the single remark, let it go for what it is worth, they vote upon a subject over which they have no jurisdiction whatever and in polls over which they have the exclusive control, shutting out every body who does not think as they think. And I may be permitted to add that it is remarkable, nay, sir, it is astounding, that these people seem to learn nothing by current events. They do not seem to learn the lesson of submission to what is inevitable in our history and institutions.

But, Mr. President, my attention has been called to an objection of a more general character from another source. With the permis-

sion of the Senate I will send to the Clerk to be read an article which I take from one of the daily journals of this District, which was sent to me to attract my particular attention to the subject, understanding that this bill was to come before the Senate to-day, and comes to me marked so as to render the points noticeable. I ask that the Clerk read it.

The PRESIDENT *pro tempore*. The paper will be read, no objection being interposed.

The Secretary read as follows:

"NEGRO SUFFRAGE—CONGRESS SHOULD PAUSE.—We learn that Mr. MORRILL will, at an early day, call up the bill conferring the ballot upon the negroes of the District of Columbia.

We would admonish Mr. MORRILL not to be over hasty in his action, and we would suggest to Congress, as well as to all others who profess to be friends of the colored race, to pause, to weigh well their action, as the conferring of suffrage upon the blacks of this District would be to them a most evil thing. The people of Washington and Georgetown, many of them, are the descendants of proud, dignified, and haughty families, of men who could distinguish between black and white, of men who were not blinded by fanaticism, and who taught their children to read the Bible, in which, no doubt, they must have read the following: 'Cursed be Canaan, a servant of servants shall he be unto his brethren.'

"The people of the District of Columbia, those of them who are sound-minded, and the majority of them are, cannot look with favor upon any action of Congress which would place them politically upon an equality with the descendants of Ham, with those who, by the fiat of Heaven, are destined not only to serve, but to be the servants of servants. The conferring of suffrage upon the blacks of the District would be the cause of their destruction. It would infuse into those benighted people, a people which, by nature, birth, and education, are unenlightened, a false idea of the possession of liberty, which would array them in deadly antagonism against the superior race, and the result would be damaging to the negroes. As a body, they are servants, dependants, and the probabilities are that employers would, in such an event, discontinue their services; and should they go to the polls to deposit their ballots, the probabilities are that they would not all return to their homes.

"For these, and other reasons, we conjure Congress not to be hasty in its action on this matter."

Mr. MORRILL. Here it will be seen an appeal is made to Congress not to make haste in conferring the elective franchise on the colored citizens of this District. Pause, it is said, because to do so will be an evil thing to the freedman. Why? It is said it will cause his destruction. How? That he will be frantic with his liberty, and become insurrectionary, seditious, in the phrase applied to him on another occasion when he was about to be emancipated, that he will become a vagrant and a vagabond, and abuse his liberty and the rights of other parties? No; nothing of that sort. How, then, would this work his destruction? Why, sir, we are told that a portion of the people of this District are descendants of a proud, dignified, haughty race of men; men who know the distinction between white and black, men who have read the Bible and who have inculcated the doctrine to their children that "cursed is Canaan, a servant of servants shall he be." They have inculcated to their children the doctrine that it is the fiat of Heaven that he shall be a servant of servants to the end of the world. Now, if Congress undertakes to repeal this fiat of Heaven, if Congress undertakes to grant a privilege and a right to the colored citizen which is against this doctrine, what then? Why, you offend the prejudices, and you mortify the pride, and you humiliate the arrogance of these people, and the result is—what? They have the command of the polls, and whenever by your authority these colored people come to the polls to deposit their votes, what is to be the result? Let us see:

"Should they go to the polls to deposit their ballots, the probabilities are that they would not all return to their homes."

So it is an evil thing to extend the right of suffrage, and by our misguided zeal we are in danger of working the destruction of the colored race. I think that is the logic. I think that is the inevitable inference of this paper.

Mr. WILSON. What paper is it that makes that threat?

Mr. MORRILL. I believe the title of the paper is not on this piece. I think it is printed or purports to be printed in Georgetown. It is the Times, printed in Georgetown. It is

sent to me marked, the emphatic parts of it. I submit, if I am not wrong in the deductions which I make from this extraordinary article, that here in the capital of the nation is the spirit of insurrection and rebellion rife in another section of this country revived. Sir, the man who reasons thus of his duties of citizenship is an insurrectionist and should be bound over to keep the public peace against all men, no matter who he is; and the man who interprets the word of God in that way is an infidel, unchristian; he has denied the faith, and, no matter what may be his dignity or pride of family, he is the least in that kingdom of our Master, without regard to race or color.

Sir, it is not emancipation and it is not enfranchisement of this defenseless race which these people have occasion to dread; it is that spirit of slavery, that system of slavery which has eaten out the heart, tainted the blood of the descendants of these dignified, proud, haughty families to which reference is made here.

Mr. President, these are all the objections that have come to my knowledge that are specifically made against the passage of this bill in its application to this District. Opposed to these are the memorials of some twenty-five hundred persons who style themselves colored citizens of the District of Columbia, citizens of the United States, who say in substance that they are loyal, that they have served in the Army and Navy of the United States during this great conflict with rebellion, that they are sufficiently intelligent to vote, industrious, self-supporting, that they support churches and common schools, and educate their own children without any aid from the general school fund, and they claim upon these grounds not to be discriminated against in this particular.

Mr. President, if this were a question simply of a local character between the corporation of Washington, the mayor, aldermen, and common council and the electors of this District and the colored persons, I do not think it is doubtful what justice would seem to require. But, sir, it has a broader and more comprehensive meaning; it is in some sense general, and if the Senate will bear with me I propose to address myself to that particular phase of the question, the general objections to this bill, and the principles upon which I ask the votes of the Senate.

This is a matter affecting the capital of the nation, one in which the American people have an interest, as indirectly, at least, touching the country at large. What the national Congress pronounce here as a matter of right or expediency, or both, touching a question of popular rights, may have an influence elsewhere for good or for evil. We cannot well justify the denial of the right of suffrage to colored citizens on the protest of the voters of the corporation of Washington. We may not think fit to grant it simply on the prayer of the petitioners. Our action should rest on some recognized general principle, which, applied to the capital of the nation, would be equally just applied to any of the political communities of which the nation is composed. We may not exercise the ample power we possess over this District arbitrarily or in disregard of its effects upon the country at large.

It was upon this ground that the friends and advocates of the system of slavery objected to its abolition here by act of Congress. To abolish it here was to abolish it everywhere throughout the country; and if, as they contended, the nation was under covenant to suffer nothing to the injury of slavery in the States, they were right. If negro suffrage is wrong in principle, pernicious in the policy of American States and republican communities, and dangerous to popular liberty, Congress should hesitate to do an act, which, having the force of precedent, would endanger the peace and tranquillity of the nation.

We were most solemnly told on a former occasion by the opponents of the measure that such is its character and such would be its effects. They affirmed that this Government

"is a white man's Government;" that it was instituted by, in the interests of, and for the advantage of the white race, and ought to be administered by that race exclusively, and for its development and benefit; that the negro race is an inferior race, wholly incapable of self-government, and that to invest it with civil and political rights is impolitic, unwise, and dangerous to the liberties of the white man, the dominant and superior race.

These assumptions are sufficiently sweeping, and would be conclusive upon the representatives of the American people if made good by an appeal to history and facts. I content myself with the statement of a few plain propositions in reply.

The gist of these assumptions is the old plea of man's incapacity for self-government, scarcely improved by the specification of inferior race, for the old argument since civil society was instituted was lack of natural aptitude for government in the masses. Now, sir, a Government of the people, its *rightfulness* and *practicability*, a moot question everywhere else, is no longer debatable in this country. We have put aside the creed of the despot, the monarchist, the aristocrat, and have affirmed the right and capacity of the people to govern themselves, and have staked the national life on the issue to make it good in practice. Not that every man of all races or of any race or people is capable of wise administration of public affairs, legislation, or interpretation of the laws; but that the aggregate public virtue and intelligence of political communities is the safest basis of government.

The masses may be trusted to select their rulers. To deny any portion of the American people civil or political rights common to the citizen upon pretense of race or color, is to ignore the fundamental principles of republicanism. We are fully committed to the rule of the people, and no question of race or color, inferiority or superiority, can arise to exclude any portion. They are none of them terms of exclusion. No sentiment was ever uttered, here or elsewhere, better calculated to bring this nation into contempt and to expose it to the hatred of the friends of popular government than that "this is a white man's Government," as no statement could well be more false to its origin and history.

Its founders professed to institute the Government in the interest of human rights. The American Declaration was a declaration of the political rights of man. The principles of the American Revolution were those of universal liberty. Otherwise that immortal Declaration of political rights should have been written, "All white men are created equal;" and the Puritan fathers should have rendered their gospel, "God hath made of one blood all white men," and instead of a democracy they should have set up an aristocracy to be transmitted as an inheritance to their posterity.

Sir, our power over the question of suffrage in this District is ample, unquestioned, and we have seen that the objections to its exercise are untenable; but the question returns, shall the right be extended to the negro, and if so, upon what principle, or upon the prescription of what particular formula?

It becomes important first to consider the right of suffrage, whether an absolute right or as incident to citizenship. On this question the public mind is divided between universal suffrage, manhood suffrage, and impartial suffrage, and perplexed with questions of sex as well as of race and color.

I glance only at each. Universal suffrage is affirmed by its advocates as among the absolute or natural rights of man, in the sense of mankind, extending to females as well as males, and susceptible of no limitation unless as opposed to child or infant. It is supposed to originate in rights independent of citizenship; like the absolute rights of liberty, personal security, and possession of property, it is natural to man. It exists, of course, independent of sex or condition, manhood or womanhood. To admit it in the adult and deny it to the youth would be to abridge

the right and ignore the principle. Now, sir, in practice its extension to women would contravene all our notions of the family; "put asunder" husband and wife, and subvert the fundamental principles of family government, in which the husband is, by all usage and law, human and divine, the representative head. Besides it ignores woman, womanhood, and all that is womanly; all those distinctions of sex whose objects are apparent in creation, essential in character, and vital to society, these all disappear in the manly and impressive demonstration of balloting at a popular election. Here maids, women, wives, men, and husbands promiscuously assemble to vindicate the rights of human nature.

Moreover, it associates the wife and mother with policies of state, with public affairs, with making, interpreting, and executing the laws, with police and war, and necessarily disseverates her from purely domestic affairs, peculiar care for and duties of the family; and, worst of all, assigns her duties revolting to her nature and constitution, and wholly incompatible with those which spring from womanhood.

Besides, the ballot is the inseparable concomitant of the bayonet. Those who practice the one must be prepared to exercise the other. To introduce woman at the polls is to enroll her in the militia, to transfer her from the class of non-combatants to the class of combatants.

"Manhood suffrage," to define it, is simply to state the conditions of manhood, the state of an adult male grown to full size and strength. Its opposites are "childhood," "womanhood." In most nations, for purposes of war, it is a male person between the ages of eighteen and forty-five years. Among the civilians it was from fourteen to twenty-five. The condition of manhood, as defined by the lexicographers, is purely physical development, in distinction from moral and intellectual. In this sense the common law had no standard. It is impossible to conceive of a law that would meet in practice the individual cases as they would arise on the principle of physical development. The condition of manhood varies in individuals, and is developed at different periods.

The fatal objection to "manhood suffrage" is that the right is based on physical development, like arms-bearing, while the act itself necessarily implies intelligence, discretion, intellectual development.

The peculiar character, the genius of republicanism is equality, impartiality of rights and remedies among all the citizens, not that the citizen shall not be abridged in any of his natural rights. The man yields that right to the nation when he becomes a citizen. The republican guarantee is that all laws shall bear upon all alike in what they enjoin and forbid, grant and enforce. This principle of equality before the law is as old as civilization, but it does not prevent the State from qualifying the rights of the citizen according to the public necessities.

The American principle favors the right of suffrage for the male citizen of full age, supposed to be based upon the law and usage that at this age he becomes free of the tutelage of family and is free to manage his own affairs. The exceptions to the rule are of persons *non compos mentis*, persons deemed infamous from treason, felony, or other high crimes, persons supported at the public charge, and ignorant persons, and those of African descent.

The rule is in harmony with the idea of republican government and Christian civilization. Some of the exceptions are ill-timed, illogical, and unjust. Poverty is in no just sense a disqualifying fact. On the contrary, society may doubtless protect itself by depriving those of political power who have proved faithless to it or made war upon it. In a country where the means of education are accessible to all, or should be, and a knowledge of the Government important, it cannot be a grievance that the State should impose the rule of intelligent suffrage. The exceptional fact which stands out in flagrant violation of the common rule of

suffrage is that which denies the right to the citizen of African descent on account of his race.

At the formation of the national Constitution in only one of the States was the negro excluded from the exercise of the right on account of his race or color. South Carolina excluded the negro; in the other States the exclusion was confined to condition, and the colored freeman was an elector. In most of the States the negro is now excluded; in some of them he is admitted upon exceptional terms; in others upon terms of impartiality with the whites. The proposition of the bill is to restore the American rule of suffrage at the national capital, to place it upon the republican principle, to make our legislation conform to the Constitutions, laws, usages, sentiments, and opinions of the people of the States at the revolutionary era of the Republic, when universal liberty was an aspiration alike of statesmen and people.

In the early constitutions of the States this principle was everywhere recognized and enforced. In the State of Pennsylvania the language was this: "All freemen have a right to elect officers, and be elected to office." That of Delaware was: "Every freeman hath a right of suffrage." That of Maryland: "All freemen shall have a right of suffrage." New York: "Every person who is a freeman shall be entitled to vote." North Carolina: "Every freeman shall be entitled to suffrage;" and so on to the end of the chapter, with the single exception of South Carolina. The disability which attached to the African slave was because of condition, and not of race or color, and everywhere the adult freeman was deemed entitled to the exercise of the elective franchise. The disability of condition now has been abolished. In the progress of events, the development of free institutions, the expansion of the principles of popular rights, the abolition of slavery, by the providence of God we have become a nation of freemen in fact as in name. The emancipated slave has become a freeman and a citizen, belongs to the body of the American people, and is no longer the subject of exclusion by either State or nation. Sir, the constitutional amendment which emancipated the slave gives Congress power to make that freedom of the slave complete. In the spirit of that provision, Congress at its last session enacted that every person born in the United States is a citizen thereof, and entitled to protection in his civil rights. It remains now to recognize that political equality which is the common right of the American citizen.

Sir, we exalt the emancipation proclamation in the scale of state papers to a place second only to that of the great American Declaration of Independence. To its omnipotent spirit we require obedience and submission. We are assured that the grandeur of its conceptions, its heroism, and elevated patriotism confer immortal renown on him whose name is most intimately associated with it; and still, sir, we hesitate to accept the logic of its results. We do not, some of us, see how it is possible to break down the partition walls of prejudice which spring from the relations of master and slave without disrupting society and introducing anarchy and violence. We do not understand how a nation can be just to all its people on principle and expect the support of "the virtuous ruling classes," and we do not see how we can survive without them. We have made the negro slave an American citizen, and we seem to start back from contact with him as if his touch were moral and political pollution. We have freed him and we are perplexed to know how to define him, whether a freedman, freeman, citizen, alien, or denizen. By some of us the rights incident to American citizenship are utterly denied as the result of emancipation. So long held and treated as a slave, a chattel, it is difficult to realize that he is a man, entitled to the recognition due from man to man. We are slow to confess this country his as well as ours, although native-born, and speak of deporta-



tion as if the commerce and navies of the world uniting in our folly and crime could accomplish it. We are still in our sins as to the gospel of one blood for all humanity and a common brotherhood, and cherish still the fatal delusion of antagonism of races.

A statement of a plain proposition or two should dissipate our alarm and settle all these questions. The negro is a man now and hereafter in American law, politics, society, and to be treated as such. He is a citizen, and entitled to the common rights of citizenship and to protection. We may as well comprehend the question of the negro. He will remain here an inhabitant of this country, our country, his country, and that not at our option, but by force of laws over which we have no control. Political history discloses no folly comparable with the attempt to rid a nation by force and violence of a numerous race of people indigenous to it, as it records no usurpation or royal crime at all equal to it. The negro cannot depart if he would. He is native to this country, and may stay here and bid defiance to power to remove him. He is to be a constant element of American life, civil, political, industrial. He constitutes one eighth of our population now, and in the future his proportion will not probably be much less. The race numbers four millions at the present, and will soon be thirty millions—too many to be immolated, if it were possible, upon the altar of our pride and our prejudice. The bond of our national unity is not expressed by epithets "rights of States," "State sovereignty," "community rights;" the fruits of such are insurrection, rebellion, civil war; but in unity of faith in human rights, unity of spirit and purpose for the development and protection of individual rights. In such unity there is completeness and power; it links with the moral and social forces of the universe and possesses the attributes of a boundless energy. All attempts in this country to keep alive the old idea of orders of men, distinctions of class, noble and ignoble, superior and inferior, antagonism of races, are so many efforts at insurrection and anarchy.

In a nation of professed freemen whose political axioms are those of universal liberty and human rights, no public tranquillity is possible while these rights are denied to portions of the American people. We have taken into the bosom of the Republic the diverse elements of the nationalities of Europe, and are attempting to mold them into national harmony and unity, and are still inviting other millions to come to us. Let us not despair that the same mighty energies and regenerating forces will be able to assign a docile and not untractable race its appropriate place in our system.

Mr. President, I move to amend the amendment of the Senator from West Virginia—

The PRESIDENT *pro tempore*. In the opinion of the Chair an amendment is not now in order. The amendment of the Senator from West Virginia is an amendment to an amendment. That amendment can only be amended by the consent of the mover.

Mr. WILLEY. Mr. President, at the last session of Congress I delivered my sentiments at length in reference to the question of negro suffrage. I shall not again enter upon that question generally; but I desire to make a suggestion or two in regard to the special propositions of the amendment which I have had the honor to offer, and which is now the subject of consideration before the Senate. It is proposed as a substitute for the first section of the amendment offered by the Senator from Maine. It will be recollected that at the last session the first section of the amendment offered by the Senator from Maine was amended, not on my motion, but on the motion, I believe, of the Senator from Maine himself, so as to incorporate in lines four, five, six, and seven the words: "and excepting persons who may have voluntarily left the District of Columbia to give aid and comfort to the rebels in the late rebellion."

Mr. President, the State which I represent has adopted a policy in which I concurred most heartily, providing that for the present those who have been engaged in rebellion against the Government shall be clothed with no political power; but it strikes me that that question presents itself in a different aspect when you come to apply it to the District of Columbia. The people of the District of Columbia have no political power; they cannot by their votes affect the principles or the foundation of our Government, and therefore there will be no danger to the policy, principles, or integrity of our Government by extending to them the right of suffrage. But, sir, they are equally interested with the loyal portion of the people of this District in all its municipal institutions, interested in the assessment and payment of taxes, interested in all those local matters which affect them personally, and they are as responsible for the discharge of all municipal duties and local liabilities as the loyal portion of the people of the District are.

It seems to me, then, that it would be rather hard to disfranchise even the disloyal portion of the people of the District of Columbia from the exercise of the right of selecting their local officers, who have no political power. They pay taxes, they are subject to taxation, they are under all the local liabilities of any citizens within the District. If we are willing to extend to them civil rights, if we are willing to protect them in the enjoyment of all their municipal rights upon an equality with the loyal citizens of the District, it seems to me that they ought also to have extended to them the right of suffrage so far as the municipal affairs of the District are concerned, so far as civil rights and municipal regulations and interests are concerned. I would therefore, under this view of the subject, be opposed to depriving citizens of the District of Columbia, who only have municipal authority and power and no political power, of the right of suffrage, and my amendment does not propose to disfranchise them in that respect.

Then again, sir, by reference to the amendment which I have had the honor to offer, it will be seen that the votes of the District are classified: first, all persons who were actually residents of the District at the last election in 1865, may be allowed to vote. There is another provision in it which disfranchises all persons who cannot hereafter read and who cannot write their names. I am perfectly aware that it is a very serious question how far we ought to limit the right of suffrage by a qualification of this character, and I think it would be hard to disfranchise any who has hitherto exercised that right; but then this amendment does not propose to do that; it only looks to the future. In many sections of the country this provision might operate harshly, where there are no free schools, where there are no provisions made, and no facilities afforded for education; but looking to the principles of our Government and the necessity of popular intelligence, it would seem to me that it would be not a very harsh provision of law if where free schools do exist, and where there are easy facilities for acquiring education, there were a provision of law making it criminal for any person over the age of twenty-one years not to be able to read and to write.

It seems to me, sir, that there ought to be some obligation, either in our fundamental laws in the States, or somewhere, by some means requiring the people to educate themselves; and if this can be accomplished by disqualifying those who are not educated for the exercise of the right of suffrage, thus stimulating them to acquire a reasonable degree of education, that of itself, it seems to me, would be a public blessing.

It will therefore be seen that my amendment does not propose to disfranchise any who are not able to read and write who have hitherto exercised the right of suffrage.

The second class of persons to whom I would extend the right of suffrage by this amendment, are all persons, residents of the

District, who have been duly mustered into the service of the United States during the late rebellion, who have been or shall hereafter be honorably discharged therefrom, no matter what may be their literary qualifications or qualifications of intelligence. My amendment is based on the ground that he who has been thought worthy of bearing the bayonet and of periling his life for the institutions of the country should be entitled to the right of suffrage, no matter whether he can read or whether he can write his name or not.

These, I think, are the only distinctions between the amendment which I have had the honor to offer and the first section of the amendment proposed by the Senator from Maine; and for the reasons I have stated it strikes me my amendment is preferable.

Mr. MORRILL. I ask for a division of the question, if it is susceptible of it, so that we may take the question in the first place on the first proposition of the Senator's amendment, which is: "All those persons who are actual residents of said District," &c.

Mr. ANTHONY. I wish the Senator from Maine would state what amendment he proposes to make in case this should not be adopted by the Senate.

Mr. MORRILL. The proposition I intended to make is contained in the third clause of the amendment of the Senator from West Virginia.

The PRESIDENT *pro tempore*. The Chair will state that the motion of the Senator from West Virginia, being a motion to strike out and insert, is not a divisible motion. It is in the power of the Senator from Maine, however, to move to perfect either the matter which it is proposed to strike out, or that which it is proposed to insert. The Senator from Maine may move to strike out any part of the amendment offered by the Senator from West Virginia; and that may accomplish the purpose he has in view.

Mr. MORRILL. With a view of bringing the attention of the Senate to the questions directly before the body presented by this measure, I move to strike out the first clause of the amendment; and I will now state to the Senate precisely how the bill stands, and what will be the question on that.

Mr. BROWN. The first clause of the committee's amendment?

Mr. MORRILL. No, the first clause of the amendment proposed by the Senator from West Virginia. As the bill now stands, it simply extends the right of suffrage to all the citizens of this District, excepting persons not of full age, persons *non compos mentis* and insane persons, and persons who were engaged in the late rebellion. This is the bill as it stands. The amendment of the Senator from West Virginia is that all persons who were actual residents of the District, and qualified to vote therein in the elections held in the year 1865, under the statutes then in force, may vote. The Senate will see that if they are in favor of the restriction disqualifying those who went into the rebellion it will be inconsistent to adopt this amendment, because this might allow such persons to vote.

Mr. FESSENDEN. I suggest to my colleague that the purpose would be accomplished more readily if the Senator from West Virginia would amend his amendment; and, perhaps, he will agree to insert in his amendment the words, "excepting persons who have voluntarily given aid and comfort to the rebels in the late rebellion." You do not want to say anything about having left the District; but make a special exception of persons who have voluntarily given aid and comfort to the rebels in the late rebellion. If the Senator from West Virginia would insert that exception in his first clause, it would free it from the difficulty which my colleague suggests. I suppose it to be in his power to do so.

Mr. WILLEY. If the Senator from Maine [Mr. FESSENDEN] had heard the remarks which I made a little while since he would have seen that I do not concur in the propriety of



making such an exception. I stated my view of the case to be that a proposition to disfranchise those in the District of Columbia who had been engaged in the rebellion stood upon very different reasons from those it would stand upon in any of the States where the voter had the exercise of any political power. I stated that in the District of Columbia the people had no political power, and therefore the exercise of the right of suffrage could in no wise affect the policy or foundation, the integrity or the principles of the Government; and that if it was proper to extend to the people of the District of Columbia the enjoyment of mere civil rights, to protect them in their persons and in their estates, I thought, and I still think, it would be rather harsh to deprive them of the right of selecting municipal officers, and of voting upon all subjects which would be affected by the right of suffrage in the District affecting their local and municipal interests. For these reasons I decline to accept the proposition suggested by the Senator from Maine.

The PRESIDENT *pro tempore*. It is moved that the amendment to the amendment now pending be amended by striking out the clause named by the Senator from Maine, [Mr. MORRILL]. This is in order, as it is to perfect the words proposed to be inserted before the question is put on the insertion.

Mr. MORRILL. I will say in a single word that those who are satisfied with the bill, "pure and simple," as the phrase is, as it comes from the committee, and desire to make no further restriction, ought to vote down these amendments; while those who are in favor of making a further restriction, as contained in the last line of the third clause, which is "who can read and write their names," can vote down the two first clauses of the amendment and save that; and that is all there is in the proposition of the Senator from West Virginia.

The PRESIDENT *pro tempore*. The question is on the motion to strike out the clause alluded to.

The motion was agreed to.

Mr. MORRILL. I now move to strike out the second clause.

Mr. BROWN. Why not strike them all out, and make that amendment which you propose a separate one hereafter?

Mr. MORRILL. I shall reach the same thing by bringing the Senate to a vote on striking out.

Mr. FESSENDEN. The object can be accomplished by simply rejecting the amendment of the Senator from West Virginia.

Mr. MORRILL. I move to strike out the second clause and all of the third clause down to the word "and," in the eighteenth line. That leaves the qualification "who can read and who can write their names."

Mr. BROWN, and others. Vote it all down.

Mr. MORRILL. On the whole, I think I had better withdraw my motion and then let the question be on adopting the amendment proposed by the Senator from West Virginia. That will test the sense of the Senate.

Mr. WILSON. I hope, Mr. President, the amendment proposed by the Senator from West Virginia will be voted down, and that we shall take the first section of the bill introduced originally by the Senator from Ohio, [Mr. WADSWORTH]. I prefer that section to the first section of the amendment reported by the committee. I do so for the reason that I do not believe it to be wise in passing this act to disfranchise the few persons who went from this District into the rebellion. As a practical matter, that disfranchisement does not amount to anything. I am in favor of unrestricted manhood suffrage, qualified simply as to age and time of residence. I hope that in the first section of the bill "six months" will be stricken out and "one year" inserted; and then I am for the further restriction of six or three months' residence in the ward or election district. That will fix, I think, the proper time, one year's residence in the District of Columbia, and six or three months in the ward or election dis-

trict where the elector offers to vote. I think those qualifications ought to be required of every man for the public security, whether he be black or white.

I am against this qualification of reading and writing. I never did believe in it. I do not believe in it now. I voted against it in my own State, and I intend to vote against it here. There was a time when I would have taken it because I did not know that we could get anything more in this contest; but I think the great victory of manhood suffrage is about achieved in this country. I think we are in a position when we can command it, and I am for commanding it; and I am for beginning now in this District where we have the absolute control and power. For that reason I am opposed to this amendment.

I would at one time have agreed to settle the question on the basis early promulgated by the New York Herald, of giving suffrage in the rebel States to those who served in the Army, those who held a certain amount of property, those who could read and write, those who were members of Christian churches. These qualifications suggested early by that journal I assented to then as a beginning; I believe we have gone beyond all beginnings now. During the last few months the country has gone an immeasurable distance in the right direction, and I believe to-day that the nation is prepared to demand manhood suffrage, and I am against any final adjustment or settlement of this question that does not demand it now. I think there are hundreds of thousands of men in the land who have been educated up to this great truth, that the poor men and the ignorant men of this country need the ballot for their protection, the protection of their property, their liberties, and their lives. I believe that there are hundreds of thousands of men who hold that opinion to-day who did not hold it six months ago. I think we are moving in the right direction. Time and circumstance are working in behalf of that great cause.

Now, we have before us a bill to extend the suffrage in the District of Columbia. There has been a great deal said about it, but the fact was, and we cannot deny it, that when the House bill was passed we had not the power to pass it and make it a law until the closing days of the last session. I speak, of course, on the assumption that its final passage would have required for it a two-thirds vote in this body. We have the power now to pass a clean bill, and the country demands it. At any rate I know it is right and I shall vote against any qualifications or restrictions other than those embraced in the original bill introduced by the Senator from Ohio. I think it proper, however, to amend his bill by requiring one year's residence in the District of Columbia instead of six months, and by further requiring a residence of six months in the ward or election district where the person offers to vote.

Mr. SAULSBURY. Mr. President, it is not my intention to enter into any discussion of the merits of this measure, though I may take occasion to express my disapprobation of it in every form in which it has or can be presented to the Senate before the final vote shall be taken on its passage.

Sir, during the last political campaign in my State we were visited by many speakers from different States, some professing to come from Louisiana, some from Mississippi, some from Tennessee, some from Virginia, and among the rest we were visited by my distinguished friend, the honorable Senator from Massachusetts, [Mr. WILSON]. Sir, I was apprised of the fact that he was coming to visit that State to enlighten us in reference to our duty as voters, and I notified popular audiences that I believed he was a frank and open speaker, who would state honestly his opinions; but lest by any lapse of memory he should forget to express himself within the limits of the State of Delaware upon the question which we deemed so vital, I suggested to them the propriety of asking him his own opinion and the opinions of his party. Sir, he visited the cap-

ital of the State; his speech was published in the public press of that State; but instead of meeting this question and giving his opinion or the opinion of his party in reference to manhood suffrage, his speech was composed of laudations of the Republican party, of what it had done for the country, its great achievements, how it was composed of brave men and brave women, but in reference to manhood suffrage or negro suffrage in any shape or form, qualified or unqualified, the distinguished Senator from Massachusetts did not deign to enlighten us.

Sir, notwithstanding this omission, this prudential omission of the honorable Senator from Massachusetts, the published proceedings of the Senate and House of Representatives had indicated to the people of that State what was the opinion of the dominant party in this country; dominant, not in numbers, but dominant as far as the present exercise of political power may be considered; and the people of that State made up their minds to what their intention was, to force negro suffrage. Then, sir, in that gallant little State, which believes that this is a white man's Government and was made by white men for the benefit of white men, we elected our State ticket by a larger majority than was ever before given to a State ticket in that State. I hope that the next time the distinguished Senator visits our State, and I assure him that I had no objection whatever to his visiting us, he will then express more clearly and definitely to the people his own opinions and the opinions of his party upon this question; but, sir, I will not trespass upon the attention of the Senate now. Before the final vote perhaps I may have some occasion to notice the "infidelity" alleged to exist on the part of myself and others by the distinguished Senator from Maine, [Mr. MORRILL].

Mr. WILSON. It is true, Mr. President, that I visited the State of Delaware during the last canvass; and knowing very well that I was in a State where not much progress had been made, I acted somewhat on the scriptural principle of giving "milk to babes." I had, however, for many a year been in the habit where ever I had spoken, in the Senate and in the country, in my own State and other States, in the East, in the center, and in the West, of giving the "strong meat" of equal suffrage. If the Senator has a copy of my speech to which he refers, which was, I believe, printed in pamphlet form and distributed over his State, he will find that I laid down the broad principle that I would give to every man of any race, color, or condition the same rights and privileges that I possessed myself, or that anybody in the country possessed. I do not know that the Senator acted in regard to that statement of mine as did some of the presses advocating the cause of his party and some of their speakers; but I know that some of them took occasion to indulge in sneers at the declaration that I regarded every man before the law of my country my peer and my equal, whether he was a white man or a black man. I certainly laid down doctrines plain and clear, which the Senator had a right to understand meant giving to colored men all the rights and all the privileges of citizens of the United States.

Mr. SAULSBURY. Mr. President, I have accomplished my purpose. If the Senator considered that he was among babes he ought to have given them pure milk, and ought not to have diluted it too much with water. I only wanted the Senator to acknowledge that he had not spoken fully out his real opinions on this subject. He assigns the reason that we were babes and not prepared for strong meat. Perhaps we shall get strong enough by another election, and I hope that the Senator will then bring not only his milk-can, but his meat-basket, and that he will extend his visit beyond the capital of the State and come into the lower portion of it where I reside, and I assure him that there we not only drink milk, but we are in the habit of eating very strong meat.

Mr. WILLEY. Mr. President, this phrase "manhood suffrage" sounds very well, and I am sure I have no objection to it; but I am particularly desirous that my amendment shall prevail so as to incorporate in this bill the qualification of intelligence. Sir, what is manhood suffrage? Does "manhood," considered in its political acceptation, consist simply in physical power, in arms and feet and hands and face? Does not the manhood that should be demanded as the basis of the right of suffrage mean something more than this? Does it not mean intelligence sufficient to appreciate the duty to be performed? Does it not mean some degree of moral character and standing? The pauper is a man and yet you exclude him. The convict is a man and yet you exclude him. Our sons under twenty-one years of age are a portion of the common brotherhood and manhood of the country, and yet you exclude them. Our wives and our daughters are in the same category, and yet they are excluded. So then the question involves some principle by which it shall be regulated; and it does seem to me that the true interests of a free Government, and the wise establishment of a free Government, require the great and fundamental qualification of intelligence, when we propose to extend the fundamental right of suffrage to any of our citizens.

I know how hard it is to provide any rule that shall operate equally. We have provided a rule as regards age, and how unequally does that operate! Yet it was necessary. Thousands of our sons under twenty-one years of age are much better qualified to exercise the right of suffrage than thousands of our fellow-citizens fifty years of age. We must have some rule, and we have fixed twenty-one years of age in that respect as the wisest and best rule that could be propounded.

Now, it strikes me that, looking especially to the qualifications of the class of population in this District to whom it is proposed to extend the right of suffrage; looking to their antecedents; remembering who they are—but a short time taken from the worst and lowest type of barbarism in all the world; reflecting that they have been recently slaves; that they inherit and still have in them the instincts of slavery; that they are ignorant; that it is impossible for them (it is no fault of theirs; it is their misfortune) to have a correct appreciation of the duties devolving upon a man who exercises the right of suffrage to understand fully the principles of our free Government; I say, under all these circumstances, it does seem to me that wisdom dictates to us the propriety, if possible, of fixing some rule by which that great right shall be protected from abuse, some rule by which we shall confine its exercise to those who are competent to use it judiciously.

I am not particularly anxious that this principle in my amendment shall prevail; but I have thought that perhaps as this is somewhat of an experiment, we might try it in the District of Columbia. It cannot operate very harshly upon the freed people of this District. You say that they cannot read and write; but this does not impose any prohibition upon them acquiring that faculty. It is rather a reason and a motive to stimulate them to the acquisition of knowledge, to acquire the ability to read and write; and in that respect it would operate as a distinct advantage to them. I think perhaps, Mr. President, in our eagerness and desire to be liberal in this direction, we are in danger of going too far, and that we ought to take counsel of some discretion at least, and in this, our first experiment, require some condition that the exercise of this great right shall be confined to those who may be expected to have some reasonable apprehension of what it means and how it ought to be used.

Mr. ANTHONY. I understand that it is in order to perfect the words proposed by the Senator from West Virginia to be inserted in lieu of what it is moved to strike out.

The PRESIDENT *pro tempore*. It is.

Mr. ANTHONY. Then I offer the follow-

ing amendment, to come in at the end of the matter proposed to be inserted:

But no person shall have the right to vote who in any way gave aid and comfort to the enemy during the late rebellion.

Mr. WILSON. The Senator from Rhode Island will not, I trust, press that amendment. We better not meddle with that matter of disfranchisement. There are but few of these persons here, so the prohibition will practically not amount to anything. As we are to accomplish a great object, to establish universal suffrage, we should let alone all propositions excluding a few men here. Disfranchisement will create more feeling and more bitterness than enfranchisement.

I will say to the Senator from West Virginia that if the colored men of the country possessed the right of suffrage you would not witness the legislation that has taken place in the rebel States during the last few months. You would not find these poor men hunted down, but, on the contrary, you would find some of the men who are now hunting them down passing unjust laws against them, seeking them, and professing friendship and devotion to their cause.

I do not believe the country has suffered much from 1789 to this time on account of the ignorance of voters; it has suffered far more from the character of the voters. The people of the country, the laboring men of the nation, desire proper legislation. They are for just, equal, and humane laws. They are patriotic, and they have generally proved it; and you often find them by the hundreds and by the thousands voting nearer right than many of the most intelligent men in the country who have personal ends to accomplish. I would rather trust the interests of the country and the rights of man to the votes of that class of men who have no personal objects, who have no desire except to secure just and equal legislation, than to the votes of tens and hundreds of thousands of men who have personal interests to secure by the legislation of the country, both State and national.

Many men who are not able to read and write are pure, high-minded, true men, who love their country and love justice. These men have made a better record for the last thirty years for country, for liberty, for justice and humanity than have some of the most learned men in the land. If you could establish as a standard of suffrage integrity of character, I would agree to it; but as only the eye of God can judge the heart of man we cannot make that standard a test.

I am against putting on the restriction of reading and writing in this District. Here is a race of men, law-abiding, hard-working, toiling men, who have been true to the country when others were false; who have been law-abiding when others violated the laws; who have been industrious and careful when others have been indolent and squandered their substance. I undertake to say that during the last ten years this class of men in this District have been the equals of the average of the white race of the District in the observance of the laws of the nation and the laws of God. They have been kept out of your schools and allowed no privileges of education, and now what do you propose to do? These men cannot read and write, but they are generally honest, upright, good men.

You do not propose to let them vote until they can read and write! Perhaps they will never be able to read and write. I think these poor toiling men, above all other men in the District, need to hold in their hands the ballot. It dignifies poor men, it gives them power and strength; and to confer it upon them it is perfectly safe for the District and safe for the whole country. There is a great difference between a man holding in his own hands the right to protect his life, his liberty, his property, and the rights of his wife and children, and the man who is forced to depend upon the good will of others.

We hear a good deal of the evils of ignorant suffrage. Sir, the country has suffered far

more during the last twenty years from the selfish conduct and unpatriotic conduct of intelligent men. There is no danger in extending suffrage; it is just and safe. We are now about to settle the question for the District of Columbia, and we should settle it upon the solid basis of allowing every man to vote who is twenty-one years of age; who has been a resident here one year; who is not a pauper; and who has not committed an infamous offense.

Mr. POMEROY. I think the Senator from Massachusetts underestimates or undervalues the importance of the amendment just moved by the Senator from Rhode Island. The Senator from Rhode Island has not moved the amendment in the language of the committee. The committee's amendment disfranchised persons who had voluntarily left this District to join the rebellion. That, as the Senator from Massachusetts well says, might be a small affair, being confined to a few persons. But the amendment now moved by the Senator from Rhode Island is a restriction on all persons who have been engaged in the rebellion, whether they left the District to join it or not. I do not know that the fact of having left the District added particularly to their offense, and the Senator from West Virginia thinks it was a palliation; because in the District they had no political rights, and, therefore, could not have committed a crime like that of a man who left the responsibilities of a State to join a rebellion against the United States. But the Senator from Massachusetts must be aware that this bill if it becomes a statute is to remain as we hope for all time to come, and I think it is important to have a statute here that shall disfranchise men engaged in the rebellion whether they left the District for that purpose or whether they now come for the first time.

I regard this bill as important, in the second place, because it is a sort of model, to be copied and patterned after by the States. In the Northwest I know there are States that have not hitherto given suffrage to colored men, but they are moving in that direction, and will copy this very statute, if we make it one, for their law. That is a reason why I think we ought to have the statute perfect here.

● I shall vote for the amendment of the Senator from Rhode Island because I believe that it is right. If a man who is so poor and unfortunate as not to be able to support himself is to be disfranchised; if a man who has been guilty of no crime, but who is not able to read and write, is to be disfranchised, why not disfranchise a man who has been engaged in rebellion; who has been for years making war on the Government; and even, perhaps, taken an oath of allegiance to another Government? Such a man ought to be naturalized, at any rate, before he comes back to our Government. Let him wait five years.

I agree with what the Senator from Massachusetts has said in regard to the requirements of reading and writing as a qualification for voting. That might be entertained in a State where all the people were allowed to go to school and learn to read and write; but it seems to me monstrous to apply it to a class of persons in this community who were legislated away from school, to whom every avenue of learning was shut up by law.

When the vote comes to be taken I shall vote to give the ballot to every man of the prescribed age and of the proper residence who has not been guilty of a crime, I care not for his complexion or his nationality. I have found that there are Americans who were not born here. A man is an American if he has got an American heart in him. Those of us who were born here could not help it. The man who is an American from choice deserves a little something in addition to those who are Americans from necessity. Therefore, I say I would not disfranchise those who come here joyfully to yield themselves to the moldering influence of American civilization.

I think we ought to have this amendment of the Senator from Rhode Island incorporated in the

bill. In my opinion it would be better to vote down the amendment of the Senator from West Virginia, and move this proposition as an amendment to the amendment reported by the committee.

Mr. ANTHONY. It is suggested that the word "voluntarily" should be inserted in my amendment, so as to be read "those who voluntarily gave aid and comfort." I will also modify the amendment by substituting the word "rebels" for "enemies."

I cannot respond to the appeal of my friend from Massachusetts to withdraw the amendment. I did not suppose it would meet the opposition of a single Senator, and least of all of the Senator from Massachusetts. There is no class of people, black or white, male or female, old or young, that I would disfranchise so quickly, or that I would enfranchise so reluctantly, as those who have taken up arms against the country; and all the embitterment which that may cause, and I have no doubt it will cause a great deal, is a very healthy embitterment, which I think we should not attempt to conciliate, but should rather put down.

Mr. COWAN. Mr. President, I should like to inquire of the honorable Senator from Rhode Island what provision he proposes for the purpose of determining who are the guilty persons at whom he aims. Who shall try, who shall determine their guilt? because that is most important. To insert merely a prohibitory provision without providing any means by which the persons stigmatized would be fixed, set apart from the rest of the society, is simply a nullity.

Another question I should like to put to the honorable Senator. However doubtful the question might be as to the people of the several States of the Union, I think nobody ever doubted that the inhabitants of the District of Columbia owed a direct and personal allegiance to this Government, that to them it was a complete, perfect Government in all respects. It is said some of them have violated the laws of that Government. Now, I would like to ask the honorable Senator upon what principle heretofore recognized among civilized Governments he can impose upon them any penalties except those which the laws impose, and how they can be imposed in any other way than by the law, and how he can propose to do that in the face of the plain provisions of the Constitution which forbid bills of attainder and which forbid *ex post facto* laws. Now, if I understand him, he proposes to deprive persons who have been heretofore entitled to the right of voting of that right. That is punishment, that is penalty. Have they incurred it? Was there any law imposing that punishment upon any offense in this District heretofore? If there was, then it may well be imposed now; but if there was no law of that kind, how can you now enact a law by which to bring about that result without encountering the difficulty of facing the *ex post facto* provision?

If these were inhabitants of States holding to the theory that the primary allegiance was not due to the United States but to the State, then we might with some show perhaps attempt to perpetrate this thing. But they are citizens of the District of Columbia, residing here, and who owe direct and personal allegiance to this Government. It is their Government; and I ask upon what principle can the Government deprive them of their right to a trial by the law, because it is not to be assumed that they are guilty. The law never makes that assumption. The very first principle of our law is the assumption that all men are innocent, and that not even all the guilty are to be punished, but only those of the guilty whom you can show to be guilty according to the forms and provisions of the law beyond all reasonable doubt. That is the right of an American citizen. If he has not that right, what has he? It is the sum-total of American liberty. It is the end and aim of this whole fabric. It is the result of eighteen hundred years of struggle.

Then when you meet a man who is alleged

to have aided the rebellion, what does the law presume? The law presumes he is innocent. The question of his guilt is the first thing to be determined. The law is upon his side with its humanity, and it presumes him innocent. How is the fact to be ascertained? The Constitution declares that it must be by due process of law. This is fundamental, elementary, lying at the bottom of the whole fabric. To take it away is to destroy everything that is sacred among us.

Now, I ask Senators to apply this to themselves. What would you say if you were charged with a crime? If you are innocent you would claim the right of an American citizen to have a fair trial according to the forms of the law; and as the law does not know whether you are innocent or guilty it gives to the guilty precisely the same rights that you have. Now how can that be done in this District? How is it possible? Is this offense to be found by a grand jury? Is that to be understood? If it is to be found by a grand jury, is it then to be tried by a petit jury, presided over by a judge learned in the law? And how is the judge to inflict this sentence; how is he to impose this penalty, a penalty which you propose to make here on the 10th of December, 1866, long after the offense was committed? And yet you say that you preserve the principle that no *ex post facto* law shall be passed!

Mr. President, with me it is a fundamental principle that citizens owe allegiance to the Government to which they are subjects, and that under no circumstance can those citizens incur any penalties whatever unless they be prescribed by the laws before the offenses to which they apply are committed. To impose them afterward is worse than all the tyrannies that have ever been denounced heretofore. The first thing the tyrant in the law is taught is to abhor the name of Caligula, and why? Not that he did not enact his laws before the happening of the offense, not that the laws were not prescribed and published before the offense; but he was denounced as the most horrible and cruel of all tyrants because he caused them to be written in small letters and posted upon the tops of high posts, so that the people could not read them, and then after his people had violated them, imposed the penalty. That was humanity itself compared with this mode of imposing a penalty. That was a cruelty which might have been surmounted by a step-ladder; but here is a cruelty contemplated for which there is no remedy and there can be no remedy. No man can tell what punishment his conduct may deserve if it is not to be determined until after he commits the crime.

Now, Mr. President, all this thing is simple; it is within the reach and grasp of gentlemen who love the Constitution and love the laws. If there is any man in the District of Columbia who has committed the crime of treason, here is a Government over him which has affixed a penalty to that crime, which has all the machinery ready to try him, ready to convict him, and ready to enforce the penalty to the utmost. Why should we overturn all that is sacred in the past; why should we wish to stultify ourselves at this late day in setting aside all this wise provision which has been tested by time and ages, and resort to this trifling. I beg pardon, I have no wish to offend by saying "trifling," but it is trifling. A man who commits treason, the highest of all crimes, is to be discharged upon being deprived of the right of suffrage! I am not one of those who believe that all participation in the late rebellion was treason, but I am of those who do believe that treason was committed against this Government; and I say that if a man from this District, within the shadow of this Capitol, who could have been protected by the power of the United States here, went away and joined himself with those who were making war upon this Government he was guilty of treason; and to tell me that he has incurred no other penalty than that of being deprived of the right of suffrage is trifling, and trifling with the most sacred of things.

What is to prevent such a man being punished, and punished by the law? You talk about punishing traitors; but if there are such people why are they not punished? You have courts and juries, you have all the machinery here, and you have, as I said before, victims within your grasp. If you want to vindicate the law, do so, the law that you prescribe; not upon high posts, not pitfalls that you dig for the citizen, but vindicate the laws you have enacted solemnly, which are upon your statute-books, and which are the will and the embodiment of the will of the American people, whose will is to be so much respected. Is there any difficulty about it? Who alleges a difficulty? Who says it cannot be done? Whoever says it cannot be done asserts the failure of the Government, because that Government which cannot enforce its laws, which cannot impose the penalty they prescribe, and which cannot punish the guilty according to their process and according to their provisions, is no Government at all; it has failed in the very thing for which it was established.

Then, Mr. President, in this District especially, where this is undoubtedly the Government; where there is no double allegiance; where there is no double system of laws; where there is no conceivable difficulty about the duty of the citizen and the line he is to take in regard to his country, I object to this. I object to this amendment, in the first place, that it provides no mode by which the offense can be ascertained; in the second place, that it imposes a punishment which is *ex post facto*; and in the third place, that it is trifling with the highest crime known among men. What would the honorable Senator from Rhode Island say if there were a dozen murderers in the District and he were to propose to exclude them from the right of suffrage? How he would shock the sensibilities of the whole community if he were to propose to discharge them upon such a condition as his amendment discloses here.

Mr. FESSENDEN. It does not propose that. The penalties of treason still remain.

Mr. COWAN. It proposes to impose a punishment for a specific offense. Whether it proposes to exempt them from punishment for the crime of treason I am not prepared to say; because there is nothing in the amendment which throws any light upon that subject; but the fair inference is that he is to be satisfied if he attains this end, that this is to be a condonation of the offense, this is to be in full discharge of it.

But to pursue the other idea a moment further; if he supposed these people guilty of murder, what would be thought of the proposition in that case? And yet treason is a crime of infinitely greater magnitude, of infinitely deeper dye than murder. In the case of murder how many men would rise in their places and protest against the imposition of such a penalty as this upon the murderer, even in addition to the others?

The Senator from Maine suggests that the penalties for treason still remain. Suppose they do and are to be executed according to the law, what is this additional penalty worth? Of how much effect will be disfranchisement after a man has suffered the capital penalty, after his neck is broken? So that upon either horn of the dilemma it is an absurdity. Impose such penalties upon the offender as he has earned by his crime; impose them in that dignified manner and according to the forms of the law which have been sanctified by ages and which every lawyer at least ought to stand by and stand upon, as he knows they are the molds in which liberty and freedom are cast, and in which they are preserved; let it be done decently and in order; and now, after the great struggle for national existence is over, after the smoke has cleared away from the battlefield, after a new and a better Union rises in the prospect, let us not degrade ourselves in the eyes of coming posterity by such trifling as this.

Mr. ANTHONY. Mr. President, I do not know of any Senator who can pile up objec-



tions or sweep them away more readily than the Senator from Pennsylvania; but certainly I did not expect to have the amendment objected to upon such grounds. The first is that there is no mode of ascertaining this disqualification provided in the amendment. There is a mode in the sixth section of the bill which provides for ascertaining all the qualifications, and I apprehend it is no more difficult to ascertain whether a man has violated this condition than it is to ascertain whether he is of the lawful age, whether he has been the proper time resident in the District and in the ward where he offers to vote. I suppose that will be ascertained, first, by the evidence of the person offering himself as an elector, and then by the evidence of other persons that may be adduced, all given under the pains and penalties of perjury; and if a man who has given aid and comfort to the enemy should come forward and offer to vote and should make oath that he had not given aid and comfort to the enemy, he could then be tried for perjury—

Mr. COWAN. You admit he would vote.

Mr. ANTHONY. Certainly; and if a person who was twenty years of age should come forward and swear that he was twenty-one he could vote; if a man should come in and swear that he had been here a year, when he had been here only six days, he would vote, but he would vote under the penalty of the law. The law provides the same penalty for illegal voting in that respect as in others.

I am sure the Senator from Pennsylvania does not differ from me in holding that suffrage is not a natural right, but a right derived from society, and society has perfect power to impose any conditions that it sees fit upon the exercise of that right. Here is a bill to extend that right to certain other persons, and because a class of persons are excluded from that privilege he says it is an *ex post facto* law, and a man is punished by it! This is not a bill to punish people; it is a bill to enfranchise people; but it excepts from the enfranchisement certain persons; and the Senator from Pennsylvania says that is imposing a penalty on them for a crime committed before the law was passed!

Mr. COWAN. If the honorable Senator from Rhode Island will allow me, I am perfectly free to say that if these people never had a right to vote before then he could except any of them he chooses. For instance, this is a bill to enfranchise the people of color of this city. It is not necessary that it should enfranchise all of them. It may exclude as many of them as it chooses. But the point I make is, that here is a man who has by law this right, and you propose to take it away from him by way of penalty.

Mr. ANTHONY. He has no right to vote now, because he is guilty of an infamous offense, and is not allowed to vote under any law. It works no injury upon such persons.

Mr. FESSENDEN. We have a right to change our laws in regard to suffrage.

Mr. COWAN. You cannot exclude him for an infamous offense until convicted.

Mr. ANTHONY. Does the Senator hold that we cannot change the law of suffrage by restricting it without imposing a penalty on all those who have ever exercised it? I think that is only more trifling—he will allow me to use his own word—than the allegation that because we refuse to allow a man to vote on the ground that he has committed treason, therefore we condone the offense! I do not see how the refusal to permit a man to vote on account of having committed an offense condones that offense, or how he is thereby relieved from the penalty of the law. I think that if we can have no stronger objections than those which my friend from Pennsylvania has urged, I shall have the unanimous vote of the Senate for the amendment.

Mr. BROWN. Mr. President, I do not intend to argue just at this moment the question of disfranchising all who have participated

in the rebellion; I may have occasion to say something about that when the question comes up in another shape; but as I understand it, the motion of the Senator from Rhode Island is intended to perfect the amendment offered by the Senator from West Virginia, which amendment contemplates requiring a test of reading and writing as a qualification for voting. I am opposed to that requirement. I do not think it is wise; I do not think it is right; and I therefore shall not vote in any way to perfect an amendment which has that in it. For that reason I shall cast my vote against the amendment offered by the Senator from Rhode Island. I do not wish to see that clause ingrafted on the bill, and I do not want to see it put in such a shape as will render it stronger before the Senate.

The PRESIDENT *pro tempore*. The motion is on the motion of the Senator from Rhode Island to amend the amendment offered by the Senator from West Virginia.

The motion was agreed to.

Mr. HENDRICKS. I voted for the proposition of the Senator from Maine to strike out the first clause of the amendment of the Senator from West Virginia under a misunderstanding. I thought the proposition was to strike out the last line of the amendment, which excludes from the right of voting those who cannot read and write. As I voted under a misunderstanding of the question, and as I think the striking out of this first clause mars the entire proposition to such an extent that the Senator cannot have the benefit of his entire proposition, I move to reconsider that vote.

The PRESIDENT *pro tempore*. The motion is to reconsider the vote on the motion of the Senator from Maine, striking out a portion of the amendment of the Senator from West Virginia.

The motion to reconsider was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from West Virginia, which is to strike out the first section of the amendment reported by the committee, and insert his amendment as it has been amended.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. I believe it is first in order to further perfect the amendment.

The PRESIDENT *pro tempore*. It is.

Mr. CONNESS. I move to strike out from the eighteenth line of the amendment of the Senator from West Virginia the words, "and who shall have paid the taxes assessed against them," so as to leave that out as a condition of suffrage. The language is, I think, a little ambiguous. The implication is left to some extent, as it appears to me, that unless taxes are assessed the suffrage is not to be conferred or extended. At least there is a little doubt there. Even if that were not the case, I do not know any reason why a debt to the State should be regarded and treated as more sacred than a debt to a citizen or a private party; and I for one do not believe in making the payment of debts a condition of suffrage. I wish to call the attention of the Senate to that condition, saying nothing as to how I shall vote eventually. I move to strike out the words I have indicated.

Mr. WILLEY. I have no very decided objection to that amendment, but I will suggest to the honorable Senator from California a reason why I think a provision of that kind ought to be incorporated into the bill prescribing the qualifications of voters. It must have been observed by him, it must be patent to his observation, that the population of this District is very fluctuating; there is nothing very stationary about a great proportion of it. They are here to-day and gone to-morrow. The idea had in view when I incorporated that provision in this clause of my amendment was that it would be some kind of evidence that they had a permanent residence here or some interest in

the District that might entitle them to the right of suffrage. I am, however, very indifferent about it, as, indeed, I am about the whole amendment as it is now amended.

Mr. CONNESS. I desire while the Senator is up to suggest to him that it also involves the difficulty of cases where an assessment against a citizen is pending which he complains of as being an unjust assessment, and the question is unadjusted and undecided. Unless the tax is paid by election day the citizen will be deprived of the right to vote.

Mr. WILLEY. I simply desire to say while I am up, that since the first clause of this amendment has been stricken out, and since it has been amended further by the proposition submitted by the Senator from Rhode Island, I cannot vote for the amendment in the position it now stands, and therefore I am perfectly indifferent in what form it is put.

Mr. HOWARD. I call for the reading of the amendment of the honorable Senator from West Virginia as amended.

The SECRETARY. It is moved to strike out the first section of the amendment reported by the committee, and in lieu of it to insert:

That in all elections to be held hereafter in the District of Columbia the following described persons, and those only, shall have the right to vote, to wit:

All persons, residents of said District, who have been duly mustered into the military or naval service of the United States during the late rebellion, and have been, or shall hereafter be, honorably discharged therefrom.

Male citizens of the United States who shall have attained the age of twenty-one years (excepting paupers, persons *non compos mentis*, or convicted of an infamous offense) and who, being residents of the ward or district in which they shall offer to vote, shall have resided in said district for the period of one year next preceding any election, and who shall have paid the taxes assessed against them, and who can read and who can write their names. But no person shall have the right to vote who in any way voluntarily gave aid and comfort to the rebels during the late rebellion.

Mr. SHERMAN. If I understand the amendment as it has now been amended, any person in the District of Columbia who cannot read or write, whether white or black, will be disfranchised.

Several SENATORS. Oh, no.

Mr. CRESWELL. Certainly; it is retrospective as well as prospective.

Mr. SHERMAN. The first clause, which allowed all who previously voted to vote is stricken out, and now the proposition is simply that persons who can read and write and have paid taxes, who have not taken part in the rebellion, shall vote. I am not prepared to apply a test of that kind to the people of this District, which has been applied in no State of the Union but one, I believe, and that the State of Massachusetts. Great dissatisfaction exists in that State as to the application of the principle. To say that a man who has not had the advantage of an early education, who probably had not the means and opportunity to acquire reading and writing, shall not be allowed to vote, and to apply that to the District of Columbia, it seems to me would be traveling backward in the race of progress instead of forward. The amendment is left so imperfect that it is scarcely worth while to debate it, for it cannot be adopted as it is.

Mr. SAULSBURY. Mr. President, if it was possible to make a thing wholly bad any better by amendments recognizing its bad principle, perhaps this amendment might be better than the section which is proposed to be stricken out; but while I would exclude no white man in the District of Columbia or elsewhere from exercising the right of suffrage because he could not read or write, I would not in the District of Columbia or elsewhere vote for negro suffrage under any circumstances or with the requirement of any amount of education. Sir, there are about thirty-five thousand of this class of people now in this District I am told. There are about one hundred thousand inhabitants I am informed in the District. Pass this bill, and this "paradise," as the District was said to be when the bill giving freedom to the slaves of this District was passed.



will be their paradise indeed, and in less than two years from this time it will be flooded by negroes from all parts of the country, and your mayors and your corporation officers will be composed of negroes. Sir, I want to keep my humble record right upon this question of negro suffrage, and therefore although an amendment to this bill might possibly be better than the original bill, yet that amendment recognizing the right of the negro race to vote I cannot under any circumstances vote for it.

I do not believe that the interest of the people of this District, whether white or black, requires such an enactment as this. In my own State, more than one fifth of whose inhabitants are composed of negroes, would I vote for any such measure as this? No, sir. Is there a Senator on this floor who, if in his own State there was such a proportion of negroes to the white population, would vote for giving the right of suffrage in his State to the negro race? Sir, it may do very well for gentlemen representing States in which there are not enough of the negro race to make mile-posts along the public roads to vote for a measure of this kind, because it is hardly within the range of possibility that any great amount of injury can result to such States; but where the races are so nearly equal, and where it is reasonable to suppose that the "paradise" opened up for negroes will be filled with more negroes than whites, I hold that I should be derelict in duty to my own race, which I believe to be superior in all respects to the negro race, if I were to vote to give them the right of suffrage under any circumstances whatever.

Mr. CONNESS. As the Senator having charge of this amendment has apparently abandoned it, and my motion was intended to perfect the amendment, I will withdraw the motion, so that the Senate may come to a vote upon the main amendment.

The PRESIDENT *pro tempore*. The motion to amend made by the Senator from California is withdrawn. The question is on the amendment of the Senator from West Virginia, [Mr. WILLEY,] striking out the first section of the amendment of the committee after the enacting clause, and inserting what has been read at the desk in lieu of the first section; and on that question the yeas and nays have been ordered.

Mr. KIRKWOOD. I received a note from the Senator from Tennessee, [Mr. FOWLER,] this morning stating that he is detained from the Senate by the illness of his wife, and for that reason he cannot be present.

The question being taken by yeas and nays, resulted—yea 1, nays 41; as follows:

YEA—Mr. Kirkwood—1.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness, Cowan, Creswell, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Henderson, Hendricks, Howard, Howe, Lane, Morgan, Morrill, Norton, Patterson, Poland, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—41.

ABSENT—Messrs. Anthony, Cattell, Cragin, Fowler, Grimes, Guthrie, Johnson, McDougall, Nesmith, and Nye—10.

So the amendment to the amendment was rejected.

Mr. MORRILL. I move to amend the amendment reported by the committee in section one, line eight, by striking out the word "six," the last word in that line, and also by striking out the word "months," the first word in the next line, and inserting the words "one year," so as to require a residence in the District for one year previous to any election instead of six months.

Mr. WILSON. I suggest to the Senator to modify that amendment so as to insert after the word "of," in the eighth line, the words "one year and in the ward or precinct in which he shall offer to vote six months previous to any election therein." That would require a residence of one year in the District and six months in the ward where the man offers to vote.

Mr. MORRILL. I have no objection to that.

Mr. SHERMAN. When is the election here?

Mr. MORRILL. In March.

Mr. WILSON. It does not matter when the election is. The election here will be next June, I think. But there is this consideration: we do not want to encourage men to go from one ward to another to carry a special election. What we want is everybody to vote and to have honest voters. I think if we require a residence of one year in the District and six months in the ward or election precinct where the man offers to vote it will be a check and a guard upon illegal voting and secure fair play.

Mr. CRESWELL. I suggest to the honorable Senator from Massachusetts that his amendment is imperfect unless he further provides that a man moving from one ward to another shall have the right to vote in the ward from which he moved until he acquires the right to vote in the ward in which he has moved. Otherwise, a citizen of Washington might be five months in a ward and in that way lose his vote, although he had never been out of the city.

Mr. WILSON. I think he ought to lose it.

Mr. CRESWELL. I think it unjust.

Mr. WILSON. There is no reason on earth why he should vote.

Mr. CRESWELL. I differ from the honorable Senator in that respect.

Mr. WILSON. In all the States there is such a provision as this.

Mr. CRESWELL. No, sir, not in all the States; not in Maryland.

Mr. WILSON. It is possible that the State of Maryland may have so foolish a law as that suggested, but I do not believe any other State has got it. At any rate, I do not think any one ought to vote on a residence of that kind. I am for every man of proper age having the right to vote; but I am for guarding the ballot-box against corruption. If you allow a man to vote on a residence of a year or six months in the District, and there comes a close election, you will find men moving from one ward into another to carry the election. Such a thing ought to be prevented, and therefore I propose to modify the amendment of the Senator from Maine so as to require one year's residence in the district and six months in the ward or precinct where he shall offer to vote. If six months is considered too long, I will say three months. ["Say three months."] Very well; I will adopt that change.

The PRESIDENT *pro tempore*. Does the Senator from Maine accept the modification of his amendment as proposed by the Senator from Massachusetts?

Mr. MORRILL. It is rather against my judgment. I will not accept it.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Maine to strike out in the eighth and ninth lines of the amendment of the committee the words "six months," and to insert "one year."

The amendment was agreed to.

Mr. WILSON. I desire now to offer the amendment that I suggested a moment ago. The section as it now stands requires a residence of one year in the District. I propose to add after the words "one year," which have just been inserted in line eight, section one, the words, "and three months in the ward or election precinct in which he shall offer to vote."

Mr. POMEROY. I suggest to the Senator that he can accomplish what he desires by moving his amendment in another place. If the amendment is inserted after the eighth line, it will be construed that the person must have lived at the one place a year and three months. I suggest to him to insert after the word "vote" in the eleventh line the words "in the ward or election precinct in which he has resided three months prior to the election." That will accomplish what the Senator has in view; but if it is inserted in the other place it will be construed to mean that the elector must live a year and three months in that place.

Mr. WILSON. I think the Senator is altogether mistaken in that, but I have no objection to having the amendment inserted where the Senator suggests. If the Senator will read the

constitutions of the several States he will find in all of them express words in this form requiring a local residence of so many months.

The amendment to the amendment was agreed to.

Mr. COWAN. I move to amend the amendment of the committee in section one, line two, by striking out the word "male" before the word "person."

Mr. President, it is very well known that I have always heretofore been opposed to any change of the kind contemplated by this bill, but while opposing that change I have uniformly asserted that if it became inevitable, if the change was certain, I should insist upon this change as an accompaniment. It is agreed—for I suppose when my honorable friend from Rhode Island [Mr. ANTHONY] and myself agree to it, it will be taken to be the universal sentiment of the body—that the right of suffrage is not a natural right, but a conventional right, and that it may be limited by the community, the body-politic, in any manner they see fit and consistent with their sense of propriety and safety.

The proposition now before the Senate is to confer on the colored people of this District the right of franchise; that is, the advocates of the bill say that that will be safe and prudent and proper, and will contribute, of course, to the happiness of the mass of the inhabitants of the District; and they further say that no reason can be given why a man of one color should not vote as well as a man of another color, especially when both are equally members of the same society, equally subjected to its burdens, equally to be called upon to defend it in the field, and all that. I agree to a great portion of that. I do not know and never did know any very good reason why a black man should not vote as well as a white man, except simply that all the white men said, "We do not like it." I do not know of any very good reason why a black woman should not marry a white man, but I suppose the white man would give about the same reason, he does not like to do it. There are certain things in which we do not like to go into partnership with the people of different races and between whom and ourselves there are tribal antipathies. It is now proposed to break down that barrier, so far as political power may be concerned, and admit both equally to share in this privilege; and since the barrier is to be broken down, and since there is to be a change, I desire another change, for which I think there is quite as good a reason, and a little better, perhaps, than that offered for this. I propose to extend this privilege not only to males, but to females as well; and I should like to hear even the most astute and learned Senator upon this floor give any better reason for the exclusion of females from the right of suffrage than there is for the exclusion of negroes. I want to hear that reason. I should like to know it.

Now, for my part, I very much prefer, if the franchise is to be widened, if more people are to be admitted to the exercise of it, to allow females to participate than I would negroes; but certainly I shall never give my consent to the disfranchisement of females who live in society, who pay taxes, who are governed by the laws, and who have a right, I think, even in that respect, at times to throw their weight in the balance for the purpose of correcting the corruptions and the viciousness to which the male portions of the family tend. I think they have a right to throw their influence into the scale; and I should like to hear any reason to be offered why this should not be.

Taxation and representation ought to go hand in hand. That we have heard here until all ears have been wearied with it. If taxation and representation are to go hand in hand, why should they not go hand in hand with regard to the female as well as the male? Is there any reason why Mrs. Smith should be governed by a goat-head of a mayor any more than John Smith, if he could correct it? He is paid by taxes levied and assessed on her

property just in the same way as he is paid out of taxes levied on the property of John. If she commits an offense she is subjected to be tried, convicted, and punished by the other sex alone; and she has no protection whatever in any way either as to her property, her person, or to her liberty very often.

There is another thing, too. A great many reflections have been made upon the white race keeping the black in slavery. I should like to know whether we have not partially kept the female sex in a condition of slavery, particularly that part of them who labor for a living? I do not know of any reason in the world why a woman should be confined to two dollars a week when a man gets two dollars a day and does not do any more work than she does, and does not do that which he does do quite so well at all times.

Mr. President, if we are to adventure ourselves upon this wide sea of universal suffrage, I object to manhood suffrage. I do not know anything specially about manhood which dedicates it to this purpose more than exists about womanhood. Womanhood to me is rather the more exalted of the two. It is purer; it is higher; it is holier; and it is not purchasable at the same price that the other is, in my judgment. If you want to widen the franchise so as to purify your ballot-box, throw the virtue of the country into it; throw the temperance of the country into it; throw the purity of the country into it; throw the angel element, if I may so express myself, into it. [Laughter.] Let there be as little diabolism as possible, but as much of the divinity as you can get.

Therefore, Mr. President, I put this as a serious question for the consideration of this body. In the presence of the tendencies of the age and in recognition of this movement, which my honorable friend from Massachusetts is always talking about, and of which he seems to have had premonition long before it came to any of the rest of us—I say in the face of this movement and in recognition of it, I earnestly beg all patriots here to think of this proposition. It is inevitable. How are you to resist when it is made the demand of fifteen million American females for this right, which can be granted and which can be as safely exercised in their hands as it can in the hands of negroes? And I would ask gentlemen while they are bestowing this ballot which has such merit in it, which has such a healing efficacy for all ills, which educates people, and which elevates them above the common level of mankind, and which, above all, protects them, how they will go home and look in the face their sewing women, their laboring women, their single women, their taxed women, their overburdened women, their women who toil till midnight for the barest subsistence, and say to them, "We have it not for you; we could give it to the negro, but we could not give it to you."

How would the honorable Senator from Massachusetts face the recent meeting of the Anti-Slavery Society in Philadelphia? How would he answer the potent arguments which were offered there and which challenge an answer even from the Senate of the United States, when made by women of the highest intellect, perhaps, on the planet, and women who are determined, knowing their rights, to maintain them and to secure them? I ask honorable Senators of his faith how they are to answer those ladies there? If this is refused, how are Senators to answer, especially those who recognize the onward force of this movement, who are up to the tendencies of the times, who desire to keep themselves in front of the great army of humanity which is marching forward just as certainly to universal suffrage as to universal manhood suffrage. Therefore, Mr. President, I offer this amendment and ask for the yeas and nays upon it.

They yeas and nays were ordered.

Mr. ANTHONY. I move that the Senate do now adjourn. ["Oh, no."]

Mr. WILSON. I hope not.

The PRESIDENT *pro tempore*. The mo-

tion is not debatable and must be put unless withdrawn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 10, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Thursday last was read and approved.

The following members appeared in addition to those heretofore reported:

Maryland—Benjamin G. Harris.

New York—Roscoe Conkling and Edwin N. Hubbell.

Michigan—John W. Longyear.

New Hampshire—Gilman Marston.

### ORDER OF BUSINESS.

The SPEAKER announced as the first business in order during the morning hour, the call of States for the introduction of bills on leave, for reference to appropriate committees, not to be brought back by a motion to reconsider.

### GOVERNMENT OF REBELLIOUS STATES.

Mr. WARD, of New York, introduced a bill to guaranty to certain States that have been in rebellion a republican form of government; which was read a first and second time, referred to the joint committee on reconstruction, and ordered to be printed.

### ATLANTIC TELEGRAPH COMPANY.

Mr. DARLING introduced a bill granting the right to land submarine cables of American Atlantic Telegraph Company; which was read a first and second time, and referred to the Committee on the Post Offices and Post Roads.

### REPEAL OF NEUTRALITY LAWS.

Mr. ROGERS introduced a bill to repeal the neutrality laws; which was read a first and second time, and referred to the Committee on the Judiciary.

### PRESIDENTIAL PROCLAMATIONS.

Mr. BINGHAM introduced a bill to declare valid and conclusive certain proclamations of the President and acts in pursuance thereof, or of his orders, in the suppression of the late rebellion against the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. FARQUHAR introduced a bill to "make treason odious" by disfranchising within the District of Columbia all persons who voluntarily bore arms against the United States, or accepted or exercised the functions of office from or under the so-called confederate States of America or any of them; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### AGRICULTURAL COLLEGES.

Mr. ARNELL introduced a bill relative to the grant of land for the establishment of agricultural colleges; which was read a first and second time, and referred to the Committee on Agriculture.

### REGISTER OF WILLS FOR THE DISTRICT.

Mr. WASHBURN, of Illinois, introduced a bill in relation to the appointment of the register of wills for the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

### CIRCUIT COURT IN ILLINOIS.

Mr. CULLOM introduced a bill providing for an additional term of the circuit court of the United States for the southern district of the State of Illinois; which was read a first and second time, and referred to the Committee on the Judiciary.

### ALONZO HYDE.

Mr. FERRY introduced a bill for the relief of Alonzo Hyde; which was read a first and

second time, referred to the Committee of Claims, and ordered to be printed.

### NAVAL DEPOTS ON THE LAKES.

Mr. PAINE introduced a bill to provide for the establishment of one or more naval depots on the northern and northwestern lakes of the United States; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

### LAND-GRANT RAILROAD IN CALIFORNIA.

Mr. HIGBY introduced a bill granting lands to aid in the construction of a railroad from the city of Stockton to the town of Copperopolis, in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

### BRANCH MINT AT SAN FRANCISCO.

Mr. McRUER introduced a joint resolution to authorize the Secretary of the Treasury to purchase a suitable site for a branch mint at San Francisco, California; which was read a first and second time, and referred to the Committee on Appropriations.

### BLESSINGTON RUTLEDGE.

Mr. HENDERSON introduced a bill confirming the title of certain lands to Blessington Rutledge, of Oregon; which was read a first and second time, and referred to the Committee on Private Land Claims.

### DANIEL COLE.

Mr. LATHAM introduced a bill for the relief of Daniel Cole, of Hampshire county, Virginia; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### MRS. LOUISA FITCH.

Mr. LATHAM also introduced a bill for the relief of Mrs. Louisa Fitch, widow of the late Captain E. P. Fitch, assistant quartermaster United States volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

The SPEAKER stated the next business in order to be the call of States for resolutions.

### PENSIONERS.

Mr. PERHAM submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be, and are hereby, instructed to inquire whether any persons in the late rebel States whose names were stricken from the pension-rolls on account of their participation in the rebellion have been restored; and if so, by what authority; also to ascertain the names and residences of the persons restored.

### VOLUNTEER BREVETS.

Mr. BLAINE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law that officers appointed from the volunteer service into the regular Army may be breveted in the latter for gallant, meritorious, or faithful conduct in the former.

### SAFETY OF PASSENGERS.

Mr. RICE, of Maine, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be, and they hereby are, directed to inquire what further legislation, if any, is necessary for the better security of the health and lives of passengers upon vessels and steamers sailing under the laws of the United States; that they be authorized to send for persons and papers, examine apparatus and machinery, and cause such practical tests thereof to be made as they may deem necessary, and report by bill or otherwise.

### NAVY-YARDS.

Mr. ROLLINS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to report a bill making the appointment of heads of the different mechanical departments of the various navy-yards subject to the approval of the Senate.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### NORFOLK RIOT.

Mr. ELIOT submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House any report or evidence which may be in the possession of the War Department, or of any bureau connected therewith, in relation to the riot at Norfolk, Virginia, on the 16th of April, 1866; also any evidence or documents relating to the alleged imprisonment, in Georgia, of Rev. William Fincher, a missionary to the freedmen in that State.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRAZILIAN STEAMERS.

Mr. ALLEY submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Postmaster General be requested to communicate to this House the number and time of passages of the ocean Brazilian steamers, and the number of failures of said line to connect with the returning steamers from the port of New York to those of Brazil.

#### OFFICERS' ACCOUNTS.

Mr. HART submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs inquire into the expediency of such legislation as shall better facilitate the settlement of military officers' accounts with the War Department.

#### PARDONS.

Mr. HART also, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States furnish to this House a list of names of all persons engaged in the late rebellion against the United States Government who have been pardoned by him from April 15, 1865, to this date; that said list shall also state the rank of each person who has been so pardoned, if he has been engaged in the military service of the so-called confederate government, and the position if he shall have held any civil office under said so-called confederate government; and shall also further state whether such person has at any time prior to April 14, 1861, held any office under the United States Government, and if so, what office, together with the reasons for granting such pardons; and also the names of the person or persons at whose solicitation such pardon was granted.

Mr. HART moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MILITARY DISCHARGES.

Mr. HOTCHKISS introduced a bill to authorize the granting of discharges to certain volunteers in the late war; which was read a first and second time, and referred to the Committee on Military Affairs.

#### FOREIGN VESSELS AND COASTWISE TRADE.

Mr. BRANDEGEE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be, and are hereby, instructed to inquire whether any foreign vessels have been or are engaged in the coastwise trade contrary to the laws of the United States, and to report the facts to this House, with such recommendations as shall prevent the same, by bill or otherwise.

#### SOLDIERS EMPLOYED AS CLERKS.

Mr. BANKS submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be requested to consider the expediency of providing for an increase of the pay of soldiers who are detailed for the performance of clerical duties in the several Departments of the Government.

#### TAX ON MANUFACTURES.

Mr. BROOMALL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of abolishing the five per cent. internal revenue tax on manufactures and the products of mechanical skill, or in some other way relieving those interests from a portion of their present burdens.

#### EXTINGUISHMENT OF THE NATIONAL DEBT.

Mr. KELLEY offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the proposition that the war debt of the country should be extinguished by the generation that contracted it is not sanctioned by sound principles or national economy, and does not meet with the approval of this House.

Mr. WASHBURNE, of Illinois. I think that had better go to the Committee of Ways and Means.

Mr. WENTWORTH. I move to lay it on the table.

Mr. KELLEY. Let it be referred to the Committee of Ways and Means. I demand the previous question.

The motion to lay the resolution on the table was not agreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was referred to the Committee of Ways and Means.

#### TAX ON MANUFACTURES.

Mr. WELKER submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law that the tax on the manufacture of harness, saddles, tin-ware, and all kinds of leather, and on wagons and carriages, be reduced to two per cent. instead of five, as now provided by law, making those articles of production bear the same taxation as clothing, boots, and shoes, and report by bill or otherwise.

#### DISTILLERY INSPECTORS.

Mr. WELKER also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law that the inspector for all distilleries making less than three hundred gallons of whisky per day shall be paid by the Government, and not by the distillers as now provided by law, and report by bill or otherwise.

#### RECONSTRUCTION.

Mr. SPALDING offered the following resolution:

*Resolved*, That the committee on reconstruction be requested to inquire into the expediency of passing a joint resolution declaratory of the purpose of Congress in the reception of Senators and Representatives from the rebellious States, respectively, upon the ratification by them of the constitutional amendment and the establishment of republican forms of government not inconsistent with the Constitution of the United States.

The SPEAKER. Under the order of the House at the last session, this resolution will be referred to the committee on reconstruction without debate.

#### SOLDIERS' LOST DISCHARGES.

Mr. BUCKLAND submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and are hereby, instructed to inquire into the expediency of passing a law for the relief of discharged soldiers who have accidentally lost their discharges, and to report by bill or otherwise.

#### OHIO IDIOTIC ASYLUM.

Mr. GARFIELD submitted the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting to the State of Ohio the lumber and other materials belonging to the United States at Camp Chase, Ohio, to be used in the erection of the State Asylum for the idiotic, and that they report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### TAX ON DISTILLERS.

Mr. McKEE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a bill for the exemption of manufacturers of distilled spirits whose product is annually less than twenty barrels from the provisions of the act approved July 13, 1866, (internal revenue law,) to wit: from the provisions of section twenty-seven, requiring the owner of each distillery to provide a bonded

warehouse; from section twenty-nine, requiring them to pay for an inspector and relieving them from that inspector; section thirty-four, requiring that all spirits distilled during each day of twenty-four hours shall be conveyed on that day into one of the receiving cisterns prepared for that purpose, and that such cisterns shall be connected with the outlet of the still by suitable pipes or other apparatus so constructed as always to be exposed to the view of the inspector.

#### TENNESSEE HOME GUARDS.

Mr. STOKES submitted the following resolution; which was read, considered, and agreed to:

Whereas Congress on the 28th day of July, 1866, passed an act proposing to equalize the bounties of soldiers who served in the late war for the suppression of the rebellion and for the preservation of the Constitution; whereas in the State of Tennessee there were a number of regiments recruited and mustered into the United States service for the term of twelve months, (known as "Home Guards," who rendered good service; and whereas said law evidently fails in its object to do justice to many of those who bore the burdens; Therefore,

*Be it resolved*, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the justice of said claim, and report by bill or otherwise.

#### PENSION LAWS.

Mr. JULIAN. I offer the following resolution:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of so amending the pension laws as to allow applicants for pensions to recover the same from the date of discharge.

Mr. SCHENCK. I move to amend the resolution by striking out "Committee on Military Affairs" and inserting in lieu thereof "Committee on Invalid Pensions."

Mr. JULIAN. I have no objection to that. The amendment was agreed to.

The resolution, as amended, was then adopted.

#### INCREASED PAY OF CLERKS.

Mr. FARQUHAR submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be instructed to inform this House what amount of the appropriation of \$160,000 made by the present Congress during its first session as increased salary for clerks and employes in the Treasury Department has been paid, to whom it was paid, the amount to each person, the position or office held by them, and the regular salary or pay they are now or were then receiving from the Government.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HILL submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to inform this House what portions of the sums of \$250,000 granted by the act of March 2, 1865, and of \$160,000 appropriated by the act of July 23, 1866, have been expended, and how expended, giving the names of the recipients of any portion of such funds, the amounts received, and the date of payment thereof, and the position of such recipients in said Department at the time of such payments.

Mr. HILL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PAYMENT FOR SLAVES.

Mr. MOULTON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be, and they are hereby, instructed to inquire into the policy and expediency of repealing all laws providing for the payment under any circumstances to persons claiming to be the former masters or owners of persons heretofore known as slaves for the loss of such slaves under any circumstances whatever, and whether any constitutional objection exists to the repeal of such laws, and that they report to this House by bill or otherwise.

#### NATIONAL CURRENCY.

Mr. ROSS. I offer the following resolution:

*Resolved*, That the Committee on Banking and Currency be instructed to inquire into the expediency of withdrawing the national currency and winding



up the national banks and furnishing the country in lieu of said national currency with greenbacks or other currency of similar character, and that they report by bill or otherwise.

Mr. WASHBURN, of Illinois. I move to lay that resolution upon the table.

Mr. ROSS. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 58, not voting 46; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Broomall, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Conkling, Darling, Dawes, Dawson, Defrees, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Garfield, Goodyear, Grinnell, Griswold, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Jencks, Julian, Kasson, Ketcham, Koontz, William Lawrence, Longyear, Marston, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Myers, O'Neill, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Shellabarger, Sitgreaves, Spalding, Stokes, Taber, Thayer, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Williams, Stephen F. Wilson, and Woodbridge—87.

NAYS—Messrs. Ancona, Baker, Blow, Boyer, Bromwell, Buckland, Campbell, Cobb, Cook, Cooper, Cullom, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Hale, Abner C. Harding, Hart, Henderson, Higby, Hise, Ingersoll, Kelley, Kelse, Kuykendall, Ladin, Latham, LeBlond, Loan, Marshall, McIndoe, McKee, Moulton, Niblack, Nicholson, Noell, Orth, Paine, Phelps, Ritter, Rogers, Ross, Shanklin, Sloan, Stevens, Stilwell, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Upson, Andrew H. Ward, Wentworth, and James F. Wilson—58.

NOT VOTING—Messrs. Delos R. Ashley, Bergen, Culver, Davis, Deming, Denison, Dumont, Eggleston, Glossbrenner, Aaron Harding, Harris, Hawkins, Hayes, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Humphrey, Hunter, Johnson, Jones, Kerr, George V. Lawrence, Leftwich, Lynch, Marvin, Maynard, McClurg, McCullough, Newell, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, Schenck, Seofield, Starr, Strouse, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Whaley, Windom, Winfield, and Wright—46.

So the resolution was laid on the table.

Mr. HARDING, of Illinois, submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Committee on Banking and Currency be instructed to report to this House a bill for a law which shall prohibit any diminution of the national legal-tender currency, and that it is the right and the interest of the whole people of the United States that the Government should issue all bills intended and designed to circulate as money, and the exercise of the power to issue bank notes or currency by corporations under national or State law should be discouraged.

The question was upon seconding the call for the previous question.

Mr. WASHBURN, of Illinois. This resolution is mandatory in its character. I move that it be laid upon the table.

Mr. HARDING, of Illinois. Upon that motion I call the yeas and nays.

The yeas and nays were ordered.

Mr. ANCONA. I desire to give notice that if the motion to lay on the table shall fail, I shall call for a division of the question upon agreeing to the resolution.

The question was taken; and it was decided in the affirmative—yeas 94, nays 60, not voting 47; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Sidney Clarke, Conkling, Darling, Dawes, Dawson, Defrees, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hill, Hise, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Hulburd, Jencks, Kasson, Kelley, Kerr, Ketcham, Koontz, Ladin, Latham, Longyear, Marston, Marvin, McKuer, Mercer, Miller, Moorhead, Morrill, Myers, Nicholson, Noell, O'Neill, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Shellabarger, Sitgreaves, Spalding, Stokes, Thayer, Upson, Van Aernam, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—94.

NAYS—Messrs. Ancona, Baker, Blow, Buckland, Bundy, Campbell, Reader W. Clarke, Cobb, Cook, Cooper, Cullom, Eggleston, Eldridge, Farnsworth, Finck, Goodyear, Hale, Aaron Harding, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kelse, Kuykendall, William Lawrence, Lo-

Blond, Loan, Marshall, Maynard, McClurg, McIndoe, McKee, Moulton, Niblack, Orth, Paine, Pike, Ritter, Rogers, Ross, Schenck, Shanklin, Sloan, Stevens, Stilwell, Taber, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Burt Van Horn, and Andrew H. Ward—60.

NOT VOTING—Messrs. Delos R. Ashley, Bergen, Chanler, Culver, Davis, Deming, Denison, Dumont, Glossbrenner, Harris, Hogan, Asahel W. Hubbard, Demas Hubbard, Humphrey, Hunter, Johnson, Jones, George V. Lawrence, Leftwich, Lynch, McCullough, Morris, Newell, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Rousseau, Seofield, Starr, Strouse, Nelson Taylor, Henry D. Washburn, Whaley, Winfield, and Wright—47.

So the resolution was laid on the table.

#### APPOINTMENT OF COMMITTEES, ETC.

The SPEAKER announced the following committees ordered by the House:

##### STANDING COMMITTEE.

*On Freedmen's Affairs*—Messrs. Thomas D. Eliot, of Massachusetts; William D. Kelley, of Pennsylvania; Godlove S. Orth, of Indiana; John A. Bingham, of Ohio; Nelson Taylor, of New York; Benjamin F. Loan, of Missouri; Josiah B. Grinnell, of Iowa; Halbert E. Paine, of Wisconsin; and Samuel S. Marshall, of Illinois—being the same as select committee on freedmen of the last session.

##### SELECT COMMITTEES.

*On New Orleans Riots*—Messrs. Thomas D. Eliot, of Massachusetts; Samuel Shellabarger, of Ohio, and William B. Campbell, of Tennessee.

*On Murder of United States Soldiers in South Carolina*—Messrs. Frederick A. Pike, of Maine; John F. Farnsworth, of Illinois, and Edmund Cooper, of Tennessee.

*On Southern Railroads*—Messrs. Horace Maynard, of Tennessee; Joseph W. McClurg, of Missouri; Ulysses Mercur, of Pennsylvania; Henry D. Washburn, of Indiana, and John W. Chanler, of New York.

*On Frauds in Internal Revenue*—Messrs. William A. Darling, of New York; Fernando C. Beaman, of Michigan; Benjamin Eggleston, of Ohio; Leonard Myers, of Pennsylvania, and Lawrence S. Trimble, of Kentucky.

The SPEAKER also announced the appointment of Hon. ELLIASH HISE, of Kentucky, in place of Hon. Henry Grider, deceased, as a member of the joint committee on reconstruction.

The SPEAKER also announced the following appointments to fill vacancies on committees:

*Committee on Elections*—William B. Stokes, of Tennessee.

*Committee for the District of Columbia*—Horace Maynard, of Tennessee, and William H. Koontz, of Pennsylvania.

*Committee on Banking and Currency*—John W. Hunter, of New York.

*Committee on Military Affairs*—Lovell H. Rousseau.

*Committee on the Militia*—Halbert E. Paine, of Wisconsin; Isaac R. Hawkins, of Tennessee, and Andrew H. Ward, of Kentucky.

*Committee on Mines and Mining*—Nathaniel G. Taylor, of Tennessee.

*Committee on Public Expenditures*—Samuel M. Arnell, of Tennessee.

*Committee on the Territories*—Edmund Cooper, of Tennessee.

*Committee on Invalid Pensions*—John W. Leftwich, of Tennessee.

*Committee on Roads and Canals*—Lovell H. Rousseau, of Kentucky.

*Committee on Mileage*—Andrew H. Ward, of Kentucky.

*Committee on War Debts of Loyal States*—Isaac R. Hawkins, of Tennessee.

*Committee on Expenditures of Navy Department*—John W. Hunter, of New York.

#### NAVIGATION OF NEWARK BAY, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of July 27, 1866; which was read, as follows:

##### NAVY DEPARTMENT.

WASHINGTON, December 8, 1866.

SIR: I had the honor to receive, at the close of its last session, from the House of Representatives, a

resolution passed by it on the 27th of July, 1866, requesting the Secretary of the Navy "to appoint a suitable officer, whose duty it shall be to proceed to Newark, in the State of New Jersey, and examine into the condition of the navigation of Newark bay and the navigation of the mouths of the Passaic and Hackensack rivers, and whether the same needs improvement, and report the result to the House on the first Monday in December next."

This Department has not, as yet, taken any action in pursuance of the resolution as the nature of the surveys and examinations required is such as to lead it to apprehend that the resolution was directed to it by mistake. The survey and examination of our bays and harbors are matters confided to the Coast Survey Office, a branch of the Treasury Department; and it was probably the intention of the House of Representatives that the work contemplated by its resolution should be executed under the auspices of that Department. The Navy Department possesses no facilities for making such surveys and examinations.

Very respectfully,

GIDEON WELLES,  
Secretary of the Navy.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives.

The SPEAKER. The resolution to which this communication is a reply was offered by the gentleman from New Jersey, [Mr. WRIGHT,] who is not now in his seat.

Mr. BANKS. I move that the communication be laid on the table, and ordered to be printed.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. SHANKLIN asked leave of absence for Mr. LEFTWICH till next Monday.

Leave was granted.

Mr. ORTH asked leave of absence for Mr. WASHBURN, of Indiana, for two weeks from to-day.

Leave was granted.

#### MEETINGS OF CONGRESS.

Mr. MCINDOE. I demand the regular order.

The SPEAKER. The first business in order is the consideration of the bill (H. R. No. 830) to fix the times for the regular meetings of Congress, on which the gentleman from Ohio [Mr. SHELLABARGER] is entitled to the floor; but when the bill was last under consideration he had yielded temporarily to the gentleman from California, [Mr. HIGBY.]

Mr. SHELLABARGER. I yield to the gentleman from California for so long a time as he may desire.

Mr. HIGBY. Mr. Speaker, I join with the gentleman from Ohio [Mr. SHELLABARGER] and other members of the House in the desire that some law may be passed giving to the next and each succeeding Congress the power to convene so soon as its existence commences; that is, on the 4th of March. I know of no good reason why so important a branch of the Government should not have in its own hands the power to act in a legislative capacity at any time within the congressional term without being subject to the will of any other branch of the Government, and especially in view of the fact that the President of the United States in his recent annual message has expressed his regret that Congress has not carried out the policy which he indicated in his message of 1865, notwithstanding the fact that that policy has received such emphatic condemnation at the hands of the nation.

But, Mr. Speaker, I desire to address myself more particularly to the amendment proposed by the gentleman from Ohio, [Mr. SHELLABARGER.] So far as regards the main features of this bill without this amendment, I am in favor of them; and I should have no objection to the measure if it were so amended as simply to provide that the executives of the several States shall be empowered to fix a time for holding elections, and that if they do not do so the States may hold their elections under the laws of their respective Legislatures. But, Mr. Speaker, the amendment as now offered by the gentleman from Ohio is utterly impracticable, because it proposes that every one of the loyal States shall be represented in Congress on the 4th of March next. All of us would desire this if it were practicable, but under the amendment in its present shape it will be utterly



impossible for the State of California to be represented in this House on the 4th of March next, by holding an election on the 22d of February. I do not think that in the time intervening between the 22d of February and the 4th of March, which would be only ten days, the returns of the election could be sent in to Sacramento, the capital of California, so that certificates could be issued to the members who might be elected. Again, sir, from twenty to twenty-eight days would be required for the members to get from California to this city. Therefore it is utterly futile to suppose that under the amendment proposed the State of California could be represented here at the beginning of the session commencing on the 4th of March next.

There must be an amendment to the amendment of the gentleman from Ohio, [Mr. SHELLABARGER,] that as early as the fore part of January there should be an election called, or else it will be utterly impracticable, as I have stated.

Mr. Speaker, if the gentleman from Ohio wishes to occupy the floor I will make no further remarks. We have a registry law in our State passed by the Legislature commencing on the first Monday in December, 1865; that Legislature has adjourned, and the next regular session would commence on the first Monday in December, 1867, in two years. That registry law was passed to make preparation for the election to be held on the second Tuesday in September, 1867. There is no election in the State during the year 1866.

My judgment is, if this amendment should be made mandatory on that State as well as upon others, we would find the State of California with not one tenth of her voters prepared to go to the polls and vote at this special election. It would be disastrous. If it be put in the alternative, to put it in the power of the Executive, it would be well. I think, perhaps, the amendment which my friend and colleague holds in his hand will answer the purpose.

But, sir, I shall most cordially vote for this bill as reported without amendment, if we cannot get it, leaving our State to take the risk of having no representation at the first session. I believe it is the duty of Congress to keep together, or to have the power to get together on the 4th of March, and we must suffer the consequences if we cannot be represented. I think the disaster would be greater to force legislation upon the State than to have no representation.

Mr. SHELLABARGER. Mr. Speaker, I have since the adjournment of the House had pretty full consultation on this subject, and find that every possible method we have attempted to devise meets with insuperable objections from some one or other. I think, therefore, it would be best for me, with leave of the House, to withdraw my proposition and leave the responsibility with the States which have not elected. I withdraw my proposition.

Mr. SCHENCK. I move to amend by striking out the second section, as follows:

SEC. 2. *And be it further enacted*, That section seventeen of the act approved July 23, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," be so amended that no Senator or Representative in Congress, who may be a member of an immediately succeeding Congress, shall receive any allowance for mileage for traveling to the place of meeting to attend the first session of such succeeding Congress.

And in lieu thereof to insert the following, in order to conform the section to the amendment made in the first section:

SEC. 2. *And be it further enacted*, That section seventeen of the act approved July 23, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," be so amended that no Senator or Representative in Congress, who has been a member of Congress next immediately preceding, shall receive any allowance for mileage for traveling to the place of meeting to attend such additional session provided for in the foregoing section.

I understand it to be the disposition of the House to leave this matter of election to the States, either to a special act which might meet the contingency, or to the States themselves.

I suppose there is no other amendment necessary to the bill, and therefore call for the previous question.

Mr. BIDWELL. I ask leave to offer the following amendment as an additional section:

That the regulations of the several States now represented in Congress which have not held elections for Representatives to the Fortieth Congress, to assemble on the 4th of March, 1867, as provided in this act, are hereby so changed and altered as to authorize and empower the Governors of such States to fix a day, which day shall be prior to the said 4th of March, 1867, for the election of such Representatives, and to make all necessary regulations for holding such election within the respective congressional districts, which regulations shall conform, except as to time, as nearly as practicable to existing State regulations, or such regulations as may be prescribed by the State Legislature where the same may be in session: *Provided*, That if in case the Governor of any State, or the Legislature thereof when in session, shall deem it inexpedient to hold such election prior to the 4th of March, 1867, as aforesaid, then this act shall not operate to invalidate the election, when held in accordance with existing State laws.

Mr. SCHENCK. I withdraw my demand for the previous question simply for the purpose of explaining to my friend from California, while I prefer no such amendment should be offered to this bill, it seems to me we have now before the House a proposition to which we are all agreed, and we had better pass it and make it the law of the land. That being done, it strikes me the mode of settling this difficulty of non-representation under the law of some four or five of the States would be to let the members representing those different States meet together and agree on some special act which will provide for the case in each State, or failing to do that, to let them agree if they can to leave it to the existing laws of the State, or failing to do that, to let the representation of each State bring in such bill as will best apply to the condition of things in that State. But I prefer not to legislate in this bill upon that subject, and particularly in this form, where it would seem, in our exercise of power to fix the time for election, we undertake to delegate to the Governors of States the power to repeal the acts of their Legislatures, and at the same time to cover a great deal of ground about which we necessarily know nothing. I prefer, therefore, to leave it to the Representatives of those States, and to aid them in getting through any specific act that will meet their views on the subject. I renew the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELDRIDGE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I think there is an omission in this bill which ought to be supplied. The hour of the day for meeting, when the 4th of March comes on Sunday, ought to be fixed for the next succeeding day.

Mr. SCHENCK. I have no objection, if the gentleman thinks it important, to having the amendment made.

There being no objection, the bill was accordingly amended fixing the hour of meeting on the 5th of March at twelve o'clock meridian, when the 4th of March occurs on Sunday.

The question was taken on the passage of the bill; and it was decided in the affirmative—yeas 124, nays 29, not voting 38; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, DeFrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jencks, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, Melndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Sobenak, Shellabarger, Sloan, Spaulding, Stevens,

Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—124.

NAYS—Messrs. Ancona, Boyer, Campbell, Cooper, Dawson, Eldridge, Finck, Goodyear, Aaron Harding, Hise, Edwin N. Hubbell, Kerr, Latham, Le Blond, Marshall, Niblack, Noell, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, and Andrew H. Ward—29.

NOT VOTING—Messrs. Delos R. Ashley, Bergen, Chanler, Culver, Davis, Denison, Dumont, Elliot, Glossbrenner, Harris, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Humphrey, Hunter, Johnson, Jones, Julian, George V. Lawrence, Leftwich, McCullough, Newell, Nicholson, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Scofield, Starr, Stilwell, Strouse, Henry D. Washburn, Whaley, Winfield, and Wright—38.

So the bill was passed.

Mr. SCHENCK. I rise to move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider on the table; and I avail myself of the opportunity to make a single remark. Some gentlemen apprehend that by the bill as it now stands all constructive mileage is not cut off. My intention was to cut off constructive mileage entirely, so that the members of a preceding Congress who are reelected shall be paid nothing for their transition from one Congress to another, either going or coming. As there has been doubt expressed about that, I will promise gentlemen that I will attract the attention of the chairman of the Committee on the Judiciary, to whom this matter will probably go in the Senate, to this particular point, so that if there be any such construction capable of being given it may be remedied by proper amendment. But I do not think the bill will bear that construction. I now move to reconsider the vote by which the bill was passed, and also to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAYMENT OF PENSIONS.

Mr. PERHAM, from the Committee on Invalid Pensions, authorized to report at any time, reported back with amendments Senate bill No. 69, to provide for the payment of pensions.

The bill was read. It provides that the President of the United States shall be, and he is hereby, authorized to establish agencies for the payment of pensions granted by the United States wherever, in his judgment, the public interests and the convenience of the pensioners require, and by and with the advice and consent of the Senate to appoint all pension agents, who shall hold their offices for the term of four years and until their successors shall have been appointed and qualified, and who shall give bond, with good and sufficient sureties, for such amount and in such form as the Secretary of the Interior may approve, provided that nothing herein contained shall be so construed as to vacate any existing office prior to an appointment by the President as herein provided.

The committee reported the following amendment:

Strike out the words: "Provided, That nothing herein contained shall be so construed as to vacate any existing office prior to an appointment by the President as herein provided." And insert in lieu thereof the following:

Provided, That the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and that no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of \$500,000; And provided further, That the President shall within twenty days from and after the passage of this act nominate to the Senate persons for the several agencies in which pension agents have been appointed since the 1st day of January, A. D. 1868, and unless such nominations shall be confirmed by and with the advice and consent of the Senate their offices shall be vacant; and that all pension agents appointed prior to said date last named, and now acting, shall continue in their respective offices until their successors shall be nominated and confirmed in accordance with the provisions of this act.

Mr. WASHBURN, of Illinois. Will the gentleman from Maine allow me a moment?

Mr. PERHAM. Certainly.

Mr. WASHBURN, of Illinois. It appears by the printed bill that I offered this amendment. It is true that I suggested some verbal modifications, but this amendment was proposed by my colleague in front of me, [Mr. FARNSWORTH.]

The SPEAKER. The amendment is reported by the committee.

Mr. PERHAM. I move to amend the amendment by striking out the words:

That the President shall within twenty days from and after the passage of this act nominate to the Senate persons for the several agencies in which pension agents have been appointed since the 1st day of January, A. D. 1866; and unless such nominations shall be confirmed by and with the advice and consent of the Senate, their offices shall be vacant;

And inserting in lieu thereof the following:

That the term of office of all pension agents appointed since the 1st day of January, 1866, shall expire at the end of thirty days from the passage of this act, and that the President shall within fifteen days from the passage of this act nominate to the Senate persons for pension agents in the several agencies in which pension agents have been appointed since the 1st day of January, 1866.

So that the amendment will read as follows:

*Provided*, That the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and that no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of \$500,000; *And provided further*, That the term of office of all pension agents appointed since the 1st day of January, 1866, shall expire at the end of thirty days from the passage of this act, and that the President shall within fifteen days after the passage of this act nominate to the Senate pension agents in the several agencies in which pension agents have been appointed since the said 1st day of January, 1866, and that all pension agents appointed prior to said date last named, and now acting, shall continue in their respective offices until their successors shall be nominated and confirmed in accordance with the provisions of this act.

Mr. PERHAM. This bill was quite generally discussed when it was up the other day, and I would now call the previous question.

Mr. KELLEY. I would ask the gentleman if this bill cannot be so modified as to operate at an earlier day than the 1st of January, 1866?

Mr. PERHAM. The committee was not of the opinion that there was any occasion for that.

The previous question was seconded and the main question ordered.

The amendment to the amendment was agreed to.

The question recurred on the amendment as amended.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KELLEY. Would it be practicable now to modify the amendment?

The SPEAKER. It would not; the House is operating under the previous question.

A MEMBER. Cannot that be withdrawn?

The SPEAKER. It cannot.

Mr. KELLEY. Is it in order to move to reconsider the vote by which the main question was ordered?

The SPEAKER. It cannot be reconsidered while the House is operating under the previous question. It must proceed until the previous question is exhausted. The Clerk will read the rule from page 166.

The Clerk read as follows:

"The previous question may be reconsidered, but not after it is partly executed."

The SPEAKER. It cannot be reconsidered while the House is executing it.

The question was taken; and it was decided in the affirmative—yeas 117, nays 29, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Delano, Deming, Dixon, Dodge, Donnelly, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Hart, Hawkins, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketcham, Koontz, Ladin,

William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Spalding, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—117.

NAYS—Messrs. Ancona, Boyer, Campbell, Cooper, Dawson, Defrees, Eldridge, Finck, Goodyear, Aaron Harding, Abner C. Harding, Hise, Edwin N. Hubbell, Kerr, Latham, Le Blond, Marshall, Niblack, Nicholson, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Thornton, Trimble, and Andrew H. Ward—29.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Bergen, Chanler, Culver, Davis, Denison, Driggs, Dumont, Eliot, Glossbrenner, Griswold, Harris, Hill, Hogan, Asahel W. Hubbard, Demas Hubbard, Humphrey, Hunter, Johnson, Jones, Kelley, Kuykendall, George V. Lawrence, Leftwich, Marston, McCullough, Newell, Noell, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rousseau, Scofield, Starr, Stillwell, Strouse, Nelson Taylor, Henry D. Washburn, Whaley, Winfield, and Wright—45.

So the amendment, as amended, was agreed to.

\*The bill, as amended, was then read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

Two messages in writing, from the President of the United States, were communicated to the House by Mr. ROBERT JOHNSON, his Private Secretary, who also informed the House that the President had approved and signed a joint resolution of the House, No. 212, to appoint two managers for the National Asylum for Disabled Volunteer Soldiers, to fill certain vacancies.

#### PRIVILEGES OF THE HOUSE.

Mr. HALE. I rise to a question of privilege, and submit the following preamble and resolution:

Whereas it is alleged that CHARLES V. CULVER, of Pennsylvania, a member of this House, is detained from his seat in this House under arrest in violation of the sixth section of the first article of the Constitution and of the privileges of this House; Therefore, Resolved, That the Committee on the Judiciary are hereby instructed, with all practicable dispatch, to inquire into the circumstances of the case and report the same to this House, and to report to this House whether any breach of its privileges has been committed, and what action should be had thereon; that the said committee have power to send for persons and papers, to sit during the recess of the House, and to report by bill or otherwise at any time.

I desire to say but a word upon this resolution. I have introduced it without any personal knowledge of the facts in the case in question. But I have in my hand an extract I have cut from a newspaper, purporting to give the proceedings of the court upon the case. I ask that the extract be read by the Clerk for the information of the House.

The Clerk read as follows:

"PITTSBURG, December 7.—Advices from Franklin, Pennsylvania, say that Hon. C. V. CULVER, of Venango Bank notoriety, held in custody by the civil law, was brought before Judge Thurkey yesterday on a writ of *habeas corpus*, and asked to be discharged on the grounds that he was a member of the Thirty-Ninth Congress from the twentieth district of Pennsylvania. After able arguments by the counsel on both sides, Judge Thurkey decided to-day that a member of Congress was not entitled to his privilege when held for an indictable offense."

Mr. HALE. Now, if that case is correctly reported in the extract which has just been read, it is evident that it involves a very grave question of privilege, one which affects this House and its dignity as well as the individual immediately interested. I have therefore introduced a resolution taking what seemed to me to be the most advisable course, the one most conformable to the dignity of the House, in order that the Committee on the Judiciary may as soon as possible investigate this whole question and indicate what action should be had. I think it will meet the unanimous consent of the House.

Mr. WILLIAMS. I desire to state very briefly to the House the facts in this case, as they have come to my knowledge in a somewhat authentic way. It is but a day or two since I was called upon by some gentlemen from the district of Hon. Mr. CULVER, representing him not only as constituents, but in an official capacity, who presented the whole case to me as they allege it to stand upon the record. Upon their statements, so far as regards the question of privilege, it struck me at once as a very clear one, so clear that, in my judgment, the House would be constrained to act as soon as the facts were brought to its knowledge.

It seems that an action of *assumpsit* (as it is termed by lawyers) upon a parole contract for the payment of money was instituted against Mr. CULVER, upon a claim amounting to some sixty or seventy thousand dollars. By the law as it stands in Pennsylvania—the act, I think, of 1842 abolishing imprisonment for debt—it is provided that in case the plaintiff in any civil suit shall make an affidavit to the effect that the contract had its origin in fraud or was made upon false and fraudulent representations, the defendant shall not be allowed the privilege of exemption from imprisonment, but shall be required to enter into bonds to answer to the case, and if not able to pay the money to take the benefit of the insolvent law. Gentlemen of the profession here who are conversant with this law will bear me out in the remark that this provision, which was an exceptional one, was only intended as a substitute for the old remedy by *capias*, which resulted in the exaction of special bail.

On an affidavit of this sort, asserting, as I feel authorized to say from the information I have received, no more than a mere breach of promise or of a contract, a bench warrant was issued in the month of June and during the last session of Congress, upon which Mr. CULVER was arrested, and upon a hearing required to enter into the necessary bond. He declined to do so, or was perhaps unable, for the reason that the sum involved was a very large one. The decision rested on the ground that the circumstances shown constituted a sufficient *prima facie* case to warrant the exaction of this security under the act of Assembly. An application was thereupon made by Mr. CULVER to the judge of an adjoining district for a writ of *habeas corpus*, which was accordingly issued. On the hearing of that case, this judge arrived by some means or other at the very sage and very extraordinary conclusion that, inasmuch as fraud was an indictable offense at the common law, the case fell within the constitutional exceptions and was to be considered as a "breach of the peace" within the meaning of that instrument, and therefore refused to grant the discharge. The House will recollect, of course, that the provision referred to is to the effect that Senators and Representatives "shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same." The judge in this case holds, as I understand and have already said, that the imputation of fraud involves substantially or by construction of law a criminal offense, although the whole proceeding was nothing more than a civil action for the recovery of a debt, and that Mr. CULVER is not therefore entitled to his discharge upon the ground of privilege; and he is accordingly still held under duress and disabled from attending here to discharge the duties devolved on him by his commission as a Representative.

Mr. DAWES. Does the gentleman mean to say that this was not a criminal proceeding at all?

Mr. WILLIAMS. I do.

Mr. DAWES. Then I do not see how Mr. CULVER can legally be held under arrest.

Mr. WILLIAMS. The obligation which he is required to take is that he shall respond to this action, and if he does not pay, shall file his petition for the benefit of the insolvent laws.

It is no more a criminal proceeding than the arrest on original process and the exaction of special bail, for which it is the substitute.

Mr. DAWES. Then it is purely a civil suit? Mr. WILLIAMS. A civil suit; nothing else.

Mr. Speaker, I desire to make one further remark. In an ordinary case, as will be well understood by all the lawyers of this House, a party setting up a defense under a clause of the Constitution of the United States or any act of Congress may have his appeal to the Federal courts, where that defense is overruled. Not so here. In the present case there is no such remedy. The friends of Mr. CUYLER have accordingly come to Washington, as I understand, with the view of making application to the Supreme Court of the United States for a writ of *habeas corpus*. Upon a hasty inspection of the acts of Congress providing for the issue of that writ, my conclusion was that jurisdiction could not be exercised by the Supreme Court of the United States in this particular instance. At first view, however, it struck me that it might be expedient to pass an act providing for the special case, and giving that court jurisdiction over it. But upon fuller reflection it has occurred to me that inasmuch as this is the highest court of the nation, its legislative council and the depository of its supreme authority, and as the privileges of Parliament (and those are the privileges of Congress) are transcendent and undefinable in themselves, it would be derogatory to the dignity of this body for us to condescend to have recourse to any other department of the Government to borrow its aid in the assertion of those immunities which are as much privileges of this House, and of the constituent body, as they are of the member individually aggrieved.

I am glad, therefore, that my friend from New York has brought this matter to the notice of the House. I had intended to do the same thing myself, and he has only anticipated me. I trust the resolution will be adopted.

Mr. THAYER. I wish to add only a single word to what has fallen from my colleague, [Mr. WILLIAMS.] The warrant of arrest under which it appears the defendant in this case is held is a substitute in Pennsylvania for the old writ of *capias ad respondendum*—a form of process by which, before the passage of the act abolishing imprisonment for debt in Pennsylvania, all plaintiffs were at liberty to commence civil actions. It is unquestionably a civil proceeding, and has always been so regarded by the courts of Pennsylvania. I therefore concur entirely with the remarks of my colleague on this subject, and I trust that the resolution offered by the gentleman from New York [Mr. HALE] will be adopted.

Mr. HALE called the previous question. The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### UNITED STATES TROOPS IN MEXICO.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In reply to the resolution of the House of the 6th instant, inquiring if any portion of Mexican territory has been occupied by the United States troops, I transmit the accompanying report upon the subject from the Secretary of War.

ANDREW JOHNSON.

WASHINGTON, December 8, 1866.

The message, with the accompanying report, was referred to the Committee on Foreign Affairs, and ordered to be printed.

JOHN H. SURRATT.

The SPEAKER also laid before the House a message from the President of the United States transmitting a report of the Secretary of State relating to the discovery and arrest of John H. Surrott.

Mr. ELDRIDGE. I ask for the reading of the papers.

The SPEAKER. They are very voluminous. Mr. ELDRIDGE. Then I do not insist on having them read.

The papers were then referred to the Committee on the Judiciary, and ordered to be printed.

#### ATCHISON AND PIKE'S PEAK RAILROAD.

Mr. LOAN. I ask unanimous consent to submit the following:

*Resolved*, That the Secretary of the Interior be, and is hereby, required to furnish to this House a statement of the amount of money paid by the United States to the Atchison and Pike's Peak Railroad Company as assignees of the Hannibal and St. Joseph Railroad Company, or otherwise, for the construction of a branch of the Union Pacific railroad from St. Joseph, Missouri, via Atchison, in Kansas, for one hundred miles west of the Missouri river, and also the time of said payments; also a copy of the reports of the commissioners upon which said payments were made; and also to inform this House whether said road has been surveyed, or located from St. Joseph, Missouri, via Atchison, Kansas, to any point west thereof, and if so, to furnish to this House a copy of such survey and location of such part of said road. And also whether said road or any part thereof was constructed within the time limited by the law granting aid to said road, and if not, by what authority money was paid for the construction of parts of said road after the time limited by law therefor.

The SPEAKER. This being a call for executive information, requires unanimous consent.

Mr. WASHBURN, of Illinois. I should like to have some information from the gentleman from Missouri. I think this is an interesting subject. Some one may have been cheated, and I should like to know whom it is.

There was no objection, and the resolution was received.

Mr. LOAN. I understand the franchise granted to the Hannibal and St. Joseph railroad was by that company assigned to the Atchison and Pike's Peak Railroad Company, that that company held the franchise for some considerable time, and after the period limited by the law for the construction of the first twenty miles of that road, they did construct that portion, to wit, that portion running west of Atchison, Kansas, but have neither located nor surveyed any part from St. Joseph to Atchison. I further understand the commissioners have proceeded to examine and make report of the road so far as constructed from Atchison west. I understand that report shows the road to be constructed in an inferior manner, such as will not authorize the payment of the money; but notwithstanding that report, on the promise of the Atchison and Pike's Peak Company to perfect the road, payment on the first twenty miles has been made. I understand the commissioners have examined the second section of twenty miles, and that the matter is pending in the Interior Department. If I understand the law there is no authority for making any payment to the branch road, as the time limited by law has long since expired. I demand the previous question on the resolution.

Mr. STEVENS. I understand the gentleman to say that no part of this road has been made from St. Joseph, Missouri, to Atchison.

Mr. LOAN. None at all, sir. I do not think it has been either surveyed or located.

Mr. STEVENS. When this bill was passed—and as I had some hand in it I therefore remember something about it—we in this House agreed to give to the St. Joseph road a certain subsidy to enable it to go west. When the bill went to the Senate an amendment was made which I never perfectly understood, and I should be glad now to have some explanation of it; the words were inserted "via Atchison," which instead of going west made a short turn at right angles.

Mr. LOAN. That is the road via Atchison. Mr. STEVENS. Does not the gentleman understand it was intended "via Atchison" should mean to begin at Atchison?

Mr. LOAN. I really do not, sir.

Mr. WASHBURN, of Illinois. I hope the resolution will be passed, so that we may have a little more light on this interesting subject.

Mr. LOAN demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LOAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FRANCIS S. LYON.

Mr. THAYER, by unanimous consent, reported back from the Committee on Private Land Claims Senate bill No. 373, releasing to Francis S. Lyon the interest of the United States in certain lands in the State of Alabama; which was read a first and second time, ordered to be printed, and recommitted to the committee.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the President's annual message.

Mr. STEVENS. I offer the following resolutions:

*Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, together with the accompanying documents, as relates to the finances, to the receipts into the Treasury, and the public expenditures, to the revision of the revenue, to the public debt, and the ways and means of supporting and meeting all the public liabilities of the Government, be referred to the Committee of Ways and Means.

*Resolved*, That so much of said message and accompanying documents as relates to carrying on the several Departments of the Government, to the necessary appropriations therefor, to deficiencies in the appropriations, and to mail transportation by ocean steamers, be referred to the Committee on Appropriations.

*Resolved*, That so much of said message and accompanying documents as relates to banks and banking and currency be referred to the Committee on Banking and Currency.

*Resolved*, That so much of said message and accompanying documents as relates to commerce be referred to the Committee on Commerce.

*Resolved*, That so much of said message and accompanying documents as relates to the public domain be referred to the Committee on Public Lands.

*Resolved*, That so much of said message and accompanying documents as relates to the Post Office Department be referred to the Committee on the Post Office and Post Roads.

*Resolved*, That so much of said message and accompanying documents as relates to the reestablishment of the courts in districts where their authority has been interrupted, and to all judicial proceedings, be referred to the Committee on the Judiciary.

*Resolved*, That so much of said message and accompanying documents as relates to the public expenditures be referred to the Committee on Public Expenditures.

*Resolved*, That so much of said message and accompanying documents as relates to agriculture, and to the Department of Agriculture, be referred to the Committee on Agriculture.

*Resolved*, That so much of said message and accompanying documents as relates to the management of Indian affairs be referred to the Committee on Indian Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Army of the United States, to provisions for a peace establishment, and to coast and lake defenses, be referred to the Committee on Military Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Navy of the United States be referred to the Committee on Naval Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to our foreign affairs, together with the accompanying correspondence, be referred to the Committee on Foreign Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the Territories of the United States be referred to the Committee on Territories.

*Resolved*, That so much of said message and accompanying documents as relates to pensions and the Pension Bureau be referred to the Committee on Invalid Pensions.

*Resolved*, That so much of said message and accompanying documents as relates to the expenditures in connection with the State Department be referred to the Committee on Expenditures in the State Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the Treasury Department be referred to



the Committee on Expenditures in the Treasury Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the War Department be referred to the Committee on Expenditures in the War Department.

*Resolved*, That so much of said message and accompanying documents as relates to expenditures in connection with the Navy Department be referred to the Committee on Expenditures in the Navy Department.

*Resolved*, That so much of said message and accompanying documents as relates to the expenditures in connection with the Post Office Department be referred to the Committee on Expenditures in the Post Office Department.

*Resolved*, That so much of said message and accompanying documents as relates to the militia be referred to the Committee on the Militia.

*Resolved*, That so much of said message and accompanying documents as relates to the Pacific Railroad be referred to the Committee on the Pacific Railroad.

*Resolved*, That so much of said message and accompanying documents as relates to roads and canals be referred to the Committee on Roads and Canals.

*Resolved*, That so much of said message and accompanying documents as relates to the District of Columbia be referred to the Committee for the District of Columbia.

*Resolved*, That so much of the President's message and accompanying documents as relates to the subject of reconstruction be referred to the joint committee on reconstruction.

*Resolved*, That so much of said message and accompanying documents as relates to the subject of freedmen and freedmen's affairs be referred to the Committee on Freedmen's Affairs.

*Resolved*, That so much of said message and accompanying documents as relates to the subject of the Atlantic telegraph be referred to the Committee on the Post Office and Post Roads.

*Resolved*, That so much of said message and accompanying documents as relates to the subject of levees be referred to the Committee on Appropriations.

*Resolved*, That so much of said message and accompanying documents as relates to the coinage and weights and measures of the United States be referred to the Committee on Coinage, Weights, and Measures.

MR. STEVENS. I yield to the gentleman from Maine, [Mr. BLAINE,] who desires to say a few words on the subject.

MR. BLAINE. Mr. Chairman, the popular elections of 1866 have decided that the lately rebellious States shall not be readmitted to the privilege of representation in Congress on any less stringent condition than the adoption of the pending constitutional amendment; but those elections have not determined that the privilege of representation shall be given to those States as an immediate consequence of adopting the amendment. In that respect the decision of the loyal people has been rather negative than affirmative; expressive of the least that would be accepted rather than indicative of the most that might be demanded. Had the southern States, after the adjournment of Congress, accepted the amendment promptly and in good faith, as a definitive basis of adjustment, the loyal States would have indorsed it as such, and the second session of the Thirty-Ninth Congress would have been largely engaged in perfecting the details for the full and complete representation of all the States on the new basis of apportionment.

The southern States, however, have not accepted the amendment as a basis of adjustment, but have on the other hand vehemently opposed it; every one of them that has thus far acted on the question, with the exception of Tennessee, having defiantly rejected it. This absolute and obdurate refusal on the part of those States to accept the amendment as the condition of their regaining the privilege of representation certainly relieves Congress from whatever promise or obligation may have been originally implied in regard to admitting them to representation in consequence of adopting the amendment. [This promise, or implication, or whatever you choose to term it, was, by universal understanding, conditioned on the southern States accepting the amendment in good faith, as was significantly illustrated in the case of Tennessee. Having refused so to accept it, the promise, if ever made, is assuredly no longer binding on the Congress of the United States.]

But even if the constitutional amendment should be definitely accepted, South as well as North, as the condition on which the rebel States should regain the privilege of congressional representation, the actual enjoyment of that privilege would of necessity be postponed until the terms of the amendment could be

complied with; and that would involve a somewhat uncertain period of time. For I take it for granted, as I did when I voted for the constitutional amendment, and as I presume every other gentleman on this floor did, that we were not to be guilty of the supreme folly of declaring that the basis of representation was so unfair as to require correction by constitutional amendment, and then forthwith admit the southern States to the House with their undue and inequitable share of Representatives. If the constitutional amendment is to effect a correction in the basis of representation, it should effect it at once. If the southern States are to be deprived of their undue share of representatives, based on their non-voting population, they should be deprived of them at once, and not be admitted, even temporarily, with the old apportionment, by which they would continue to exercise in the House of Representatives and in the Electoral Colleges the same weight of influence enjoyed by them before the rebellion.

The population of the States recently slaveholding was by the census of 1860 only 12,240,000, of whom 8,039,000 were whites and 4,201,000 negroes. The population of the free States by the same census was 19,201,546, of whom only 237,000 were negroes. It would hardly be maintained by any one that the late slaveholding States, taken as a whole, have done anything more than hold good their population of 1860, while in the free States, despite the losses of the war, the ratio of increase has never been more rapid than since that year. It is speaking with all moderation to say that the population of the free States is to-day 25,000,000.

Supposing the constitutional amendment to be adopted, therefore, as the basis of readmitting the southern States to the privilege of representation, it would be a cruel mockery of the whole aim and intent of that amendment to usher those States upon this floor with the full number of Representatives assigned them by the census of 1860, when three fifths of their slaves and all their disfranchised free people of color were allowed them in fixing the basis of apportionment. Were they so admitted to-day, the aggregate number of Representatives from the late slave States would be eighty-five, and from the free States one hundred and fifty-six—making a House of two hundred and forty-one in all. And yet if those two hundred and forty-one members were divided between the free and slave States on the basis of the representative population as directed by the constitutional amendment, the slave States would have but fifty-eight members, while the free States would have one hundred and eighty-three.

A corresponding change would be wrought in the Electoral Colleges. Were the Government to permit an election for President and Vice President in 1868 on the basis assigned by the census of 1860, the late slave States would have 115 electoral votes, while the free States would have 198. But on the actual basis contemplated by the constitutional amendment the late slave States would have but 88, while the free States would have 225. On the old basis the free States would thus have a majority of 83, while on the basis of the constitutional amendment they would have a majority of 127; a net difference of 44 electoral votes in favor of the free States.

In view of these results, which are the plainest arithmetical deductions, it could not be expected that the free States, even if they were to adhere to the constitutional amendment as the ultimatum of adjustment, would consent to have the lately rebellious States admitted to representation here and to a participation in the Electoral Colleges until the relative and proper strength of the several States should be adjusted anew by a special census and by an apportionment made in pursuance thereof. It was in this belief and with these views that at the last session of Congress I framed a bill providing for a special enumeration of the inhabitants of the United States, which bill was on my motion referred to the reconstruc-

tion committee, and has never been reported upon either favorably or adversely.

What then shall be done? The people, so far as I represent them, have plainly spoken in the late elections, and the interpretation of their voice is not difficult. They have pronounced with unmistakable emphasis in favor of the constitutional amendment with the superadded and indispensable prerequisite of manhood suffrage. The constitutional amendment with its definition of American citizenship, with its guarantee of the national obligations, and with its prohibition of the assumption of the rebel debt, is an invaluable addition to our organic law. We cannot surrender its provisions, and the rebel States cannot by their utmost resistance defeat its adoption. It is too late to deny or even to argue the right or power of the Government to impose on those States conditions precedent to their resumption of the privilege of representation. The President set the example by exacting three highly important concessions from those States as his basis of reconstruction. Congress followed by imposing four other conditions as its basis of reconstruction, if you please, and now the people have spoken demanding one additional condition as their basis of reconstruction, and that condition is the absolute equality of American citizens in civil and political rights without regard to caste, color, or creed.

The objection in the popular mind of the loyal States to the constitutional amendment as a basis of final adjustment is not directed to what that amendment will effect, but to what it will not effect. And among the objects of prime importance which it will not effect is the absolute protection of the two classes in the South to whom Government owes the most, namely, the loyal white men and the loyal black men. The amendment, if made the basis of final adjustment without further condition, leaves the rebel element of the South in possession of the local governments, free to persecute the Union men of all complexions in numberless ways, and to deprive them of all participation in civil affairs; provided they will submit to a curtailed representation in Congress as the penalty. The danger is that they would accept the comparatively small infliction on themselves in order to secure the power of visiting the loyalists with a full measure of vengeance; just as certain religious denominations in England at various times under the reign of the Stuarts favored measures of proscription which bore with some hardship on themselves, because they were enabled thereby to punish some rival and hated sectaries with still more severity and cruelty.

Among the most solemn duties of a sovereign Government is the protection of those citizens who, under great temptations and amid great perils, maintain their faith and their loyalty. The obligation on the Federal Government to protect the loyalists of the South is supreme, and they must take all needful means to assure that protection. Among the most needful is the gift of free suffrage, and that must be guaranteed. There is no protection you can extend to a man so effective and conclusive as the power to protect himself. And in assuring protection to the loyal citizen you assure permanency to the Government; so that the bestowal of suffrage is not merely the discharge of a personal obligation toward those who are enfranchised, but it is the most far-sighted provision against social disorder, the surest guaranty for peace, prosperity, and public justice.

MR. WENTWORTH. Unless some other person wants to go on to-day, I would like to move that the committee rise so as to retain the floor.

MR. STEVENS. First let the resolutions be passed. That will still leave the message open to discussion, and will not deprive the gentleman of the floor.

The question being taken on resolutions, they were adopted.

MR. WENTWORTH. I now move that the committee rise.

The motion was agreed to.



So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the President's annual message, and had directed him to report certain resolutions to the House.

The resolutions reported from the Committee of the Whole were then adopted.

CHARLES M'CARTHY.

Mr. HILL, by unanimous consent, introduced a bill for the relief of Charles McCarthy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

INDIANS IN NORTHERN CALIFORNIA.

Mr. BIDWELL, by unanimous consent, introduced a bill to provide for the care and maintenance of the Indians in northern California; which was read a first and second time, and referred to the Committee on Indian Affairs.

ARMY APPOINTMENTS.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be requested to inquire into the expediency of reporting a bill so amending section four of the act to increase the military peace establishment of the United States, approved July 28, 1860, as to permit and authorize the appointment of persons who have served five years or more in the Army, and who have been distinguished for capacity and good conduct in the field.

EXCUSED FROM COMMITTEE SERVICE.

Mr. CAMPBELL. I wish to be excused from serving on the committee appointed to visit New Orleans. I have just taken my seat in this Congress only a few days ago. I represent a district that has had no Representative here for six years. I have a great deal of business to do during this short session, and if I go to New Orleans it will be impossible for me to give that attention to the interests of my constituents that I think they require.

The gentleman was accordingly excused from service.

FEES AND COSTS IN UNITED STATES COURTS.

Mr. COOK, by unanimous consent, from the Committee on the Judiciary, reported a bill to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; which was read a first and second time, ordered to be printed, and recommitted to the committee.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. DODGE, by unanimous consent, introduced a bill to amend the charter of the Washington and Georgetown Railroad Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

REMOVALS FROM OFFICE.

Mr. WILLIAMS. I desire now to call up the special order, being the bill for the regulation of appointments and removals from office. I merely do it for the purpose of saving the bill and allowing it to retain its place.

The SPEAKER. It will retain its place on the Calendar at any rate, there being no other special orders.

Mr. WILLIAMS. That is all I desire.

CLERK TO A COMMITTEE.

Mr. DARLING. I ask leave to offer the following resolution:

*Resolved*, That the select committee appointed to inquire into frauds on the revenue, &c., be authorized to employ a clerk for such time as they may deem necessary, and that all the expenses of said committee be paid out of the contingent fund of the House.

Mr. WASHBURN, of Illinois. I suggest to the gentleman that he had better word his resolution differently, so as to provide that the committee be authorized to employ a stenographer as clerk. They will probably need a stenographer.

Mr. DARLING. We can employ a stenographer under the rules of the House.

Mr. WASHBURN, of Illinois. No you cannot. If the gentleman desires to accomplish his object he had better modify his resolution.

Mr. DARLING. I will modify it so as to read "a clerk and stenographer." We may want both.

Mr. WASHBURN, of Illinois. I object to that. The committee will have no need for a clerk if they have a stenographer.

Mr. DARLING. Then I will modify the resolution so as to authorize the employment of a stenographer as clerk.

The resolution, as modified, was agreed to.

VOTES RECORDED.

Mr. JULIAN. I ask the unanimous consent of the House to record my vote on the passage of the bill in regard to the meetings of Congress.

The SPEAKER. The chair cannot, under the rules, ask unanimous consent for that purpose. It requires a suspension of the rules.

Mr. JULIAN. I move, then, to suspend the rules to enable me to record my vote.

The question was taken, and two thirds voting in favor thereof the rules were suspended.

Mr. JULIAN. I vote "ay."

Mr. ELIOT. I desire the same privilege, and move a suspension of the rules for that purpose.

The question was taken, and two thirds voting in favor thereof the rules were suspended.

Mr. ELIOT. I vote "ay."

Mr. HUBBARD, of West Virginia. I desire to record my vote on the same bill, and move to suspend the rules for that purpose.

The question was taken, and two thirds voting in favor thereof the rules were suspended.

Mr. HUBBARD, of West Virginia. I vote "ay."

Mr. NICHOLSON. I desire the same privilege, and move that the rules be suspended.

The previous question was taken, and two thirds voting in favor thereof the rules were suspended.

Mr. NICHOLSON. I vote "no."

WITHDRAWAL OF PAPERS.

Mr. HUBBARD, of West Virginia. I ask unanimous consent to withdraw from the files of the House the papers in the case of Edgar T. Harris. They are simply his discharge papers. A law has been passed under which they are no longer needed here.

No objection was made, and leave was granted for the withdrawal of the papers.

And then, on motion of Mr. GRINNELL, (at five minutes past three o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of Jacob Rogers, and others, of Lowell, asking for an amendment of the Constitution of the United States so as to remove all inequalities among citizens on account of race or color.

By Mr. COOK: A petition of the Board of Supervisors of LaSalle county, Illinois, praying for an amendment to the act approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits."

By Mr. CULLOM: A memorial of Clement Pine to the Congress of the United States, asking for a sufficient appropriation to enable him to publish a history of the cheap postage system in the United States.

By Mr. DODGE: Resolutions from the Chamber of Commerce of the State of New York, calling attention of Congress to the importance of a survey by the United States of the bed of the Atlantic ocean, for the laying of lines of telegraphic cable.

Also, a memorial of the Chamber of Commerce of the State of New York, in regard to papers and records of the district court of the United States for the southern district of Mississippi lost during the war.

By Mr. ECKLEY: The petition of 152 citizens of Marlborough, Stark county, Ohio, alleging charges against the President of the United States, and asking his impeachment.

By Mr. ELIOT: The petition of Elizabeth F. Chipman, of Sandwich, Massachusetts, for relief and indemnity for the loss of property in the public service.

By Mr. FERRY: A petition from E. F. Grabbill, C. C. Ellsworth, J. W. Fuller, M. Rutan, D. Fargo, and 41 others, citizens of Greenville, Michigan, praying for an amendment to the Constitution conferring impartial suffrage to all citizens of the Republic

without distinction as to birth, race, or color, and the removal of such inequality from the District of Columbia and the Territories.

By Mr. HENDERSON: The petition of Blessington Rutledge, praying the confirmation of certain land titles in Oregon.

Also a petition from 101 citizens of Oregon and Washington Territory, praying the payment of the Oregon and Washington Territory war claims.

By Mr. LYNCH: The petition of Jane P. Thurston, for indemnity.

By Mr. ORTH: The petition and accompanying documents of William Davenport, of Indiana, praying for relief.

By Mr. RANDALL, of Kentucky: The petition of sundry clerks in provost marshal's office, for compensation for services rendered.

By Mr. RITTER: The petition of Wm. Hazlip, U. F. Case, R. Hazlip, Joseph Farley, and sundry others, citizens of Edmundson county, Kentucky, asking the establishment of a post route from Brownsville, in said county, to Rocky Hill station, on the Louisville and Nashville railroad.

By Mr. SCHENCK: A petition of seamen, coal-passers, firemen, and marines, praying to be allowed bounty for their services during the war in Army bill passed for the equalization of bounties.

Also, the petition of Edward Kunekel, late second lieutenant company 1, fifty-eighth New York volunteers, praying for relief.

By Mr. WELKER: The petition of Herman Ely, N. B. Gates, and 22 others, citizens of Lorain county, Ohio, asking the passage of a law regulating interstate insurances of all kinds.

IN SENATE.

TUESDAY, December 11, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received, and will take this opportunity to lay before the Senate, the memorial of Henry M. Buell, of Hopkins, Alleghany county, Michigan, late of the forty-first regiment Ohio volunteers. The memorialist describes himself as having served for a long period during the rebellion, and having been discharged on account of disability contracted in the service. On account of his extreme poverty he has not been able to get together the proof necessary to procure a pension; and he asks Congress to make him a grant of land from the public lands. The memorial will be received if there be no objection, and referred to the Committee on Pensions.

It was so referred.

Mr. HOWARD presented the petition of Mary M. Taylor, praying that certain land on the island of St. Helena, in the parish of St. Helena, State of South Carolina, may be delivered to her upon payment of the taxes due the United States; which was referred to the Committee on Private Land Claims.

Mr. WILSON presented two petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented the petition of the marine underwriters in the city of New York, praying for an appropriation of money sufficient to remove the iron steamship Scotland, wrecked on the bar outside of Sandy Hook; which was referred to the Committee on Finance.

He also presented the petition of Harriet G. Peale, Rosalba P. Underwood, and John H. Griscom, executors of the estate of the late Rembrandt Peale, artist, praying for an appropriation for the purchase of Mr. Peale's painting now in the Rotunda entitled "Washington before Yorktown;" which was referred to the Committee on the Library.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. NESMITH, it was *Ordered*, That the memorial and papers of the heirs of Benjamin R. Milam, praying for the confirmation of their title to a tract of land granted by the Mexican Government to him, and land scrip for so much of the land as has been disposed of by the United States, be withdrawn from the files and referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (S. No. 462) to admit the State of Colorado into the Union, reported it without amendment.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes, reported it without amendment.

#### PRINTING OF TARIFF BILL.

Mr. FESSENDEN. The tariff bill which passed the House at the last session was referred by a vote of the Senate to the Committee on Finance with instructions to report on the second Monday in December, if I recollect rightly. The committee have as yet been unable to take up the bill for consideration so as to report on the day named. We intend, however, to report it at as early a day as possible after we have examined it. In the mean time the bill is pretty much out of print, and I move that five hundred additional copies of the bill be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The Chair will entertain the motion by unanimous consent. It is moved that five hundred additional copies of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes, be printed for the use of the Senate.

The motion was agreed to.

#### REPORT ON PUBLIC LANDS.

Mr. RAMSEY. I move that ten thousand extra copies of the report of the Commissioner of Public Lands be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The Chair will entertain the motion by unanimous consent. Under the rule the motion must go to the Committee on Printing.

Mr. SUMNER. I presume it will go to the Committee on Printing.

Mr. RAMSEY. I imagine it will go to that committee.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Printing.

#### BILL INTRODUCED.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 465) for the relief of Mary Stanley; which was read twice by its title, and referred to the Committee on Pensions.

#### PRESIDENTIAL SUCCESSION.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire what additional legislation is necessary to provide for the succession of the President's office in case of the death or disability of all those upon whom it may now devolve by the Constitution or the laws, and to report by bill or otherwise.

#### VOLUNTEER BREVETS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Military Affairs and the Militia be instructed to inquire into the expediency of extending to officers in the late volunteer service who are appointed to positions in the regular Army the same benefits of brevets conferred, of length of service, and in all other respects, which are allowed officers of the regular Army who accepted positions in the volunteer service in consequence of their services in such volunteer positions.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 830) to fix the times for the regular meetings of Congress was read twice by its title, and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the House had passed a bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes; and a bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphans' Home," approved July 25, 1866; in which the concurrence of the Senate was requested.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 327) granting a pension to Mrs. Katharine F. Winslow; and it was signed by the President *pro tempore*.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphans' Home," approved July 25, 1866—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes—to the Committee on the Judiciary.

#### SUFFRAGE IN THE DISTRICT.

The PRESIDENT *pro tempore*. If there be no further morning business, and no motion is interposed, the Chair, although the morning hour has not expired, will call up the unfinished business, which is the bill (S. No. 1) to regulate the elective franchise in the District of Columbia, the pending question being on the amendment of the Senator from Pennsylvania, [Mr. COWAN,] to strike out the word "male" before the word "person" in the second line of the first section of the amendment reported by the Committee on the District of Columbia as a substitute for the original bill.

Mr. ANTHONY. I suppose that the Senator from Pennsylvania introduced this amendment rather as a satire upon the bill itself, or if he had any serious intention it was only a mischievous one to injure the bill; but it will not probably have that effect, for I suppose nobody will vote for it except the Senator himself, who can hardly avoid it, and I, who shall vote for it because it accords with a conclusion to which I have been brought by considerable study upon the subject of suffrage.

I do not contend for female suffrage on the ground that it is a natural right, because I believe that suffrage is a right derived from society, and that society is competent to impose upon the exercise of that right whatever conditions it chooses. I hold that the suffrage is a delegated trust—a trust delegated to certain designated classes of society—and that the whole body-politic has the same right to withdraw any part of that trust that we have to withdraw any part of the powers or the trusts that we have imposed upon any executive officer, and that it is no more a punishment to restrict the suffrage and thereby deprive certain persons of the exercise of that right who have heretofore exercised it, than it is a punishment on the Secretary of the Treasury if we should take from him the appointment of certain persons whose appointment is now vested in him. The power that confers in each case has the right to withdraw.

The true basis of suffrage of course is intelligence and virtue; but as we cannot define those, as we cannot draw the line that shall mark the amount of intelligence and virtue that any individual possesses, we come as near as we can to it by imperfect conditions. It certainly will not be contended that the feminine part of mankind are so much below the masculine in point of intelligence as to disqualify them from exercising the right of suffrage on that account. If it be asserted and conceded that the feminine intellect is less vigorous, it must also be allowed that it is more acute; if it is not so strong to strike, it is quicker to perceive. But at all events it will not be contended that there is such a difference in the intellectual capacity of the sexes as that that alone should be a disqualification from the exercise of the right of suffrage. Still less will it be contended that the female part of creation is less virtuous than the masculine. On the contrary, it will be conceded by every

one that morality and good order, religion, charity, and all good works appertain rather more to the feminine than to the masculine race.

The argument that women do not want to vote is no argument at all, because if the right to vote is conferred upon them they can exercise it or not as they choose. It is not a compulsory exercise of power on their part. But I think that argument is partly disproved by the convention to which the Senator from Pennsylvania referred yesterday, whose arguments he said were worthy of consideration even in this Chamber. I think they are, and I think it would be very difficult for any one in this Chamber to disprove them.

Nor is it a fair statement of the case to say that the man represents the woman in the exercise of suffrage, because it is an assumption on the part of the man; it is an involuntary representation so far as the woman is concerned. Representation implies a certain delegated power and a certain responsibility on the part of the representative toward the party represented. A representation to which the represented party does not assent is no representation at all, but is adding insult to injury. When the American Colonies complained that they ought not to be taxed unless they were represented in the British Parliament, it would have been rather a singular answer to tell them that they were represented by Lord North, or even by the Earl of Chatham. The gentlemen on the other side of the Chamber who say that the States lately in rebellion are entitled to immediate representation in this Chamber would hardly be satisfied if we should tell them that my friend from Massachusetts represented South Carolina and my friend from Michigan represented Alabama. They would hardly be satisfied I think with that kind of representation.

Nor have we any more right to assume that the women are satisfied with the representation of the men. Where has been the assembly at which this right of representation was conferred? Where was the compact made? What were the conditions? It is wholly an assumption. A woman is a member of a manufacturing corporation; she is a stockholder in a bank; she is a share-holder in a railroad company; she attends all those meetings in person or by proxy, and she votes, and her vote is received. Suppose a woman offering to vote at a meeting of a railroad corporation should be told by one of the men "we represent you, you cannot vote," it would be precisely the argument that is now used; that men represent the woman in the exercise of the elective franchise. A woman pays a large tax, and the man who drives her coach, the man who waits upon her table, goes to the polls and decides how much of her property shall go to support the public expenses, and what shall be done with it. She has no voice in the matter whatever; she is taxed without representation.

The exercise of political power by women is by no means an experiment. There is hardly a country in Europe—I do not think there is any one—that has not at some time of its history been governed by a woman, and many of them very well governed, too. There have been at least three empresses of Russia since Peter the Great, and two of them were very wise rulers. Elizabeth raised England to the very height of greatness, and the reign of Anne was illustrious in arms and not less illustrious in letters. A female sovereign supplied to Columbus the means of discovering this country. He wandered footsore and weary from court to court, from convent to convent, from one potentate to another, but no man on a throne listened to him until a female sovereign pledged her jewels to fit out the expedition which "gave a new world to the kingdoms of Castile and Leon." Nor need we cite Anne of Austria, who governed France for ten years, or Marie Theresa, whose reign was so great and glorious. We have two modern instances. A woman is now on the throne of Spain, and a woman sits upon the throne of the mightiest

empire in the world. A woman is the high admiral of the most powerful fleet that rests upon the seas. Princes and nobles bow to her, not in the mere homage of gallantry, but as the representative of a sovereignty which has descended to her from a long line of sovereigns, some of the most illustrious of them of her own sex. And shall we say that a woman may properly command an army, and yet cannot vote for a common councilman in the city of Washington?

I know very well this discussion is idle and of no effect, and I am not going to pursue it. I should not have introduced this question; but as it has been introduced, and I intend to vote for the amendment, I desire to declare here that I shall vote for it in all seriousness because I think it is right. The discussion of this subject is not confined to visionary enthusiasts. It is now attracting the attention of some of the best thinkers in the world, both in this country and in Europe, and one of the very best of them all, John Stuart Mill, in a most elaborate and able paper, has declared his conviction of the right and justice of female suffrage. The time has not come for it, but the time is coming. It is coming with the progress of civilization and the general amelioration of the race, and the triumph of truth and justice and equal rights.

Mr. WILLIAMS. Mr. President, to extend the right of suffrage to the negroes in this country I think is necessary for their protection; but to extend the right of suffrage to women, in my judgment, is not necessary for their protection. For that reason, as well as for others, I shall vote against the amendment proposed by the Senator from Pennsylvania, and for the amendment as it was originally introduced by the Senator from Ohio, [Mr. WADE.] Negroes in the United States have been enslaved since the formation of the Government. Degradation and ignorance have been their portion; intelligence has been denied to them; they have been proscribed on account of their color; there is a bitter and cruel prejudice against them everywhere, and a large minority of the people of this country to-day, if they had the power, would deprive them of all political and civil rights and reduce them to a state of abject servitude. Women have not been enslaved. Intelligence has not been denied to them; they have not been degraded; there is no prejudice against them on account of their sex; but, on the contrary, if they deserve to be, they are respected, honored, and loved. Wide as the poles apart are the conditions of these two classes of persons. Exceptions I know there are to all rules; but, as a general proposition, it is true that the sons defend and protect the reputation and rights of their mothers; husbands defend and protect the reputation and rights of their wives; brothers defend and protect the reputation and rights of their sisters; and to honor, cherish, and love the women of this country is the pride and the glory of its sons.

When women ask Congress to extend to them the right of suffrage it will be proper to consider their claims. Not one in a thousand of them at this time wants any such thing, and would not exercise the power if it was granted to them. Some few who are seeking notoriety make a feeble clamor for the right of suffrage, but they do not represent the sex to which they belong, or I am mistaken as to the modesty and delicacy which constitute the chief attraction of the sex. Do our intelligent and refined women desire to plunge into the vortex of political excitement and agitation? Would that policy in any way conduce to their peace, their purity, and their happiness? Sir, it has been said that "the hand that rocks the cradle rules the world;" and there is truth as well as beauty in that expression. Women in this country by their elevated social position can exercise more influence upon public affairs than they could coerce by the use of the ballot. When God married our first parents in the garden according to that ordinance they were made "bone of one bone and flesh of one flesh;"

and the whole theory of government and society proceeds upon the assumption that their interests are one, that their relations are so intimate and tender that whatever is for the benefit of the one is for the benefit of the other; whatever works to the injury of the one works to the injury of the other. I say, sir, that the more identical and inseparable these interests and relations can be made, the better for all concerned; and the woman who undertakes to put her sex in an adversary position to man, who undertakes by the use of some independent political power to contend and fight against man, displays a spirit which would, if able, convert all the now harmonious elements of society into a state of war, and make every home a hell upon earth.

Women do not bear their proportion and share, they cannot bear their proportion and share, of the public burdens. Men represent them in the Army and in the Navy; men represent them at the polls and in the affairs of the Government; and though it be true that individual women do own property that is taxed, yet nine tenths of the property and the business from which the revenues of the Government are derived are in the hands and belong to and are controlled by the men. Sir, when the women of this country come to be sailors and soldiers; when they come to navigate the ocean and to follow the plow; when they love to be jostled and crowded by all sorts of men in the thoroughfares of trade and business; when they love the treachery and the turmoil of politics; when they love the dissoluteness of the camp and the smoke and the thunder and the blood of battle better than they love the affections and enjoyments of home and family, then it will be time to talk about making the women voters; but until that time the question is not fairly before the country.

Negroes are a distinct class of people; they are distinguished from others by their color, and that color is generally regarded as a badge of inferiority, and that idea of inferiority subjects them to injustice. Suppose, sir, they are allowed to vote, who will be harmed? Suppose a white man goes to the polls and is followed there by a negro, what injury or harm results from that brief and conventional association? Sir, that same white man can go to the polls and be followed by a traitor, a thief, or a drunkard, without any supposed degradation; but if he is followed by a man whose complexion is black, though he may be as honest and upright a being as God ever made, there some imaginary disgrace is made to be the consequence.

I am satisfied, Mr. President, that much of this feeling, strong as it is, difficult as I know it is to conquer, is mere prejudice, the result of the educational influences to which we have been subjected by the institution of slavery. People in other countries where slavery has never existed do not cherish the prejudice against the negro that exists in this country. Sir, I have seen negroes as slaves sitting on the same seat in the same coach and conveyance with white people without objection; but when that identical black man becomes free then his presence in a coach or a conveyance is very obnoxious to the same white person. Is not the negro as black as a slave as he is as a free man? Is he not as odious and offensive in every way as a slave as he is as a free man? Nobody will pretend that there is any change in the person; but slavery makes a negro agreeable while freedom makes him odious and hateful. That is all there is about it.

I dismiss, so far as I am concerned in connection with this question, all theories as to the natural rights of persons to vote, and I put my action in favor of this bill upon the plain, practical ground that suffrage to the negro in this country is necessary for his protection. Sir, to insult and abuse a negro in this District is the pastime of some of its inhabitants. If there is anything that I hate and despise, anything that makes my blood boil with indignation, it is to see a man conscious of his superiority and power insult and abuse one whose color or whose circumstances place him beyond

the reach of public sympathy or the pale of the law's protection. Sir, it is "base flattery to call such a man a coward." Yesterday we were told that the descendants of dignified, haughty, and proud families lived in this District. I am aware of that fact, and for that reason I desire to extend the right of suffrage, so that all the descendants of those dignified, proud, and haughty families may enjoy it.

Mr. COWAN. I should like to ask the Senator from Oregon if he knows who wrote that article.

Mr. WILLIAMS. What article do you refer to?

Mr. COWAN. The article to which the Senator is referring now, setting forth that the inhabitants of this District were descended from proud and aristocratic families, and all that kind of thing. I wish to ask him whether he knows that that was written in the interest of impartial suffrage or whether it was written against it. Every one knows that it is very easy for a man to write an article of that kind and have it inserted in the public papers for the purpose of being read here and producing a sensation. Now, if the honorable Senator knows anything about this thing, knows anything about the authenticity of that newspaper article and who wrote it, what the purpose for which it was written was, it is proper that he state it. If not, it is very improper to make use of it. I can very readily see how a man who desired to prejudice a cause, to damage it, should go about and insert in newspapers, under the eye of stupid editors, articles of this kind which were calculated to do immense mischief; and yet, how correct it? If the authenticity of this article which so much prejudices the people of this District is known, if it is by authority, if it has their sanction, let us know it; otherwise it is mere idle wind.

Mr. WILLIAMS. Mr. President, I know nothing of the article to which I have referred, except that it was introduced and read yesterday by the chairman of the Committee on the District of Columbia, and is before the Senate; and I am surprised to find the Senator's indignation aroused by a mere allusion to it by me, when he listened yesterday to its reading without any question. I do not know, sir, who is the author of that article; I know that it appeared, or purports to have appeared, in a paper that, as I understand, professes to be published in Georgetown, while it is actually published in the city of Washington, for the purpose of avoiding a law of Congress passed at the last session and to secure from the hands of the President the executive patronage; and I understand that it is a paper that is opposed to suffrage in this District.

Now, is it probable that a paper laboring to defeat suffrage in this District would publish an article suggested by the enemies of that paper, or the friends of suffrage, for the purpose of producing injury? I referred to that article because it was before the Senate. I was about to say, in reference to the descendants of those proud, haughty, dignified families, that I can see no reason why one portion of them should not enjoy the right of suffrage as well as the others simply because they are not quite as fair as their more fortunate connections.

One, and the chief objection made to this bill is that negroes are not sufficiently intelligent to exercise the right of suffrage. I have to say that they possess intelligence enough to distinguish between their friends and their enemies. They have intelligence enough to distinguish between the friends and enemies of the country. Does it take any more intelligence to know where to stand in the political controversies of the day than it did to know where to stand, on which side, during the late convulsion in this country? Sir, the people of the United States are divided into two great political parties. Suppose the negroes should be invested with the right of suffrage and should attach themselves to the Democratic party. I presume the honorable Senator would not claim that their ignorance in that way would



do the country any particular harm. Suppose they should attach themselves to the Republican or Union party, then their votes in my judgment would only strengthen the loyal and patriotic sentiment of the country. They would undoubtedly belong to one or the other of these parties.

Sir, I remember that when it was proposed to emancipate the slaves it was said that such a policy would pour a flood-tide of ignorance and barbarism upon the country that would cause its ruin. When it was proposed to give negroes the right to be witnesses in a court of justice a similar objection was made. Men trusted these negroes in the ordinary transactions of life; trusted their word; trusted them with the charge of their property and affairs; but when a negro crossed the threshold of a court of justice to tell there what he had seen and heard then it was assumed that he had no more capacity or integrity than a dog! When it was proposed to make him a soldier this same outcry was made, and so step by step the prejudices against this class of people have been broken down, and it is legitimate reasoning to conclude that if suffrage is extended to these negroes no more evil will follow from that than from the other acts by which they have been advanced and improved in this country. Let us try this experiment. I believe that it will be found advantageous to all concerned. To pretend to have a Government founded upon the consent of the governed, to pretend to have a Constitution that recognizes the inalienable right of man to life, liberty, and property, and then to deny to millions of citizens in this country any part of that consent, any power to protect their life, liberty, and property, is an inconsistency upon which a republican Government can hardly stand.

Let us, sir, extend to these people these rights which they claim and which I think they ought to possess, and vindicate, as I have no doubt we shall, that the surest and safest and best foundation for republican institutions is equal and exact justice to all men.

Mr. COWAN. Mr. President, I have only to add that the honorable Senator from Oregon might have concluded his speech by saying "and to all women," because he has not been using the word "man" as a generic term, as that which includes mankind, but he has been arguing for the male especially.

Mr. President, I had not intended to say anything on this subject beyond what I offered to the Senate yesterday evening, and I should not do so if it were not for the suggestion of a friend, and I am glad to say a friend who believes as I do, that it is the general supposition that I am not serious and not in earnest in the amendment which I have moved; and I only rise now for the purpose of disabusing the minds of Senators and others from any impression they may have had of that sort.

I am perfectly free to admit that I have always been opposed to change. I do not know why it is. Whether I have felt myself old or not, I have not ranged myself in the category of "old fogies" as yet. Although I feel an indisposition to exchange the "ills we suffer" for "those we know not of," and am not desirous to launch myself away from that which is ascertained and certain, and adventure myself upon a sea of experiment, at the same time I feel as much of that strength, that elasticity, that vigor, and that desire for the advancement of my race, my countrymen, and my kind as anybody can feel. I yield to no one in that respect. All I have asked, and all I have desired heretofore, is that we go surely. I believe with my fathers and my ancestors that to base suffrage upon the white males of twenty-one years of age and upward was a great stride in the world's affairs; that it would be well for the world if its government could progress, could advance upon that basis, and that all the rest of the world who did not happen to be white males of the age of twenty-one years and upward could very well afford to stand back and witness the effect of our experiment.

I was of that opinion, I lived in the light of

it, and I rejoiced in its success; and when I saw this rebellion, when I witnessed the differences of opinion which convulsed this part of the continent, when I saw the fact that one half of the United States was upon the one side and the other half upon the other side as to the understanding of the true theory of this Government of ours, simple as it may be to the lawyer, complex as it may be when examined more thoroughly, I was more than ever disinclined to widen the suffrage, to intrust the franchise to a larger number of people. I trembled for the success of the experiment; I hesitated as to where it would end. I may say, Mr. President, that I hesitate yet. The question is by no means settled, the difficulty is by no means ended, the controversy is by no means yet concluded.

But the first step taken, from the very initiative of that step, I have announced my ground and my determination. When a bill was up here before proposing to enlarge and widen the franchise in this District, I stated that if negroes were to vote I would persist in opening the door to females. I said that if the thing was to be taken away from the feudal realms and from feudal reasons, which went on the idea that the man who bore arms, and he alone, was entitled to the exercise of political power, and if it was to be put upon the ground of logic, and if we were to be asked to give a reason for it, and if we were to be compelled to give that reason, I said then, and I say now, "If I have no reason to offer why a negro man shall vote I have no reason to offer why a white woman shall not vote." If the negro man is interested in the Government of the country, if he cannot trust to the masses of the people that the Government shall be a fair and just Government and that it shall do right to him, then the woman is also interested that this Government shall be fair to woman and fair to the interests of woman. Why not, Mr. President? Are not these interests equal to those of the negro and of his race?

I know it has been said that the woman is represented by her husband, represented by the male; and yet we know how she has been represented by her husband in by-gone times; we know how she is represented by her barbarian husband; and let him who wants to know how she is represented by her civilized husband go to her speeches made in the recent woman's rights convention. We know how she has been represented by her barbarian husband in the past and is even at the present. She bears his burdens, she bears his children, she nurses them, she does his work, she chops his wood, and she grinds his corn; while he, forsooth, by virtue of this patent of nobility that he has derived, in consequence of his masculinity, from Heaven, confines himself to the manly occupations of hunting and fishing and war.

I should like to hear my honorable friend from Maine, [Mr. MORRILL,] so apt, so pertinent, so eloquent on all questions, discourse upon the title which the male derives in consequence of the fact that he has been a fisher and a hunter and a warrior all the time; and then I should like to know how he would discriminate between that fisher and hunter and warrior and those Amazons who burnt their right breasts in order that they might the more readily draw the bow and against whose onset no troops of that day were able to stand. I should also like to know from him how it was that the female veterans of the army of Dahomey recently, within the last three or four years, in the face of an escarpment that would have made European veterans, ay, and I might say American veterans, tremble, scrambled over that escarpment and carried the city sword in hand.

Now, Mr. President it is time that we look at these things, and that we look them full in the face. I am always glad and willing to stand upon institutions, to stand upon institutions that have been established in the past, that have been sanctified by time, that have given to men liberty and protection with which they

were satisfied. But, sir, when the time comes that we are to make a step forward, then another and different question arises. I am utterly astonished at my honorable friend from Rhode Island who doubted my sincerity in this movement. Why should I not be sincere? Have I not as many interests at stake as he has? Ay, and one more, because I understand he is a widower, and I have a wife in full life. Why should I not be in earnest?

I beg my honorable friends, especially on my right, to remember that Radicals are not in the same category with poets. Poets are born; *poeta nascitur, non fit*; but Radicals fit, they are made, and when the time comes I am a Radical, too, along with my fellow-Senators here. By what warrant do they suppose that I am not interested in the progress of the race? Do they suppose that I am more desirous of Tophet than they are, that I love diabolism better than they do? That is an arrant presumption that nobody—I was going to say no honest man—would make; I will say no fair politician would make. If the thing is to be bettered, I want to better it. The question is how. I have hesitated; I have held back; I have doubted, and all that kind of thing; but I am told that the matter is settled now, the verdict of the country at the late election has determined that there shall be progress. Well, what is that progress to be? I am not disposed to be a martyr. However earnestly I might worship before the shrine of Juggernaut, I have no disposition to lie down and allow his car to run over me and crush me beneath its ponderous wheels. The simplest instincts of common sense would teach a man better than that.

Now, that my seriousness, my earnestness, and my sincerity should be questioned, and especially by a *caleb*, in this case, is most extraordinary, and I have no doubt that my friend from Rhode Island, when he comes for a moment to reflect upon it, will offer the most ample apology, which I am free to state here in advance that I am willing to receive. [Laughter.]

My honorable friend from Oregon [Mr. WILLIAMS] thinks this is entirely preposterous. I have no doubt he does, and I give him all credit for honesty and sincerity in the remarks that he has made; but the trouble with him is, and with a great many others—perhaps it is with myself upon some subjects—is that he directs his gaze too long upon a particular point. It is remarkable that when a man who looks long and steadily upon one subject to the exclusion of every other, that subject at last becomes to him the universe itself. I have met fellow-politicians, fellow-Senators, and fellow-coworkers in the great battle of life, who really had so long contemplated one subject that it was not within their capacity to see any others.

I agree that my brother from Oregon is a fit exponent of the wrongs of the negroes. He has looked upon that subject, he has examined it in all its length and breadth, he knows it in detail. I have only to say to him that if he would look upon the miseries of any other portion of the human family, if he would look, for instance, on the miseries of Senators, and concentrate his gaze upon them, think of the enormous amount of "boring" they have to undergo, think of the enormous amount of worrying they have to submit to, and think of the troubles of this, that, and the other kind which attend upon a Senator's life, I have no doubt he might be extremely eloquent in depicting them, and might, perhaps, do some good by deterring young Americans from adventuring in such a career as it furnishes to them in the vista of human enjoyment.

There is no situation in life which is exempt from these things; and the only fault I have to find with his speech is in the fact that he concentrates himself entirely upon the African; he confines his gaze to him; he supposes that he is the only injured man in the world; and what is singular about it, he confines his gaze to him upon this continent. If he had turned



back to the last book of Dr. Livingstone and to the last book of Mr. Baker and to the last accounts we have of Africa generally, he might have come to the conclusion that however bad and wicked the American people were in taking this race from Africa and making them slaves, yet that in reality they had made them better than they were at home. The King of Dahomey upon his inauguration was expected to sacrifice seven thousand slaves as a great ovation, as a great immolation in favor of the sovereignty of that nation and its accession to him; and when he came to the conclusion that he would only sacrifice three thousand and that he would sell the other four thousand in order to raise the expenses of the pageant, perhaps the Senator on full consideration thinks that the king was not such an inhuman fellow after all, and that clearly those four thousand slaves who were sold away to America to be brought in contact with Christianity, to be brought in contact with anti-slavery societies, and with the efforts of anti-slavery people, and with the efforts of godly people to train them in the way of life, and to furnish them with tracts and Bibles and all those things which would enable them to reach a better world, that these four thousand were far better off than the three thousand other poor devils who had their heads cut off to furnish a ceremony for a king's pageant and for an inauguration day. I say that all these things ought to be taken into the account by my honorable friend from Oregon that his view might be widened a little.

But it unfortunately happens that in this world there are others besides the negro who suffer. When you have told of the injuries and outrages which prevail on the earth in regard to the negro you have not finished. Another, and in my judgment a much more important personage, comes upon the scene; she lifts the curtain and reveals to you a new drama, and she tells you distinctly that you have not only been tyrannizing over your brother, your sable brother, your brother at the other end of the national antipodes, your troublesome antipathic brother; you have not only been drenching the earth from the East to the far West with the blood of savages of a different color from yours; you have not only left your blood-stained marks in Japan, in China, in the East Indies, everywhere, and in the West where one of your Christian bishops boasted that six million Mexicans at one time had been sacrificed, and what for? To make them Christians; to make the rest Christians after the six millions had gone. I say this new personage who makes her appearance upon the drama of human affairs informs you that you and your religion, under the conduct of the male, generative, fecundative principle of the sex, have filled the world with blood from one end to the other of it. What for? To give her liberty. She complains to-day; she complains in your most intelligent high places; she complains in your most refined cities; she complains in your halls decorated with a more than Grecian beauty of architecture; she complains where all of past civilization, all of past adornment, and all of past education comes down to satisfy us that we stand upon the very acme of human progress; she complains that you have been tyrant to her.

Mr. President, let me read from the proceedings of the twenty-ninth annual meeting of the Pennsylvania Anti-Slavery Society. I propose to read from the remarks of Mrs. Gage, a woman, a lady, a lady of brain and intellect, of courage and force; and whether I am in earnest or not, whether I may be charged with being serious or not, no man dare charge Mrs. Gage with not being serious. I will read from Mrs. Gage, therefore:

"Mrs. Francis D. Gage said: 'I have read speeches and heard a great deal said about the right of suffrage for the freedmen.'

So have we all, Mr. President; and the probability is that we have been even more afflicted—if that can be said to be a punishment, and there is very great difficulty now to ascertain what is punishment in this world. If that can be said to be a punishment, I think

this Senate can with at least equal propriety with Mrs. Gage complain of its extraordinary infliction upon them without any previous trial and conviction. [Laughter.]

"What does it mean? Does it mean the male freedman only, or does it mean the freedwoman also? I was glad to hear the voice of Miss Anthony in behalf of her sex."

I am glad, Mr. President, that we have a male of that name in this body who emulates the virtues of his more humble sister, [laughter,] and stands up equally here for the broad rights of humanity as she does.

"I know it is said that this is bringing in a new issue."

Yes, that is what was said about me yesterday evening. Gentlemen said it was a new issue; we had not talked about this thing here before; nobody had thought about it. Why had nobody thought about it? Because nobody was thinking about the actual, real sufferings which human beings were subjected to in this world. Persons thought about such things just in proportion as they reflected themselves upon their future political career. If it became necessary in order to elect a dozen Senators to this body this winter, that the women should be treated as women ought to be treated, that they should be put upon an equal footing with the men in all respects and enjoy equal rights with men, then I should have great hopes of carrying my amendment and carrying it in spite of everybody, because then and in that light it would be seen by Senators, and they would be thereby guided.

"I know it is said that this is bringing in a new issue. We must bring in new issues."

Now, I want to know what the honorable Senator from Massachusetts [Mr. WILSON] will say when he finds me advocating this new issue that must be brought in while he lags behind. My honorable friend from Delaware [Mr. SAULSBURY] will have immensely more the advantage of him to-day than he had yesterday if he dares lag, because I put the question to him now distinctly, and I do not leave it to his sense of propriety as to whether he shall speak or not speak on this question; I demand that he do speak. I demand that that voice which has been so potential, that voice which has had so much of solemn, I do not say sepulchral, wisdom in it heretofore, shall now be heard on the one side or the other of this important question, which involves the fate, the destiny, the liberty of one half of the people who inhabit this continent. I know from the generous upswelling of the bosom, which I almost perceive from here, in my brother, that he will respond to this sentiment, and that the response will be one of which his State and her progress, having two negroes in the Legislature now, [laughter,] will be proud. I feel assured of it, and I feel that when suffering humanity in any shape or form, whether it be male or female, whether it be black or white, red or yellow, appeals to him, the appeal will not be in vain, but that he will come to the rescue, and that he will strike the shield of the foremost knight on the other side and defy him to the combat.

"We must [said Mrs. Gage] bring in new issues. I sat in the Senate Chamber last winter."

And now I beg pardon of my honorable friend from Massachusetts, the other Senator from Massachusetts, [Mr. SUMNER,] for any offense that I may do to his modesty; but when I come to consider the recent change which has taken place in his life and habits I am the better assured that he will endure it. At any other time, I should not have dared to introduce this quotation.

"I sat in the Senate Chamber last winter, [said Mrs. Gage. Last winter, remember!] and heard CHARLES SUMNER's grand speech, which the whole country applauded."

And, Mr. President, they did, too, and they did it properly. It was a great, a grand, and a glorious speech; it was the ultimate of all speeches in that direction; and I, too, applauded with the country, although I, too, might not have agreed in every part of the speech. I might not have agreed with the speech in general, but it was a great, grand, proud, high,

and intellectual effort, at which every American might applaud, and I pardon Mrs. Gage for the manner in which she speaks of it. She has not excelled me in the tribute which I offer here to the honorable Senator from Massachusetts, and which I am glad to lay at his feet.

"I sat in the Senate Chamber last winter, and heard CHARLES SUMNER's grand speech while the whole country applauded; and I heard him declare that taxation without representation was tyranny to the freedman."

That was the ring of that speech; that was its key-note; it was the same key-note which stirred his forefathers in 1776; it was the same bugle-blast which called them to the field of Lexington and Bunker Hill ninety years ago; and it is no wonder that Mrs. Gage picks that out as being the residuum, that which was left upon her ear of substance after the music of the honorable Senator's tones had died away, after the brilliancy of his metaphors had faded, after the light which always encircles him upon this subject had gone away. It is no wonder that all that remained of it was that taxation without representation was tyranny. Let me commend it to the honorable Senator with his keen eye, his good taste, his appreciation of that which is effective and that which strikes the American heart to the core; let me commend it to him who desires to be the idol of that heart.

"When"—

Now, Mr. President, *sic transit gloria mundi*—

"When I afterwards found that he meant only tyranny to the male sex, I learned that CHARLES SUMNER fell far short of the great idea of liberty."

All this outpouring, all this magnificent burst of eloquence, all this eclectic combination drawn from all the quarters of the earth, all the sublime talk about the ballot, was merely meant for the question of trousers and petticoats! "Tyranny to the male sex," says Mrs. Gage, and now she goes on, and this is right to the point. The proposition here is to give to the male freedman a vote and to ignore the female freedwoman, to be tautological.

"I know something of the freedwomen South, Maria—I do not know that she had any other name—when liberated from slavery at Beaufort went to work and before the year was out she had laid up \$1,000."

That is a magnificent Maria, that is a practical Maria. She puts Sterne's Maria and all other Marias, except Ave Maria, in the shade. [Laughter.]

"I never heard of any southern white making \$1,000 in a year down there. Shall Maria pay a tax and have no voice?"

Shall Maria pay a tax and have no voice where the principle is admitted, where the principle is thundered forth, where it is axiomatic, where none dare gainsay it, that taxation without representation is tyranny? "Shall Maria pay a tax and have no voice?" That is the question. That, Mr. President, is the question before the Senate.

"Old Betty!"

There is not so much of the classic, not so much of the euphonious, not so much of the *salva rosa* about Betty as about Maria—

"Old Betty, while under my charge, cleared more than the amount free from taxation, and I presume is worth \$3,000 to-day."

Think of Betty!

"Is she to be taxed in South Carolina to support the aristocracy?"

Betty lives in South Carolina, it seems.

"Will you be just, or will you be partial to the end of time?"

"The marriage relation was alluded to by Miss Anthony."

And here is a most important part, to which I would direct the attention of my brother Senators as fundamental, fundamental in two respects—fundamental in the testimony it furnishes of the character of those you now propose to invest with the right of suffrage, fundamental in its character as to the use which they will make of it as to one half of the people who are in this bill presumed to be the objects of your especial care:

"The marriage relation was alluded to by Miss Anthony. When the positive order was sent to me to compel the marriage of the colored people living

together, the women came to me with tears and said, 'We don't want to be married in the church, because when we are married in the church our husbands treat us just as old massa used to, and whip us if they think we deserve it; but when we ain't married in the church they knows if they tyrannize over us we go and leff 'em.'

That is the class of male gentlemen to whom you propose to give suffrage. These poor women who have to be whipped if the males think they deserve it are the people to whom you deny it. These are the gentlemen who are to fabricate and make your laws of marriage, who are to fix the causes of divorce in these several States. These are the men, in other words, who are to enact, if it so please them, that upon the marriage the husband becomes seized of all his wife's property, of the personalty absolute and the realty as tenant by the courtesy; or perhaps they will have no courtesy about it—and I should not wonder if they had not—and give it to him in fee.

"And the men?"

I beg the Senate to remember that I am reading the testimony of Mrs. Gage; unexceptionable testimony:

"And the men came to me and said: 'We want you to compel them to be married, for we can't manage them unless you do.'"

I am not certain whether they can always be managed even after they are married. [Laughter.] But this is worse a great deal than before.

"They goes and earns just as much money as we does, and then they goes and spends it and never asks no questions. Now we wants 'em married in the church, 'cause when they's married in the church we makes 'em mind.' So in San Domingo establishing the laws of marriage made tyranny for these redeemed slave women."

Mrs. Gage continues:

"I would not say one word against marriage. God forbid. It is the noblest institution we have in this country. But let it be a marriage of equality. Let the man and woman stand as equals before the law. Let the freedwoman of the South own the money she earns by her own labor, and give her the right of suffrage; for she knows as much as the freedman. Bring in these elements, and you will achieve a success. But I will stand firmly and determinedly against the oppression that puts the newly-emancipated colored women of South Carolina under the subjection to her husband required by the marriage laws of South Carolina. I demand equality on behalf of the freedwoman as well as the freedman."

I might follow Mrs. Gage further; I might detain the Senate here hour after hour reading extracts from the various speeches and essays which have been delivered and made upon this subject within the last few years, and I may again make the challenge which I made yesterday. Let us have a reason why these are not potent to influence our action. Let us be told wherein the object of this argument is defective. Let us be shown why it is, if these things are rights, natural or conventional, that those who have interests are not to participate in them.

I listened to the eloquent and ingenious remarks of my honorable friend from Maine [Mr. MORRILL]—old, time-worn, belonging to the region of paleontology, far behind the carboniferous era. I would not undertake to go back there and answer them. All I can do with them is to refer them to the next meeting of the Anti-Slavery Society, which more than likely will meet in Albany or Boston the next time. There they will be attended to, and there they will be answered in such satisfactory phrase, I have no doubt, as would pale any poor effort of mine on the attempt. I have also listened to my honorable friend from Oregon, [Mr. WILLIAMS,] and still there are the same ancient foot-prints, the same old arguments, the same things that satisfied men thousands of years ago and which never did satisfy any woman that I know of, the same traveling continually of the tracks of the lion into the cave along with his victim, and *nulla retrorsum vestigia*, not a step ever came back. But let me say to my friends that Mrs. Elizabeth Cady Stanton, Mrs. Frances D. Gage, Miss Susan B. Anthony are upon your heels. They have their banner flung out to the winds; they are after you; and their cry is for justice and you cannot deny it. To deny it is to deny the perpetuity of your race.

Now, Mr. President, in regard to this Dis-

trict and this city, here is a fair proposition. It proposes to confer upon all persons above the age of twenty-one years the right to participate in the city government. Is any one afraid of it? Is my honorable friend from Maine afraid of it? He says it shall be confined to the males. He and my friend from Oregon have gone on to tell you that the white males of this city are in a very bad condition, indeed some of them in such a terrible condition that we are called upon to pass a bill of attainder, or a bill of pains and penalties, and a little *ex post facto* law in order to reach their tergiversations and perverseness. If that be true, why not incorporate some other element? I do not know much about the female portion of the negroes of this District except what I have seen, and I must confess that although there are a great many respectable persons among the negroes, and many for whom I have considerable regard, yet as a mass they have not impressed me as being a very high style of human development.

When I look along the pavements and about the walks and see them lounging, I am free to say that, without having been previously enlightened on the subject by so much as we have heard upon it recently, I should have had great doubts about conferring on them the right of suffrage. And when I reflect that they have to have a Freedmen's Bureau to make their contracts for them and to keep them in order, and it is said to protect them against the enmity of their white neighbors, even where they have a majority, or nearly a majority, I am not strengthened in my partiality for them by that. And when I reflect that just about this time last year we had great hesitation about adjourning for fear that the people represented by these males who are now to be invested with the franchise were in an actually starving condition in this District, and that the chief authorities of the District, moved, I have no doubt, by that humanity which ought to characterize everybody, investigated the matter and reported to us, we were obliged to appropriate \$25,000 to relieve them in their immediate wants; I do not think that speaks so well for the male portion of the African population of this city.

I believe if it were to come to the last resort that the female Africans of the District of Columbia have more merit, more industry, more of all that which is calculated to make them good and virtuous members of society than the males have. Why should you not throw them in? Why should you throw this batch of males into the ballot-box without any countervailing element which would be efficacious to qualify it and make it better?

To me it is perfectly plain. I have reconciled my mind to negro suffrage, but while I reconcile myself to negro suffrage as inevitable, I hold it to be my bounden duty to insist upon female suffrage at the same time. I am happy to say that in this opinion I am not alone; that while I favor universal suffrage limited by the age of twenty-one years so far, there are others who have been led to this same train of thought with myself. I beg, therefore, to read a letter dated Jefferson, Ohio, November 14, 1866:

MADAM: Yours of the 9th instant is received, and I desire to say in reply that I am now and ever have been the advocate of equal and impartial suffrage to all citizens of the United States who have arrived at the age of twenty-one years, who are of sound mind, and who have not disqualified themselves by the commission of any offense, without any distinction on account of race, color, or sex. Every argument that ever has been or ever can be adduced to prove that males should have the right to vote applies with equal if not greater force to prove that females should possess the same right; and were I a citizen of your State I should labor with whatever of ability I possess to ingraft these principles in its constitution.

Yours, very respectfully, B. F. WADE.

To SUSAN B. ANTHONY, Secretary of American Equal Rights Association.

Now, Mr. President, I ask whether this has not an orthodox sanction at least. I should like to know who would question, who would dare to question, the orthodoxy of the honorable Senator from Ohio, and who dares tell me

that this is such a novelty that it is not to be introduced here as serious, as in earnest? Sir, I say that I am perfectly in earnest, and I say that if this amendment be incorporated in this bill I shall vote for it with all my heart and soul. I beg to be understood that I would not inaugurate the movement, I would not make the change by my own mere motion, because I would not venture upon the change anywhere. That change must rise out of, spring out of, and come up from society generally. It is that thing which the poet has called the *vox populi*, and which he likens to the *vox Dei*. When the community spontaneously demands this call, when the community spontaneously demands this action, I yield to it. It is so in this instance. While I yield to the demand for negro suffrage, I demand at the same time female suffrage; and when I yield to the question of manhood suffrage, I feel assured I throw along the antidote to all the poison which I suppose would accompany the first proposition.

I am not afraid of negro suffrage if you allow female suffrage to go hand in hand with it. I believe that if there is any one influence in the country which will break down this tribal antipathy, which will make the two races one in political harmony and political action, not in actuality as races by amalgamation, but which will induce that harmony and that co-operation which may bring about the highest state, perhaps, of social civilization and development, it is the fact that woman and not man must interfere in order to smooth the pathway for these two races to go along harmoniously together. And it is for that reason that I insist that when you do make this step, this step forward which once made can never be retrieved, you must do that other thing which assures its success after it is made. Let the negro male vote now, and you open the arena of strife and contention; let both sexes vote, and then you close that arena of strife, you bring in that element which subdues all strife, which has made America what she is, which has made the American political meeting, which has made the American political convention, not the scene of strife or angry contention, where armed men met together to settle political differences, as in the Polish Diet, but a convention where all were subjected to reason, influenced, as it might properly be, by eloquence and by that "feast of reason" which is "the flow of the soul" to those who enjoy it. And therefore, Mr. President, I beg to assure everybody, and especially my honorable friend from Rhode Island, who agrees with me, I know, upon this topic, that I am serious and in earnest in urging this amendment; in dead earnest, in good earnest, and why not? I am not so blind as to mistake the signs of the times.

I might have refused to believe long ago when my honorable friend from Ohio [Mr. WADE] predicted that this was coming. I might have disbelieved when my honorable friend from Massachusetts [Mr. WILSON] predicted this was coming; when he blew his bugle blast and announced what an army was coming behind to enforce his doctrine and his principles. I might, like Thomas of old, have doubted; but now I have had my fingers in the very wounds of which he spoke. I know of a certainty now that this movement is in progress and that this movement will go on. I know of a certainty that black men must vote in the District of Columbia. Who can doubt it? Those who are in favor of that measure here are in force sufficient to carry it constitutionally beyond all question. Well, if it is to be I am reconciled to it, but at the same time I want to throw about it as many safeguards as are possible under the circumstances, and among those safeguards I think that of allowing females suffrage to be not only the best but the only one which will be efficacious in this behalf.

Mr. President, I have trespassed a great deal longer upon the Senate than I intended. I beg to return my thanks for the indulgence

they have exhibited in listening to what I had to say.

Mr. MORRILL. Mr. President, the honorable Senator began by saying that he was in earnest, and he concludes by affirming the same thing. Doubtless he had made the impression upon his own mind that after all he had said there might be a doubt in the minds of the Senate on that point. Does any one who has heard the speech, somewhat extraordinary, of the honorable Senator suppose that he is, at all in earnest or sincere in a single sentiment he has uttered on this subject? I do not imagine he believes that any one here is idle enough for a moment to suppose so. Now, his attempt at being facetious has not been altogether a failure. I think he has succeeded in being amusing; he has evidently amused himself; and if he could afford the sacrifice I admit he has amused the galleries and probably most of us; but that he has convinced anybody that he was arguing to enlighten the Senate or the public mind on a question which he says is important, he does not believe and he does not expect anybody else to believe it. If it is true, as he intimates, that he is desirous of becoming a Radical, I am not clear that I should not be willing to accept his service, although there is a good deal to be repented of before he can be taken into full confidence. [Laughter.]

When a man has seen the error of his ways and confesses it, what more is there to be done except to receive him seventy and seven times? Now if this is an indication that the honorable Senator means to out-radical the Radicals, "Come on, Macduff," nobody will object provided you can show us you are sincere. That is the point. If it is mischief you are at, you will have a hard time to get ahead. While we are radical we mean to be rational. While we intend to give every male citizen of the United States the rights common to all, we do not intend to be forced by our enemies into a position so ridiculous and absurd as to be broken down utterly on that question, and who ever comes here in the guise of a Radical and undertakes to practice that probably will not make much by the motion. I am not surprised that those of our friends who went out from us and have been feeding on the husks desire to get ahead; but I am surprised at the indiscretion and the want of common sense exercised in making so profound a plunge at once! If these gentlemen desire to be taken into companionship and restored to good standing, I am the first man to reach out the hand and say, "Welcome back again, so that you are repentant and regenerated;" but sir, I am the last man to allow that you shall indorse what you call radicalism for the purpose of breaking down measures which we propose!

So much for the radicalism of my honorable friend. Now, sir, what is the sincerity of this proposition? What is the motive of my honorable friend in introducing it? Is it to perfect this bill? Is it to vindicate a principle in which he believes? Not a bit of it. It is the old device of the enemy—If you want to defeat a measure, make it as hateful and odious and absurd as possible and you have done it. That is the proposition. Does he believe in the absolute right of women to vote? Not a bit of it, for he has said here time and again in the beginning, middle, and end of his discourse that he does not believe a word of it.

Mr. COWAN. And never did.

Mr. MORRILL. He says it is no natural right whatever either to man or woman and therefore he does not stand here to vindicate a right.

Mr. COWAN. I should like to ask the honorable Senator whether he believes it is a natural right either in man or woman.

Mr. MORRILL. I have said distinctly on a former occasion that I did not; and therefore I am not to be put in the attitude of so arguing. The Senator does not believe that; he is not here urging a principle in which he believes. What is he doing? Trying to do mischief; trying to make somebody believe he

is sincere. That is labor lost here. It will not succeed of course.

Now, what is his position? "I do not believe in woman suffrage, and do not believe in negro suffrage, but if you will insist upon male negro suffrage I will insist upon woman negro suffrage." That is his position exactly. "If you insist that the male negro shall vote I insist the female shall." That is his attitude; nothing more nor less. Mr. President, I do not think there is much force in the position. He has not offered an argument on the subject. He has read from a paper. He has introduced here the discourse of some ladies in some section of the country upon what they esteem to be their own rights, in illustration; that is all; not as argument; he does not offer it as an argument, but to illustrate his theme and to put us in an attitude, as he supposes, of embarrassment on that subject. He has read papers which are altogether foreign from his view of this subject, and which he for a moment will not indorse. He offers these as an illustration with a view of illustrating his side of the question, and particularly with a view of embarrassing this measure.

I think that is all there is in the Senator's proposition, and so I leave it. But while I am up I will advert, to save calling the attention of the Senate to it again, to that part of his argument yesterday which was addressed to the amendment proposed to the bill whereby those who had been engaged in rebellion were to be restricted in this right. My honorable friend is an astute and able and critical lawyer, and when he talks law here he is bound to talk as a lawyer; he ought to talk as a lawyer; but he will allow me to say that all his talk on that subject was not lawyer-like; he did not talk in the language of the law, he did not talk on the principles of the law, the fundamental, cardinal principles of the law; he did not talk even the ordinary principles common to the very tyros of the law. He undertook to convince the Senate that you could not do this thing because it would be *ex post facto*, absolutely against the Constitution of the United States, as it would inflict a punishment on the man who was deprived of the exercise of the right to vote. On what principle, allow me to ask the honorable Senator, would that be true?

Mr. COWAN. Go on; I will show when you get through.

Mr. MORRILL. You are coming! Well, sir, is it a punishment in the nature of a penalty to say that a man who has enjoyed a privilege shall no longer enjoy it? That is all there is of this. On the argument of the honorable Senator, the right of voting is not a natural right; it is one which society confers or withholds as it pleases. It confers it upon just whom it will and withholds it from whom it will. There being no right of course there is no punishment. The honorable Senator talked upon that subject as if we were inflicting a penalty and a punishment by simply saying that those persons who had gone out from among us and engaged in treason, rebellion, civil war, insurrection, and had forfeited all rights, shall not hereafter be intrusted with the exercise of certain civil and political rights! That I insist is a perfect answer to all that my honorable friend said on that subject yesterday. It is not a penalty; it is not a punishment in the sense of punishment; it is simply saying to those who have by their conduct forfeited the confidence of the community, "You may no longer exercise that trust." That is all there is of it. So my honorable friend will pardon me for saying that I think with all his conceded brilliant attainments in the law, his great ability and learning and acuteness, he did not talk in the language of the law when he was up yesterday.

Mr. President, I had no intention of detaining the Senate when I rose.

Mr. COWAN. Mr. President, I had not intended to say anything further, but I certainly did not suppose that I should be assailed by the honorable Senator from Maine upon the subject of my law; and particularly I did not suppose that he, the champion as he supposes

of his wing of the party, would do it. He says that to deprive a man of the right of suffrage is not a punishment. Is it not a punishment when you make it a punishment, when you say that you do it by way of punishment and you tell why you do it? But he gets off on the shallow sophism that it not being a natural right society may take it away from a man. If the honorable Senator had been disposed to argue fairly as a lawyer always is—the very essence of a lawyer is that he is always fair, always manly, always right up to the point—he would have remembered that yesterday I distinguished between his case and mine. He says voting is not a natural right; it is conventional; it is bestowed by society; and if it is bestowed by society, cannot society take it away? I say certainly society can take it away; but what I said here was that society cannot take it away unlawfully; I said that the Constitution of the United States which was made to restrain us the same as laws are made to restrain the citizen forbids it, and I say you cannot take it away here until you alter the Constitution of the United States. You cannot in this way deprive the humblest American citizen of any right. Before God, if there is anything in my country of which I am proud it is that no power in the country can deprive the humblest American citizen of his humblest right in the face of the law, because in this country the law is sovereign, not the Congress, not the President, not the court, but that silent, terrible *vox populi* of the American people which we find in the Constitution.

I admit that if the honorable Senator proposes to change the Constitution he can limit the right of suffrage to whomsoever he pleases; he can deprive of it people who have been in the rebellion and people who have not been in the rebellion; he can deprive of it anybody. But this is not the function that he aspires to perform here. He proposes here upon the floor of the Senate, and in the face of the American Senate, sworn to stand upon the Constitution and the laws, to deal with an American citizen in this District, an American citizen owing direct and personal allegiance beyond all question, despite John C. Calhoun, despite Webster, and despite everybody. Nobody dare deny that the allegiance is direct and personal in the District. This man, like the tyrant of old who would have scourged Paul, comes here and proposes to deprive an American citizen of a right by way of penalty, by way of punishment, for what? Because he says he took part in the rebellion. Does he propose to try him? No, sir, he does not propose to try him. He proposes no intervention by a grand jury of this man's neighbors who are to be the judges of the testimony, of its truth, of the probability of the facts. He proposes no petit jury, no judge learned in the law, none of the safeguards of American liberty. He tramples upon them all, runs right over them all, and proposes to punish an American citizen, and says it is no punishment. I say, Mr. President, as I said yesterday, that Caligula was a mild, humane tyrant compared to this.

Mr. MORRILL. Will the Senator allow me to ask him a question?

Mr. COWAN. Certainly.

Mr. MORRILL. If this is in the nature of punishment because it denies to a citizen of the United States a right, is it in the nature of punishment to deny that right to the colored citizen?

Mr. COWAN. I will answer that; and it is astonishing to me that gentlemen with the legal as well as literary acumen of the honorable Senator from Maine cannot see the distinction. I have said over and over again that in this bill of his allowing suffrage to the colored people he may pick out any number of them and exclude any number, because thereby he deprives nobody of any right; and even if he did he would not be doing it by way of punishment. The essence of the thing which he proposes to do, of which I complain, is that he proposes to deprive certain people of their



rights which they have under the law, and he gives as reason for it that they have committed a crime. What can be plainer than that?

Mr. MORRILL. No such thing. We say simply because they cannot be trusted; that is all.

Mr. COWAN. I know what the honorable Senator simply says, and I know what anybody may simply say, but that does not alter the thing. You cannot make that which is punishment to be not punishment by merely saying "I do not intend it as a punishment." That will not do. The thing is a punishment, and I have the highest authority for saying so. I have that authority here before me. At one time there was a motion made in the other House to inquire of Mr. Webster how he disposed of the secret service money of the Government, and in the debate which followed upon that occasion John Quincy Adams, than whom I suppose no man could be higher authority as a learned man, as a jurist, as a statesman, as among the head and front of men of whom American citizens are proud, said that the deprivation of the right of suffrage he considered the highest punishment that could be inflicted upon a man; and yet here in the broad light of day, in the open Senate, among the *élite* of American men, if there be such a thing, a Senator gets up and asserts that this thing which would sting an honorable man to the quick, which would debase and degrade him, which would stigmatize his children, which would wound him beyond the pangs of death, in the language of John Quincy Adams, that this is no punishment. Why, Mr. President, it is impossible to carry the absurd and the ridiculous beyond that.

No punishment! No punishment to ostracize a man! No punishment to deprive a man of that right, the highest and the holiest, and most sacred which the law has cast upon him! No punishment to deprive him of it! Mr. President, it is the highest punishment known to the law even when it is inflicted by due process of law! Was it no punishment to the Sepoy that if he bit off the end of a greased cartridge he should become a pariah, that he should be thrown out from his caste, that he should be disqualified among his sect? It was that which made the recent rebellion in India. Talk about its being no punishment! To say that it is no punishment is to insult the commonest, plainest principles of our reason. It is to suppose that a man is destitute of nerves; it is to suppose that feeling within him has been paralyzed and made incapable of being wounded by any indignity.

Mr. President, I am sorry that it has been necessary for me to argue this question. I agree with gentlemen that this is within the control of the community. I have said so. I say that the community of Pennsylvania by a convention of her people, or by the legal mode pointed out in her constitution for its amendment, may deprive large classes of citizens of their franchise, and there is no punishment in it, there is no disgrace in it; but I declare to-day that the Legislature of Pennsylvania cannot with all its sovereignty and with all the rights conferred upon it take away from the humblest citizen of Pennsylvania his right to the franchise by way of punishment and because he has been guilty of any offense.

Mr. President, I have only to recall to the recollection of the Senate, and especially to the recollection of the honorable Senator from Maine, that which transpired at the last session. A question arose in this body whether it were competent for Congress to deprive those who had taken an active part in the recent rebellion of their right of suffrage. What lawyer ever had any doubt upon that question? And what was it that drove the committee of reconstruction, in order to avoid the difficulty and to overcome the barrier interposed by the Constitution, to resort to a constitutional amendment? If the third clause, I believe it is, of that constitutional amendment could have been enacted by Congress, where was the necessity for making it a constitutional amend-

ment? Only that necessity which was recognized by all lawyers who said that under our Constitution it would be in the nature of a bill of pains and penalties which was forbidden; or in another aspect of it, it would be an *ex post facto* law, imposing a penalty for a crime which had been before that time committed; and therefore it was that the high prerogative of sovereignty exercised by the American people in the amendment of their Constitution was invoked to avoid that very difficulty. Now, I ask the honorable Senator from Maine if this was a thing not in its nature penal, not partaking of the character of punishment, within the ordinary scope of legislative action, why was it that rebels were not disfranchised simply by act of Congress? Why was it necessary to resort to an amendment of the Constitution to achieve it? I can state to the honorable Senator that it was because of the legal sense of his compeers; it was the weight of the obligations of the Constitution upon his compeers which compelled them to resort to that mode of achieving the purpose which he now proposes to achieve in the face of the Constitution.

Well, now, Mr. President, I desire to answer another question of the Senator. He alleges that I am not serious in the amendment I have moved, that I am not in earnest about it. How does he know? By what warrant does he undertake to say that a brother Senator here is not serious, not in earnest. I should like to know by what warrant he undertakes to do that. He says I do not look serious. I have not perhaps been trained in the same vinegar and persimmon school, [laughter;] I have not been doctrinated into the same solemn nasal twang which may characterize the gentleman, and which may be considered to be the evidence of seriousness and earnestness. I generally speak as a man, and as a good-natured man, I think. I hope I entertain no malice toward anybody. But the honorable Senator thinks that I want to become a Radical. Why, sir, common charity ought to have taught the honorable Senator better than that. I think no such imputation, even on the part of the most virulent opponent that I have, can with any justice be laid to my door. I have never yielded to his radicalism; I have never truckled to it. Whether it be right or wrong, I have never bowed the knee to it. From the very word "go" I have been a conservative; I have endeavored to save all in our institutions that I thought worth saving.

I suppose, in the opinion of the gentleman, I have made sacrifices; I suppose I am in the condition of Dr. Caius: "I have had losses." Certainly, if any man has given evidence of the sincerity of his doctrines, I have done so; I have lost all of that, perhaps, which the Senator from Maine may think valuable; I have lost all the feathers that might have adorned my cap by opposition to radicalism; and now I stand perfectly free and independent upon this floor; free, as I supposed, not only from all imputation of interest, but free from all imputation of dishonor. I am out of the contest. If I had chosen to play the Radical; if I had chosen to out-Herod Herod, I could have out-Heroded Herod perhaps as well as the honorable gentleman, and I could have had quite as stern and vigorous a following as he or any other man, more than likely without asserting any very large amount of vanity to myself, [Mr. MORRILL rose;] but now, when I stand here, as I think, free, unquestionably free from all imputation either of interest or dishonor, to be told this is— If the Senator wants to say anything, I will hear him.

Mr. MORRILL. The honorable Senator will allow me to say that I do not think this line of argument is open to him, because to-day once or twice he certainly repeated that this was a race of radicalism and he did not intend to be outdone. My remark was predicated simply on the assumption of the honorable Senator that he was disposed to enter into the race, and rather in a disposition to welcome than discourage him.

Mr. COWAN. Mr. President, I agree that if you will allow the gentleman to put arguments in my mouth and to furnish me theories as his fancy paints them, he can demolish them. I will not agree that he is my master in any particular; but I do agree that he can take a pair of old pantaloons out in the country and stuff them and make a man of straw, and that he can overthrow it and trample upon it and kick it about with the utmost impunity. But I do not choose to allow the honorable Senator to make either my theories or my arguments, nor do I allow him to make quotations from me unless he does it fairly. I gave utterance to no such idea as that which he has just attributed to me. I did not say that in this race of radicalism I was determined to be in front. I said no such thing. I said that there was an onward movement, that I yielded to that movement, and that while I yielded to it against my own better opinion that any change was impolitic; yet that change was inevitable, I wanted it to be as perfect as possible and I wanted it to be made with all the safeguards possible.

That was my argument. I said so yesterday, I said so to-day; I say so now; and I appeal to my friends here who have talked about this onward movement, this progress of things, this inevitable which was in the future, to stand now upon their theories and upon their doctrines. That was my ground, ground simply stated, and for that I am not to be charged here with a desire to conciliate the honorable gentleman or his faction or his party, or any other party in this country. Mr. President, I am not a proud man, I hope; not a vain man, I hope; but I would rather be deprived of the right of suffrage, high punishment as it is, I would rather suffer all the penalties that would be inflicted even by the most malignant law-giver than to cower or cringe or yield to anything of mortal mold on this planet, except by duress and by force. No man dare charge me with that. I have endeavored to act here as an honest man feeling his own responsibilities, feeling the responsibilities of the oath upon him when he took it; obliged to interpret the Constitution as he himself understands it; feeling that that Constitution was a restraint upon him, a restraint upon the people, a restraint upon everybody; that we were sent here for the purpose of standing upon it even against the rage of the people, even against their desire to trample it under foot. Feeling all these things, I have stood here and I appeal to my fellow-Senators to know if any one of them can say that at any time I have manifested the smallest disposition to yield in any one particular. I scorn the imputation; I would rather have the approval of my own conscience, I would rather walk in the star-light and look up to them and to the God who made me free and independent, than to seek the highest station upon the earth by truckling to any man or any set of people or giving up my free opinions.

And yet I propose not to be irrational in this matter. As I said yesterday, and as I said to-day, I have struggled against change; but if it is to be made I wish to direct it properly. I made in my own person, two or three years ago, a motion which passed this body by, I think, a vote of precisely two to one—I believe it was 28 to 14—that the voters of the District of Columbia should be confined to white males; but upon that occasion I stated—and the debates will bear me out, I think—that if the door of the franchise was to be opened, if it was thought that the safety of the country required more people to cast ballots, more people to enjoy this privilege, I would open it to the women of the country sooner than I would open it to the negroes. I say so to-day. You are determined to open it to the negroes. I appeal to you to open it to the women. You say there is no danger in opening it to the negroes. I say there is no danger then in opening it to the women. You say that it is safe in the hands of the negroes. I say it is equally safe in the hands of our sisters, and more safe in the hands of our wives

and our mothers. I say more to you. I say you have not demonstrated that it is safe to confer the franchise upon men just emerged from the barbarism of slavery; I say you have not demonstrated that it is safe to give the ballot to men who require a Freedmen's Bureau to take care of them, and who it is not pretended anywhere have that intelligence which is necessary to enable them to comprehend the questions which agitate the people of this nation, and of which the people are supposed to have an intelligent understanding. I say you have not demonstrated all that; but you have expressed your determination. You are determined to do it, and when you are determined to do it I want to put along with that element, that doubtful element, that ignorant element, that debased element, that element just emerged from slavery, I want you to put along with it into the ballot-box, to neutralize its poison if poison there be, to correct its dangers if danger there be, the female element of the country.

That is my position. If you abandon the whole project I have no objection. I am willing to rest the safety of the country where it is and has been so far. I am open to conviction, open to argument, open to reason even upon that subject; but I am willing to leave this question of suffrage where our fathers left it, where the world leaves it to-day, where all wise men leave it. If, however, it is to be opened, if there is to be a new era, if political power is to be distributed *per capita* according to a particular age, then I am for extending it to women as well as men. Let me tell the honorable Senator I am not alone in this opinion; the Senator from Ohio with me is not alone; one of the first intellects of this age, perhaps the first man of the first country of the earth, is of the same opinion. I allude to John Stuart Mill, of Great Britain. He is now agitating for this very thing in England. So that it need not seem surprising that I should be in earnest in this; and I trust that after the explanation I have made of my position and my doctrines, I shall not be charged either with insincerity or with a desire to ingratiate myself with the majority of this body, with the majority of the people, or with any one, because thank God I am free from all entanglements of that kind at this present speaking, and if I retain my senses I think I shall keep free.

Mr. WADE. Mr. President, I did not intend to say a word upon this subject, because on the first day of the last session of Congress I introduced the original bill now before the Senate, to which the committee have proposed several amendments, and that action on my part I supposed demonstrated sufficiently to all who might read the bill what were my views and sentiments upon the question of suffrage; and, sir, they are of no sudden growth. I have always been of the opinion that in a republican Government the right of voting ought to be limited only by the years of discretion. I have always believed that when a person arrived at the age when by the laws of the country he was remitted to the rights of citizens, when the laws fixed the age of majority when the person was supposed to be competent to manage his own affairs, then he ought to be suffered to participate in the Government under which he lives. Nor do I believe that any such rule is unsafe. I imagine that safety is entirely on the other side, for just in proportion as you limit the franchise, you create in the same degree an aristocracy, an irresponsible Government; and gentlemen must be a little tinctured with a fear of republican sentiment when they fear the extension of the right of suffrage.

If I believed, as some gentlemen do, that to participate in Government required intellect, of the highest character, the greatest perspicacity of mind, the greatest discipline derived from education and experience, I should be convinced that a republican form of government could not live. It is because I believe that all that is essential in government for the welfare of the community is plain, simple, level with the weakest intellects, that I am satisfied this Government ought to stand and will stand for-

ever. Who is it that ought to be protected by these republican Governments? Certainly it is the weak and ignorant, who have no other manner of defending their rights except through the ballot-box.

The argument for aristocracies and monarchies has ever been that the masses of the people do not know enough to take care of the high concerns of Government. If they do not, the human race is in a miserable condition. If, indeed, the great masses of mankind, who are permitted to transact their own business, are incompetent to participate in government, then farewell to the republican system of government; it cannot stand a day; it is a wrong foundation. Our principles of government are radically wrong if gentlemen's fears on this subject are well grounded. Thank God, I know they are not. I know that all the defects and evils of our Government have not come from the ignorant masses; but the frauds and the devices of the higher intellects and the more cultivated minds have brought upon our Government all those scars by which it has been disfigured.

Why, sir, look at the administration of the southern governments in the seceded States, where their public men were advocates of the doctrine that suffrage should be restricted and generally that republican Governments were wrong. I had a great deal of private conversation with the gentlemen who were formerly in these Halls representing those governments, and I hardly ever conversed with a single man of them from that part of the country who believed that a republican Government could or ought to stand. Some of them used to say, "How can the mechanic, how can the laboring man understandingly participate in these high and complicated affairs of Government?" Those men at heart were aristocrats or monarchists; they did not believe in your republican Government. I, on the other hand, believe that the safety of our Government depends on unlimited franchise, or rather, I should say, on franchise limited only by that discretion which fits a man to manage his own concerns. Let a man arrive at the years of majority, when the Government and the experience of the world say that he has attained to such age and such discretion that it is safe to intrust him with his own affairs, and then if he cannot be permitted to participate in the Government, I say again farewell to republican government; it cannot stand.

It was for these reasons that when I introduced the original bill I put it upon the most liberal principle of franchise except as to females. The question of female suffrage had not then been much agitated, and I knew the community had not thought sufficiently upon it to be ready to introduce it as an element in our political system. While I am aware of that fact, I think it will puzzle any gentleman to draw a line of demarkation between the right of the male and the female on this subject. Both are liable to all the laws you pass; their property, their persons, and their lives are affected by the laws. Why, then, should not the females have a right to participate in their construction as well as the male part of the community? There is no argument that I can conceive or that I have yet heard that makes any discrimination between the two on the question of right.

Why should there be any restriction? Is it because gentlemen apprehend that the female portion of the community are not as virtuous, that they are not as well calculated to consider what laws and principles of the government will conduce to their welfare as men are? The great mass of our educated females understand all these great concerns of Government infinitely better than that great mass of ignorant population from other countries which you admit to the polls without hesitation.

But, sir, the right of suffrage in my judgment has bearings altogether beyond any rights of persons or property that are to be vindicated by it. I lay it down that in any free community, if any particular class of that community

are excluded from this right they cannot maintain their dignity; it is a brand of Cain upon their foreheads that will sink them into contempt, even in their own estimation. My judgment is that if this right was accorded to females you would find that they would be elevated in their minds and in their intellects. The best discipline you can offer them would be to permit and to require them to participate in these great concerns of Government, so that their rights and the rights of their children should depend in a manner upon the way in which they understand these great things.

What would be the effect upon their minds? Would it not be, I ask you, sir, to lead them from that miserable amusement of reading frivolous books and novels and romances that consume two thirds of their time now, from which they learn nothing, and draw their attention to matters of more moment, more substance, better calculated to well-discipline the mind? In my judgment it would. I believe it would tend to educate them as well as the male part of the population. Take the negroes, who it is said are ignorant, the moment you confer the franchise on them it will lead them to struggle to get an understanding of the affairs of Government so as to be able to participate intelligently in them. They will then understand that they are made responsible for the Government under which they live. In my judgment, this is the reason why the fact exists, which is acknowledged everywhere, that the great mass of our population rise immensely higher in intellect and every quality that should adorn human nature above the peasantry and working classes of the Old World. Why is this? I think much of it results from the fact that the people of this country are compelled to serve upon juries, to participate in the government of their own localities in various capacities, and finally to take part in all the great concerns of Government. That elevates a man and makes him feel his own consequence in the community in which he lives.

It is for these reasons as much as any other that I wish to see the franchise extended to every person of mature age and discretion who has committed no crime. I know very well that prejudices against female voting have descended legitimately to us from the Old World; yea, more than anything else, from that common law which we lawyers have all studied as the first element in jurisprudence. That system of law really sank the female to total contempt and insignificance, almost annihilated her from the face of the earth. It made her responsible for nothing. So far was she removed from participating in anything or being responsible for anything, that if she even committed a crime in the presence of her husband she was not by that old law answerable for it. He was her guardian; he had the right to correct her as the master did his slave in the South. Such was the chivalry of that old common law from which we derive our judicial education. A vast remnant of that old prejudice is still lurking in the minds of our community. It is a mere figment of proscription and nothing else, descended down to us, and we have not overcome it. It is not founded in reason; it is not founded in common sense; and it is being done away with very fast, too.

I know that those women who have taken these things into consideration, with minds as enlightened and as intelligent as our own, have done immense good to their sex by agitating these great subjects against all the ridicule and all the contempt that has been wielded against them from the time they commenced the agitation. I know that in my own State we had a few years ago a great many laws on our statute-book depriving females of a great many rights without the least reason upon earth. Perhaps it was because the question was not agitated and because it did not particularly concern the males that they did not turn their attention to it; but when agitated in the women's rights conventions that have been so abused and ridiculed throughout the country, man could no longer shut his eyes to the glar-

ing defects that existed in our system, and our Legislature has corrected many of those abuses and placed the rights of the female upon infinitely higher grounds than they occupied there thirty years ago; and I believe this remark is as applicable to many other States as it is to Ohio. I tell you the agitation of these subjects has been salutary and good; and our male population would no more go back to divest women of the rights they have acquired than they would go back now to slavery itself in the advance we have lately made.

What do I infer, then, from all this? Seeing that their rights rest upon the same foundation and are only kept down by proscription and prejudice, I think I know that the time will come—not to-day, but the time is approaching—when every female in the country will be made responsible for the just government of our country as much as the male; her right to participate in the Government will be just as unquestioned as that of the male. I know that my opinions on this subject are a little in advance of the great mass, probably, of the community in which I live; but I am advancing a principle. I shall give a vote on this amendment that will be deemed an unpopular vote, but I am not frightened by that. I have been accustomed to give such votes all my life almost, but I believe they have been given in the cause of human liberty and right and in the way of the advancing intelligence of our age; and whenever the landmark has been set up the community have marched up to it. I think I am advocating now the same kind of a principle, and I have no doubt that sooner or later it will become a fixed fact, and the community will think it just as absurd to exclude females from the ballot-box as males.

I do not believe that it will have any unfavorable effect upon the female character if women are permitted to come up to the polls and vote. I believe it would exercise a most humane and civilizing influence upon the roughness and rudeness with which men meet on those occasions if the polished ladies of the land would come up to the ballot-box clothed with these rights and participate in the exercise of the franchise. It has not been found that association with ladies is apt to make men rude and uncivilized; and I do not think the reflex of it presents that ladylike character which we all prize so highly. I do not think it has that effect. On the other hand, in my judgment, if it was popular to-day for ladies to go to the polls, no man would regret their presence there, and the districts where their ballots were given would be harmonized, civilized, and rendered more gentlemanly, if I may so say, on the one side and on the other, and it would prevent the rude collisions that are apt to occur at these places, while it would reflect back no uncivilizing or unladylike influence upon the female part of the community. That is the way I judge it. Of course, as it has never been tried in this country, it is more or less of an experiment; but here in this District is the very place to try your experiment.

I know that the same things were said about the abolition of slavery. I was here. Gentlemen know very well that there was a strong desire entertained by many gentlemen on this floor that emancipation, if it took place, should be very gradual, very conservative, a little at a time. I was the advocate of striking off the shackles at one blow, and I said that the moment you settled on that the community would settle down upon this principle of righteousness, justice, and liberty, and be satisfied with it, but just as long as you kept it in a state of doubt and uncertainty, going only half way, just so long it would be an irritating element in our proceedings. It is just so now with this question. Do not understand that I expect that this amendment will be carried. I do not. I do not know that I would have agitated it now, although it is as clear to me as the sun at noonday that the time is approaching when females will be admitted to this franchise as much as males, because I can see no reason for the distinction. I agree, however, that

there is not the same pressing necessity for allowing females as there is for allowing the colored people to vote; because the ladies of the land are not under the ban of a hostile race grinding them to powder. They are in high fellowship with those that do govern, who, to a great extent, act as their agents, their friends, promoting their interests in every vote they give, and therefore communities get along very well without conferring this right upon the female. But when you speak of it as a right and as a great educational power in the hands of females, and I am called on to vote on the subject, I will vote that which I think under all circumstances is right, just, and proper. I shrink not from the question because I am told by gentlemen that it is unpopular. The question with me is, is it right? Show me that it is wrong, and then I will withhold my vote; but I have heard no argument that convinces me that the thing is not right.

There has been something said about this right of voting, as to whether it is a natural or a conventional right. I do not know that there is much difference between a natural and a conventional right. Right has its hold upon the conscience in the inevitable fitness of things, and whether it springs from nature or from any other cause right is right, and a conventional right is as sacred as a natural right. I cannot distinguish them; I know of no difference between them. It certainly does not seem to me that it would be right now if a new community is about to set up a Government, for one third of them to seize upon that Government and say they will govern and the rest shall have nothing to do with it. It seems to me there is a wrong done to those who are shut out from any participation in the Government, and that it is a violation of their rights; and what odds does it make whether you call it a natural or conventional or artificial right? I contend that when you set up a Government you shall call every man who has arrived at the years of discretion, who has committed no crime, into your community and ask him to participate in setting up that Government; and if you shut him out without any reason, you do him a wrong, one of the greatest wrongs that you can inflict upon a man. If it is to be done to me or to my posterity, I say to you take their lives but do not deprive them of the right of standing upon the same foothold, upon the same platform in their political rights with any other man in the community. I will compromise no such principle. I contend before God and man ever, always, that they shall stand upon the same platform in setting up their Governments and in continuing them after they are set up, and I will brand it as a wrong and an injustice in any man to deprive any portion of the population, unless it be for crime or offense, from participating in the Government to the same extent that he participates himself. If they are ignorant, so much the greater necessity that they have this weapon in their hands to guard themselves against the strong. The weaker, the more ignorant, and the more liable they are to be imposed upon, the greater the necessity of having this great weapon of self-defense in their hands.

I know very well that great prejudices have existed against colored people; but my word for it, the moment they are admitted to the ballot-box, especially about the second Tuesday of October in our State, you will find them as genteel a set of men as you know anywhere; as much consideration will be awarded to them; they will be men; they will be courted; their rights will be awarded to them; they will be made to feel, and it will go abroad that they are not the subjects of utter contempt that can be treated as men see fit to treat them; but they will rise in the scale of the community, and finally occupy a platform according to their merits, which they never can obtain, and you will never be able to make anything of any portion of the community, black or white, while you exclude them from the ballot-box.

These, sir, are the reasons why I introduce this bill, and to vindicate them I have spoken.

I know I am not able to set forth anything new on this subject. Every American citizen has reflected upon it until his mind is made up, and the thing itself is so universally approved by our community that the only wonder is that when we propose to extend this franchise to all the people alike anybody is found in opposition to it.

Mr. YATES. Mr. President, I propose to occupy the time of the Senate for but a few moments by way of explanation of my position on this subject. Honorable Senators seem to think there is some little embarrassment in the position in which we are placed upon this question. There is certainly none whatever to my mind. I must confess, after an examination of this question, that logically there are no reasons in my mind which would not permit women to vote as well as men according to the theory of our Government—a Government of the people, by the people, and for the people.

But, sir, that question as to whether ladies shall vote or not is not an issue now. That was not the question at the last election. That was not the question that was argued in another part of this Capitol. That was not embraced in the bill now before us for consideration. Questions of a different character engross our attention; and, sir, we have but one straightforward course to pursue in this matter. While I may and do indorse, I believe, substantially all that my honorable friend from Ohio has said, and while I cannot state perhaps a good reason why under our form of government all persons, male and female, should not exercise the right of suffrage, yet we have another matter on hand now. We have fought the fight and our banners blaze victoriously in the sky. The honorable Senator from Pennsylvania stands humbled and overcome at his defeat, and he might just as well bow his head before the wheels of that Juggernaut of which he spoke, which has crushed him to the earth, and say, let the *vox populi*, which is the *vox Dei*, be the rule of this land.

I believe that this issue will come, and if the gentleman proposes to make it in the next elections I shall be with him perhaps on the question of universal suffrage; for, sir, I am for universal suffrage. I am not for qualified suffrage; I am not for property suffrage; I am not for intelligent suffrage as it is termed; but I am for universal suffrage. That is my doctrine. But, sir, when it is proposed to crush out the will of the American people by an issue which certainly is not made in sincerity and truth, then I have no difficulty whatever. While I do not commit myself against the progress of human civilization, because I believe that time is coming, in voting "no" on this amendment I only vote to maintain the position for which I have fought and for which my State has fought.

My notions are peculiar on this subject. I confess that I am for universal suffrage, and when the time comes I am for suffrage by females as well as males; but that is not the point before us. This bill has passed the other House. The country expects the verdict of the people to be sustained by this body, and we must do it. Upon the question of reconstruction there are other points; questions of universal amnesty, questions of universal suffrage. The verdict of the people has been against universal amnesty as well as for universal suffrage. It has been raised for universal suffering for rebels who raised their arms against this Government, and universal suffrage and every right to the men who have stood by the Government and fought with us through this war. Sir, I shall most cheerfully and with perfect consistency vote "no" against this amendment, viewing it as a mere attempt on the part of the honorable Senator from Pennsylvania to embarrass this question.

Mr. WILSON. The Senator from Pennsylvania demands that I shall express my concurrence in or my opposition to his amendment. I tell him without the least hesitation I shall vote against it. I am opposed to connecting together these two questions, the enfranchisement



ment of black men and the enfranchisement of women, and therefore shall vote against his amendment.

These ladies in the conventions recently held seem to have made a great impression upon the Senator from Pennsylvania. While I heard him reading their speeches I could not but regret that the Senator had not read the speeches of some of those ladies and the speeches of some of those gentlemen who attended those recent meetings before he came into the Senate. If he had read the speeches of the ladies and gentlemen who have attended these conventions during the past few years their speeches might have made as great an impression on him at an earlier day as they seem to have done at this; and if they had done so, the Senator might have made a record for liberty, justice, and humanity he would have been proud of after he leaves the Senate.

I have, sir, quite the advantage of the honorable Senator. I have been accustomed to attend the meetings of some of these ladies and gentlemen for many years, and read their speeches, too. I read these speeches for the freedom of all, and for the enfranchisement of all, woman included. Before I came to the Senate of the United States I entertained the conviction that it would be better for this country, that our legislation would be more humane, more for liberty, more for a high civilization, if the women of the country were permitted to vote, and every year of my life has confirmed that conviction. I have been more than ever convinced of it since I have read the opinions of one of the foremost men of this or any other age, John Stuart Mill.

But I say to the Senator from Pennsylvania that while these are my opinions, while I will vote now or at any time for woman suffrage, if he or any other Senator will offer it as a distinct, separate measure, I am unalterably opposed to connecting that question with the pending question of negro suffrage. The question of negro suffrage is now an imperative necessity; a necessity that the negro should possess it for his own protection; a necessity that he should possess it that the nation may preserve its power, its strength, and its unity. We have fought that battle, as has been stated by the Senator from Illinois; we have won negro suffrage for the District of Columbia, and I say I believe we have won it for all the States; and before the 4th of March, 1869, before this Administration shall close, I hope that the negro in all the loyal States will be clothed with the right of suffrage. That they will be in the ten rebel States I cannot doubt, for patriotism, liberty, justice, and humanity demand it.

Mr. HENDRICKS. I desire the Senator to allow me to ask him a question, as he says that this has been won in the recent elections. I wish to know of the Senator why the consideration of this measure was discontinued at the last session and the bill not allowed to pass the Senate? The bill came from the House at rather an early day of the session; I think several months of the session elapsed after the passage of the bill in the House, and yet it was not allowed to come to a vote in the Senate.

Mr. WILSON. The bill passed the House of Representatives early in the session. It came to the Senate early in December. That Senator I think knows very well that we had not the power to pass it for the first five or six months of the session; that is, we had not the power to make it a law. We could not have carried it against the opposition of the President of the United States, and we had assurances of gentlemen who were in intimate relations with him that his signature would not be obtained. It would not have been wise for us to pass the bill if it was to encounter a veto unless we were able to pass it over that veto. The wise course was to bide our time until we had that power, and that power came before the close of the session, but it came in the time of great pressure, when other questions were crowding upon us, and it was thought best by those who were advocating it, especially as the

chairmen of the committee, the Senator from Maine, [Mr. MORRILL,] was out of the Senate for many days on account of illness; to let the bill go over until this December.

Mr. HENDRICKS. Will the Senator allow me to ask one other question: whether the vetoes of the President were not over-ridden in the Senate as much as two months before the adjournment; and whether he does not know that this measure was purposely put aside in the Senate that it should not enter into the political contest of the last elections?

Mr. WILSON. I do not know that it was purposely postponed for that reason. I do know, however, that there were Senators who were in doubt in regard to the form the measure should take. Some Senators wished for a measure based on intelligence, and it was a little uncertain whether at that time we could command a two-thirds vote for pure manhood suffrage. The measure went over by the assent of many of its most earnest friends, in the full conviction that the voice of the country, the growth of public sentiment—which was great every day then, and has increased every day since and will grow stronger in the days to come—would enable us to carry a clean bill for the District early in this session. We were not mistaken in our anticipations. This bill, embodying pure manhood suffrage, is destined to become the law in spite of all opposition and all lamentations. I am opposed, therefore, to associating with this achieved measure the question of suffrage for women. That question has been discussed for many years by ladies of high intelligence and of stainless character—ladies who have given years of their lives to the cause of liberty, to the cause of the bondman, to the cause of justice and humanity, to the improvement of all and the elevation of all. No one could have heard them or have read their speeches years ago without feeling that they were in earnest. They have made progress; these women have instructed the country; women and men, too, have been instructed; progress is making in that direction; but the public judgment is not so pronounced in any one State to-day in favor of woman suffrage as to create any large and general movement for it.

Time is required to instruct the public mind and to carry forward and to concentrate the public judgment in favor of woman suffrage. All public men are not in its favor as is the Senator from Ohio, as has already been proved in this debate. I am therefore, sir, for keeping these questions apart. I am for securing the needed suffrage for the colored race. I am for enfranchising the black man, and then if this other question shall come up in due time and I have a vote to give I shall be ready to give my vote for it. But to vote for it now is to couple it with the great measure now pressing upon us, to weaken that measure and to endanger its immediate triumph, and therefore I shall vote against the amendment proposed by the Senator from Pennsylvania, made, it is too apparent, not for the enfranchisement of woman, but against the enfranchisement of the black man.

Mr. JOHNSON. The immediate question before the Senate, I understand, is upon the amendment offered by the honorable member from Pennsylvania, which, if I am correctly informed, is to strike out the word "male," so as to give to all persons, independent of sex, the right of voting. It is, therefore, a proposition to admit to the right of suffrage all the females in the District of Columbia who may have the required residence and are of the required age. I am not aware that the right is given to that class anywhere in the United States. I believe for a very short time—my friend from New Jersey will inform me if I am correct—it was more or less extended to the women in New Jersey; but, if that be an exception, it is, as far as I am informed, the only exception; and there are a variety of reasons why, as I suppose, the right has never been extended as now proposed.

Ladies have duties peculiar to themselves

which cannot be discharged by anybody else; the nurture and education of their children; the demands upon them consequent upon the preservation of their household; and they are supposed to be more or less in their proper vocation when they are attending to those particular duties. But independent of that, I think if it was submitted to the ladies—I mean the ladies in the true acceptance of the term—of the United States, the privilege would not only not be asked for, but would be rejected. I do not think the ladies of the United States would agree to enter into a canvass and to undergo what is often the degradation of seeking to vote, particularly in the cities, getting up to the polls, crowded out and crowded in. I rather think they would feel it, instead of a privilege, a dishonor.

There is another reason why the right should not be extended to them, unless it is the purpose of the honorable member and of the Senate to go a step further. The reason why the males are accorded the privilege, and why it was almost universal in the United States with reference to those of a certain age, is that they may be called upon to defend the country in time of war or in time of insurrection. I do not suppose it is pretended that the ladies should be included in the militia organization or be compelled to take up arms to defend the country. That must be done by the male sex, I hope.

But I rose not so much for the purpose of expressing my own opinion, or reasoning rather upon the opinion, as to refer to a sentence or two in a letter written many years ago by the elder Adams to a correspondent in Massachusetts. It was proposed at that time in Massachusetts to alter the suffrage. It was then limited in that State. That limitation, it was suggested, should be taken away in whole or in part, and the correspondent to whom this letter was addressed seems to have been in favor of that change. Mr. Adams, under date of the 26th of May, 1776, writes to his correspondent, Mr. James Sullivan, a name famous in the annals of Massachusetts, and well known to the United States, a long letter, of which I shall read only a sentence or two. It is to be found in the ninth volume of the Works of John Adams, beginning at page 375. In that letter, Mr. Adams, among other things, says:

"But let us first suppose that the whole community, of every age, rank, sex, and condition, has a right to vote. This community is assembled. A motion is made and carried by a majority of one voice. The minority will not agree to this. Whence arises the right of the majority to govern and the obligation of the minority to obey?"

"From necessity, you will say, because there can be no other rule."

"But why exclude women?"

"You will say, because their delicacy renders them unfit for practice and experience in the great businesses of life and the hardy enterprises of war, as well as the arduous cares of state. Besides, their attention is so much engaged with the necessary nurture of their children that nature has made them fittest for domestic cares. And children have not judgment or will of their own. True?"

And he closes the letter by saying:

"Society can be governed only by general rules. Government cannot accommodate itself to every particular case as it happens, nor to the circumstances of particular persons. It must establish general comprehensive regulations for masses and persons. The only question is, which general rule will accommodate most cases and most persons."

"Depend upon it, sir, it is dangerous to open so fruitful a source of controversy and altercation as would be opened by attempting to alter the qualifications of voters; there will be no end of it. New claims will arise; women will demand a vote; lads from twelve to twenty-one will think their rights not enough attended to; and every man who has not a farthing will demand an equal voice with any other in all acts of state. It tends to confound and destroy all distinctions, and prostrate all ranks to one common level."

The honorable member from Ohio seems to suppose that the right should be given as a means, if I understood him, of protecting themselves and as a means of elevating them intellectually. I had supposed the theory was that the woman was protected by the man. If she is insulted she is not expected to knock the man who insults her down, or during the days of the duello to send him a challenge. She

goes to her male friend, her husband or brother or acquaintance. Nature has not made her for the rough and tumble, so to speak, of life. She is intended to be delicate. She is intended to soften the asperities and roughness of the male sex. She is intended to comfort him in the days of his trial, not to participate herself actively in the contest either in the forum, in the council chamber, or on the battle-field. As to her not being protected, what lady has ever said that her rights were not protected because she had not the right of suffrage? There are women, respectable I have no doubt in point of character, moral and virtuous women no doubt, but they are called, and properly called, the "strong-minded;" they are in the public estimation contradistinguished from the delicate; they are men in women's garb, ready, I have no doubt, such people would be—and I deem it no disparagement to them; I have no doubt they are conscientious—to go upon the battle-field. Such things have happened. They are willing to take an insult and horse-whip and chastise the man who has extended the rudeness to them; but they are exceptions to the softness which is the charm of the female character. I appeal to my friend from New York, [Mr. MORGAN,]—I can speak for Baltimore—and to the member from Pennsylvania, [Mr. COWAN,] who I suppose can speak for Philadelphia, would they have their wives and their daughters seeking to get up to the poll on a hotly-contested election, driven with indignation at times from it, insulted, violence used to them, as is often the case, rudeness of speech sure to be indulged in—

Mr. WADE. I should like to know if that is the character of your city.

Mr. JOHNSON. Yes.

Mr. WADE. Then it is very different from the community in which I live.

Mr. JOHNSON. I rather think you might make Cincinnati an exception, from what I have heard. I am not speaking of the country, though I have seen it pretty rough in the country, and they have been rough occasionally in Ohio. If they were all of the same temper with my honorable friend who interrupts me of course it would be different, and all could have their rights accorded them.

Mr. COWAN. I should like to ask whether the presence of ladies on an occasion of that kind would not tend to suppress everything of that sort. Would it not turn the blackguard into a gentleman, so that we should have nothing but good conduct?

Mr. JOHNSON. No, sir; you cannot turn a blackguard into a gentleman.

Mr. COWAN. Except by a lady.

Mr. JOHNSON. No, sir; by no means known to human power. There may be some revulsion that will cause him to cease to be a blackguard for the moment, but as to a lady making a gentleman of a man who insults her it has not happened that I know of anywhere. He may be made somewhat of a gentleman by being cowed. But the question I put I put in all seriousness. I have seen the elections in Baltimore, where they are just as orderly as they are in other cities; but we all know that in times of high party excitement it is impossible to preserve that order which would be sufficient to protect a delicate female from insult, and no lady would venture to run the hazard of being subjected to the insults that she would be almost certain to receive.

They do not want this privilege. As to protecting themselves, as to taking a part in the Government in order to protect themselves, if they govern those who govern, is not that protection enough? And who does not know that they govern us? Thank God they do. But what more right has a woman, as a mere matter of right independent of all delicacy, to the suffrage than a boy who is just one day short of twenty-one? You put him in your military service when he is eighteen; you may put him in it at a younger age if you think proper; but you will not let him vote. Why? Only upon moral grounds; that is all; not because that boy may not be able to exercise the right, but

because, in the language of Mr. Adams, there must be some general rule which must be observed; because in the absence of such general rule, if you permit excepted cases you might as well abolish all rules, and then where are we, as he properly asks.

I like to learn wisdom from the men of 1776. I know we have had the advantage of living in an age which they did not witness. I have lived a good many years and watched the public men of the day, and I do not think, and I have never been able with all my disposition to think that we are any better than were the men of 1776 and our predecessors on this floor, the men who participated in the deliberations of the Convention which led to the adoption of the Constitution of the United States, the men who were the authors of the State Papers which filled the world with admiration and amazement, which were issued during that period. We know more of some things; we have more physical science than they had; the inventive genius of the country and of the age is greater than it was in the times in which they lived; but in all the knowledge that history can give, in all the knowledge that ethics can give, in all the knowledge that political economy can give, they were at least our equals; and no man, I am sure, (for I share but in the pleasure which each of us has received,) can read the letters and the papers that came from the pens of the men of that day without feeling a wish, without praying, if he is ambitious, that he was equal to them. But that is apart from the subject.

From the days of colonization down to the present hour no such proposition as this has received, so far as I am aware, any support, unless it was for a short time in the State of New Jersey. It has nothing to do with the right of negroes to vote. That is perfectly independent. If I desired because I am opposed to that to defeat the bill, I might perhaps, as a mere party scheme, as a measure known to party tactics which govern occasionally some—I do not say that they have not governed me heretofore—vote for this amendment with a view to defeat the bill; but I have lived to be too old and have become too well satisfied of what I think is my duty to the country to give any vote which I do not believe, if it should be supported by the votes of a sufficient number to carry the measure into operation, would redound to the interests and safety and honor of the country.

Mr. WADE. The gentleman seems to suppose that the only reason females should have the right to vote is that they might defend themselves with a cowhide against those who insult them. I do not suppose that giving them the right to vote will add anything to their physical strength or courage. That is the argument of the Senator, and the whole of his argument; but I did not propose that they should vote on such hypothesis or with any view that it should have any such effect. But I do know that as the law stood until very recently in many of the States a husband was not the best guardian for his wife in many cases, and frequently the greatest hardships that I have ever known in the community have arisen from the fact that a good-for-nothing, drunken, miserable man had married a respectable lady with property, and your law turned the whole of it right over to him and left her a pauper at his will. While I was at the bar I was more conversant with the manner in which these domestic affairs were transacted than I am now; and I knew instances of the greatest hardship arising from the fact that the law permitted such things to be done. I have known a drunken, miserable wretch of a husband take possession of a large property of a virtuous, excellent woman, who had a family of small children depending upon her, and turn her out to support her family by sewing and by manual labor; and it is not an uncommon case. The legislators, the males having the law-making power in their hands, especially were not very prompt to correct these evils; they were very slow in doing so. They continued from the old com-

mon law, when the memory of man did not run to the contrary, down to a time that is within the recollection of us all; and I do not know but that in some of the States this absurd rule prevails even now. It would not have prevailed if ladies had been permitted to vote for their legislators. They would have instructed them, and would have withheld their votes from every one who would not correct these most glaring evils.

The Senator tells us that the community in which he lives is so barbarous and rude that a lady could not go to the polls to perform a duty which the law permitted without insult and rudeness. That is a state of things that I did not believe existed anywhere. I do not believe that it exists in Baltimore to-day. I do not believe if the ladies of Baltimore should go up to the polls clothed with the legal right to select their own legislators that there is anybody in Baltimore who would insult them on their way in performing that duty. I do not believe that our communities have got to that degree of depravity yet that such kind of rascally prudence is necessary to be exercised in making laws. On the other hand, I have always found wherever I have gone that the rude and the rough in their conduct were civilized and ameliorated by the presence of females; for I do believe, as much as I believe anything else, that, take the world as it is, the female part of it are really more virtuous than the males. I think so; and I think if we were to permit them to have this right it would tend to a universal reform instead of the reverse; and I do not believe any lady would be insulted in any community that I know anything about while on her way to perform this duty.

As I can see no good reason to the contrary, I shall vote for this proposition. I shall vote as I have often voted, as the Senator from Massachusetts has often voted, what he believed to be right; not because he believed a majority were with him, but because he believed the proposition which he was called upon to vote for was right, just, and proper. It is because I cannot see that this is not so that I vote for it. It comes from a Senator who does not generally vote with us; it is a proposition unlooked for from his general course of action in this body, being, as he says, on the conservative list, and generally for holding things just as they are. Well, sir, I am for holding them just as they are when I think they are right, and when I think they are not I am for changing them and making them right. I do not think it is right to exclude females from the right of suffrage. As I said before, I do not expect that public opinion will be so correct at this time that my vote will be effective; but nevertheless it would be no excuse for me that I did not do my part toward effecting a reform that I think the community requires, because I did not see that the whole world was going with me. I do not wait for that. I am frequently in minorities. I would as lief be there as anywhere else, provided I see that I am right; and I do not wait for the majority to go with me when I think a proposition is right. Therefore I shall vote for this amendment if nobody else votes for it, trusting that if I am right the world will finally see it and come up to the mark where I am; if I am wrong, on further investigation and further thought I shall be left in the lurch. Believing that I am right, and believing that the world will come up to this standard finally, I am ambitious to make my mark upon it right here.

Mr. FRELINGHUYSEN. Mr. President, the Senator from Maryland has made an inquiry as to the law of New Jersey in reference to women voting. There was a period in New Jersey when, in reference to some local matters, and those only, women voted; but that period has long since passed away; and I think I am authorized in saying that the women of New Jersey to-day do not desire to vote.

Sir, I confess a little surprise at the remark which has been so frequently made in the Senate, that there is no difference between granting suffrage to colored citizens and extending

it to the women of America. The difference, to my mind, is as wide as the earth. As I understand it, we legislate for classes, and the women of America as a class do vote now, though there are exceptions from the peculiar circumstances of individuals. Do not the American people vote in this Senate to-day on this question? Do they not vote in the House of Representatives? So the women of America vote by faithful and true representatives, their husbands, their brothers, their sons; and no true man will go to the polls and deposit his ballot without remembering the true and loving constituency that he has at home.

More than that, sir, ninety-nine out of a hundred, I believe nine hundred and ninety-nine out of a thousand, of the women in America do not want the privilege of voting in any other manner than that which I have stated. In both these regards there is a vast difference between the situation of the colored citizen and the women of America.

But, Mr. President, besides that, the women of America are not called upon to serve the Government as the men of America are. They do not bear the bayonet, and have not that reason why they should be entitled to the ballot; and it seems to me as if the God of our race has stamped upon them a milder, gentler nature, which not only makes them shrink from, but disqualifies them for the turmoil and battle of public life. They have a higher and a holier mission. It is in retracy, to make the character of coming men. Their mission is at home, by their blandishments and their love to assuage the passions of men as they come in from the battle of life, and not themselves by joining in the contest to add fuel to the very flames.

The learned and eloquent Senator from Pennsylvania said yesterday with great beauty that he wanted to cast the angel element into the suffrage system of America. Sir, it seems to me that it would be ruthlessly tearing the angel element from the homes of America; and the homes of the people of America are infinitely more valuable than any suffrage system. It will be a sorry day for this country when those vestal fires of piety and love are put out.

Mr. President, it seems to me that the Christian religion, which has elevated woman to her true position as a peer by the side of man, from which she was taken; that religion which is a part of the common law of this land, in its very spirit and declarations recognizes man as the representative of woman. The very structure of that religion which for centuries has been being built recognizes that principle, and it is written on its very door-posts. The woman, it is true, was first tempted; but it was in Adam that we all died. The angel, it is true, appeared to Mary; but it is in the God-man that we are all made alive.

I do not see that there is any parity of reasoning between the case of the women of America, entitling them or making it desirable that they should have suffrage, and that of the colored citizen of the United States.

Mr. CONNESS. It does not appear that we can come to a vote to-night upon this proposition, and I therefore rise to propose an adjournment.

Mr. MORRILL. Perhaps we can get a vote on this simple amendment.

Mr. BROWN and others. Oh, no; let us adjourn.

Mr. MORRILL. I doubt whether there is any inclination to talk further on this amendment, and I should be glad to get a vote on it before we adjourn.

Mr. CONNESS. If the Senate will come to a vote, I will not move an adjournment.

Mr. BROWN. Mr. President—

Mr. DOOLITTLE. If the honorable Senator from Missouri will give way, I will renew the motion to adjourn.

Mr. BROWN. I do not care particularly to detain the Senate. I have but a very few remarks to make.

Several SENATORS. Let us adjourn.

Mr. DOOLITTLE. If the honorable Sen-

ator will give way I will renew the motion to adjourn.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Missouri as yielding the floor?

Mr. BROWN. Yes, sir.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 11, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

Another member appeared, namely, Mr. ASHLEY, of Nevada.

### REPUBLICANS OF LOUISIANA.

Mr. KELLEY. I present the memorial and resolutions of the central executive committee of the Republican party of Louisiana, and move that it be referred to the committee on reconstruction, and printed.

The motion was agreed to.

### SALE OF COIN.

Mr. INGERSOLL. I ask the unanimous consent of the House to introduce a bill to regulate the sale of coin and bullion by the Secretary of the Treasury, for the purpose of having it referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I object to this bill, or any other of the same character. Their tendency is to put the matter of our currency and finances in the hands of the gold gamblers of Wall street. I hope the bill will not be received.

Mr. INGERSOLL. In reply to the remark of my colleague, [Mr. WASHBURN,] I have to say that the object of this bill is to take the matter out of the hands of the gold gamblers and to put a stop to gold gambling, whereby the sudden fluctuations in the price of gold will be stopped; and this bill proposes to put it out of the power of the Secretary of the Treasury to wield a golden scepter more powerful than that of any monarch in the world, a scepter of \$95,000,000 in gold. This bill provides that the Secretary of the Treasury shall give public notice whenever the amount of gold in the Treasury shall exceed \$50,000,000, and that he shall—

Mr. BRANDEGEE. I rise to a point of order, and that is that this debate is all out of order.

The SPEAKER. The point of order is well taken.

Mr. INGERSOLL. I only desire to reply to the remarks of my colleague, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. I object to the reception of the bill.

Mr. INGERSOLL. Very well; if the gentleman is on the side of speculators, I cannot help it. I give notice that I will at some future time introduce this bill.

### REPRESENTATION OF NORTH CAROLINA.

The SPEAKER laid before the House the credentials of Alexander H. Jones, claiming to be elected a member from the seventh congressional district of North Carolina; which, under the order of the House of last session, were referred to the joint committee on reconstruction.

### COMMITTEE VACANCY FILLED.

The SPEAKER announced the appointment of Mr. TAYLOR, of Tennessee, to fill a vacancy upon the select committee to investigate the New Orleans riots.

### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill with the following title, namely: an act (S. No. 327) granting a pension to Mrs. Katharine F. Winslow; when the Speaker signed the same.

### ORDER OF BUSINESS.

Mr. HARDING, of Illinois, called for the regular order of business.

The SPEAKER. The first business in order during the morning hour is the call of committees for reports, commencing with the Committee of Claims, where the call rested on Thursday last.

### COMMITTEE OF CLAIMS.

Mr. DELANO, from the Committee of Claims, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Claims have power to send for persons and papers when in their opinion it may be necessary to do so in the investigation of claims before said committee.

### ORGANIZATION OF THE HOUSE.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported a bill to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes; which was read a first and second time.

The bill was read at length. The first section provides that before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives elected, and place thereon the names of all persons claiming seats as Representatives elected from States which were represented in the next preceding Congress whose credentials shall show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

The second section provides that in case of a vacancy in the office of Clerk of the House of Representatives, or of absence or inability of said Clerk to discharge the duties imposed on him by law or custom relative to the preparation of a roll of Representatives for the organization of the House of Representatives, the said duties shall devolve on the Sergeant-at-Arms of the next preceding House of Representatives; and in case of vacancies in both the before mentioned officers, or the absence or inability of both the Clerk and the Sergeant-at-Arms to act, then the said duties shall be performed by the Doorkeeper of the next preceding House of Representatives.

The third section provides that a violation of the provisions of this act by any officer mentioned therein shall be deemed a felony, and upon conviction thereof the officer shall be punished by imprisonment at hard labor for a term not less than one or more than five years, in the discretion of the court.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WILSON, of Iowa. I will state that the only change in the existing law made by the first section of this bill is to direct the Clerk of the House of Representatives in making up the roll of Representatives, to put on it the name of no person from a State not represented in the next preceding Congress. In other respects the section follows the existing law.

The second section provides for a succession of officers to discharge the duties prescribed by the first section. Under existing law, in case of the absence of the Clerk, or his inability to act, there is no provision for the duties being performed by any other person. This second section provides that in that case the duties shall devolve upon the Sergeant-at-Arms of the next preceding House of Representatives, and in the case of a vacancy also in the office of Sergeant-at-Arms, or of his inability to act, then the duties shall be performed by the Doorkeeper of the next preceding House.

The last section of the bill contains merely a provision for the enforcement of the preceding provisions of the bill; providing for punishment by imprisonment of any breach of the provisions of the act in respect to the duties prescribed.

I will now call the previous question on the passage of the bill, unless some member desires some further explanation.



Mr. GARFIELD. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. Yes, sir.

Mr. GARFIELD. I desire to suggest a point which occurs to me. Suppose, for instance, that on the last day of this session the two Houses of Congress should declare Arkansas entitled to representation, but that at that time no person should appear to represent that State. Now, if I have understood correctly the language of the bill as presented by the gentleman from Iowa, at the opening of the next Congress Representatives-elect from that State could not take any part in the organization of the House; for this bill declares that the names of no persons shall be placed on the roll except those coming from States that were represented in the next preceding Congress. It seems to me that the language of the bill should be so modified as to provide for placing on the roll the names of Representatives, not only from States represented in the preceding Congress, but also from States that had been declared entitled to representation. It occurs to me that this point ought to be covered.

Mr. WILSON, of Iowa. I would suggest to the gentleman that the remedy for the difficulty he suggests would be that a resolution declaring Arkansas entitled to representation should provide for placing upon the roll of the next House the names of the persons claiming to be members from that State. It would be just as easy to include that in such a resolution as to provide for all these cases in this bill; and I think it would be the easier method of disposing of this matter. I renew the demand for the previous question.

Mr. FINCK. I wish to inquire whether this bill has been printed.

Mr. WILSON, of Iowa. It has not.

Mr. FINCK. It certainly is a measure of much importance, and ought to be printed and deliberately considered. I hope that the gentleman will agree that the bill shall be printed and its consideration fixed for some day certain.

Mr. WILSON, of Iowa. If the gentleman heard the explanation which I made of the bill I think he can have no difficulty in understanding it. The only material change made in the existing law is, as I have stated, that in the first section of the bill it is declared that the Clerk, in making up his roll of Representatives, shall not put upon it the name of any person from a State not represented in the next preceding Congress.

Mr. FINCK. That is just what I object to.

Mr. WILSON, of Iowa. I have no doubt of that.

Mr. FINCK. I shall call for the yeas and nays on the passage of the bill.

The previous question was seconded, there being—ayes 86, noes 28.

The main question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill.

Mr. ROGERS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 124, nays 31, not voting 36; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Arnell, Delos H. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Deftrees, Delano, Deming, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketchum, Koonitz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Francis Thomas, John

L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—124.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Edwin N. Hubbell, Hunter, LeBlond, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stilwell, Tabor, Nathaniel G. Taylor, Nelson Taylor, Trimble, and Andrew H. Ward—31.

NOT VOTING—Messrs. Ames, Banks, Chanler, Culver, Davis, Denison, Dodge, Driggs, Dumont, Griswold, Harris, Hawkins, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Humphrey, Johnson, Jones, Kerr, Leftwich, Loan, McCullough, Myers, Newell, Noel, Phelps, Radford, Strouse, Thornton, Robert T. Van Horn, Warner, Henry D. Washburn, Whaley, Winfield, and Wright—36.

So the bill was passed.

During the roll-call,

Mr. RANDALL, of Pennsylvania, said: I desire to announce that the gentleman from New York, Mr. WINFIELD, is detained from the House by sickness.

Mr. BRANDEGEE. In explanation of the absence of my colleague, Mr. WARNER, on this and other votes to-day, I desire to state that he is detained at his home by sickness.

The result of the vote was announced as above stated.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COUNTING THE ELECTORAL VOTES.

Mr. WILSON, of Iowa, reported from the Committee on the Judiciary, with a recommendation that it pass, a bill to prevent the reception and counting of illegal electoral votes in the election of President and Vice President of the United States; which was read a first and second time, and reported at length.

The Clerk then read the bill *in extenso*.

Mr. FINCK. I want to make the same inquiry in regard to this I did in regard to the other bill; whether it has been printed?

Mr. WILSON of Iowa. This bill has not been printed.

Mr. FINCK. It is a matter of great importance, and ought not to be pressed without some discussion and some examination. I hope the gentleman will agree to have the bill printed and postponed to a day certain.

Mr. WILSON, of Iowa. Mr. Speaker, I will briefly explain this bill, and then, if it be the desire of the House to have it postponed, I will interpose no objection.

I will state that in the preparation of the bill and preamble the committee was careful not to go beyond the precedents already established. In the recital of the preamble we have adopted the declaration of the President of the United States, that the revolutionary progress made by the people of the South deprived certain portions of the Union of civil governments. We accept that declaration of the President.

We have also followed the declaration made by Congress in the joint resolution providing for the admission of members from the State of Tennessee, that the political relation of portions of the Union represented formerly as the States named in Congress can only be restored by consent of the law-making power of the United States. Upon those two declarations we base the justification of the section of the bill. In the preparation of the bill we have followed the precedent established by the Thirty-Eighth Congress when the following joint resolution was passed:

Joint resolution declaring certain States not entitled to representation in the Electoral College.

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1864, that no valid election for President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to repre-

sentation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office. Approved February 8, 1865.

So the only difference between this precedent established by the Thirty-Eighth Congress and the section of the bill now reported is, that the joint resolution of the Thirty-Eighth Congress was confined in its operations to the presidential elections of 1864, while this bill provides that it shall apply indefinitely.

Mr. FINCK. I ask the gentleman to yield to me a moment.

Mr. WILSON, of Iowa. Yes, sir.

Mr. FINCK. Is there not another difference, that we were at that time in the midst of war, while we are now in the midst of peace?

Mr. WILSON, of Iowa. We were at that time in the midst of war; but we think, sir, that the effects of that war upon those communities exist to-day; holding as we do with the President that that war against the Government of the United States deprived those people of all civil governments, and being deprived of all civil governments they cannot be permitted to participate in an election of President and Vice President of the United States until they shall have been provided with civil governments; and Congress in the Tennessee case declared that could only be done, that the relation thus disturbed could only be restored by the consent of the law-making power of the United States.

No such consent has been given to the people of those portions of the United States set out in the preamble of this bill and in the body of the bill itself. Consequently the conclusion we draw must be correct, that, being deprived of civil governments, having their political relations so disturbed as that they are not entitled to appear in the Congress of the United States in the persons of Senators and Representatives, and that their former condition can only be acquired again by the consent of the law-making power, I say our conclusion is correct that no electoral votes should be received from communities of that character. That, sir, is the whole case presented by this bill. I now yield to the gentleman from New York.

Mr. HALE. Mr. Speaker, without expressing any opinion upon the merits of this bill, I beg leave to appeal to this House not to force action upon it this morning without its being printed, without an opportunity for its examination by members, and without an opportunity for discussion. It is certainly as grave a question as has ever engaged the attention even of this Congress, whose time has been occupied with grave questions from its commencement; and it does strike me that the case is not so clear in regard to precedent as has been stated by the chairman of the Committee on the Judiciary in his argument. It does not necessarily follow—and gentlemen will not understand me as attempting to controvert the truth of the gentleman's position, but merely to state that I am not satisfied with his argument as it stands now—it does not necessarily follow that what was within the sphere of Congress at a time when rebellion was actually raging, is a necessary precedent for action to-day, when, whatever may be the theory in regard to the status of the States lately in rebellion, it cannot be claimed that we are in a state of *bello flagrante*.

Now, while for myself I do conceive that it is in the power of Congress to determine to a certain extent when, how, and how far States shall be restored to their representation in Congress and in the Electoral College, I also believe with equal sincerity that there is a limit to that power by this body, and that it does not lie with this Congress under all circumstances and in all cases, in time of peace as well as in time of war, to say that certain States or communities shall not be represented upon this floor.

I therefore urge the gentleman who reports this bill, and I urge the majority of this House,

not to force action this morning under the operation of the previous question, but to allow the bill to be printed and its consideration set down for an early day, so as to give us all a reasonable opportunity for examination and discussion. If that is done I will not say that I shall be found in opposition to the bill. I may be found supporting it. But I am to-day unprepared—and I say it with all sincerity and honesty—to record my vote upon so important a measure as this. If the gentleman will allow me, I will make a motion to print the bill and make it the special order for an early day.

Mr. WILSON, of Iowa. What day?

Mr. HALE. Say to-morrow week.

Mr. WILSON, of Iowa. Mr. Speaker, I am not disposed to press this bill on an unwilling body, and if it can be set down as the special order for to-morrow, and in the mean time printed, I have no objection to that order being made. I stated at the commencement of my remarks that if the House desired it I would not object to a postponement. I will move, therefore, that it be postponed and printed and made the special order for Thursday next, after the morning hour.

Mr. ELDRIDGE. I desire to inquire of the gentleman if he contemplates any debate upon this bill when it comes up on that day, or whether he intends to call the previous question, as he did on this day.

Mr. WILSON, of Iowa. The gentleman shall have an opportunity to discuss it if he desires it. I shall be governed somewhat by the circumstances. I do not intend to press the bill unreasonably.

Mr. ELDRIDGE. I do not inquire on account of myself alone, but there are gentlemen around me who wish to know whether general discussion is to be allowed on the bill or not.

Mr. WILSON, of Iowa. I certainly will allow reasonable discussion upon the bill.

The motion of Mr. WILSON, of Iowa, was agreed to; and the bill was accordingly postponed, ordered to be printed, and made the special order for Thursday next after the morning hour.

#### NEUTRALITY LAWS.

Mr. WILSON, of Iowa, from the same committee, reported back House bill No. 858, to repeal the neutrality laws, and moved that the Committee on the Judiciary be discharged from the further consideration of the same, and that it be referred to the Committee on Foreign Affairs.

The motion was agreed to.

#### PUNISHMENT OF TREASON.

Mr. LAWRENCE, of Ohio, from the Committee on the Judiciary, reported back House bill No. 624, to repeal certain parts of the act approved April 30, 1790, entitled "An act for the punishment of certain crimes against the United States," with a recommendation that it do pass.

The bill repeals so much of section thirty-two of an act for the punishment of certain crimes against the United States, approved April 30, 1790, as provides that no person or persons shall be prosecuted, tried, and punished for treason or other capital offense unless indictment for the same shall be found by a grand jury within three years next after the treason or capital offense shall be done or committed; and provides that all persons who have been or may be guilty of treason or other capital offense may at any time be indicted, tried, and punished therefor.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the bill.

Mr. LAWRENCE, of Ohio. I will explain this bill briefly to the House, and I think there will be no objection to its passage.

The act of April 30, 1790, providing for the punishment of treason, limits prosecutions to

three years. If that act, or its limitation, shall remain in force, it will in a very short time be equivalent to a general pardon or amnesty for every act of treason during the late rebellion. This bill proposes to repeal so much of that act as limits prosecutions to three years; and it provides that all persons who have been or may be guilty of treason or other capital offense may at any time be indicted, tried, and punished therefor.

Mr. HALE. Does the bill affect any other crime than treason?

Mr. LAWRENCE, of Ohio. Treason or other capital offenses. There is in the States as a general rule no limitation at all upon the prosecution of capital offenses. There ought not to be in relation to the crime of treason; and the only questions, I suppose, which will arise on the passage of this bill will be as to the expediency of passing it, and our power to pass it.

As to the expediency, I have only to say I suppose this House have determined for themselves that they are not in favor of a general amnesty or pardon of all those who were guilty of treason during the rebellion. On the first day of this session we passed a bill to repeal so much of existing laws as authorize the President to grant general amnesty or pardon, yet the limitation contained in the law of 1790, if it shall continue in force, will very soon be equivalent to general amnesty and pardon.

As to the other branch of the question, our right to pass this bill, I have this to say: the right of a nation to prosecute for a violation of its laws is analogous to the right of a citizen to sue for a wrong to his person or property, or for the violation of a contract. In all these cases the courts administering the law distinguish between the right and the remedy.

The "right" growing out of the "obligation" of a contract cannot be divested, for it is protected by the Constitution. The right of redress for a wrong to the person or property is equally a vested right which cannot be impaired. But the remedy is a very different affair. The Legislature may not only prescribe a limitation for future contracts and rights of action, but in the language of the Note to section twenty-two of Angel on Limitations—

"A statute of limitations may well apply to contracts in existence at the time of its passage, provided a reasonable time be allowed before the statute takes effect, or the debt barred, within which creditors may institute their actions."

And again the same note says:

"But a statute extending the time of limitation will not revive causes of action already barred under preexisting statutes." "If, however, the cause of action be not already barred, the statute extending the time will apply."

These principles apply as well to criminal prosecutions as to civil actions, for in either case the law which regulates the time of prosecuting or suing affects only the remedy and not the right, whether the time for prosecuting or suing is enlarged or abridged.

This bill is not objectionable upon the ground that it will be *ex post facto*. An *ex post facto* law is—

"One which renders an act punishable in a manner in which it was not punishable when it was committed."—6 Cranch, 138.

If an act is not punishable when committed, it cannot by subsequent law be made so. The test of an *ex post facto* law is the criminality or innocence of an act at the time of its commission. The mode of prosecution, the time when or within which it shall be prosecuted, or the tribunals which shall try it are all subject to regulation by law.

Mr. SHELLABARGER. I wish to inquire of my colleague whether the committee looked into the question of our power to revive the right of prosecution for treason where the act of 1790 has already barred prosecution, and whether this bill undertakes to do that? I may say that I trust the law may be in that way. I would be very glad to have it so.

Mr. LAWRENCE, of Ohio. The committee did examine that question. The authority to which I have referred in the Note to Angel on Limitations I suppose settles that question.

Where a crime is already barred no act, I suppose, can revive the right of prosecution.

Mr. SHELLABARGER. Your bill then does not do that?

Mr. LAWRENCE, of Ohio. No, sir; the bill cannot effect an impossibility.

Mr. SHELLABARGER. My inquiry was whether the bill undertakes to revive the right of prosecution where the limitation is already completed?

Mr. LAWRENCE, of Ohio. The clause in the bill to which my colleague desires to call attention I suppose is this: "And all persons who have been or may be guilty of treason or other capital offense may at any time be indicted, tried, and punished therefor." That clause is, of course, only to be applicable to those cases where by law it is possible to prosecute. The general design of the bill is simply to repeal that limitation of three years, so that the general pardon and amnesty which it will soon effect may be avoided.

Mr. SPALDING. I wish to inquire of my colleague if he designs to impose any limitation whatever?

Mr. LAWRENCE, of Ohio. No, sir.

Mr. SPALDING. Would it not be better to extend the time?

Mr. LAWRENCE, of Ohio. No, sir; I think not. There is no limitation in murder cases in Ohio, a State whose jurisprudence has been illustrated by my distinguished colleague as a member of its supreme court, and I think it is not usual in the States to affix any limitation. But if a limitation shall be desirable hereafter it will be competent for Congress to prescribe a limitation. It is certainly not desirable now, and we cannot tell now, under this Administration, when it may be desirable to affix a limitation.

Mr. CONKLING. Gentlemen seem to agree that if a crime or offense is outlawed or barred it cannot be revived by subsequent enactment. Now, I ask the gentleman from Ohio whether his whole purpose would not be accomplished by repealing the statute of limitation as it stands, and whether it is worth while, not only to repeal the statute, but to put in the bill an attempt to do what we know we cannot constitutionally do, namely, revive an offense which is in truth outlawed. I understand this bill in the commencement to repeal and brush away that statute by virtue of which alone this crime is outlawed, and it then proceeds to enact that all persons who have heretofore at any time (that is the legal construction of the language) committed treason shall be punishable hereafter.

And yet we know that if in truth the statute has run the offense is dead, and any law which seeks to revive it is an *ex post facto* law. Now, I submit to the gentleman from Ohio [Mr. LAWRENCE] that we will accomplish his whole purpose by a simple repeal of the statute of which he desires to get rid.

Mr. LAWRENCE, of Ohio. I think it better to leave the question to the courts to determine how much of this bill may be operative. If this bill shall not pass then all the early treason of Jeff. Davis and those who cooperated with him will be entirely exempt from punishment. I am willing to go to the very verge of the Constitution for the purpose of reaching the early treasonable acts which inaugurated the late rebellion. I do not know what the courts will hold upon this question, and for that reason the bill has been introduced in this shape.

Mr. STEVENS. Mr. Speaker, I approach with great distrust all bills of this kind, which are evidently brought forward for the purpose of ascertaining how we can convict men whom we cannot convict under laws existing when the crimes were committed. I do not believe that it becomes this nation, I do not believe it is safe for us to undertake to pass laws by which we can or may be able to punish men however guilty who could not be punished under the law existing when the crimes were committed.

Could we now change our Constitution so as to change the place of trial of traitors, to say

that the venue might be changed, and that they should be tried by jurors summoned from another bailiwick? The Constitution and our laws provide very carefully that, especially in the case of treason, the party charged with that crime must be tried at the place where the overt act was committed, in a district previously ascertained by law, and by a jury from that bailiwick. Now, any law which professes to change that in any respect looks to me so much like an attempt to commit judicial murder that I have always been afraid to attempt it.

I am aware that the traitors in the South, if tried under our existing Constitution and laws, will not one of them be convicted. I should never attempt to try them for treason; I would try them as belligerents, under the law of nations and the laws of war.

Mr. LAWRENCE, of Ohio. We have no reason to expect of the Administration any such trials.

Mr. STEVENS. I am stating what I would do if I were the Administration. Now, although I would not discourage trials for treason, I mention this to show that I am convinced that none of these traitors can ever be convicted of treason under our present Constitution and laws. And yet I would rather let every man of them run unpunished forever than to make a law now by which they could be punished. I think our Government would be endangered in its future existence, in its sense of justice, in its character before the world by conduct of that kind, more than it would by enduring the evil. I think the British Government suffered more from its murder of Lord Russell, although it was done by means of a court condemning him, than it would have done had he been suffered to escape. It was by just such contrivances as this that that judicial murder was effected, and by which the British Government suffered more than it would have done by the escape of forty traitors.

I think our Government better be careful how it tampers with the crime or the remedy. It better treat them as guilty partly of a political offense and partly of offenses *malum in re* than now to attempt to pass laws, because otherwise the malefactors may escape.

This professes to be a bill to make indefinite the prosecution of one of those offenses which of all others should be quieted by lapse of time. Although treason is as high a crime as can possibly be committed, yet there are generally so many engaged in the crime of treason and in rebellion that there must be some quieting law, and in my judgment there ought to be.

Now, it does not follow that every traitor will escape who is not prosecuted within three years of the time of the commission of the offense. The statute of limitations never runs in any case unless it is possible to enforce the remedy; it only runs from the time when it was possible to enforce it. For instance, I will refer to the men now in Europe, Benjamin, Slidell, and others; I do not suppose that anybody will say that while they were absent beyond seas the statute of limitation would run. The statute would begin to run when the time arrived that he could be prosecuted. But whether that be so or not, still, during the time of war, during the prosecution of the war, the crime continued; it was a continuing offense, and the offense continued up to the time when peace shall be proclaimed, which it never yet has been. I know that a gentleman in this city has made public a statement which he desired to have considered as equal to the decrees of James and Charles, as overruling the law. But it is of no more importance than so much waste paper.

The question of peace or war is yet to be decided by this body. I say there is no peace. This nation is still in a belligerent condition; and the conquered belligerents are within the power of the conqueror, to be dealt with as captives, not as criminals.

Therefore, sir, I can see no necessity for a measure of this sort; but if there were a necessity, I should certainly object to any alteration

of the law as it now exists in regard to treason which would enable the Government to convict where it is confessed a conviction could not be obtained under the law as it stood at the time of the commission of the offense. I should be very glad to see condign punishment inflicted upon many of these men, not capital punishment; for in my youth I read Beccaria, and adopted to a great extent the principles which he maintains. I never realized the sufficiency of the atonement made by the execution of that magnificent leader of the rebellion, the miserable Wirz—a Dutchman, I believe, with a humpback—who was obeying the orders of his superiors, and who, in ordinary times when men were tried according to law, would never have been convicted, because his Government was answerable, not he. I do not believe that the starvation of thousands of Union prisoners is to be atoned for by the execution of one of the keepers—

The SPEAKER. The morning hour has expired. This bill goes over until to-morrow, when the gentleman from Pennsylvania will be again entitled to the floor.

G. E. PICKETT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith reports from the Secretary of War and the Attorney General in compliance with a resolution of the 3d instant requesting the President to communicate to the House, "if not in his opinion incompatible with the public interests, the information asked for in a resolution of this House dated the 23d June last, and which resolution he has up to this time failed to answer, as to whether any application has been made to him for the pardon of G. E. Pickett, who acted as a major general of the rebel forces in the late war for the suppression of insurrection, and if so, what has been the action thereon; and also to communicate copies of all papers, entries, indorsements, and other documentary evidence in relation to any proceeding in connection with such application; and that he also inform this House whether, since the adjournment at Raleigh, North Carolina, on the 30th of March last, of the last board or court of inquiry convened to investigate the facts attending the hanging of a number of United States soldiers for alleged desertion from the rebel army, any further measures have been taken to bring the said Pickett or other perpetrators of that crime to punishment."

In transmitting the accompanying papers containing the information requested by the House of Representatives, it is proper to state that, instead of bearing date the 23d of June last, the first resolution was dated the 23d of July, and was received by the Executive only four days before the termination of the session.

ANDREW JOHNSON.

WASHINGTON, D. C., December 11, 1866.

The message, with the accompanying documents, was laid on the table, and ordered to be printed.

#### REPORT OF REGISTER OF TREASURY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting pursuant to the act of August 26, 1842, the report of the Register of the Treasury of receipts and expenditures for the year ending June 30, 1865; which was laid on the table, and ordered to be printed.

#### SOLDIERS' AND SAILORS' ORPHANS' HOME.

Mr. INGERSOLL, by unanimous consent, reported back from the Committee for the District of Columbia, with an amendment in the form of a substitute, a bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphans' Home," approved July 25, 1866, and whereby certain corporate rights are granted to Mrs. Julia B. Grant and others.

The amendment reported by the committee was read and agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. INGERSOLL, the title of the bill was amended so as to read, "An act to amend an act entitled 'An act to incorporate the National Soldiers' and Sailors' Orphans' Home,' approved July 25, 1866."

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### REMOVALS FROM OFFICE.

The SPEAKER stated the next business in order to be House bill No. 664, for the regulation of appointments to and removals from office, on which the gentleman from Pennsylvania [Mr. WILLIAMS] was entitled to the floor.

Mr. WILLIAMS. I wish to suggest some modifications to the bill as originally reported. As soon as I have done that I will yield the floor to the gentleman from New York, [Mr. HALE.] I move the following to come in at the end of section two:

*Provided, however,* That so much of this section as makes the office vacant beyond the time of the refusal of the Senate to advise and consent to a re-nomination shall not be held to apply to cases of commissions to fill vacancies happening during the recess, and which, under the Constitution, are made determinable at the end of their next session.

Also strike out these words in section three:

And in case of the nomination of any other person or persons than the one so commissioned, and the refusal of the Senate to advise and consent thereto, the office shall not be considered as vacant upon the adjournment of the Senate, but the person so commissioned shall continue to hold and enjoy the same and exercise the functions thereof during the recess of Senate, and until he shall be either nominated and rejected or duly superseded by a new appointment, by and with the advice and consent of that body.

I now yield the floor to the gentleman from New York.

Mr. HALE. Mr. Speaker, I have been instructed by the joint select committee on retrenchment, to which this subject was referred by concurrent resolution of the two Houses, to report a bill to this House, and under those instructions I now move the bill which they instructed me to report as a substitute for the bill proposed by the gentleman from Pennsylvania. It is printed, but the copies for the House are not yet in. They are expected in, and undoubtedly will be here before they will be needed.

The SPEAKER. The vote on the substitute will be reserved till the vote has been taken on the pending amendments for the perfection of the bill.

Mr. GARFIELD. I ask that the substitute be read.

The Clerk read as follows:

Strike out all after the enacting clause, and insert the following:

That every person (excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General) holding any civil office to which he has been appointed, by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

SEC. 2. And be it further enacted, That when any officer appointed as aforesaid, excepting judges of the United States courts and excepting those specially excepted in section one of this act, shall, during the recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office or crime, or for any reason shall become incapable or legally disqualified to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate and until the case shall be acted upon by the Senate; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer they shall so certify to the



President, who may thereupon remove such officer, and by and with the advice and consent of the Senate appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease; and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however*, That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

SEC. 3. *And be it further enacted*, That the President shall have power to fill all vacancies which may happen during the recess of the Senate by reason of death, resignation, expiration of term of office, or other lawful cause, by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled, as aforesaid, during such next session of the Senate, such officer shall remain in abeyance, without any salary, fees, or emoluments attached thereto until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed to extend the term of any office the duration of which is limited by law.

Mr. BROOMALL. I ask leave to offer an amendment to the substitute.

Mr. HALE. I yield for that purpose with the consent of his colleague, by whose courtesy I hold the floor.

Mr. BROOMALL. I offer the following to come in at the end of the substitute:

That in all cases of filling vacancies in public offices by the President during the recess of the Senate where, by the Constitution and laws of the United States, appointments to such offices are required to be made by and with the advice and consent of the Senate, it shall be the duty of the President to nominate persons to fill such offices to the Senate for confirmation within ten days after the commencement of its next session, or in cases of filling such vacancies already done, within ten days after the passage of this act. And no public officer so appointed shall receive any compensation for his services after the expiration of the said ten days, unless within that period his appointment shall have been presented to the Senate for confirmation.

SEC. 2. *And be it further enacted*, That whenever any person whose nomination has been rejected by the Senate shall be appointed by the President to fill a vacancy in the same office during the next recess of the Senate, such officer shall receive no compensation for his services; and where such appointment has heretofore been made after such rejection, the officer so appointed shall receive no compensation for his services after the passage of this act; and no officer appointed during the recess of the Senate shall receive compensation for his services after his appointment shall have been rejected by the Senate.

SEC. 3. *And be it further enacted*, That any public officer who shall pay or receive any moneys, or advise or connive at or consent to the payment of any moneys, in violation of the provisions of this act, shall be held guilty of a misdemeanor in office, and on conviction thereof, by impeachment or otherwise, shall be sentenced to removal from office, and shall pay to the United States a sum equal to the amount of moneys so paid or received, to be recovered, with costs, by action of debt, in the name of anybody who may institute such action, for the use and benefit of the United States.

I merely desire to say that some time during the discussion when the substitute comes up I wish to submit a few remarks in favor of my amendment.

Mr. HALE. Mr. Speaker, I do not propose to occupy the attention of the House for any considerable time.

Mr. WILLIAMS. If the gentleman will excuse me, I desire to inquire as a question of order whether the question is to be taken on the amendments pending in the first instance? If so, I would rather the gentleman from New York [Mr. HALE] would postpone his remarks until we reach his amendment in the regular way.

The SPEAKER. The question will occur first on the various amendments that have been offered by unanimous consent, and then on the amendment to the substitute offered by the gentleman from New York, [Mr. HALE.]

Mr. HALE. I have no objection to waiving my right to the floor for the present.

The SPEAKER. The gentleman from Pennsylvania [Mr. WILLIAMS] can demand the

previous question on his pending amendment, so as to have his bill perfected before the vote is taken on the substitute.

Mr. FINCK. I wish to submit a few remarks on this bill, and ask the gentleman whether he will yield to me now?

Mr. WILLIAMS. I hope the gentleman will wait till the proper time. It is not my purpose to force action on this bill by any means, and I shall be glad to hear suggestions and allow amendments to be offered. But it seems to me it is better to take up the questions in the order stated by the Speaker.

The SPEAKER. The gentleman from Pennsylvania [Mr. WILLIAMS] desires to perfect his bill before allowing general debate on the bill; that is, to have a vote on the amendments.

Mr. KASSON. With the consent of the gentleman from Pennsylvania, [Mr. WILLIAMS,] as the amendment proposed by me the other day is in order as printed, I will explain the object to be accomplished by it.

I observe in the first section there is no limitation of the power of removal by the provisions of the bill to the civil service of the United States. It covers by its terms the Army and Navy. Removals from both those branches of the service are effected frequently as the results of courts of inquiry and courts-martial. Therefore, I trust the gentleman will consent to insert after the words "United States" the words "in the civil service;" so that it will read, "That no officer of the United States in the civil service, appointed on the nomination of the President, by and with the advice and consent of the Senate, shall be removable," &c.

I then propose in the fifth and sixth lines to strike out the words "the same agencies which concurred in his appointment," which seem to be a little indefinite, and to insert the words "impeachment and conviction, or by the President, with the consent of the Senate;" so that removals may not seem to be prohibited by the law as the result of impeachment.

I then propose in the seventh line, before the word "office," to insert, in conformity with what I have already said, the word "civil."

I also propose in the twelfth line, with the approval of the gentleman from Pennsylvania, [Mr. WILLIAMS,] to strike out the words "Attorney General" and insert the words "head of that Department under whose jurisdiction such officer may be." It is evident that it will otherwise be a mere matter of routine. The misconduct must be first known to the head of the Department, and on his representation the action of the President must be taken rather than on referring it to the Attorney General, who is himself obliged to depend upon the head of the Department for his information.

Then, at the conclusion of the section I propose to add a proviso which may or may not be agreeable to the gentleman from Pennsylvania, to except from the operation of the section the heads of the several Departments and their first assistants, who are their confidential officers. As I stated the other day, I hardly suppose it to be the opinion of either the committee or the House that a newly-elected President should not have the liberty when he is borne into office or in the course of his subsequent public action, if he shall find it expedient, to change his confidential advisers. It seems to me to be the theory of our Government that the President is the party who is held responsible for the administration of the executive branch of the Government, and that these officers are but his Secretaries. They are named as such, and in order to hold him responsible for their conduct, we must give him the power under this act of selecting these officers. And having that power and that responsibility, he should also have the right to remove them when they seem, in his judgment, to violate their duty. I may also add that in the confidential relations that they bear to the President in our foreign as well as domestic relations, it seems to me of the first consequence that the President should be at liberty to remove these advisers and appoint others, even in the vacation, without awaiting the consent

of the Senate, on charges of misconduct which might render them liable to impeachment.

As it is in that case, so is it in the Departments themselves. My experience in the Executive Departments teaches me the importance of having confidential relations between the first officer of the Secretary and the Secretary himself. I do not think that in these two particulars we ought to interfere with what has been the uniform practice of the Government.

With these remarks I will now recur to the proposed amendments in their order, and inquire of my friend from Pennsylvania [Mr. WILLIAMS] whether they suit him. And first as to the limitation to the civil service.

Mr. WILLIAMS. In regard to the suggestions of the gentleman from Iowa, I have to say that I do not know that it was the sentiment of the committee that any distinction would be proper between civil officers and officers in the military and naval service, since all these officers are appointable by the President now by and with the advice and consent of the Senate. We propose to enact, therefore, as well in regard to them as to officers in the civil service, that they shall not be removable at the mere arbitrary will of the Executive of the United States.

Mr. KASSON. If my friend will allow me, I will say that they are not now so removable. This in fact would limit the powers and regulations as they now exist. At present the President cannot remove at his will an officer of the Army or Navy, but after the action of a court of inquiry or court-martial they may be dismissed by the proceedings that appertain to those two branches of the service, and this limits the power as it now stands to dismiss officers as the result of the proceedings of courts-martial and courts of inquiry.

Mr. WILLIAMS. I hope the gentleman will excuse me for differing from him in regard to the law. I think it has been ruled that the President may exercise this power, or at all events the practice has prevailed, in conformity to the opinions of Attorneys General, that he may turn an officer out of the military or naval service of the Government without inquiry in a court-martial or court of inquiry. By way of meeting this difficulty, Congress some two years ago, in 1863 or possibly in 1865, passed an act, to which I had occasion to refer in my opening remarks a few days ago, providing that where an officer in the military service was dismissed he should be entitled to demand a court of inquiry or court-martial, and if not accorded to him within six months, or if upon the granting of that request he should not be either condemned to death or dismissal from office, then he should be restored to the place from which the President had removed him. That shows what is the sentiment of the House on this very question, and it shows what the past practice has been; because this act was a commentary on that practice and was intended to put a stop to it.

Now, as soon as the gentleman from Iowa, [Mr. KASSON] will show me sufficient cause for distinguishing between these two departments of the public service, then I will willingly yield. I felt inclined myself—and I may say it now—to suggest a provision in this bill to the effect that officers in these departments of the public service should hold their offices during good behavior, as I think they ought to do, but I did not think that the House would be prepared for its adoption, and therefore I did not think proper to offer it.

Mr. KASSON. I understand that in point of fact the law does not permit the President of the United States of his own will to remove an officer of the Army and Navy. That is admitted to be the present law, and that justifies the statement that I made that he cannot of his own will do it. Now this amendment proposed here, providing that no officer shall be removable except by impeachment or by the President, with the advice and consent of the Senate, does prohibit removals as the result of courts-martial as now allowed by law. I do not apprehend that my friend from Pennsyl-

vania wishes to change the law in that particular; and if he does not, he should certainly limit the provision to the civil service.

Mr. WILLIAMS. I did not know that the law was as stated by the gentleman, but I do not know that it would make any difference if we should superadd a provision of this sort giving to the Senate the power it exercises in analogous cases in the civil service. I think that the power would never be abused.

Mr. GARFIELD. The gentleman from Pennsylvania, [Mr. WILLIAMS,] in his speech the other day and again this morning, referred to the law passed at the last session of the Thirty-Eighth Congress in regard to the dismissal of officers in the military service by the President. I wrote that section, and had charge of the conference committee on the part of the House by which it was adopted on the last night of the session; and at the time of making the report submitted some remarks as the result of a tolerably full investigation of the subject, and at the request of several members I will say a few words on the subject of this bill so far as it relates to the removal of officers from the military and naval service.

The President of the United States, as a matter of fact, has from time to time since the foundation of the Government removed officers from the Army and Navy at his pleasure, though his constitutional right to do so has never been affirmed by a judicial decision. Indeed, his authority to do so has frequently been questioned; but the practice became so general that it was laid down in the Judge Advocate General's Digest of Opinions for 1865, and which exhibits both the practice and the opinion of the executive department on the subject, in the following paragraph:

"From the foundation of the Government, the President of the United States has been in the habit of summarily dismissing officers in the land and naval services. The power to do so seems to inhere in him under the Constitution as Commander-in-Chief of the Army and the Navy. The power of summary dismissal by the President does not depend for its authority upon the act of Congress, section seventeen, chapter 200, act of July 17, 1862; the act being simply declaratory of the right which has been exercised by the President since the earliest history of the Government."

Now, I look upon that as a doctrine most dangerous in theory and practice; and I wrote the section to which the gentleman has referred for the purpose of circumscribing the power of the President in that direction.

We were unable to secure the repeal of section seventeen of the law of 1862, by which the President was not only authorized but even requested to dismiss summarily and without trial any officer of the Army or Navy, when in his judgment it would be for the good of the service to do so. Now, under that law the President not only exercised that power himself, but he delegated the authority to the leading generals of the Army; and within my own knowledge one hundred and thirty commissioned officers in the Army of the Cumberland were dismissed without a trial within eleven months by reason of this summary power delegated by the President.

Mr. ROUSSEAU. Will the gentleman from Ohio [Mr. GARFIELD] permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. ROUSSEAU. I would inquire whether it was not the fact that the general in command of the Army of the Cumberland, General Rosecrans, did dismiss officers upon his own motion, without any authority from the President?

Mr. GARFIELD. No, sir. The President of the United States, under the law of 1862, was not only authorized but requested to dismiss officers summarily when he thought it for the good of the service, and by an express order he authorized General Rosecrans and other generals to use the same power whenever in their judgment it would be proper to do so. General Rosecrans exercised the power, as he had a perfect right to do.

The objection I urged against it in the Thirty-Eighth Congress was that it was a terrible power, one which ought never to have been

granted even to the President of the United States except in a great emergency, such as clearing out the traitors from our country at the beginning of the war.

Mr. ROUSSEAU. Did not General Rosecrans dismiss officers from the Army without any express authority from the War Department?

Mr. GARFIELD. No, sir; he was as I have already stated authorized by the President to do so whenever in his judgment the good of the service required it. It was the law, and not General Rosecrans that I complained of.

Now, what I desire to say on this point is, that according to this opinion of the Judge Advocate General, the President of the United States has, under the Constitution, without any legislation whatever, a right inherent in himself as Commander-in-Chief of the Army and Navy to dismiss any military or naval officer without any trial whatever. I am free to say that in my opinion there never has been a practice or a principle more entirely subversive of the independence of our Army, and more destructive of all that is noble in its officers. If this doctrine be true, Andrew Johnson may dismiss from the service General Grant, General Sherman, Admiral Farragut, or any other officer of the Army or Navy. The section which has been referred to in this debate provides, that when the President dismisses an officer without a trial, the officer may demand a trial within six months thereafter, and if the court-martial shall not decide that he was properly dismissed he shall be restored.

So long as the seventeenth section of the act of 1862 is unrepealed the President can dismiss the highest or the lowest officer from the military or naval service; and there is but that one clause which was referred to by the gentleman from Pennsylvania [Mr. WILLIAMS] that can in the slightest degree interfere with his power. Now, I regard it of the utmost importance that while we are regulating the question of removals and appointments we should see to it that no officer shall be dismissed from the military or naval service except by the sentence of a court-martial. I regret that we have not a bill prepared by which courts of inquiry shall be established for the trial of persons in the civil service, so that they may be dismissed by the verdict of such a court. I am informed that the distinguished gentleman from Rhode Island [Mr. JENCKES] has drawn such a bill, to regulate the tenure of office in the civil service. I believe that such a measure would meet the necessities of our situation better than any other; but in the absence of such a bill as that, I hope the gentleman will consent to such an amendment to this section as shall provide that officers in the military and naval service shall be dismissed only on the verdict of a court-martial regularly convened according to law.

Mr. WILLIAMS. Mr. Speaker, I recognize the power of Congress to enact such a law as that to which the gentleman has referred. I recognize, too, the wisdom and propriety of such a measure. I do not, however, think that there is anything in the general language of the section under consideration which would interfere in any way with that act. It would, at all events by implication, authorize the President of the United States, with the concurrence of the Senate, to remove officers in the military and naval service. And I take it the power would be very safely lodged there, if they thought proper to exercise it. So that I do not regard this section as interfering at all with the act referred to, which is in many respects a very proper enactment.

Now, sir, with regard to the amendment of the gentleman from Iowa, which is to insert, I believe, in the fourth or fifth line an exception so as to provide that the clause shall not apply to cases of impeachments and convictions, or shall not be understood to take away the power in those cases. All I have to say is that such a provision is altogether unnecessary; because that power being secured by the Constitution

we could not legislate it away even if we desired to do so. I would not object, however, to inserting in the fifth line the words, "on impeachment and conviction," which would effect the same object though not by the use of the same language.

The next suggestion of my friend from Iowa is to strike out the words "on the recommendation of the Attorney General," and leave the question to the heads of the Departments in which these officers respectively may be. I have no objection to this modification. I rather think it would be an improvement.

The last amendment suggested by the gentleman is a provision that this act shall not apply to the removal and appointment of the heads of the several Departments. I cannot of course assent to this amendment; for it would destroy the very essence of the bill. We aim to make the heads of these Departments, so far as practicable, independent of the Executive. We propose that these officers shall not hereafter hold their positions, as they have held them heretofore, at the mere will of the President; that their official lives shall not depend upon the mere breath of the Executive. We hold that such a tenure of office does not accord with the principles of republican government. One of our objects is to take away from the President and lodge with the heads of Departments, where it would seem appropriate to place it, the appointment of the inferior officers of the Government. Unless, however, the heads of Departments are to be made practically independent of the Executive, it would be idle to resort to any enactment of this sort; it would serve no practical purpose. Hence I cannot consent to the gentleman's amendment without sacrificing the very essence of the bill.

One word more. I suggested, Mr. Speaker, some amendments to the bill as originally submitted by the committee. I am not sufficiently conversant with the rules to know whether they were accepted as modifications or whether it is necessary that a vote shall be taken upon them.

The SPEAKER. The gentleman has the right to modify any amendment offered by himself; but no amendment can be incorporated as a part of the bill without a vote of the House.

Mr. WILLIAMS. My reason for suggesting the question was, that if those propositions are to be voted upon I would desire that the vote be taken before other gentlemen proceed with their remarks.

The SPEAKER. The gentleman from Pennsylvania presented various amendments to the bill. He has just modified them. They are now pending to be voted on, but in their modified form.

Mr. KASSON. I thought we were to pass upon the amendments to the first section in the first instance.

Mr. WILLIAMS. I suppose that will be the order.

The SPEAKER. The amendments will come up in regular order as applied to the bill, unless the gentleman from Pennsylvania suggests another way. The amendment of the gentleman from Iowa is the first in order.

Mr. KASSON. I wish to say, then, that the point I have made has not been answered by the gentleman from Pennsylvania, that the provisions proposed by him preclude all removals in the Army or Navy through the medium of courts-martial. My object is to avoid that, and to allow officers to be removed in that way, as has been the uniform custom of the Government, and to which I know there has been no opposition. That can be accomplished in two ways, by a proviso at the end of the section, or by moving my first amendment, so as to strike out the words "same agencies which concurred in his appointment," and insert "sentence of court-martial, or by impeachment and conviction, or by the President, with the consent of the Senate."

That will provide for the recognized mode of removal. If that should be satisfactory I will take the question in that form. I understand there is no objection to the amendment,

and I will not take up any more of the time of the House.

Mr. HALE. Let me make an inquiry. I do not know that I understand the method of proceeding. I would like to know whether the general debate is to be postponed till the amendments have been disposed of or till after the substitute has been voted on? I learn there are gentlemen on the other side, as well as on this side of the House, who wish to discuss the bill, and I submit whether it would not be more appropriate to have the discussion before the vote is taken on the amendments. We ought, I think, to have the whole subject properly discussed before taking any vote.

Mr. WILLIAMS. So far as I am individually concerned I am not tenacious of any opinion I may have formed on this question. I know my opinions are wholly crude and immature, and I should like to profit by the opinion of the House. I know the question is surrounded with great practical difficulties, and I know it is much easier to point out defects than to make a bill that is perfect, which I think few gentlemen could be capable of doing. I should like, and I have no doubt that is the general wish, to collect the sense of the House on the subject. Therefore, unacquainted as I am with the parliamentary rules, all I can say is, I am willing to consent to bring about anything to facilitate this matter and enable the House to come to the debate at large on this subject.

The SPEAKER. The Chair generally looks to the author of the measure to indicate the course to be pursued.

Mr. WILLIAMS. It seems to me the better plan would be first to take the vote on the amendments. I demand the previous question on the amendments to the original bill.

Mr. GARFIELD. Will that cut off modifications?

The SPEAKER. It will. The Chair knows of no way in which modifications can be made after the demand for the previous question.

Mr. KASSON. Cannot we have the previous question on each separate amendment?

The SPEAKER. Certainly.

Mr. KASSON. Then I move the previous question on my amendment.

Mr. GARFIELD. I move the rules be suspended and the House go into the Committee of the Whole on the state of the Union, so we may consider this bill section by section.

Mr. WENTWORTH. How will that affect the debate postponed yesterday?

The SPEAKER. The gentleman will be entitled to the floor when the subject is resumed.

Mr. STEVENS. I wish to make an amendment before going into committee. I desire to modify my amendment to the original bill by striking out all after the word "adjournment," in line ten, section two, to the end of the section, as follows:

And in no case shall any person who has been nominated by the President for any office and rejected by the Senate, or on whose nomination that body has failed or declined to act in the way of consent or refusal, be appointed or commissioned by him after the adjournment and during the recess of that body to hold the same office for which he had been previously nominated.

And by inserting in lieu thereof the following:

That every person who has been or shall hereafter be nominated to the Senate for office, and who shall fail to receive the advice and consent of the Senate thereto, shall be incapable of holding any office under the United States for the term of three years after such rejection, unless two thirds of the Senate shall relieve him of such disability. The predecessor of any nominee rejected by the Senate shall still continue to hold his said office. Whenever any person has assumed office, and is discharging its duties on the nomination of the President before he has been confirmed by the Senate, on his rejection all the subordinates or deputies who have been appointed by him, or on his recommendation, shall vacate their places and cease to act.

Mr. WILSON, of Iowa. Is that amendment in order?

The SPEAKER. The gentleman has a right to modify his amendment. The House having waived the rule, we have got in the dilemma of having several amendments offered at once.

Mr. KASSON. I rise to a question of order. I had the floor, and moved the previous question. Since that time my friend from Ohio [Mr. GARFIELD] has proposed to go into Committee of the Whole, and other amendments are proposed to the bill. Am I not entitled to have a vote on my amendment?

The SPEAKER. By the rule any gentleman moving an amendment has a right to modify it previous to the vote. The gentleman from Pennsylvania [Mr. STEVENS] has that right.

Mr. KASSON. I demanded the previous question.

The SPEAKER. That is true, and the gentleman's amendment is still pending; but the Chair supposed the gentleman yielded to gentleman from Ohio, [Mr. GARFIELD,] who moved to go into Committee of the Whole.

Mr. KASSON. No, sir; I insist on my demand for the previous question on my amendment, to strike out in section one, lines five and six, the words, "the same agencies which have concurred in his appointment," and to insert in lieu thereof "sentence of court-martial, or by impeachment and conviction, or by the President with the consent of the Senate."

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. KASSON. I now call for a vote on my second amendment: in line twelve to strike out the words "Attorney General" and insert "head of that Department under whose jurisdiction such officer may be." The gentleman from Pennsylvania [Mr. WILLIAMS] has no objection to it.

The amendment was agreed to.

Mr. KASSON. My next amendment is a verbal one: in lines fourteen and fifteen to strike out the words, "have an opportunity of acting thereupon," and insert the word "act;" so that it will read, "until the Senate shall act thereon."

Mr. WILLIAMS. I have no objection to that.

The amendment was agreed to.

Mr. KASSON. I have an amendment which has been discussed. It is in the form of a proviso, to come in at the end of the first section, as follows:

*Provided*, That this section shall not apply to the heads of the several Executive Departments or their first assistants.

I have already stated the reasons which, in my judgment, render it important that this amendment should be adopted.

Even when a President of the United States has been elected in whom the people have confidence, you tie his hands by this bill against changing Cabinet officers or confidential advisers. You cannot carry on your executive Government without having a responsible head of it authorized to select his advisers and administrators. You cannot carry it on successfully in a condition of dissension between the President and his confidential advisers. You will have no claim to make a President responsible, as he constitutionally is, for the integrity of the administration of the Government, unless you give him the power to select the agents by whom he is to administer it in the way proposed, not only with the consent of the Senate, but in vacation. When it becomes necessary for him to make a change it seems to me he ought to have the power to do it. Sir, we must be careful in proceeding at this time under the excitement that naturally and justly agitates this House lest our action shall "return to plague the inventor." While we are changing the custom which has prevailed from Washington till now, and justly changing it, let us not go so far as to place the responsibility in the Secretaries and not in the President, for the scope of the bill reaches even that far now.

Mr. SCHENCK. With the permission of the gentleman from Iowa, and concurring with him in the general principles that he lays down, I wish to call his attention to an inquiry that suggests itself to me, why the first assistant in

a Department should be excepted? In the bill prepared by the joint committee on retrenchment, and which my friend from New York [Mr. HALE] has, I believe, already moved as a substitute for this bill, we have borne in mind the principle now suggested by the gentleman from Iowa, and have excepted the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Postmaster General, and the Attorney General. I do not know that it appears as clearly that the first assistants should be excepted. If, for instance, the First Assistant Secretary of the Treasury is excepted, why should not the Second Assistant Secretary be? They are both confidential officers. And so in the Post Office Department; if you except the First Assistant Postmaster General, why not except the Second and Third Assistant Postmasters General? They are each equally confidential officers subordinate to the Postmaster General, and their offices are made necessary from the fact that there are three divisions of duty in that Department. Although there may be a certain propriety in giving this exception to the person at the head of the whole Department, that does not apply to the assistant heads. I desire to retain the principle for which the gentleman contends, for I think it is sound and safe; but I prefer to limit the application to the heads of Departments alone.

Mr. KASSON. I will answer the gentleman with two reasons. In the first instance, the first assistant in the absence of his chief—and I call the gentleman's attention to that—is himself invited to a seat in the Cabinet. He is therefore, in that place, one of the confidential advisers of the President touching his Department. The other reason is, that the first assistant in all the Departments, so far as I know, is a confidential officer, and the other assistants are not; that there is a division in the classes of business in all the Executive Departments—I know there is in the Post Office Department—which renders the first assistant a confidential officer and does not render the others confidential to the chief of the Department. The first assistant is the one whom the chief consults intimately if he wants confidential information.

If the House will pardon me I will illustrate this point by my own experience. At the time the mails were suspended between the North and the South at the beginning of the war, when I was First Assistant Postmaster General, although I was not at all in charge of the dead-letter office of that Department, it was deemed expedient that the reports upon the information that was derived from those dead letters, which, under the ordinary operation of the law, were opened, should be made to me, and that the requisite action taken upon them should come through me. There were important acts of the Government depending on the disposition made of the information thus obtained.

I mention this to illustrate the point that there are confidential relations existing between the head of a Department and his first assistant which would justify him in demanding of Congress, and justify Congress in granting him one officer upon whom he can rely implicitly as his confidential friend. Knowing the necessity of this confidential relation between the Secretary and his first officer under the law, just as between the President and his Secretaries, I ask that we shall except these two classes of officers from the operation of this law. This bill would deprive the President of any choice of his confidential advisers without the approval of another branch of the Government.

That is all I have to say upon the subject, and I shall of course very cheerfully abide by the action of the House.

A MEMBER. Does the first assistant act as Secretary in Cabinet meetings?

Mr. KASSON. In the absence of his chief he takes his place, and I have myself sat in the Cabinet of the President as First Assistant Postmaster General.

Mr. GARFIELD. In view of the tangled



condition of this bill and the many amendments offered, I suggest that it be referred to Committee of the Whole and made the special order, and I will then move to go into Committee of the Whole upon it.

Mr. WASHBURN, of Illinois. I do not see the object of that. We can by unanimous consent consider the bill as in the Committee of the Whole of the House.

Mr. GARFIELD. I think there are probably twenty amendments pending or ready to be offered—amendments both verbal and substantial—and I think we can dispose of them much better in committee than in the House.

Mr. WASHBURN, of Illinois. By unanimous consent we can consider the bill in the House as in the Committee of the Whole.

Mr. GARFIELD. I have no objection to that.

Mr. WASHBURN, of Illinois. Then modify your motion.

Mr. GARFIELD. I will make this proposition, then, that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. That will allow five minutes' debate for and against amendments until the bill is open to general debate.

Mr. FINCK. Will there be any general debate allowed on this bill?

The SPEAKER. The gentleman from Pennsylvania, [Mr. WILLIAMS,] who has charge of the bill, has stated that he proposes to allow general debate after the bill shall have been perfected.

No objection being made, the proposition of Mr. GARFIELD was agreed to.

The first question was upon the following amendment, moved by Mr. KASSON:

Add to the first section the following:  
*Provided further, That this section shall not apply to the heads of the several Executive Departments or their first assistants.*

Mr. WILLIAMS. It will be observed by the House when they come to look at the amendment which has been moved by the gentleman from Iowa, [Mr. KASSON,] that it is a revival of the old question of 1789. It will be recollected by those familiar with the legislative history of this nation, that in the First Congress the question was discussed at great length as to the powers of Congress under the Constitution to associate the Senate with the President in the matter of removals. I think a majority of both Houses, as constituted at that time, would have said that the thing ought to have been done if it could be done constitutionally. But it was resisted by Mr. Madison, and the majority sided with him, though it was a small majority—a majority of one in the Senate. It was held by Mr. Madison that the power to remove was a power which passed by the general grant in the Constitution, assigning the executive powers of this nation to or lodging them in the President of the United States.

The argument of the minority in that case was that the power to remove was an incident of or necessarily inhered in the power to appoint. Yet the opinion of the majority, as advocated by Mr. Madison, prevailed. Now we all know, and I think no lawyer will dispute the assertion, that the idea of the minority of that First Congress has been sustained by the only judicial decision we have since had upon that question, in the case *Ex relatione Heenan*, reported in 13 Peters, and familiar of course to all the lawyers of this House.

As I have already remarked, we are coming back again to the question which was before the First Congress. I think it has always been regarded by the best lawyers of the nation since that time that the decision of Congress in 1789 was wrong. And the opinion has generally prevailed that that decision was obtained in consequence of the weight and influence of the personal character of our first Chief Magistrate.

Now, in addition to the fact of the prevalence of an opinion of this sort since that time, I think I may also say it has been quite as generally lamented that any such decision has ever been made. And the desire has been expressed time and time again, by leading men

in both Houses of Congress, to bring the Government back to its true principles, by placing this matter of appointment to and removal from office under the control of the people through their Congress.

Now, in my mind there is no question that in making these removals, which gentlemen would allow the President to make, he is exercising power that the Constitution never conferred upon him. As I remarked, this is the very question which arose in the First Congress. Unfortunately the decision was then made one way, and we propose now to reverse it upon the first opportunity that has ever been presented to us, and the last perhaps that may ever be offered in our history as a nation.

Mr. HALE. I would inquire if it is in order to move an amendment to the amendment of the gentleman from Iowa, [Mr. KASSON?]

The SPEAKER. It would be in order.

Mr. HALE. I move to amend the amendment by striking out the words "or their first assistants."

The amendment to the amendment was adopted.

The question was then taken upon the amendment of Mr. KASSON as amended; and upon a division there were—ayes 38, noes 50; no quorum voting.

Mr. KASSON. I call for the yeas and nays upon the amendment as amended.

The yeas and nays were not ordered.

Mr. KASSON. I call for tellers.

Tellers were ordered; and Messrs. KASSON and WILLIAMS were appointed.

The House divided; and the tellers reported—ayes 57, noes 46.

Mr. WILLIAMS. On this question I demand the yeas and nays.

The SPEAKER. The yeas and nays have been refused.

Mr. WILLIAMS. Then I move to reconsider the vote by which the yeas and nays were refused.

On the motion there were—ayes 47, noes 57.

So the motion to reconsider was not agreed to; and the amendment was adopted.

Mr. GARFIELD. I move further to amend the first section by inserting after the word "public," in the eighth line, the word "service;" so as to read, "where the interests of the public service may make it necessary," &c.

Mr. WILLIAMS. There is no objection to that amendment.

The amendment was agreed to.

Mr. GARFIELD. I move also a verbal amendment: to strike out in the twenty-second line the words "advising and consenting;" and insert in lieu thereof the words "refusing to advise and consent;" so that the clause will read:

And in case of the refusal of the Senate to concur in the removal, either by a direct vote thereon, or by refusing to advise and consent to the appointment of the person so nominated, &c.

Mr. WILLIAMS. That amendment will give the clause precisely the contrary meaning to what is intended. If the gentleman will examine the text he will find it right as it is.

Mr. GARFIELD. I have examined it carefully, and I think the amendment is necessary; but as other gentlemen appear to object to the amendment I will withdraw it.

Mr. DONNELLY. I move to amend by adding at the end of the section the following:

*And provided further, That in all cases where an appointment has been made by the President during the recess of the Senate, but the party so appointed has not been confirmed by the Senate and entered upon the discharge of the duties of the office before the passage of this act, then and in that case the occupant of the office shall continue to hold and exercise the same until his successor has been confirmed by the Senate.*

Mr. Speaker, a few words in explanation of this amendment may be necessary. It is designed to cover a class of cases not otherwise provided for in the bill. There have been cases in which an appointment has been made during the recess of the Senate, notice of the appointment given, and the commission made out, but either from delay in filing the bond or

taking the oath of office, or from the remoteness of the locality, as is the case in my own district, the new appointee has not up to the present time entered upon the duties of the office, and probably will not do so until after the passage of this bill. This amendment proposes to cover such cases by providing that if at the time of the passage of this act the former incumbent is still in the office he shall continue to exercise the duties of the office until the new appointee is confirmed by the Senate.

Mr. BINGHAM. If I rightly understand the purport of this amendment, it is open to objection as conflicting with the provisions of the Constitution. I ask that it be read again.

The Clerk again read the amendment.

Mr. BINGHAM. I desire to inquire of the gentleman from Minnesota whether his amendment contemplates appointments to vacancies happening during the recess of the Senate, or appointments to fill vacancies created by removals.

Mr. DONNELLY. It is designed to meet the question which might arise, whether the vacancy commenced from the date of the commission or from the time when the party enters upon the duties of the office.

Mr. BINGHAM. All I desire to say is, that if a vacancy happens during the recess of the Senate and the President makes an appointment to fill the vacancy and issues a commission, the Constitution itself defines the duration of that appointment. The express declaration of the Constitution is:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session."

If the amendment of the gentleman from Minnesota contemplates in such cases an extension of the term of office beyond the end of the present session of the Senate, it is in direct conflict with the letter as well as the spirit of the Constitution.

The amendment was not agreed to.

Mr. SCHENCK. I move to amend by inserting the word "civil" before the word "officer" in the third line of the first section; so that the clause will read, "that no civil officer of the United States appointed on the nomination of the President," &c.

My colleague [Mr. GARFIELD] was entirely mistaken in assuring the House that there is now no law protecting officers in the military and naval service from arbitrary removal by the President. I remember very well the effort which he made in the Thirty-Eighth Congress, when he was a member of the Committee on Military Affairs, to secure the passage of such an enactment; and I cooperated with him in his endeavors to attain that object. But although failing in that Congress, in this Congress the effort was renewed, and such provision was inserted in the Army bill passed by this House reported from the Committee on Military Affairs. But when that failed, or seemed likely to fail altogether in the Senate, I took care to select from that Army bill some two or three sections involving matters kindred to this, and particularly this one, and succeeded in getting it incorporated into an appropriation bill. And the fact is this is the law as it now stands, as gentlemen will find by referring to the fifth section of the bill passed at the last session making appropriations for the support of the Army, &c. The section is as follows:

SEC. 5. And be it further enacted, That section seventeen of an act entitled "An act to define the pay and emoluments of certain officers of the Army," approved July 17, 1862, and a resolution entitled "A resolution to authorize the President to assign the command of troops in the same field or department to officers of the same grade without regard to seniority," approved April 4, 1862, be, and the same are hereby, repealed. And no officer in the military or naval service shall, in time of peace, be dismissed from the service except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof.

As the law stands now, there is no necessity for doing that which ordinarily I think is untenable; to mix up our legislation in regard to

the civil service with our legislation in regard to military matters. Officers of the Army and Navy are now protected from peremptory dismissal, and they can only be deprived of their commissions by sentence of a court-martial or by commutation of some more severe sentence, such as the sentence of death.

As there is no necessity for making a single provision in this beyond the civil service, I hope it will be limited to that line of Government patronage, to the regulation of officers appointed in the exercise of Government patronage for civil service.

It is limited, it is true, to time of peace; and there is, I think, another proper discretion exercised by the legislative power. If this bill passes without limiting it to civil officers, then in time of war, in case of cowardice in the presence of the enemy, or in case of any other flagrant offense, the arbitrary power which will give safety and perfect control to the war-making power over the officers who are operating in making that war must be done away with and everything come within the provision of this law. I hope the law in regard to naval and military officers will stand as it is now, allowing peremptory and arbitrary dismissal in time of war, but that when war has ended, in time of peace, it shall be only on sentence of court-martial.

Mr. WILLIAMS. If my friend had adverted to the amendment already adopted on motion of the gentleman from Iowa, he would have noticed that removals or dismissals shall only be by sentence of court-martial. If he makes it read that no civil officer shall be removable except under these circumstances he will then see what will be the effect of his amendment.

Mr. SCHENCK. The amendment can only be cumulative as it is now provided for by law. If this bill has been so amended it only accomplishes the same thing in less precise way than is now provided by law. It is another argument why we should confine this bill to its application to civil officers.

Mr. WILLIAMS. The gentleman would make it read so that no civil officers shall be removable except by court-martial.

Mr. SCHENCK. That can be reconsidered so as to make this apply to civil officers exclusively. If the motion prevails which I now make, and I do not move it *pro forma*, I will move to reconsider the vote by which the words "court-martial," &c., were inserted.

Mr. GARFIELD. I am very glad to know what I had not observed before, that on the last night of the last session a section was got into the Army bill repealing that section from which the President seems to derive authority to dismiss without trial.

But I wish to say, Mr. Speaker, that for the very reason which the gentleman has stated induced him to put in the word "civil," I hope it will not be inserted. For he himself confesses that as the law now stands, although the President cannot remove summarily an officer of the Army in time of peace, he may do it in time of war. Now, at the very time when officers most need protection of their rights by court-martial, when the passions of a superior officer may be most likely to seek their removal without trial, the gentleman proposes to allow the President to remove them summarily. I hope that all officers of the Government will have by this bill a ground to stand upon, and that none of them, whether civil or military, may be removed at the will and pleasure of any officer of the United States.

I hope therefore that the word "civil" will not be inserted here, but that the provision will be made even more sweeping than the gentleman has shown the law now to be in reference to military men, so that neither in time of war nor of peace shall any officer of the Army or Navy be dismissed from service without either a decision of a court-martial or by the President with the consent of the Senate.

The question being taken on the amendment of Mr. SCHENCK to insert the word "civil" in section one, line three, there were—ayes 71, noes 29.

Mr. WILLIAMS. I demand the yeas and nays.

The yeas and nays were not ordered.

So the amendment was agreed to.

Mr. HALE. I propose to amend the first section in the sixteenth line, by striking out the word "ten" and inserting "twenty," so that it will read, "and it shall be the duty of the President, within twenty days after the next assemblage of that body, to report to it the fact of such suspension." This question was considered in the select committee on retrenchment, and I understand the amendment is satisfactory to the gentleman who has charge of the bill.

The amendment was agreed to.

Mr. HALE. I move further to amend by adding at the close of the section the following:

But the salary and emoluments of such officer shall, during such suspension, belong to the person so temporarily commissioned and performing the duties of such office.

Mr. WILLIAMS. No objection.

The amendment was agreed to.

Mr. HALE. I move a further amendment, to come in at the end of the section after the last amendment, as follows:

*Provided*, That the President, in case he shall be satisfied that such suspension was made on insufficient grounds, shall be authorized at any time before reporting such suspension, as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

It simply enables the President when he shall be satisfied that the suspension has been unduly made to revoke the suspension without going through the form of sending it to the Senate.

Mr. WILLIAMS. I take it for granted he can do it at any rate before he has made his report. It will do no harm, however.

The amendment was agreed to.

Mr. KASSON. I ask unanimous consent to strike out certain words which were inserted in the first section. In consequence of opposition to the amendment which I proposed, to insert the word "civil," I moved to amend by inserting the words "sentence of court-martial, or by impeachment and conviction, or by the President with the consent of the Senate;" which was adopted. The word "civil" having since been inserted, it becomes necessary to strike out the words "sentence of court-martial or by."

The amendment was agreed to.

The SPEAKER. The next amendment in order is that proposed by the gentleman from Pennsylvania, [Mr. STEVENS,] to strike out all after the word "adjournment," in section two, line three, and insert what will be read by the Clerk.

The Clerk read, as follows:

That every person who has been, or shall hereafter be, nominated to the Senate for office, and who shall fail to receive the advice and consent of the Senate thereto, shall be incapable of holding any executive office under the United States for the term of three years after such rejection, unless two thirds of the Senate shall relieve him of such disability. The predecessor of any nominee rejected by the Senate shall still continue to hold his said office. Whenever any person has assumed office, and is discharging its duties on the nomination of the President before he has been confirmed by the Senate, on his rejection all the subordinates or deputies who have been appointed by him, or on his recommendation, shall vacate their places and cease to act.

Mr. STEVENS. The present bill provides that the President shall not appoint a rejected party to the same office. Now, sir, that does not satisfy me. We are acting upon this question as if the constitutional requirements had not been followed and we are providing how hereafter these offices are to be disposed of. We know, for I may refer to that now, that since the last session of Congress a class of the meanest men that God ever overlooked in making mankind have been appointed to office and are now awaiting the rejection or confirmation of the Senate. I have no doubt that a great many of them will be rejected, but if the President is allowed to appoint them to any other offices he will reward them all. He understands taking care of just such men; they are naturally his wards; and although he may

not be allowed to appoint them to the same offices, he will roll them over into something else that will be as distasteful to the public mind as their present appointments. Now, if they have been tried and found wanting by the Senate give them one year to purify themselves before they shall be appointed to any other executive office, and some gentlemen think it will take more than that. I must, therefore, insist that these men shall be punished, if you please, for having consented to the meanness of becoming reptiles to crawl into office through such slimy places as they have done during the time that we have been "swinging around the circle," [laughter,] and that everything done by them shall be considered as a nullity. I confess to my desire to punish these men by refusing them not only these offices, but all others. I have no objection if it is looked upon as a little stigma in their neighborhood. I think that the fact of their acceptance of office is evidence that they are too mean to hold it, too dishonest to be trusted with it.

Mr. HALE. I rise to oppose the amendment. The distinguished gentleman from Pennsylvania [Mr. STEVENS] has been complimented by several of his associates upon this floor as having suddenly become conservative. [Laughter.] I was delighted to witness it and welcome his accession to those ranks; but I regret to say, that with the zeal common to neophytes he goes far beyond what those heretofore considered as in some measure sustaining the President have been willing to go. The gentleman proposes to put into the hands of the President alone, without the concurrence of anybody whatever, such power as I think never was intrusted to any one man in this Government. For, let us consider, if the President should nominate any person to any office who shall be rejected by the Senate—and the gentleman will bear in mind that it does not necessarily presuppose the consent of the person nominated—that rejection renders the person so nominated incapable of holding any office except when relieved of the disqualification in one particular manner.

Mr. STEVENS. I will run the risk of being punished in that way.

Mr. HALE. We all know that the gentleman is competent for almost any position on the face of the earth, and yet there may be positions for which, if the President in hostility should think fit to nominate him, the Senate might deem him unfitted. He might not, for instance, be considered by the Senate a suitable person to command a regiment, or to be general-in-chief of the Army, or a captain in the Navy; and yet the President has nothing to do but to send in the name of the gentleman from Pennsylvania for such an office, and if the Senate, deeming him not particularly qualified for service in that line, should reject him, we know how much we should all regret his invaluable services here. [Laughter.]

Mr. STEVENS. In that case I should come to the gentleman and ask him to unite with others to get the Senate to take off the disability, so that I might take the office which he would desire me to hold, and I am sure they would do it.

Mr. HALE. The gentleman does not mean that; he would not come to me for such a purpose, because I should have no weight in that line. But the House cannot fail to see the absurdity to which the amendment of the gentleman leads. If the President desires to get rid of General Grant he has nothing to do but to nominate him for Chief Justice and let the Senate reject him for that office, and the office of General is vacant and the present holder disqualified.

I cannot believe that the gentleman from Pennsylvania seriously proposes to put this power into the hands of the President, and although I have heretofore to some extent been considered a mild supporter of the President, I cannot go that length. I trust, therefore, that his amendment will be rejected.

The question was upon the amendment of Mr. STEVENS.

Mr. WASHBURN, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 18, nays 182, not voting 41; as follows:

YEAS—Messrs. James M. Ashley, Sidney Clarke, Cobb, Donnelly, Eckley, Eggleston, Farquhar, Grinnell, Abner C. Harding, Hotchkiss, Kelley, Kelson, McClurg, Starr, Stevens, Van Aernam, Hamilton Ward, and Stephen F. Wilson—18.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Broome, Buckland, Campbell, Chanler, Reader W. Clarke, Cook, Cooper, Darling, Dawes, Dawson, DeFrance, Delano, Deming, Dixon, Driggs, Eldridge, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Hiss, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kerr, Ketchum, Koontz, Kuykendall, Lafin, Latham, George V. Lawrence, William Lawrence, LeBlond, Lynch, Marshall, Marston, Maynard, McIndoe, McKee, McRuer, Mercur, Miller, Morrill, Morris, Moulton, Myers, Niblack, Nicholson, Noel, O'Neill, Orth, Paine, Patterson, Perham, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Spaulding, Stokes, Taber, Nathaniel G. Taylor, Thayer, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—182.

NOT VOTING—Messrs. Arnell, Blaine, Bromwell, Bundy, Conkling, Culom, Culver, Davis, Denison, Dodge, Dumont, Harris, Hogan, Asahel W. Hubbard, Lemas Hubbard, Humphrey, Johnson, Jones, Leitch, Loan, Longyear, Marvin, McCullough, Moorhead, Newell, Phelps, Pike, Plants, Radford, Stillwell, Strouse, Nelson Taylor, Francis Thomas, John L. Thomas, Robert T. Van Horn, Warner, Henry D. Washburn, Welker, Whaley, Winfield, and Wright—41.

So the amendment was not agreed to.

#### DEFICIENCY BILL.

Mr. STEVENS, by unanimous consent, reported to the Committee on Appropriations a bill making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes; which was read a first and second time, referred to the Committee of the Whole, and made the special order for Thursday next after the morning hour, and from day to day until disposed of, and ordered to be printed.

Mr. WASHBURN, of Illinois. I give notice that I desire to reserve the point of order in regard to all new legislation, and such matter that may be in the bill just referred to the Committee of the Whole.

#### EMPLOYÉS IN EXECUTIVE DEPARTMENTS.

Mr. STEVENS, by unanimous consent, also introduced a joint resolution granting additional compensation to certain employés of the Executive Departments in Washington; which was read a first and second time, and referred to the Committee of Ways and Means.

#### LEAVE TO WITHDRAW PAPERS.

Mr. LATHAM. I ask leave to withdraw from the Military Committee the papers in the case of Daniel Cole, and have them referred to the Committee on Invalid Pensions. They were referred to the Military Committee by mistake.

Leave was granted accordingly.

#### LEAVE OF ABSENCE.

Mr. LATHAM also asked and obtained leave of absence for two days for his colleague, Mr. CHESTER D. HUBBARD.

And then, on motion of Mr. WILSON, of Iowa, (at twenty minutes before four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BOYER: The petition and papers of James Todd, administrator of Samuel P. Todd, deceased.

By Mr. CONKLING: The petition of Rev. Dr. Gray, and others, asking modification of taxes paid by clergymen, teachers, and certain others.

Also, the petition of manufacturers of and workers in ivory, horn, bone, &c., asking change of the tariff.

By Mr. DARLING: The petition of marine underwriters of the city of New York, for an appropriation to remove the wreck of the steamer Scotland at Sandy Hook.

By Mr. LAWRENCE, of Ohio: The petition of James B. W. Harris, of Union county, Ohio, for a pension.

Also, the petition of B. Collins, and numerous others, of Darke county, Ohio, for the impeachment of Andrew Johnson, President of the United States.

By Mr. PAINE: The petition of Winchester De Wolf & Co., and others, of Whitewater, Wisconsin, to add certain manufactured articles to the free list.

By Mr. PERHAM: The petition of George H. Emerson, and others, clergymen, professors, and teachers, for modification of the internal revenue tax on salaries.

By Mr. WASHBURN, of Massachusetts: The petition of the owner of the steamer Santa Marta, for payment for use and damage to the same by the Government.

By Mr. WINDOM: A memorial of B. A. Froiseth, of St. Paul, Minnesota, in relation to foreign emigration.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. WINDOM: A bill to incorporate the District of Columbia Canal and Sewerage Company.

#### IN SENATE.

WEDNESDAY, December 12, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and takes this opportunity to lay before the Senate the memorial of William Boyd, of Washington city, District of Columbia, the substance of which, stated in his own words, is:

"I humbly ask your honorable body that you make no distinctions in regard to either color or sex if you should think proper to extend the elective franchise in this District, which I beg of your honorable body to do immediately; so that hereafter there shall be no distinction of race or sex. I am among those who believe that slavery will never die until all laws are so constructed as to hold all mankind as equal before the law."

As there is no committee before which this subject is pending, it being under debate in the Senate, this petition will be received and laid on the table if there be no objection.

Mr. LANE presented the petition of Cincinnati W. Harper and Clarence C. Harper, children and heirs-at-law of the late John Harper, deceased, praying for compensation for the use and occupation of their land by the United States Government, in the county of Norfolk, State of Virginia; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented two petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Adeline M. Gould, mother of Eugene M. Gould, late a private of company F, third Rhode Island cavalry, praying to be allowed a pension; which was referred to the Committee on Pensions.

#### PAPERS WITHDRAWN.

On motion of Mr. HARRIS, it was

Ordered, That Eaton & Gage, contractors with the Navy Department to supply the different navy-yards with certain articles, have leave to withdraw from the files of the Senate their petition and papers praying that their account may be settled upon principles of equity.

#### NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to amend an act entitled "An act to continue in force and to amend an act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes," approved July 16, 1866.

#### BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 148) presenting the thanks of Congress to Cyrus W. Field; which was read twice by its title, and referred to the Committee on Foreign Relations.

#### WILLIAM HICKEY.

Mr. WILSON. I offer the following resolution, and ask for its present consideration, if there be no objection:

*Resolved*, That the amount directed to be paid to the legal representatives of the late William Hickey for funeral expenses, &c., by Senate resolution of July 9, 1866, be paid by the Secretary of the Senate out of the contingent fund of the Senate.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the resolution at this time.

Mr. FESSENDEN. I think it had better go to the Committee to Audit and Control the Contingent Expenses of the Senate.

The PRESIDENT *pro tempore*. The question now is on its consideration, not the disposition of the resolution. The Chair hears no objection to its present consideration.

Mr. WILSON. We have already passed a resolution directing the payment of this money, but we did not provide that it should be paid out of the contingent fund.

Mr. FESSENDEN. My own impression is that that resolution passed without very much consideration.

Mr. WILSON. If the Senator would like to have this resolution referred I shall not object to that.

Mr. FESSENDEN. I think it had better be referred. I understand that the benefit to be received from it—it is a mere gift, at any rate—will be received, in part at least, by young gentlemen who ran away from this city and went into the rebel service, and that the whole family, with the exception of Mr. Hickey himself, who was very quiet and a very excellent officer, were rather notorious for their secession proclivities and conversations. At any rate, I think that matter had better be understood before we act on this resolution.

Mr. WILSON. I certainly have no objection to its going to a committee if any Senator desires that course to be taken. Whatever may be the views of these young men, the sons of Colonel Hickey, he himself was an officer of the Senate for many years, and I think served it with great fidelity. I believe he was a true Union man, devoted to the country, and was so throughout the war, and was entirely faithful.

Mr. FESSENDEN. I do not know anything to the contrary, and do not even suspect anything to the contrary. What I mean to say is, that I have been informed—how true it is I do not know—that the benefit of this resolution will go to persons who really were engaged in the rebel service and left the District for that purpose. If that is so this money ought not to be paid.

The PRESIDENT *pro tempore*. Does the Senator from Maine move the reference of the resolution to the Committee to Audit and Control the Contingent Expenses of the Senate?

Mr. FESSENDEN. Yes, sir.

The PRESIDENT *pro tempore*. The question is upon that motion.

The motion was agreed to.

#### APPOINTMENTS DURING THE RECESS.

Mr. TRUMBULL. I submit the following resolution, and ask for its present consideration:

*Resolved*, That the President be requested to inform the Senate whether any person appointed to an office required by law to be filled by and with the advice and consent of the Senate, and who was commissioned during the recess of the Senate previous to the assembling of the present Congress to fill a vacancy, has been continued in such office and permitted to discharge its functions, either by the granting of a new commission or otherwise, since the end of the session of the Senate on the 28th day of July last, without the submission of the name of such person to the Senate for its confirmation, and particularly whether a surveyor or naval officer of the port of Philadelphia has thus been continued in office without the consent of the Senate.

There being no objection the Senate proceeded to consider the resolution.

Mr. EDMUNDS. I move to amend the resolution by adding to the inquiry, "and if any such officer has exercised such functions whether he has received any pay or salary therefor."



Mr. TRUMBULL. I have no objection to the amendment, and will accept it. It is in my power to do so.

The PRESIDENT *pro tempore*. It is in the power of the mover to accept the amendment, and the resolution will be amended accordingly. The question is on the resolution. The resolution was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown, and State of Wisconsin.

The message also announced that the House had passed a bill (H. R. No. 879) relating to brevets in the Army of the United States.

#### PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. ROBERT JOHNSON, his Secretary, announced that the President had to-day approved and signed an act (S. No. 327) granting a pension to Mrs. Katharine F. Winslow.

#### SUFFRAGE IN THE DISTRICT.

The PRESIDENT *pro tempore*. The unfinished business is the bill (S. No. 1) to regulate the elective franchise in the District of Columbia which is now before the Senate as in Committee of the Whole. The pending question is on the motion of the Senator from Pennsylvania, [Mr. COWAN,] to amend the amendment reported by the Committee on the District of Columbia, by striking out in the second line of its first section the word "male" before "person." Upon this question the Senator from Missouri is entitled to the floor.

Mr. BROWN. Mr. President, I do not believe that the pending amendment to the bill extending the franchise to women in the District of Columbia, offered by the Senator from Pennsylvania, was designed to be carried out into practical legislation at this time or in this connection. I think it was rather intended to elicit an expression of opinion from members of the Senate upon the general proposition involved. If it were to go into practical effect, I am one of those who believe that it would be necessary to accompany it by a good deal of other legislation to prevent it from degenerating into abuse and perhaps corrupting many of those it designs to advance in position and influence. But accepting the matter in the light which I have stated, for one I am willing to express an opinion very freely on the subject. I have to say then, sir, here on the floor of the American Senate, I stand for universal suffrage, and as a matter of fundamental principle do not recognize the right of society to limit it on any ground of race, color, or sex. I will go further and say that I recognize the right of franchise as being intrinsically a natural right; and I do not believe that society is authorized to impose any limitation upon it that does not spring out of the necessities of the social state itself.

These may seem, Mr. President, extreme views, but they conform to the rigid logic of the question, and I defy any Senator here who abides that logic to escape that conclusion. Sir, I have been shocked, yes, shocked, during the course of this debate at expressions which I have heard so often fall from distinguished Senators, and apparently with so little consideration of what the heresy irresistibly leads to, saying in substance that they recognize in this right of franchise only a conventional or political arrangement that may be abrogated at will and taken from any; that it is simply a privilege yielded to you and I and others by society or the Government, which represents society; that it is only a gracious boon from some abstract place and abstract body for which we should be proud and thankful; in other words, that it is not a right in any sense, but only a concession.

Mr. President, I do not hold my liberties by any such tenure. On the contrary, I believe that whenever you establish that doctrine,

whenever you crystalize that idea in the public mind of this country, you ring the death-knell of American liberties. You take from each, what is perhaps the highest safeguard of all, the conviction that there are rights of men embracing their liberty in society, and substitute a skepticism on all matters of personal freedom and popular liberties which will lay them open to be overthrown whenever society shall become sufficiently corrupted by partyism or whenever constitutional majorities shall become sufficiently exasperated by opposition.

Mr. President, so important, yea so crucial, so to speak, do I deem this position, that I trust I may be pardoned by the Senate if I refer to the abstract grounds, the invincible agreement upon which I deem it to rest. I do this the more readily because in my belief the metaphysical always controls ultimately the practical in all the affairs of life. Now, what are abstract rights? And are there any intrinsic necessary conditions that go to constitute liberty in society? I believe that there are, and that those conditions are as determinable as the liberties they protect.

The foundation upon which all free government rests, and out of which all natural rights flow as from a common center, has been well stated by Mr. Herbert Spencer in a late work on Social Statics, to be "the liberty of each limited by the like liberty of all." As the fundamental truth originating and yet circumscribing the validity of laws and constitutions, it cannot be stated in a simpler form. As the rule in conformity with which society must be organized, and which distinguishes where the rightful subordination terminates, and where tyranny, whether of majorities or minorities, begins, it cannot be too much commended. "Every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man," is stated as the law of just social relationships, and in it the rights of individual liberty of thought, of speech, of action find their complete expression. It will be observed that equality is the essence of it all. In fact any recognition of an inequality of rights is fatal to liberty.

Observe, furthermore, that those rights inherent in the individual, are part of his existence, and not the gift of any man or aggregation of men. If they were, equality under a despotism might find its justification in the postulate just as well as equality under a republic. Cæsarean democracy could claim like paternity with American democracy. The assumption, then, that freedom in any of its forms is a privilege conceded by society is utterly unwarrantable, because society itself is a concession from the individual—the liberty of each limited by the like liberty of all—and such limitation is what society or Government represents. And it is in this sense, and flowing from this axiom, that the rights of franchise originally appertain to all alike; for franchise is in itself nothing more than a mode of participating in the common Government, and represents only the interest each has therein. That limitations may attach thereto, just as they attach to freedom of speech or freedom of action, is perfectly true; but they must be equal limitations, applicable to all alike, growing out of the social relation, and not leveled at the inherent right of any individual or class. Thus the exclusion of criminals from the franchise, the designation of terms of minority as connected with the exercise of political duties, the regulation of the admission to citizenship of persons coming from foreign countries, find their justification in a principle which, so far from recognizing in Government or society a purely arbitrary control of the rights and exercise of self-government or personal liberty, brings it down within rigid and narrow limits of equality and necessity.

There are those, and I am sorry some such have arisen in the Senate to-day, who seek to escape this conclusion, and put the blush upon all free government by affirming, as I have said, that the right of franchise is a purely political right, neither inherent nor inalien-

able, and may be divested by the citizen or the State at will. The consideration mentioned, that the right of franchise is neither more nor less than the right of self-government as exercised through a participation in the common government of all, shows, however, that if it be not a natural right it will be difficult to say in what a natural right consists. Indeed, it is perhaps the most natural of any of our rights, inasmuch as its denial is the denial of all right to personal liberty, for how can such latter right exist when the right to maintain it among men and the societies of men is denied? Again, if the right to share in the joint government is not inherent, from whence does it come? Who can give the right to govern another? and how can any give that he has not got? Society is but the aggregate of individuals, and in its authority represents only the conceded limitations on all, not any reservoir of human rights, otherwise human rights would vary with every changing association.

Still again, if the right of a man as regards Government can be divested either by himself or Government at will, then Government has no limit to its rightful tyranny—it may divest not only one man, but a hundred or a thousand; indeed, why not all but the chosen few or the imperial one, thus arriving logically at oligarchic or despotic rule. And if a man may divest himself of this right, what right is sacred from his renunciation? That a man may refuse to exercise any right is true, and that in changing his abode he may sever his political and social relations is equally true; but these facts only prove that his natural rights inhere in his person, go with him in his movement, subject always to be exercised under the conditions and limitations before recited. After all, to demonstrate the utter falsity and pernicious consequence of the idea that the right to share in the common Government (which is only a synonym for the right of franchise) is a privilege to be farmed out by Government at discretion and to whom it chooses, it is only necessary to ask, if that be so, whence comes the right to representation? Wherein is the foundation for any democratic society predicated on the rights of individuals? That various mixed Governments do undertake to limit the franchise to the few as a privilege coming from the body-corporate has nothing to do with the question, for I am discussing now rights, not practices; republics, not aristocracies.

Such I believe, Mr. President, to be the principles on which our personal rights, our liberties in society repose. It is true the argument carries us very far, but not further, I apprehend, than republican government must go whenever it undertakes to conform its practice to its logic. And having examined the general reasoning that controls the whole question of franchise, let me now advert more particularly to the bearing of that argument upon the proposition submitted by the Senator from Pennsylvania. I know that many affirm that the results to which such reasoning as that I have adduced would lead are themselves conclusive against its force. But that is scarcely a fair mode of judging of the strength and invincibility of any argument, far less one touching interests so momentous in character.

To give the objection its greatest force it may be said, "if suffrage be the right of all men, why is not also the right of all women, of all children?" "Are they not equally interested in good government, and are they not equally capable of expressing through a vote their wish in relation to public affairs?" "Do they not come within the category, the equal liberty of each limited by the like liberty of all, and if so, can the infringement of their liberty by disfranchisement be justified?"

To such questions, and in fact to the whole inquiry, it may be replied that as freedom finds the expression of its limits in the social relation itself, so long as the marital and paternal state remain as they are now, essential parts to that social relation, so long will there be more or

less of constraint involved in their expression through governmental forms. And it may be added also that in so far as marriage and paternity establish an identity of interest between husband and wife, or parent and child, so far the participation of the one in the government is virtually the participation of both, the franchise of one the franchise of both. Such identity is not always true or equable, but it nevertheless approximates truth, and is therefore the more readily accepted as such in practical affairs.

That the rights of women, however, are intrinsically the same with those of men, may not be consistently denied; and that all the advance of modern civilization has been toward according them greater equality of condition is attested by the current history of every nation within its pale. Rights of married women and minors are constantly finding new expression in our laws and new force in our public opinion, which is only law in process of formation. While it will not be necessary, therefore, to go into those deeper and anterior questions of social life involving the substitution of voluntary for compulsory modes which are agitating so profoundly the intellect of this age, it is important to note that of the three great departments of control in human affairs, namely: morals or conscience, manners or society, government or laws, the two former have been unreservedly conceded to the full and equal participation of women. And furthermore, I venture to affirm with all confidence, that although the social relation, as it embraces a recognition of family dependence, may present obstacles to an equal influence under present forms of government and to the full exercise of citizen rights on the part of women, yet that the purity, the refinement, the instinctive reading of character, the elegant culture of the women of our land, if brought to bear upon the conduct of political affairs, would do much to elevate them in all their aims, and conform them to higher standards of justice.

Mr. President, I have listened in vain for the argument on which is predicated the assertion that sex alone affords a rightful ground for exclusion from the rights of franchise. I do not find anything to justify that view, even in the position of those who contend that franchise is a mere political privilege and not founded in any right, for that would apply to men equally as to women, and does not touch the question of relative rights. The position would still remain to be established why the franchise should be given to the one and not to the other. It would remain still to present grounds of principle on which that right as such may be denied to her and not denied to him.

I have heard reasons of policy, reasons of sentiment, reasons of precedent advanced to justify this exclusion; but in all frankness, and with no disrespect intended, I must say that those which have been presented during this debate seem to me trivial, illogical, and contradictory of each other.

First, it has been said that if women are entitled to the rights of franchise they would correspondingly come under the obligation to bear arms. But, sir, I do not know that there is any necessary connection between the rights of franchise and the requirement of service in your Army. On the contrary I do know that all Governments which have existed among men do now recognize the fact that there is no necessary connection between the two; and I do know that no Government has more distinctly recognized that portion than the Government of the United States. Are there not large classes even among men in this country who are exempt from service in our armies for physical incapacity and for other reasons? And if exemptions which appertain to males may be recognized as valid, why not similar exemptions for like reason when applied to females? Does it not prove that there is nothing in the argument so far as it involves the question of right? There are Quakers and other re-

ligious sects; there are ministers of the gospel; persons having conscientious scruples; indeed, all men over a certain age who under the laws of many of the States are released from service of that character. Indeed, it is the boast of their Republic that ours is a volunteer military establishment. Hence I say there is nothing in the position that because she may not be physically qualified for service in your Army therefore you have the right to deny her the franchise on the score of sex.

It might be an inquiry of very great interest and worthy of being pursued much further than I have the time or the ability to pursue it just now, how far, if the ballot should be extended to all the women in this land, it would go to modify existing opinion and action and relationship among States so as to obliterate in a great degree the very necessity for your Army and Navy. I believe, sir, that a very large majority of the wars that have been waged in this world have been wars that were condemned by the moral sense of the nations on both sides, wars that would have been terminated forthwith if that moral sense could have had its rightful influence in controlling the affairs of Government; and I say it is a question that is worthy of consideration how far such an element introduced into your political control would go to obviate these barbarous resorts to force which you now deem essential and which we all deplore, but which it is a folly if not a crime to say constitute a reason woman should be denied any right to which she would be otherwise entitled.

Mr. President, a second objection has been taken to any extension of the franchise in this direction, and it is one that perhaps has more seeming force in it than the other.

It has been said with a great deal of pathos by the Senator from New Jersey: what, would you have your wives and your daughters mingle in the scenes at the election-booths, go into the riotous demonstrations that attend upon the exercise of the ballot, and become participants in the angry and turbulent strifes that are so characteristic of our political modes? I say with frankness that I would not have wife or daughter mingle in any such scene; I would be loth to have their purity and their virtue exposed to such demoralized surroundings, surroundings that are only too apt to corrupt even the males that mingle in the political arena. But, sir, I contend that that is an argument against the ballot and the hustings and the polling-booths, and not against the rights of woman. It is an argument against those corruptions that you have permitted to grow and fasten upon your political methods and appliances and not an argument against her rights as contrasted with the rights of man. What! usurp an exclusive control, then degrade the modes of exercising power, and after that say the degradation is reason why the usurpation should continue unchallenged. What profanation of the very powers of thought is that! On the contrary I am prepared to say that I see no reason, I never have seen any reason, why there might not be changes introduced in your modes of taking the sense of the community, of ascertaining public opinion upon public measures, of making selection even of its individuals for important offices, that would conform them far more to those refinements and those elevations which should characterize and control them, purifications that might render them appropriate for participation in by the most refined of the land, whether male or female.

I see no reason why it should not be done. The change has been constant already from the very rudest forms to the forms which we now have, and which I am sorry to say are sufficiently rude to disgrace the civilization of the age. Why not further amelioration and adaptation? Are we to have no progress in the modes of government among men? Are we and future generations to be ever imprisoned in the uncouth alternative of monarchical or democratic forms as they now obtain? I cannot believe it. For five years past we have

had revolution enough among us to satisfy even the most conservative that the present is no ultimatum, either of form or substance, in political or social affairs. I will go further and venture to say that there are now seething underneath all the forms of this Government, revolutions still more striking than any one of us have yet witnessed. Beneath all these methods and appliances of administrations and controls among men I believe there is under our very feet a heaving, unsteady ocean of aroused questioning in which many modes now practiced will sink to rise no more, and out of which other adaptations will emerge that will render far more perfect the reflection of the will of the people; that will perhaps represent minorities as well as majorities; that will disarm corruptions by dispensing with party organizations. It is the very witching hour of change.

And, sir, I do not dread change. Why should we? Is not change the primal condition on which all life is permitted to exist? Change is the very essence of all things pure, the sign and token of the divinity that is within us, and conservatism *per se* is infidelity against the ordination of God. When, therefore, we see such change in all things that are around us, in fashions and customs and laws and recognitions and intellectualities, even to the supremest generalizations of science, in all things save the elemental principles of our being and by consequence of our rights, why shall we say that these forms into which we have cast administration and government shall not obey the great law of development and take upon themselves ameliorations better suited to the changing society of mankind, to the wants of a more truthful representation, to the participation by all in the Government that is over all.

Mr. President, I am of those who believe that they will. When I look around on the incongruities and corruptions that surround our present system, when I see what politics and government and administration actually are, if I believed there was to be no progress in that direction I should be bereft of all hope and desolate of faith. On the contrary, methinks I can see adown the vista of the future the golden apples hanging on the tree of promise. It seems to me that the light of the morning is already streaming in upon us that shall illuminate further advancements in the science of government.

And why should not even republican government take to itself other modes of administration without infraction of its fundamental liberties? Why should not large reductions transpire in those opportunities that invite the most sinister combination for offices and spoils? Is there any reason why the emoluments of place should more than repay the labor it calls for? Is there any reason why large abolitions of executive patronage may not transpire; why Government may not generate through examining commissioners, best agencies of its own for the functional work it is called to perform, leaving appeals to the community to pass rather upon controlling measures and general policies and legislative functionaries?

Is there any reason why that should not take place? Sir, already, if I mistake not, in the large cities of this land, which are the local points of your domestic political system, the necessity for such a change is being felt and acted upon, and large branches of executive work and supervision are being necessarily put in commission.

Mr. President, I think what I have said sufficiently shows that the argument which is advanced, that the present surroundings are such that woman could not properly participate in your elections, is an argument that does not go to the right of the woman, but does go to the wrong of the man. It is a criticism, perhaps a satire upon the civilization of your political system, not a justification for any exclusions practiced under it.

There is one other line of remark that has been indulged in, and only one other so far as I have heard, which calls for any special re-

joinder, and that affirms the precedents of the past to be all against any such proposition as that now submitted. It is said that there is no precedent, that is not customary in any of our Governments, that it is not one of the recognitions of our society, that it has never been signified as such in the past. I do not know that such an argument amounts to anything at best, but I do know that the allegation itself has no foundation in fact. I know that in many cases and on many occasions this impassable barrier that is now set forth as dividing the natural rights of man and woman has been broken down and trampled upon, and that, too, without any injury to the society from so doing. Perhaps I can best illustrate this point by what an accomplished lady, who has given much thought and research to the subject, has presented. I read from a contribution she has made to one of our leading public prints. She says:

"So long as political power was of an absolute and hereditary character women shared it whenever they happened, by birth, to hold the position to which it was attached. In Hungary, in some of the German States, and in the French Provinces to this day, certain women, holding an inherited right, confer the franchise upon their husbands, and in widowhood empower some relative or accredited agent to be the legislative protector of their property. In 1858, the authorities of the old university town of Upsal granted the right of suffrage to fifty women owning real estate, and to thirty-one doing business on their own account. The representative that their votes elected was to sit in the House of Burgesses. In Scotland, it is less than a century since, for election purposes, parties were unblushingly married in cases where women conveyed a political franchise, and parted after the election. In Ireland, the court of Queen's Bench, Dublin, restored to women, in January, 1864, the old right of voting for town commissioners. The Justice, Fitzgerald, desired to state that ladies were also entitled to sit as town commissioners, as well as to vote for them, and the chief justice took pains to make it clear that there was nothing in the act of voting repugnant to their habits. In November, 1864, the Government of Moravia decided that all women who were tax-payers had the right to vote. In the Government of Pitsa's Island, women over sixteen have voted ever since its settlement. In Canada, in 1850, a distinct electoral privilege was conferred on women, in the hope that thereby the Protestant might balance the Roman Catholic power in the school system. I lived where I saw this right exercised by female property holders for four years. I never heard the most cultivated man, not even that noble gentleman, the late Lord Elgin, object to its results. In New Jersey, the constitution adopted in 1776 gave the right of suffrage to all inhabitants, of either sex, who possessed fifty dollars in proclamation money. In 1790, to make it clearer, the Assembly inserted the words, 'he or she.' Women voted there till 1838, when the votes of some colored women having decided an election the prejudice against the negro came to the aid of lordly supremacy, and an act was passed limiting the right of suffrage to 'free white male citizens.' In 1852 the Kentucky Legislature conferred the right on widows with children in matters relating to the school system. The same right was conferred in Michigan; and full suffrage was given to women in the State constitution submitted to Kansas in 1860."

I think that is a list of illustrations sufficient to dispose of any argument that may arise on such a score.

And now, Mr. President, permit me to say in concluding the remarks I have felt called upon to make here, that I have spoken rather as indicating my assent to the principle than as expecting any present practical results from the motion in question. In the earliest part of my political life, when first called upon to represent a constituency in the General Assembly of Missouri, in looking around after my arrival at the seat of Government at those matters that seemed to me of most importance in legislation, I was struck with two great classes of injustices, two great departments in which it seemed to me the laws and the constitutions of my State had done signal wrong. Those were, one as respects the rights of colored persons; the other as respects the rights of married women, minors, and females; and I there and then determined that whenever and wherever it should be in my power to aid in relieving them of those inequalities and those injustices I would do so to the extent of my humble ability. Since then I have labored zealously in those two reforms as far and as fast as a public opinion could be created or elicited to enforce them, and I can say from my own observation that each step of advance taken has been fruitful of all good and productive of no evil.

Emancipation of the colored race in Missouri has been achieved in a most thorough manner, substantially achieved even before the war; and to-day the community is ripe for the declaration that all are created equal, and that there is no reason to exclude from any right, civil or political, on the ground of race or color. I feel proud to say likewise that Missouri has gone further, and wiped from her statute-book large portions of that unjust and unfair and illiberal legislation which had been leveled at the rights and the property of the women of the State. Believing that that cause which embraces and embodies the cause of civil liberty will go forward still triumphing and to triumph, I will never, so help me God, cast any vote that may be construed as throwing myself in the face of that progress. Even though I recognize, therefore, the impolicy of coupling these two measures in this manner and at this time, I shall yet record my vote in the affirmative as an earnest indication of my belief in the principle and my faith in the future.

Mr. DAVIS. Mr. President, I expressed my opinions in relation to the pending measure at considerable length during the last session of Congress. It is my purpose now to repeat my protest against the passage of the bill, but in fewer words than I then used. I know it is destined, as far as human intellect and human will can destine anything, that this measure is to pass and to become a law: I do not at all agree with the position that has been arrogantly assumed by the Radicals on this floor, and that has been acceded to by some of the Conservatives, that the public judgment of this nation has been expressed in favor of negro suffrage. And if it had been by any amount of majority, entertaining the deep convictions that I do of the injustice and evil tendencies of the measure, I would not hesitate a moment to make my earnest and most inflexible opposition to it.

Preliminary to my remarks in immediate connection with the pending bill, I will state some political propositions which a few years since were received in this country generally as axioms in the science of government and statesmanship. No statesman or sound and sensible legislator will support any measure or principle when in the majority that he would not if in the minority. The legitimate end of a limited and constitutional Government is more for the security of the minority than the majority, because of the greater weakness of the minority. The leading feature of government on the North American continent has always been the representative principle. But suffrage has never been universal or even commensurate with manhood. The right to exercise it has not only been limited to men, but it has ever been restricted to particular classes; and the States have jealously reserved to themselves, respectively, all power over this whole subject.

Another general American principle is that every people have the right to govern themselves. This invaluable right, in its fullest amplitude, belonged to each State before its adoption of the Constitution, and so far as it was not delegated by the language of that fundamental and supreme law to the General Government, the States, both by necessary implication and express language, withheld all political sovereignty and powers from the United States, and retained the entire mass to themselves respectively and separately.

To this last great principle the Constitution makes a single exceptional case by this language:

"The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

What was the reason that brought the men who formed our Government to establish this

exceptional case to the cardinal American principle of self-government? Every previous seat of the United States Government had been under the exclusive jurisdiction of the State in which it was situated, and Congress could exercise no power of legislation or police over it. A mob had more than once disturbed and menaced Congress to coerce and control its action, and it had no power of self-protection; and it was to secure the men who might be in the administration of the Government, at its seat, the *personnel* of the Government, against such assaults, that this provision of the Constitution was made a part of it. The intention was not that Congress should wholly absorb and inexorably exclude the people of the District from all the powers of self-government. It was contemplated that Congress would be composed of just and enlightened men who would know that the people of the District, by their own chosen representatives, would be much more competent to attend to their own domestic affairs and interests than a Congress coming from every State and charged with the various and vast concerns of the nation could possibly be; and it was reasonably concluded that Congress would at all times concede to this people every power of self-government but such as might be necessary and proper for the protection of the Government and the persons engaged in its administration at its seat.

It was difficult, if not impossible, for a just and wise partition of powers between Congress and the people of this District to be made in the Constitution, because the amount that Congress could wisely and justly exercise would depend upon varying conditions and exigencies, and could not therefore be ascertained and fixed. Congress has always somewhat approximated the principle which I have laid down for the government of this District, but has never, as it should have done, acted singly upon it. Limited local legislative powers and local popular elections to choose the legislators have always been awarded to this District from shortly after the time it became the seat of the Government of the United States, by Congress; and also, the cognate right that the people of the District should for themselves decide what classes and portions of themselves should have suffrage and what should be their qualifications. There had always been a conjunction of these two rights in the people of the United States. This was a great feature, not only of State sovereignty, but of popular liberty, and it was in deference to this universal American idea that Congress surrendered to the people of this District the conjoint exercise of these two rights. In the long possession of this restricted right of government which had been allowed by Congress to this people, they tacitly adopted and have quietly but firmly adhered to another American idea which may be said to have been until recently universal in the United States: that all political sovereignty and powers belong to the white man and are to be exercised by him exclusively.

But a systematic assault is being made upon these fundamental principles of American autonomy and liberty, and the bill under consideration is one of the attacks. It unjustly and mischievously violates all the principles which I have stated. More, it proposes, by conferring suffrage upon the negro population, to introduce into the government of this District a novel, incompetent, and noxious element of power. In a representative Government suffrage is the primary power, and when enlightened, free, independent, and virtuous it dominates, as it should, the Government. The abstract proposition, that no incompetent person should be invested with the right of suffrage, cannot reasonably be denied. If it were practicable to establish a definite and unerring test of competency, the general good would require that all who do not come up to that measure should be excluded.

Such a standard can never be obtained. The population of the United States and of each State consists of well-defined classes, and if the great mass of any of those classes are es-



mentally and palpably incapable of self-government, both individually and collectively incompetent, they ought unquestionably to be excluded from suffrage, because they could give no assistance to proper and legitimate government, and if their numbers were relatively large they might aid materially to obstruct, confuse, and pervert it. None will deny that idiots and lunatics are classes of our population that come within the reason of this objection, and that they ought as classes to be excluded from suffrage. There might be many cases of partial lunacy, where the subject would be more capable of a rational and proper exercise of suffrage than many men of more limited but sounder minds; the inconvenience, difficulty, and impossibility of ascertaining in each individual case, the extent of mental infirmity that would make it proper for the particular subject to be excluded, requires the exclusion of the whole class.

But our entire population, like that of all other countries, is divided into two great classes, the male and the female. By the census of 1860 the white female population of the United States exceeded thirteen millions, and the aggregate negro population, of both sexes, was below four and a half millions. That great white population, and all its female predecessors, have never had the right of suffrage, or, to use that cant phrase of the day, have never been enfranchised; and such has also been the condition of the negro population. That about one negro in ten thousand in four or five States have been allowed to vote, is too insignificant to be dignified with any consideration as an exception. But now a frenzied party is clamoring to have suffrage given to the negro, while they not only raise no voice for female suffrage, but frown upon and repel every movement and utterance in its favor. Who of the advocates of negro suffrage, in Congress or out of it, dare to stand forth and proclaim to the manhood of America, that the free negroes are fitter and more competent to exercise transcendent political power, the right of suffrage, than their mothers, their wives, their sisters, and their daughters?

The great God who created all the races and in every race gave to man woman, never intended that woman should take part in national government among any people, or that the negro, the lowest, should ever have co-ordinate and equal power with the highest, the white race, in any government, national or domestic. To woman in every race He gave correlative, and as high, as necessary, and as essential, but different faculties and attributes, intellectual and moral, as He gave to man in the same race; and to both those adapted to the equally important but different parts which they were to play in the dramatic destinies of their people. The instincts, the teachings of the distinct and differing but harmonious organism of each, led man and woman in every race and people and nation and tribe, savage and civilized, in all countries and ages of the world, to choose their natural, appropriate, and peculiar field of labor and effort. Man assumed the direction of government and war, woman of the domestic and family affairs and the care and training of the child; and each have always acquiesced in this partition and choice. It has been so from the beginning, throughout the whole history of man, and it will continue to be so to the end, because it is in conformity to nature and its laws, and is sustained and confirmed by the experience and reason of six thousand years.

I therefore, Mr. President, am decidedly and earnestly opposed to the amendment moved by my friend from Pennsylvania. There is no man more deeply impressed with or who more highly appreciates the important offices which woman exercises over the destiny of the race than I do.

I concede that woman, by her teachings and influence, is the source of the large mass of the morality and virtue of man and of the world. The benignant and humanizing and important influence which she exercises upon the whole race of man in the proper discharge of her functions and duties cannot be overesti-

mated; but that woman should properly perform these great duties, this inappreciably valuable task, it is necessary that she should be kept pure. The domestic altar is a sacred fane where woman is the high and officiating priestess. This priestess should be virtuous, she should be intelligent, she should be competent to the performance of all her high duties. To keep her in that condition of purity, it is necessary that she should be separated from the exercise of suffrage and from all those stern and contaminating and demoralizing duties that devolves upon the harder sex, man.

What is the proposition now before the Senate? To make pure, cultivated, noble woman a partisan, a political hack, to lead her among the rabble that surround and control by blackguardism and brute force so many of the hustings of the United States. Mr. President, if one greater evil or curse could befall the American people than any other, in my judgment it would be to confer upon the women of America the right of suffrage. It would be a great step in the line of mischief and evil, and it would lead to other and equally fatal steps in the same direction. Sir, if ever in the depths and silence of night I send up my secret orisons to my Maker, one of the most fervent of my prayers would be that the women of my country should be saved and sheltered by man from this great contamination. It is not necessary to the proper influence and to the legitimate power of woman. A cultivated, enlightened, delicate, refined, and virtuous woman at the family altar is the persuasive and at the same time plastic power that sways and fashions the principles and character of her children, and thus makes her impress upon the future men of America, the Phocians, the Timoleons, the Washingtons, who are the honor of the race, and whose destiny it is to elevate and ennoble it.

Mr. President, in proportion as man becomes civilized so increases the power and the influence of woman. In the tribes and nations of the lowest ignorance and barbarism this influence is least—it is most potent where there is the greatest intellectual and moral cultivation of man. I want this gentle and holy influence to continue pure and uncontaminated by keeping it within the domestic fane and afar from party politics.

But, sir, it has become the fashion, the philosophy, the frenzy of the day to coin catch-words that carry a seemingly attractive principle, but at the same time alluring and mischievous, and among them is this cry for woman's rights and also for negro suffrage and manhood suffrage and universal suffrage. It is all nothing but slang and demagoguery, and is fraught with aught but evil, mischief, and degradation, individually and nationally.

For these reasons, sir, one of the last propositions, or, if gentlemen choose, principles, which have been or may be propounded to the people of America, or as an amendment to the Constitution of the United States, to which I shall ever give my acceptance, is female suffrage.

But, Mr. President, the proposition that a nation of a superior race should allow an inferior race resident in large numbers among them to take part in their Government, in shaping, and controlling their destinies, is refuted by its mere statement. And the further proposition that a nation composed of the Caucasian race, the highest type of man, having resident in it more than four million negroes, the lowest type, of which race no nation or tribe, from the first dawning of history to the present day, has ever established a polity that could be denominated a Government, or has elaborated for itself any science or literature or arts or even an alphabet, or characters to represent numbers, or been capable of preserving those achievements of intellect when it has received them from a superior race; such a proposition is, on examination, revolting to reason, and in its practical operation would be productive of incalculable mischief.

The hardness of fanaticism or a selfish hypocrisy has occasionally, in former times as

well as now, boldly assumed that the negro is naturally in all respects the equal of the white race; but this not only without any, but in defiance of all, evidence.

The race of people referred to by the term "negro" is well understood, not only by men of science and travelers, but all persons of general reading on the types of mankind. That term comprehends a black skin, but not as an exclusive distinction; also, and especially woolly hair, a peculiar formation of the cranium, face, pelvis, shins, and feet, which are so distinctly enumerated by ethnologists and naturalists, and which they all agree are the natural marks of an inferior race. The first recorded history of the negro found him in Africa and occupying more than one half of that large continent, and mostly within the torrid zone. The whole population of Africa approximates one hundred millions, of which about sixty are of the negro race.

Four thousand years ago, and for all the intervening ages, he was and has been the same unchanging specimen of man in his physical, intellectual, and moral features and properties; the same destitution of arts, architecture, letters, and civil polity; the same absence of all civilization, and the same engulfment in the deepest ignorance and savagism, the tribes and nations making interminable and most cruel wars and either selling into slavery or putting to death all their captives. The negro was placed by Providence to himself, a naked and ignorant savage, upon an uncultivated but great theater. In those respects he was on an equality with the white and yellow races of man; but in organization, in the mental faculties, in all the capabilities and forces to begin and progress with the civilization which illustrate the history of those other two races, and to which no limits can be assigned, the negro was left unendowed by the God of all creation.

This is not the crime, not the misfortune of the negro; it is the inexplicable will of the Omnipotent and incomprehensible Architect of the universe. The negro was made lower and weaker than the other races; he is subordinate to them, and has often been their slave, but never their master; all the occasional, meager, and restricted civilization which he has ever possessed was imparted to him by them, and he could retain it only by their continued contact and help; and but for their superior faculties and endowments the whole world of mankind would now be in primeval and hopeless ignorance and barbarism.

The negro in his original and native home was known to and visited by the commercial people both of the earliest antiquity and of modern times. Three centuries and a half since he was first brought to the American continent a slave, and that trade was continued to the United States from their early settlement up to within the last fifty years. The aggregate cargoes of slaves from Africa to all America amounted to many millions; and to the United States the number has been estimated to be about three hundred and fifty thousand.

All that has ever been written or said of the African negro in his native home have represented him as steeped in ignorance and barbarism, and if ever he made any improvement from one generation to another there is neither record nor memento of it. Every slave that was brought from there to the New World exhibited the same fossilized savage of forty centuries. With each individual from enslavement began melioration, and all the knowledge, civilization, and Christianity which the negroes of America have ever possessed has resulted from their enslavement.

In America the general manumission of African slaves commenced about eighty years since, on the island of St. Domingo. Then followed the same kind of emancipation, by national authority, in the West India Islands of England, France, and other European Powers of which they were the possessions, and lastly in the United States. In these countries emancipation by every owner of slaves

had been permitted by their laws; and in some of them large numbers had received their freedom under that system. In St. Domingo the negro has been independent and free to exercise the right of self-government for near a century.

In the British West India Islands he has been freed and invested with the right of local government for a generation, subject to the careful and liberal guardianship of the imperial Government. In those islands the experiment of self-government by the negro has been a deplorable failure; and in St. Domingo it has been the more disastrous because the negro there acted for himself, independent of and unaided by the white man. His deterioration from the time he was a slave, in all of them, is palpable; but in St. Domingo it has been much the greater because the conserving influence of the white man was not there to check and reform it.

Mr. President, when I was a young man and untaught by the hard lessons of experience, I was a devoted believer in the proposition of the civilization of the negro race, and I aided colonization societies to transfer the free negro from the United States to his own native home in the hope that there, with the temporary aid and support of the white man, he would be enabled to build up governments and nationalities and to move forward in the achievements of the highest civilization. But from all that I have since learned of the negro and have read of the efforts to found the English colony at Sierra Leone and the American colony at Monrovia and the adjacent country, and from all the information afforded by the friends of those colonies, I am satisfied in my own mind that negro civilization can never exist in any other condition or connection than his enslavement to the white man. I am satisfied that if the West India colonies of England, of Spain, of France, where emancipation has become consummate, and the colony of Monrovia and the British colony at Sierra Leone were abandoned by the white man, and none of his superior intellect, energy, and conserving influence were continued there, these colonies now somewhat civilized would in a few years fall into as hopeless and as ignorant a barbarism as has hovered over Africa from the beginning of recorded history.

All the experiences of our own country before the late rebellion were confirmatory of the previously established truths, that the negro is the lowest type of man, that he is incapable of organizing any regular Government, that he cannot elaborate civilization or preserve either government or civilization when they are imparted to him by superior races; and the lessons taught by this war, in everything that relates to the negro, adds to the great volume of evidence in support of those propositions which has been accumulating for so many long centuries.

In favor of the proposition of the inequality of the races I have heretofore, adverted to the writings of a great number of men of learning and science, not only theoretically but practically, by residence with and among the negro, and of all that large list there is, according to my information, but a single author of any respectability who maintains the equality of the negro race, and that is Prichard. He assumed that theory when a college boy seventeen years of age, in writing a thesis, and that error imbibed by him in his youth he devoted the labors of a long life and a great intellect to sustain. But the weakness and fallacy of his theory and of his arguments, and of his application of facts to sustain it, were seen and refuted by every mind except his own.

I am one, Mr. President, who believes that our Government is a white man's Government; that it was made by him for himself without the aid or any reference to the negro or the Indian or any other race of man. The Declaration of Independence was made by Congress the 4th of July, 1776; the Confederation of the States had then been in existence for two years. All the States, as colonies, had held African negroes as slaves and property for a longer

period than the United States have had a national existence, for more than one hundred years.

The absolute sovereignty of each State was in several of its provisions recognized by the Articles of Confederation; and as distinct and independent sovereignties they made their Declaration of Independence, and also their treaty in 1783 with Great Britain, by which it was acknowledged. This declaration was merely an abstract statement of principles and sentiments, and had no force or obligation of law whatever. It liberated no slave, negro, or Indian, for there were then both. It gave no right of suffrage or any other right to any negro or Indian, free or slave, and it left them precisely as though it had never been made. I will be obliged to any negrophylite to refute these positions.

I do not deny that our national family properly and wisely comprehends all of the nationalities of Europe who may come here, according to the terms of our naturalization laws, and their posterity; but I assert that negroes, Indians, Mongolians, Chinese, and Tartars ought not and cannot safely be admitted to the powers and privileges of citizenship.

There is always and of necessity more or less of hostility and conflict between different races of men living together. This is produced by mutual aversion, and that aversion by dissimilitude. The greater and more fixed their differences, and the nearer the equality of their numbers, the more intense and enduring is their aversion. Color, hair, features, and form are the most palpable and striking differences of race, and between the white and the negro races those differences are greatest, and consequently so are their aversions.

The only possible mode of wholly obliterating the aversions between those races in the United States is their complete and perfect amalgamation, which, between the portion of those two races resident in our country within and north of the temperate zone, is utterly impossible. In that vast region miscegenation between them will never take place. The helots of Sparta and their masters, the Thracian and other white slaves of ancient Greece and Rome, the Saxons of England after the Conquest, and the serfs of Russia, could all be manumitted from slavery and be raised readily to an equality of rights and condition with their conquerors and owners, and become amalgamated with them in one nationality, and harmoniously move on under the same Government to fulfill a united and common destiny, because they were all of the Shemitic race, of the same color, and essentially of the like physical, mental, and moral organization. But between the white and negro races of the United States there can be no such amalgamation, and miscegenation among them cannot take place to any great extent without a commensurate national degeneracy, degradation, confusion, and weakness.

These mischievous and humiliating evil consequences have been produced by the intermixture of the white with the negro and Indian races in Mexico and all the South American countries, and the magnitude of those consequences has been in proportion to the extent of that intermixture in each country.

The permanent separation of the white and negro races in the United States is fixed by the order of their creation, and by the continuous and perpetual operation of immutable laws of nature; and it would be humility, wisdom, and reverence to Deity for man quietly to submit himself to that order and those laws. All his puny efforts to repeal or break down those laws will but show his own littleness and extend, aggravate, and intensify the war between these races. The subordination of the black to the white and the aversion and conflict between them will end only with the destruction or removal of one of them. While they are in juxtaposition it will continue, and the efforts of ambition, frenzy, folly, and hypocrisy to establish equality between them, by

dragging down the white or forcing up the negro race, will give it terrible aggravation.

Both the Indian and Mongolian races are essentially superior to the negro race, but neither can they be properly or safely admitted to citizenship; my judgment is to exclude them all, to keep and perpetuate ours as a purely white man's Government. The Indian is a doomed race, and is so rapidly wasting away that he will soon "cease from troubling." The increase of the negro will be wholly from procreation, and hereafter slow; but yet from his present numbers, and being mostly crowded in a few States, is a great disturbing cause of our political and social system. If he were diffused in all the States in proportion to their white population he would no longer disturb, and there would be no effort to confer upon him suffrage. But who can foresee and number the immigration of the Mongolian race to the western shore of our continent? But whatever their numbers now or in the future, whether units or millions, I would give them civil rights, but no citizenship, no political power.

I have no doubt that my honorable friend from Pennsylvania desires that the right of suffrage should be given to women; and if he had the power to transfer all the women of the conservative States into and to become residents of the radical States, who doubts that if that were done the Radicals of this House and of the nation would shout in favor of giving to women the right of suffrage? If the Radicals in Congress and out of Congress knew with the certainty of truth that every vote which they will enfranchise by conferring the right of suffrage on the negro would be cast against that party, in favor of their late southern masters, in favor of the Democracy, in hostility to the schemes of ambition and spoils which are now animating the heart and mind of the great radical organization, who doubts that this party and every mother's son of them would declare for withholding suffrage from the negro?

If these noisy philanthropists who shame or affect to shame all the justice and mercy and philanthropy of the past, would just go home and pass proper State laws and measures to induce this wronged, down-trodden negro race that are residents in the late slave States to immigrate to their borders, there to receive the sympathy, love and protection and community of rights which they are preaching, they would give better evidences of the sincerity of their professions. But, sir, not one of them is moving in that direction. There is not a thought, there is not an emotion of heart among the Radicals North tending in that direction.

Who believes in the vaunted radical position of the equality of races, that the negro must be the equal of the white man before the law, that he must have every legal right, every political and social privilege, everything to elevate his condition and destiny to that of the white man, politically, civilly, and socially? Let the Radical who glories and boasts in the name, and who occupies that position in truth and in honest faith, stand forth and show himself to an incredulous world that would be amazed by such a revelation.

Since the close of the last session of Congress some of the Radicals in each House have changed their relations; they have taken to themselves wives; but which one of them has selected a sable daughter of Africa to occupy that relation? Who of them and of their families now associate with the black as they do with the white race? Where, Senators, are your negro sons-in-law, daughters-in-law, negro brothers-in-law? Where are your connections in all the tender relations of the domestic and family circle of the negro race? The races are either equal or unequal. If they are unequal, they are so according to the laws and marks with which nature has stamped them. If they are equal, they not only have the right to vote, but they have the right to be eligible to all offices; they not only have the right to civil protection and to enjoy all civil rights, but they are entitled also to all political

and all social rights. Sir, that is a state of society more dreamy and at the same time terribly revolting than any Utopia that ever entered into the mind of Moore. It does not exist in fact; it does not exist in principle; it does not exist in honest theory; it exists only in party politics; it exists only for the purposes of a party who are in the minority organizing a great force of allies to come to their rescue from overthrow.

Why, then, will the party in power persist in forcing upon the unwilling and defenseless white people of this District negro suffrage, when they have almost unanimously voted to reject it? Such a measure is not at all necessary to protect the United States Government, or those who fill its offices at the capital. This is one of the occasions and questions to which the principle of the right of self-government ought to apply; and a just and magnanimous Congress would accord that right to a people placed wholly within their power by the Constitution, not to be oppressed but to be protected and defended.

But to confer upon two or three thousand male negroes in this District the right to vote at its local elections, is not the object that has awakened so much vehement passion and given so much of energy in favor of this particular measure. It has been declared in this debate, and it was palpable before, that it was but the precursor of a movement to force negro suffrage upon all the States lately in rebellion, and that this bill must be fashioned into a model for them. And why is negro suffrage to be forced upon the ten southern States? To counterpoise them there are twenty-six other States, two radical Territories, Nebraska and Colorado, to be admitted as States in a few days, and three or four Territories of the same political stripe, to be erected into radical States to order upon short notice.

By the census of 1860 the ten proscribed southern States had 7,983,532 population, and the other States had 23,461,457. These ten States have the right to twenty Senators, fifty Representatives, and seventy presidential electors; the other twenty-six States have fifty-two Senators, one hundred and ninety-two Representatives, and two hundred and forty-four electors.

All the States have but recently come out of a great civil war in which the South was terribly used up. There cannot be even a pretext that negro suffrage and the other harsh measures against the South, both in existence and in contemplation, are required to protect the other States or the United States and their Government against its power in the Government or against the hostile military array of its few and subjugated people. It was said yesterday by an honorable Senator upon this floor that God alone can search the hearts of men. If that inscrutable and infallible search could now be made, and its results demonstrated to the satisfaction of the Senate and the American people, I would be willing to venture my life upon the truth of the proposition that in all the essential elements of loyalty, in devotion to the Constitution, to law, and to order, in love for that system of government and liberty which our fathers founded and fashioned and which they have handed down to us as the richest legacy that was ever bequeathed by sires to sons, the South is greatly more loyal than the radical States, the radical portion of the radical States.

What are the incentives to the enormous, continuing, and increasing wrongs and outrages of the northern Radicals against the people of the South? For the two centuries that the northern merchants and shippers tore the savage African negro from his native home and sold him to the southern planter, the great profits of the traffic purchased for the South the friendship of the North. But after a majority of the States had overcome the support with which New England so long and so constantly sustained the slave trade and suppressed it to the United States, by laws declaring it to be and punishing it as piracy, and by a vigil-

ant police of the seas, northern thrift and enterprise set up manufactures and northern tact and talent sought to enrich her manufacturers by high protective tariffs.

The South, almost *in solido*, resisted the policy to make her and other parts of the country tributary to build up and enrich the northern lords of the spinning jenny and the loom. This resistance of the South continued, and brought down upon her the active and envenomed enmity of the North. She commenced and her whole people soon united in assaulting the great property interest of the South in slavery, which the northern traffickers had, with the countenance and support of that whole people, been so instrumental in building up. Northern passion, hate against slavery, and especially slaveholders, was engendered and heated to the greatest intensity in every form of laboratory which inventive genius could devise. It has been diligently gathering force through all the years of a generation; it has at length found its opportunity, and demon-like it demands to be sated upon the prostrate South. From this wild, multifarious, and infernal cry, high above all others rings out most malignant of all, tones from a class clad in the livery of Heaven, but whose hearts are seething with the spirit of the very hell.

But, Mr. President, in forming and fixing this purpose to hold in subjugation the South, other forces have been and are still actively at work. The love of distinction, office, and power, ambition and avarice; partizanship and the pride of success, the glory of triumph and the humiliation of defeat; the hardy, enterprising, and firm spirit created by reckless and criminal but successful aggression, all these cohesive and propelling forces are operating upon, sustaining, and urging forward the Radicals in their audacious career. They are thus made most formidable enemies, not only to the reunion of the States, but to the continuance of constitutional government and popular liberty; their purpose being to hold on to office and power though they may perish. Yea, their leaders are ready to bring them all forth and offer them upon the unhalloved; the foul altar of faction as the price of their continuing success.

Though the Radicals hold all the political power of the United States, have excluded ten States from the Union and the Government, have broken down for the time the constitutional authority of the executive department, have established practically a congressional despotism, and are devising measures to subvert the legitimate governments of those ten States and substitute for them other governments to be fashioned by this Congress to make them their dependencies and to secure the control of all their political power, yet these Radicals, thus governing and tyrannizing, are in a minority of a half million of the voters of the United States. In many of the northern States their power is trembling in the balance, and very slight causes might at any election make it kick the beam.

They know that the enfranchised white people of the South will be against them as inexorably as fate; hence their desperate efforts to disfranchise that white people and enfranchise the large negro population resident among them. By the civil rights bill, the Freedmen's Bureau, and any other congressional measures needful to the end, their purpose is to take possession of and control the whole of this incompetent negro vote; and in that way wield all the political power of these ten States in Congress, in presidential elections, in the State governments and polity, and thus counterpoise any of the Northern States that may take position against them, and make their tenure of office and power permanent.

This daring and monstrous scheme has at present a fearful number of supporters. It may and will have a temporary success, but it is too utterly subversive of the form and spirit of free and constitutional government, of all State sovereignty and rights, of the tranquillity, prosperity, happiness, and liberties of the whole

people, and of all justice and right, and it is too replete with the spirit of injustice, wrong, and despotism to endure. It will be overthrown and crushed out. That is the task laid out for the good, the wise, and the virtuous people of the United States, and it behooves all in their place to mate themselves to their full might in this great work.

The people of the South made war in a wrong cause. They turned their backs upon peace and prosperity and liberty to fight for separate political power, and their heroism was never surpassed. Now, the war is made upon them to deprive them of their right of self-government, of their fields, of their homes, family altars, of their religious temples. They and their wives and their children and their country and everything comprehended by that term; all for which man ought to live, and for the preservation of which he should dare to die, the South is summoned to surrender to the absolute control, by the instrumentality of her own negroes, of her old and inexorable enemies. And she has the great humiliation of having some of her own people to labor to bring upon her this deep and degrading enslavement; yea, worse, she is offered the great insult of being asked to accept it.

Now is coming the terrible time in which the people of the South will be required to exercise their truest heroism. They must resist this great, this most foul, cruel, and dishonoring enslavement, but peacefully and by every peaceful means which they can command. They will stand in need of all their patience, their courage, their fortitude, their power of endurance. To every unjust and degrading demand they must answer with a will fixed as destiny, no! By their peaceful and quiet and heroic suffering they must win even the respect of their enemies and the admiration and sympathies of the world. It will be a dreadful and may be a long trial, but how much more bearable than the shame and galling chains of a voluntary slavery; and such a slavery, to such masters! If it be voluntary, they will well deserve it; if it be involuntary and forced upon them, the justice of God and man will come to their deliverance. Men of the South, exhaust every peaceful means of redress, and when your oppressions become unendurable, and it is demonstrated that there is no other hope, then strike for your liberty, and strike as did your fathers in 1776, and as did the Hollanders and Zealanders, led by William the Silent, to break their chains, forged by the tyrants of Spain.

MR. SPRAGUE. Mr. President, the advocates of the interests of the South are aristocratic; those of the North are democratic; and these ideas represent respectively the education of the two people. One's education has been to sustain class interests, the other the interests of the whole people in opposition to those of a class. The Constitution is brought in to sustain respectively these ideas. Constitutions have heretofore been forced from power, from a class, for the protection and in the interest of the mass of the people, never given by a people willingly to a class for their own subjugation.

I do not believe the history of the world exhibits a spectacle such as is presented to-day, where a power emanating from liberty and from a people imbued with liberal ideas is made an instrument for the protection of that liberty. The immortal Declaration of Independence maintained that all men were created equal, and the present Constitution was established in the interest of that idea, not as some would have us believe in support of the doctrine that a few men are created equal and have rights and privileges by virtue of which they may rule and domineer over the many.

While the populations of the Old World are struggling to emancipate themselves from the power, the rule, and the privileges of a class, in this country, under the lead of a Democratic President, a man who like all around me has come from the people, we find many advocating the interests of a class, and his fol-



lowers in their desperation are resorting to ridicule, to calumny, and to murder in imitation of his example. How often has the melancholy spectacle been exhibited of men who having been elevated to prominence, to favor, and to power, while advocating liberty and justice in the interests of the great mass of people fighting nobly in their behalf, in opposition to a class, have stultified themselves by advocating doctrines the very opposite of those that had absorbed their lives; and the price thereof is favor, admittance into the charmed circle, bearing upon their breasts marks of distinction, the real badges of their own degradation. How often in the world's history have we witnessed the people wildly sustaining the power of the king, strengthening and cementing that power by their blood and treasure in conquests which have been made the means of their more perfect subjugation.

This, it is true, may be temporary; for as the world progresses and men are imbued with free principles they will not submit; for independent men will not permit a class to be the fountain of honor, emoluments, culture, and education. These, with morality and virtue, belong to all the people; for when otherwise, the inheritance of the people has always been poverty, ignorance, and degradation.

None are now so blind as not to know that in protecting and saving southern institutions, and maintaining southern ideas, the people at the South are kept in poverty, vice, and degradation in order that a class may be elevated to power and prosperity. The northern idea in contradistinction acknowledges and maintains that the fountains of honor, of power, of prosperity emanates from the people. However imperfect may be their administration, the people are in a greater degree prosperous. However ignorant or vicious or poor; however led astray for the moment from their true welfare by the mental and material power of the world in the interest of class, and which is constant and ever on the alert to cheat them into measures for their restrictions and subjugation; I say however all this may be, the end is that the great mass of the people are more intelligent, more independent, more prosperous, and more virtuous under their own rule than under the wisest and best rule of the wisest and best rulers.

I say that the American President is to-day leading a class, and in the interest of a class, in opposition to the privileges and highest welfare of the great mass of the people. He gives us nearly one half of his message in advocacy of the doctrine of his class. Why will he not give us a word in sustaining the true elements of our Government—justice, liberty, equal rights, and protection to life and property among the people? Is our only foundation that of amity, good-fellowship, and friendly feeling between the people of the two sections? Does he not know that these have no permanent existence among the most friendly? Temper, interest, and other causes are constantly breaking in upon this condition; and will he advocate that therefore society is chaos and has no settled permanent formation and existence? Is our Government so weak, is it reduced to this, a Government established upon and which can only be sustained by feeling? Equal rights, equal political privileges, the elevation of the lowest through the elements of religious training and educational culture in contributing to the greatest mutual prosperity of all the people, are these nothing? Do they not give strength to a Government, and will not these give strength to conquer hate, ignorance, and a blind "rule or ruin" policy? Something else besides good-fellowship sustains the principles of a free Government. This is the doctrine of kings and their followers. Oil will mingle freely with water before the ideas advocated in southern interests will mingle with the principles advocated in the interests of free Governments and free peoples. Fire and water will, when united, promote and strengthen the qualities of each before the

society of the North, maintained upon its principles, will mingle with the society of the South maintained upon its principles; and just in that proportion will the two systems strengthen equally if the contest is maintained. We may as well come to this conclusion first as last; we shall come to it in the end; the two ideas will not prosper together, never. Which, then, shall prevail? Shall the people rule this country, or shall the king and his followers? In answer, what say the three hundred thousand dead soldiers and the three hundred thousand wounded and maimed men who sacrificed themselves in the cause of liberty, progress, and free government? What say their friends?

Beaten in the contest of arms, another contest, that of the forum, that which desperation only brings forward, is now presented. Ridicule, calumny, and murder are the arguments used here and elsewhere in support of a contest thus transferred. Which then will succeed? God in heaven determines, for if there is a God right will triumph over wrong. If in this Senate some of these elements are used, why may they not in double power be used elsewhere? Because in defense of human rights we have determined to use the colored man for his progress and for the progress of the race, for the education, culture, and prosperity of the white people as well as black, are we determined to use him, and for this we are condemned for making him an instrument therefor. Slavery and the colored man could be made the most powerful element of hostility in the advocacy of class interests; not to promote equal justice, equal political privileges for the people. Who then are the people? Are there not eight million of whites in the South? Have they not rights? Should not justice be meted out to them? Why advocate liberty for one and withhold it from the other? Let the revolution answer. Schooled by the charm of slavery into a hate for liberal institutions, corrupted and bribed into abject submission to the haughty class that had monopolized all power and all emoluments, following blindly these teachings imbibed from their mothers milk, advocates of their own slavery and degradation they engaged in rebellion. Are such safe elements to be introduced into the political and social system of a free people? God forbid.

I speak my own convictions. I am not the exponent of a party nor of one man. These are the honest convictions of my heart, and life, reputation, and property are pledged to sustain them. These are hurried thoughts, thrown together after listening to the debate of the past two days. I know the Senate is impatient for a vote. I know they are determined to vote favorably. When it is necessary that women shall vote for the support of liberty and equality I shall be ready to cast my vote in their favor. The black man's vote is necessary to this at this time.

Mistaken in their plans, the southern leader has amid slavery created a power for his own overthrow. Fearing no evil from his slave, using him to crush all that is manly in labor, all that is virtuous, all that education and culture can bring to any people; using him to crush this out among the great mass of white people at the South, corrupting them, and obtaining their advocacy of their damnable doctrines, they took another step, and would have made the same use of him to make the great mass of white people at the North similar in condition to the great mass of white people at the South. Here they failed. Instead, in the contest of arms, it being an element of strength, it has been weakness.

Who will believe it, and yet no one can controvert it successfully, that the colored masses are far in advance in intelligence, in an aptitude for imbibing all the liberal sentiments of the white masses at the North, than are the white masses of the South? One is dangerous to the great interests of the human race; one is an element of strength to those interests. What then is the duty of legislators? What is the highest interest of the people they represent? To fashion a government for the South

which will leave out the destructive tendencies and teachings of the mass of the white population or neutralize them by an introduction of an element of liberty, justice, equality, and in half a generation, though beginning in hate and menace, you will witness peace and concord. That liberty and progress are now jeopardized quite as much, if not more, than when Lee with his murderous engines was in Pennsylvania, I verily believe. I feel a security, however, for the future, because I have confidence in the success of liberal principles over class interests. I do not want to call upon a free people for unnecessary sacrifices for these great principles. By a policy of conciliation in the war, hundreds, thousands of men and billions of money were unnecessarily sacrificed. Let us have confidence in the people. Let us stand firmly upon the platform of Government founded upon the will and wishes of the governed. Let us never consent for one moment that the class who are safe and true to us shall be counted out in the formation of government for the South.

Do not in addition to this prostrate all the industrial interests of the North by a policy of conciliation and of inaction. Delays are dangerous, criminal. When you shall have established firmly and fearlessly governments at the South friendly to the Republic; when you shall have ceased from receiving terms and propositions from the leaders of the rebellion as to their reconstruction; when you shall have promptly acted in the interest of liberty, prosperity will light upon the industries of your people, and panics, commercial and mercantile revolutions, will be placed afar off; and never, sir, until that time shall have arrived. And as an humble advocate of all industrial interests of the free people of the North, white and black, and as an humble representative of these interests, I urge prompt action to-day, to-morrow, and every day until the work has been completed. Let no obstacle stand in the way now, no matter what it may be. You will save your people from poverty and free principles from a more desperate combat than they have yet witnessed. Ridicule may be used in this Chamber, calumny may prevail through the country, and murder may be a common occurrence South to those who stand firmly thus and who advocate such measures. Let it be so, for greater will be the crowning glory of those who are not found wanting in the day of victory. Let us, then, press to the vote; one glorious step taken, then we may take others in the same direction.

Mr. BUCKALEW. I desire to say before the votes taken on this amendment that I shall vote in favor of it because of the particular position which it occupies. A vote given for this amendment is not a final one. I understand it to pronounce an opinion upon the two propositions which have been undergoing consideration in the Senate, in a comparative manner, if I may use the expression. In voting for this proposition I affirm simply that the principles and the reasoning upon which the bill itself, as reported by the committee, is based, would apply with equal, if not increased force, to the particular proposition contained in the amendment. If that be affirmed, then recurs the question whether it is proper, whether it is expedient at this time to increase, and very extensively increase, suffrage in this country. I do not understand that the general argument on that question is involved in the present motion. I do not understand that it comes up of necessity in considering the proposition covered by the amendment of my colleague which stands simply in contrast with that contained in the bill. I presume there are several gentlemen, members of this body, who will vote with reference to this consideration and who will reserve their opinion, either openly or in their own consciousness, upon the general or indirect question of the extension of suffrage to the females of the United States.

But the occasion invites some remarks beyond the mere statement of this point. The debates which have been going on for three days in this Chamber will go out to the country.

They will constitute an element in the popular discussions of the times and awaken a large amount of public attention. This is not the last we shall hear of this subject. It will come to us again; and I am persuaded that one reason why it will come again is that the arguments against the proposed extension of suffrage have not been sufficient; they have been inadequate; they have been placed upon grounds which will not endure debate. Those who are in favor of the extension of suffrage to females can answer what has been said in this Chamber, and they can answer it triumphantly; and you will eventually be obliged to take other grounds than those which have been here stated. From the beginning of this debate there has been either an open or an implied concession of the principle upon which the extension of suffrage is asked; and that is, that there is some natural right or propriety in extending it further than it was extended by those who formed our State and Federal Constitutions; that there is some principle of right or of propriety involved which now appeals powerfully to us in favor of extended and liberal action in behalf of those large classes who have been hitherto disfranchised; upon whom the right of suffrage has not been heretofore conferred.

Having made this concession upon the fundamental ground of the inquiry, or at all events intimated it, the opponents of an extended franchise pass on to particular arguments of inconvenience or inexpediency as constituting the grounds of their opposition.

Now, sir, I venture to say that those who resist the extension of suffrage in this country will be unsuccessful in their opposition; they will be overborne, unless they assume grounds of a more commanding character than those which they have here maintained. This subject of the extension of suffrage must be put upon practical grounds and extricated from the sophisms of theoretical reasoning. Gentlemen must get out of the domain of theory. They must come back again to those principles of action upon which our fathers proceeded in framing our constitutional system. They lodged suffrage in this country simply in those whom they thought most worthy and most fit to exercise it. They did not proceed upon those humanitarian theories which have since obtained and which now seem to have taken a considerable hold on the public mind. They were practical men, and acted with reference to the history and experience of mankind. They were not metaphysicians; they were not reformers in the modern sense of the term; they were men who based their political action upon the experience of mankind and upon those practical reflections with reference to men and things in which they had indulged in active life. They placed suffrage then upon the broad common-sense principle that it should be lodged in and exercised by those who could use it most wisely and most safely and most efficiently to serve the great ends for which Government was instituted. They had no other ground than this, and their work shows that they proceeded upon it, and not upon any abstract or transcendental notion of human rights which ignored the existing facts of social life.

Now, sir, the objection which I have to a large extension of suffrage in this country, whether by Federal or State power, is this: that thereby you will corrupt and degrade elections, and probably lead to their complete abrogation hereafter. By pouring into the ballot-boxes of the country a large mass of ignorant votes, and votes subjected to pecuniary or social influence, you will corrupt and degrade your elections and lay the foundation for their ultimate destruction. That is a conviction of mine, and it is upon that ground that I resist both negro suffrage and female suffrage and any other proposed form of suffrage which takes humanity in an unduly broad or enlarged sense as the foundation of an arrangement of political power.

Mr. President, I proposed before the debate

concluded, before this subject should be submitted to the Senate for its final decision, to protest against some of the reasoning by which this amendment was resisted. I intended to protest against particular arguments which were submitted; but I was glad this morning that that duty which I had proposed to myself was discharged, and well discharged by the Senator from Missouri, [Mr. Brown.] For instance, the argument that the right of suffrage ought not to be conferred upon this particular class because they did not or could not bear arms—a consideration totally foreign and irrelevant, in my opinion, to the question which we are discussing.

But, sir, passing this by, I desire to add a few words before I conclude upon another point which was stated or suggested by the Senator from Missouri, and that is the question of reform or improvement in our election system; I mean in the machinery by which or plans upon which those elections proceed. After due reflection given to this subject, my opinion is that our electoral systems in this country are exceedingly defective, that they require thorough revision, that to them the hand of reform must be strongly applied if republican institutions are to be ultimately successful with us.

I would see much less objection to your extension of the right of suffrage very largely to classes now excluded if you had a different mode of voting, if you did take or could take the sense of those added classes in a different manner from that which now obtains in popular voting. You proceed at present upon the principle or rule that a mere majority of the electoral community shall possess the whole mass of political power; and what are the inevitable results? First, that the community is divided into parties, and into parties not very unequal in their aggregate numbers. What next? That the balance of power between parties is held by a very small number of voters; and in practical action what is the fact? That the struggle is constantly for that balance of power, and in order to obtain it all the arts and all the evil influences of elections are called into action. It is this struggle for that balance of power that breeds most of the evils of your system of popular elections. Now, is it not possible to have republican institutions and to eliminate or decrease largely this element of evil? Why, sir, take the State of Pennsylvania, whose voice, perhaps, in this Government is to give direction to its legislation at a given time, and take a pecuniary interest in the country largely interested in your laws, looking forward upon the eve of a hotly-contested election to some particular measures of Government which shall favor it: with what ease can that interest throw into the State a pecuniary contribution competent to turn the voice of that powerful State and change or determine the policy of your Government. And why so? It is only necessary that this corrupt influence should be exerted very slightly indeed within that State from abroad in order to turn the scale, because you are only to exert your pernicious power upon a small number of persons who hold the balance of power between parties therein. Sir, that organization of our system which allows such a state of things to occur must be inherently vicious. Instead of this being a Government of the whole people, which is our fundamental principle, which is our original idea, it is a Government, in the first place, of a majority only of the people; and in the next place, it is in some sort a Government of that small number of persons who give preponderance to one party over another, and who may be influenced by fanaticism, corruption, or passion.

This being our political state at present with reference to electoral action, what do you propose? We have a great evil. Electoral corruption is the great danger in our path. It is the evil in our system against which we must constantly struggle. Every patriot and every honest man here and in his own State is bound to lift his voice and to strike boldly against it in all its forms, and it requires for its repression

all the efforts and all the exertion we can put forth. Now what is proposed by the reformers of the present time? We have our majority rule—it is not a principle; it is an abuse of terms to call it a principle—we have our majority rule in full action, presenting an invitation to corrupt, base, and sinister influences to attach themselves to our system; we have great difficulties with which we now struggle arising from imperfect arrangements, and what do you propose? To reform existing evils and abuses? To correct your system? To study it as patriots, as men of reflection and good sense? No, sir. You propose to introduce into our electoral bodies new elements of enormous magnitude. You propose to take the base of society, excluded now, and build upon it, and upon it alone or mainly, because the introduction of the enormous mass of voters proposed by the reformers will wholly change the foundations upon which you build.

Will not these new electors you propose to introduce be more approachable than men who now vote to all corrupt influences? Will they not be more passionate and therefore more easily influenced by the demagogue? Will they not be more easily caught and enraptured by superficial declamation, because more incapable of profound reflection? Will not their weakness render them subservient to the strong and their ignorance to the artful?

I shall not, however, detain you with an elaborate argument upon this question of suffrage. I only feel myself called upon to say enough to indicate the general direction of my reflections upon the questions before us; to show why it is that I am immovably opposed at this time to extending our system of suffrage in the District of Columbia or elsewhere so as to include large classes of persons who are now excluded; and to state my opinion that reform or change should be concerned with the correction of the existing evils of our electoral system, instead of with the enlargement of its boundaries.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

Several SENATORS. Oh, no; let us have a vote.

The motion was not agreed to.

Mr. DOOLITTLE. Mr. President, this amendment, in my judgment, opens a very grave question; a question graver than it appears at the blush; a question upon which the ablest minds are divided here and elsewhere; a question, however, upon which we are called upon to vote, and therefore one upon which I desire very briefly to state the views which control my judgment when I say that I shall vote against the amendment which is now offered.

For myself, sir, after giving some considerable reflection to the subject of suffrage, I have arrived at the conclusion that the true base or foundation upon which to rest suffrage in any republican community is upon the family, the head of the family; because in civilized society the family is the unit, not the individual. What is meant by "man" is man in that relation where he is placed according to nature, to reason, and religion. If it were a new question and it were left to me to determine what should be the true qualification of a person to exercise the right of suffrage, I would fix it upon that basis that the head of a family, capable of supporting that family, and who had supported the family, should be permitted to vote, and no other.

While I know that the question is not a new one; while it is impossible for me to treat it as a new question because suffrage everywhere has been extended beyond the heads of families, yet the reason, in my judgment, upon which it has been extended is simply this: if certain men have been permitted to vote who were not the heads of families it was because they were the exceptions to the general rule, and because it was to be presumed that if they were not at the time heads of families they ought to be, and probably would be. I say that according to reason, nature, and religion, the family is the unit of human society. So

far as the ballot is concerned, in my judgment it represents this fundamental element of civilized society, the family. It therefore should be cast by the head of the family, and according to reason, nature, and religion man is the head of the family. In that relation, while every man is king, every woman is queen; but upon him devolves the responsibility of controlling the external relations of his family, and those external relations are controlled by the ballot; for that ballot or vote which he exercises goes to choose the legislators who are to make the laws which are to govern society. Within the family man is supreme; he governs by the law of the family, by the law of reason, nature, religion. Therefore it is that I am not in favor of conferring the right of suffrage upon woman.

Now, Mr. President, one word further on the subject of suffrage as it concerns the other races. We are Caucasians and represent that race. From history, from our education, from our experience, every man of full age of the Caucasian race in this country, as a general rule, is competent. The Indians, the Africans, the Mongolians, the Asiatics in this country, from their history, from their position, are incompetent as a general rule, the exceptions only being competent. We may as well speak the truth on this question. When a man tells me that the Indians, for instance, of the States and Territories are competent to exercise this great right of suffrage, he tells me what I certainly cannot be made to believe; what, it seems to me, it is impossible for any man in his senses to believe. When a man tells me that the Africans in this country just set free on the plantations—I now speak of them as a mass; I do not speak of the exceptional cases; there are a great many colored men of intelligence and character and standing who are perfectly competent to exercise the right—but when a man tells me that as a mass these men just set free are competent to exercise the right of suffrage and help to shape the laws of this great Republic, he states what is perfectly abhorrent to my sense of justice, reason, or propriety. Sir, it would be a burlesque on republican institutions, and we should make ourselves the laughing stock of the world by doing any such thing. To say that three or four million slaves, who have just been set free from a bondage of two hundred years in this country, and who in the country from which they came were descended from a race and from a position the most degraded on the face of the earth, are educated, that they are experienced, that they are in condition now, the moment their shackles are stricken off, to exercise this high right of franchise, is contrary to reason, in my judgment.

It seems to me perfectly impossible that they can be competent. There are some exceptions, and if you could frame a law so as to meet the exceptional cases it would be right, here in the District, or, if any State could do it, elsewhere. It is just so with the Asiatics over in California. What kind of a spectacle would it be if the seventy or eighty thousand Chinamen there, who know nothing of our republican institutions, who can know nothing of them at present, were permitted to exercise this right of suffrage? Will it be contended that the Indians of the Territories and the States (with exceptional cases, it is true, which might be provided for by the laws of those States) are competent to exercise the right of franchise? It is impossible that it should be so in the nature of things.

While I do not object to laws here or elsewhere that may provide for the exceptional cases and that would admit to the right of franchise in this District those colored men who are competent; while a law providing for that would meet my approbation, I think that to confer universal manhood suffrage in this District into which freedmen from all the States can flock *ad libitum*, without restriction, is dangerous. It seems to me that we are wild when we talk of such a thing or imagine that the American people have passed judgment in favor of anything like that. Had you proposed a thing

like that before the last election and made that an issue in the canvass you would have found a very different verdict. That issue was avoided everywhere. The idea of universal negro suffrage as the basis of reconstruction was avoided in every State in the Union. Possibly in Massachusetts it was not; I am not so sure about that; but in every State where there was any fear of losing the election this question was not raised; and for our friends to stand up now and say that the judgment of the people has been declared in favor of universal negro suffrage to be imposed upon the South as the basis of reconstruction is all folly. It was not contained in the constitutional amendment, which was made the basis or claimed to be made the basis upon which the election was carried.

Mr. President, I have stated very briefly that I shall not be able to vote for the proposition of my honorable friend from Pennsylvania, [Mr. COWAN.] I shall not be able to vote for this bill if it be a bill to give universal suffrage to the colored men in this District without any restriction or qualification. I have been informed that some other Senator intends before this bill shall have passed in the Senate to propose an amendment which will attach a qualification, and perhaps, should that meet the views of the Senate, I might give my support to the bill. I shall not detain the Senate further now on this subject.

Mr. POMEROY. I desire to say in just a brief word that I shall vote against the amendment of the Senator from Pennsylvania, simply because I am in favor of this measure and I do not want to weigh it down with anything else. There are other measures that I would be glad to support in their proper place and time; but this is a great measure of itself. Since I have been a member of the Senate, there was a law in this District authorizing the selling of these people. To have traveled in six years from the auction-block to the ballot with these people is an immense stride, and if we can carry this measure alone of itself we should be contented for the present. I am for this measure religiously and earnestly, and I would vote down and vote against everything that I thought weakened or that I thought was opposed to it. It is simply with this view, without expressing any opinion in regard to the merits of the amendment, that I shall vote against it and all other amendments.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania, [Mr. COWAN,] to strike out the word "male" before the word "person," in the second line of the first section of the amendment reported by the Committee on the District of Columbia as a substitute for the whole bill, and on that question the yeas and nays have been ordered.

Mr. FOGG. I desire to state that I have received a telegram from my colleague, [Mr. CRAGIN,] who is in New York, stating that he is detained there by the sickness of his wife.

The question being taken by yeas and nays resulted—yeas 9, nays 37; as follows:

YEAS—Messrs. Anthony, Brown, Buckwalter, Cowan, Foster, Nesmith, Patterson, Riddle, and Wade—9.

NAYS—Messrs. Cattell, Chandler, Conness, Creswell, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fogg, Frelinghuysen, Grimes, Harris, Henderson, Hendricks, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Norton, Poland, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wiley, Williams, Wilson, and Yates—37.

ABSENT—Messrs. Cragin, Fowler, Guthrie, Johnson, McDougall, and Nye—6.

So the amendment to the amendment was rejected.

Mr. DIXON. I offer the following amendment, to be inserted at the end of the first section of the amendment reported by the committee:

*Provided*, That no person who has not heretofore voted in this District shall be permitted to vote unless he shall be able at the time of offering to vote to read and also write his own name.

Mr. President, the amendment which I have offered provides that no person not heretofore a voter shall be authorized by this bill to vote

who is unable to read and also to write his own name. I have offered it not with the intention of obstructing, but in the hope of aiding the passage of the bill. I intend to vote for it if thus amended. I may be permitted to say that I have always, whenever an opportunity has been presented, voted to extend suffrage irrespective of color. I thus voted when the question was raised in the territorial bills of recent sessions. Once, I think, in the Legislature of Connecticut and twice at the polls I have voted to erase the word "white" from the constitution of my own State. My opinions on the subject have not changed. I still believe that color or race should not be the test of the right of voting. I would deny to no man the right of voting solely on account of his color; but I doubt the propriety of permitting any man to vote, whatever his race or color, who has not at least that proof of intelligence which the ability to read and write furnishes. It is true, as the Senator from Massachusetts remarked yesterday, that there are instances in which remarkable intelligence is found in men who can neither read nor write, yet these are exceptional. As a general rule, while ability to read and write does not prove high intelligence, the want of this ability proves gross ignorance and utter incapacity to vote intelligently. It is therefore no injustice to say to any man, white or black, Before you share in the direction of public affairs you must at least furnish this evidence of your capacity. This rule is, therefore, with great justice, applied in the State of Connecticut to white men, and in the State of Massachusetts to all men irrespective of color. The reasons for its application exist much more strongly in this District, where the class of black men who cannot read is large, than in the State of Massachusetts where their votes could not perceptibly affect the decision of any public question. Yet the Senator from Massachusetts will allow me to remind him that the "reading test," so called, was inserted in the constitution of that State by the party of which he was a very prominent member, if not with his consent. What is just in Massachusetts cannot be unjust in this District. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. As a general proposition I am not in favor of basing the right to vote upon the intelligence of the voter; and in regulating the right of voting among white people I should not vote for such a proposition; but as it is now proposed to introduce into the citizenship of this District a large class of persons who are known to be very ill-qualified to exercise the right of franchise, I feel it to be my duty in regard to them to vote for this qualification. I wish to make this explanation before giving my vote.

Mr. SAULSBURY. I tried, Mr. President, to reconcile myself to vote for the amendment offered by the honorable Senator from Pennsylvania with a view of benefiting the condition of the people of this District. I believe that upon the passage of this bill this active, never-satisfied abolition element of the country will put itself to work to flood this District with as many free negroes as possible, so as to get control of the District, elect its mayor, its common council, and have at least one free negro government in the American Union; and although I am not in favor of female suffrage for reasons which have been so well stated by others who have spoken on the subject, yet with a view to delay as far as possible such a catastrophe as that I tried to bring my mind to the conclusion to vote for it. But, sir, to vote for it would have been to vote to confer the right of suffrage upon negro women as well as upon white women, and under no circumstances here, in my own State, or wherever upon this continent I may be located, will I vote for negro suffrage under any circumstances. It is but the beginning of forcing negro suffrage everywhere throughout this country. This bill, in the language of the Senator from Kansas, [Mr. POMEROY,] is to be a model to be copied through-



out the States, and we have his assurance at least throughout the Northwest it is to be followed.

Neither, sir, can I vote for the proposition of the honorable Senator from Connecticut. What is the test? A person who can read and write. Is it his name, or only read and write? ["His name."] Read and write his name; a wonderful amount of education to qualify a man for the discharge of the high office and trust of voting! Great knowledge of the system of government under which we live does this impart to the voter! But, sir, in voting for that I also vote for negro suffrage to some extent. I have no more prejudice against this race than gentlemen who assume to be their warmest friends. I know them much better than they do. I have received many more acts of kindness from some of them than they have, and I have extended to them many more acts of kindness than they have. If I know my own heart to-day, the early recollections of childhood and the experience of my life would teach me that wherever it was in my power to extend to them an act of kindness to do it.

Born in their midst, with them as my playmates in childhood, with them as members of my own father's household, I have no unkindness for them; and to-day their true friends are not to be found among that class of men—I will not say who are to be found in this Chamber, but who are to be found in this country—who clamor for their equality of rights. But, sir, when their true friends are to be found among those who have known them, who have been taught from early infancy and throughout all their lives to treat them with that kindness with which an inferior race ought to be treated by a superior race.

Sir, it has been stated during this debate—and if it had not been for the introduction of this amendment perhaps I should not have said a word even upon the final passage of the bill—that the adoption of this measure was a duty the Congress of the United States owed the nation, and it was to be done for the benefit and for the example of the nation.

Sir, I thought that the object governing the framers of the Constitution in giving exclusive legislative power over the District to the Congress of the United States was not to legislate for the people of the whole United States, but to legislate for the people of the District of Columbia. It gave this exclusive jurisdiction over the ten miles square because the capital being located here and the public property being located here, it was necessary and proper that Congress should have the control of the District so as to preserve and protect the capital of the country; but so far as legislation to govern the people was concerned it was designed to relate simply and solely to the people of the District of Columbia. It was not for purpose of setting up a model government to be imitated by States, no more than it was to set up a model government to be imitated by all the nations of the earth.

And now, sir, I appeal to the honest heart of every Senator here, if it be true, as I suppose it is true, that the Congress of the United States sustains the same relation to the people of this District as the Legislature of a State does to the people of a State, and if in the States from which you come, Senators, there was such a large proportion of the whole people opposed to conferring the right of suffrage upon the negroes in your midst, would you, in defiance of that strong popular sentiment and will, confer the suffrage upon the negroes in your own State? I ask the Senators from Maine, I ask the Senators from Kansas, and other Senators who have spoken on this subject in advocacy of this bill, if this question were to be submitted to your own people, whether the suffrage should be conferred upon the negro race in your midst and there was such a majority of the white people of your State opposed to it as there is in the District of Columbia opposed to it; that is, if the opposition to it was as great in proportion to the numbers in your States as it is here, would you vote for it?

Gentlemen, you would not unless you intended to make political martyrs of yourselves. Now, you being the Legislature of the District of Columbia, and the people of this city having by a vote of between six and seven thousand against thirty-five asked you not to pass this act, and the other portions of the District being unanimously opposed, will you do it? You would not do it if you were legislating for the people of your own States. You are now acting as the Legislature of the District of Columbia. Then you are not governed in your action by a desire to conform to the will of the people for whom you act, but by a desire to show here an example of free negro government so that that example may be imitated in other sections of the country, and you hope that from this center will go forth such an influence as to cause the people in the different States of the Union to follow your example.

Mr. President, be not mistaken. I know it has been said that the people of the southern States will follow this example. It has been said in other quarters that unless they do they shall have no part or lot in the Federal Union, but that they shall be reduced to a territorial condition and shall be no longer States of this Union. Sir, there is nothing that stings a proud and noble spirit so much as dishonor, and I trust in God there is not a son of a southern State who will so debase and degrade himself as to accept of representation in either House of Congress upon such degrading and dishonorable terms. What, sir, gallant, proud, and noble States of the American Union to be asked to follow your example, and to admit to participation in the legislation of their States a numerous class of persons, wholly unfit, wholly incapable of exercising any of the offices, powers, or functions of Government! Never, sir, never. You have no right to impose such conditions and they would degrade themselves, if they accepted them.

But, sir, during the progress of this discussion the merits of this bill have been placed upon higher grounds, or what are supposed to be higher grounds. It has been put on the ground of the equality of the races in the sight of God and of man, and we were told by the honorable Senator from Maine, [Mr. MORRILL,] in effect and in substance, that those who denied this doctrine were infidels. Then, sir, all the civilized nations which have ever lived on earth among whom the African race existed were infidels; then, sir, was the writer of the Pentateuch himself an infidel. Now, I charge home, that instead of the doctrine of the inferiority of race being a doctrine of infidelity, the assumption of the equality of races is itself infidelity, because it is a denial of the Scriptures. Although I had no intention of entering upon this train of thought, I will dwell upon it for a moment longer, as I see the honorable Senator now before me, and he was good enough to indicate to us that he was a believer, and that some of us were infidels, in his reference to a passage of Scripture, "cursed is Canaan; servant of servants shall he be." The Senator proclaimed in effect that those who believed that thereby the curse of slavery or servitude was put upon this race were infidels. Let me tell that Senator that if he believes the Bible, even accepting the meaning of the word found in that passage as "servant," he must himself admit the negro's inferiority. If this class of people be in fact, the descendants of Canaan, then he must admit that the Bible itself says servant of servants shall they be. Then they are distinguished from their brethren in that respect. Then there is inferiority of condition.

But I will show to that honorable Senator that the words in which that curse were pronounced prove conclusively that something, if not to be lasting and forever, yet something of great magnitude was contained in that curse. What is the language used? I refer my very learned friend to the original in which it is placed, and if he will refer to the term "servant of servants" he will find it there expressed in the strong words *naubad naubadan*, which

means "slave of slaves," or, according to the idiom of that language, a slave forever, and for his benefit I will tell him that that word corresponds with the word *doulos*, *doulos*, in Greek, which means a slave born about your house as a slave. But, sir, I had no intention of alluding to that branch of the honorable Senator's argument, and would not had I not seen him present in the Chamber.

Mr. President what should be the object of Congress in legislating for the people of this District? Should it be to try an experiment, or should it be the practical good of the people living here? Is there any Senator who believes that giving the right of suffrage to this large class of free negroes would cause the affairs of this city to be better administered? Is there any Senator who believes that by conferring upon this class of people the right of voting at the elections in this District, better officers will be thereby selected, that the financial affairs of this corporation will be better managed, the general prosperity of the people of the District be promoted, and their general good and happiness advanced? Is there such a great amount of wisdom to be found in this class of people that it is necessary to call in their aid for the administration of its affairs? If so, the advocates of this bill have made a wonderful discovery, indeed.

But, Mr. President, as all argument upon this subject will be unavailing, as nothing can I suppose prevent the final passage of this bill, and I presume its finally becoming a law, I content myself simply with protesting against it as a Senator upon this floor.

Mr. HENDERSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 12, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORNTRON.

The Journal of yesterday was read and approved.

The following members, in addition to those heretofore reported, appeared, namely:

*Missouri*—John Hogan.

*New York*—Thomas T. Davis and Demas Hubbard.

*Pennsylvania*—Charles Denison.

## WAR DEBTS OF LOYAL STATES.

Mr. BLAINE. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the committee on the war debts of the loyal States be directed to inquire into the expediency of assigning to each loyal State the right to tax the national banks within its limits at a rate not exceeding two per cent. annually on the capital stock, said tax to be in lieu of all national taxes except one tenth of one per cent. on the average annual circulation for the expenses of the Currency Bureau, and to be accepted by the loyal States as satisfaction in full for all claims against the Government for expenses incurred in raising and organizing troops for the late war, other than those that may be audited and paid under existing law.

Mr. HARDING, of Illinois. I object.

## REPORTS OF LAKE SURVEYS.

Mr. PAINE, by unanimous consent, introduced a bill to provide for the annual publication of a separate report of the progress of the survey of the northern and northwestern lakes; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

## WITHDRAWAL OF NATIONAL CURRENCY.

Mr. PRICE. I ask unanimous consent to offer the following resolutions:

Whereas by an act of Congress passed at the last session it was provided that the Secretary of the Treasury might withdraw from circulation \$4,000,000 of United States notes each month; and whereas the object of such withdrawal was for the purpose of destroying said United States notes, and thus gradually but surely lessening the volume of paper currency in the country, and thus enabling the Government and the banks to return as speedily as consistent with safety to a specie basis: Therefore,

*Be it resolved*, That the Committee on Banking and

Currency be instructed to inquire and report to this House what amount of United States notes have been so retired and destroyed since the passage of said act, what amount is now being destroyed daily, whether the notes so destroyed are counted by different men in different offices, and what safeguards are in use for the certain destruction of all the United States notes which by law are now authorized to be retired; also, whether there is an accumulation of said notes on hand, whether a complete record is kept of all denominations, showing the amount of each denomination burned each day or week, and if so, whether such record is kept in more than one office, and whether in their opinion any further checks or guards are necessary to insure the certain destruction of all United States notes which by law are now authorized to be withdrawn from circulation.

*Resolved*, That in the judgment of this House a more speedy withdrawal of currency from circulation than was authorized by the act of last session, to wit, \$4,000,000 each month, would not add to the general welfare and financial prosperity of the country.

Mr. WENTWORTH. I object.

#### LAND TITLES IN CALIFORNIA.

Mr. McRUER, by unanimous consent, introduced a bill to quiet title to land in the town of Santa Clara, in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

#### BERRY AND HIGGINS.

Mr. RICE, of Maine. I ask that by unanimous consent the Committee of the Whole on the Private Calendar be discharged from the further consideration of the joint resolution (H. R. No. 128) for the relief of Berry & Higgins, and that the joint resolution be recommitted to the Committee on Public Buildings and Grounds. I desire then to move that the latter committee be discharged from the further consideration of the subject.

The SPEAKER. The effect of that will be that the bill will lie on the table, and no further legislation will be had.

Mr. RICE, of Maine. That is what I desire.

The SPEAKER. If there be no objection, the Committee of the Whole on the Private Calendar will be discharged from the further consideration of the joint resolution, and it will be recommitted to the Committee on Public Buildings and Grounds.

There was no objection.

Mr. RICE, of Maine. I now move that the Committee on Public Buildings and Grounds be discharged from the further consideration of the joint resolution, and that it lie on the table.

The motion was agreed to.

Mr. WASHBURNE of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### THE CONSTITUTIONAL AMENDMENT.

Mr. MILLER. I ask unanimous consent to offer the following resolution:

Whereas several of the States lately in rebellion have through their Legislatures refused to ratify the amendments to the Constitution of the United States, proposed by the Thirty-Ninth Congress at their first session: Therefore,

1. *Resolved*, That said amendments are deemed necessary for the preservation of the Union, and required in order to guaranty to every State a republican form of government.

2. That no State lately in rebellion against the Government of the United States ought to have a representation on this floor as long as such State declines the ratification of said amendments.

3. That said amendments are offering to the late rebellious States terms precedent to the admission of representation more conciliatory than they had a right to expect, and if they continue to refuse to ratify the same conditions more stringent ought to be required.

4. That the doctrine of universal amnesty to those who endeavored in the late bloody conflict to dismember this Republic ought to be discarded by every loyal patriot.

Mr. LE BLOND. I object.

#### VENTILATION OF THE HALL.

Mr. BROMWELL. I ask unanimous consent to offer the following resolution:

*Resolved*, That the officers and assistants having in charge the Hall of Representatives and the approaches thereto be directed to open all the doors leading into the Hall and galleries, and all the outside doors in the Representatives' wing of the Capitol, and keep the same open for the space of two hours after every adjournment of the House, and during two hours on the morning of each meeting of the

House, at such hours as will allow sufficient time to heat the Hall properly for the use of the House.

Mr. ASHLEY, of Ohio. I object.

#### NAVIGATION OF RIVER THAMES.

Mr. BRANDEGEE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be, and they are hereby, instructed to inquire into the expediency of an appropriation by the United States of such a sum of money as under the estimate of the appropriate department shall be deemed sufficient for enlarging and maintaining the channel of the river Thames, at and below the City of Norwich.

#### EATON AND GAGE.

Mr. HALE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That Messrs. Eaton & Gage have leave to withdraw their memorial and papers referred to the Committee on Naval Affairs.

#### LEAVE OF ABSENCE.

Mr. TAYLOR, of New York, asked leave of absence for Mr. HUMPHREY from last Monday, to continue indefinitely.

Leave was granted.

#### EXCUSED FROM COMMITTEE SERVICE.

The SPEAKER. The gentleman from Illinois [Mr. BAKER] desires to be excused from further service upon the select committee on the civil service of the United States. If there be no objection he will be excused.

There was no objection.

#### TEXAS.

Mr. COOPER presented the credentials of Benjamin H. Epperson, claiming to represent the second congressional district of Texas; which were, under the rule, referred to the select joint committee on reconstruction.

#### PUNISHMENT OF TREASON.

The SPEAKER stated the first business in order to be House bill No. 634, to repeal certain parts of the act approved April 30, 1790, entitled "An act for the punishment of certain crimes against the United States," reported back from the Committee on the Judiciary by Mr. LAWRENCE, of Ohio, pending yesterday at the expiration of the morning hour, on which the gentleman from Pennsylvania [Mr. STEVENS] was entitled to the floor.

Mr. STEVENS. Mr. Speaker, having been somewhat admonished by my conservative friends I have gone far enough I will say nothing further. I understand the gentleman from Rhode Island [Mr. JENCKES] desires to say something supplemental to what I have said, and as he will say it better than I can I will yield the floor to him.

The SPEAKER. The gentleman from New Jersey, [Mr. ROGERS,] representing the minority of the committee, is claiming the floor.

Mr. STEVENS. I yield the remaining portion of my time to the gentleman from Rhode Island.

The SPEAKER. The gentleman is entitled to fifty-two minutes, having spoken eight minutes yesterday.

Mr. JENCKES. I wish about five minutes. I will yield then to the gentleman from New Jersey.

Mr. Speaker, the statutes of 1790, a portion of which is sought to be repealed by the bill now before the House, created four capital offenses: first, treason, fixing the punishment of treason as the Constitution empowered Congress to do; second, murder; third, piracy; and fourth, forgery. This bill seeks to repeal a limitation to the prosecution of certain of these offenses. In the statute itself I find no limitation in the cases of willful murder and forgery. Forgery has since ceased to be a capital offense in the courts of the United States. The exception of willful murder still remains. The effect of this bill, therefore, will be to extend the time for finding indictments in cases of treason and piracy alone.

I submit that upon every question of justice and public policy this bill ought not to pass. Courts of justice have, in these later times,

paid greater respect to statutes of limitation than they have at any former period in the history of the law in England and in this country. They have declared emphatically in cases civil and criminal that they are conducive to the peace and welfare of society and ought not to be disturbed. They have been construed strictly both in civil and criminal actions.

This proposed repeal, if it has any intention, is made only in reference to cases of treason. Piracy is always committed upon the high seas and out of the jurisdiction of any State under a flag not recognized by any civilized nation. Its proper definition confines it to those who commit offenses sailing under the black flag alone. They are not only criminals against the United States or the laws of the United States, but are enemies of human kind, and wherever arrested and found may be punished, not only by the laws of the United States, but by the laws of every civilized nation. I consider, therefore, this repeal does not affect any case of that kind. It is made, then, solely against the time for finding of indictments for treason.

Now, Mr. Speaker, if there is any offense for punishment or prosecution to which a statute of limitation should be passed it is of that class denominated political offenses, of which treason is the highest. Every person who has committed that offense against the United States during the late rebellion has been for twenty months within the actual power of this Government; part of the time within the military power; now within both the military and civil power. This repeal refers to the time for finding the indictment. If an indictment cannot be found within twenty months, what assurance can the gentleman give that it can be found within twenty years?

If it cannot be found within three years, what reason is there for having it found after three years? If the state of things briefly referred to as being the moving cause of this bill, then the defect is in the machinery by which the law is to be carried into execution. Remedy that, and do not repeal your old statutes. These offenses committed against the majesty of the State are those of all others which are soonest healed by the action of time. There has never been any sedition, any treason, any rebellion in which parties of the same country and nation, arrayed in arms against each other, when at another period they have not been found acting together. It is contrary to the history of nations to suppose that they can be permanently or even long divided on political questions, even though those questions have driven them to arms.

Mr. Speaker, we have examples in history of the error of this kind of legislation. We might go back to the republic of Rome, and find a consul arraigned after forty years for the murder of a leader of sedition. We can go back to English history, and cite cases in addition to those cited by the gentleman from Pennsylvania [Mr. STEVENS] yesterday, where persons, long after the commission of the offense, have been tried, convicted, and executed. We may look even to the case in England which in our statute falls in the exception, where a Governor of an island was indicted in London, tried, convicted, condemned, and executed twenty years after the commission of the offense. If we repeal all statutes of limitations and refuse to pass statutes of indemnity, the judge advocate who prosecuted the assassins of President Lincoln, the court that tried them, the President who signed their death-warrant, might be arraigned before an adverse court and jury in this District without limit as to time except the duration of their natural lives, and condemned and executed. Such a state of things is foreign to the spirit of the law, of the age, and of Christianity, and it ought not to be suffered to be reinstated in the laws of this nation. It had but a brief existence, if it had any, from the time of the adoption of the Constitution until the passage of the statute of April, 1790, and never ought to be imported into our laws from the English or any other law.

Nay, Mr. Speaker, we might go further. The last Congress passed acts in the nature of statutes of limitation to prevent the prosecution of loyal men in arms obeying the orders of their superiors. And this Congress has before it bills of a similar character following the examples of these precedents. A Congress of a different mind might repeal all these statutes and subject the innocent servants of the Republic to suits for damages or prosecution for crime at any time, as this bill expresses it, or within any new limit which another Congress might fix to it.

I trust, Mr. Speaker, that this bill will not pass, that we shall look at this statute of 1790 as learned courts and wise judges have looked at this and other statutes of limitation, as a statute of repose, a statute of peace, and leave the punishment of crimes, the time and manner of their prosecution, to the law as it stood when the offense was committed.

Mr. ROGERS. Mr. Speaker, it is somewhat refreshing to me at least, and no doubt to the other members upon this side of the House, to find that there are gentlemen here who, while they disagree with us politically, have a disposition to have this question which has agitated the country so seriously for five or six years quieted and settled. I think there are serious objections to the passage of a law of this kind, not only upon grounds of policy but of legal import. If the passage of such a law be not strictly and technically within the meaning of the Constitution an *ex post facto* law, it is certainly a retroactive law. It will be a law against the genius of this Republic, against the spirit of our institutions. It is one that in former times has never been countenanced. Our fathers framed this law directly after the Revolution, when they had been guilty within the technical meaning of the English law of the very same identical offense of which the people this bill is intended to reach were guilty. Although the cause in which our fathers were engaged is considered by the people of this country as one of more import in character and entitled to more respect and consideration—which it undoubtedly was, as it was the noblest act of mankind—yet if the rebellion in which they were engaged had failed they would undoubtedly have been liable to the same rules of conviction according to the laws of England that are now attempted to be inscribed upon the statute-book of this country.

As was well said by the honorable gentleman from Pennsylvania, [Mr. STEVENS,] an offense of this character does not partake of the nature of a crime. It does not partake of the character of assassination, murder, robbery, or theft. It has not that moral turpitude annexed to it that attaches to crimes not of a political character, and which are denominated by the law *malum in se*; and we know that in all ages of this earth, from the remotest times since Governments have been first known, and especially since the first formation of republics, and they have been known for several hundred years, there have been rebellions, tumults, and commotions of the same kind and character as the one which we are now providing to punish. The wisdom of ages has taught those who have gone before us that a spirit of charity and leniency is better for the advancement of a republic and even of a monarchy, by dealing with men who have only been guilty of political crimes in a charitable manner.

Sir, I feel that the time has come when the people of this country should turn their hearts from the blood and strife of war to the blessing of peace in this land; peace not by recurring to vengeance and passion, but to the instrumentalities by which this Government was first established; instrumentalities which were devised in the spirit of a conscientious belief in the wisdom, fraternal regard, and affection which actuated our fathers in the formation of the law. There ought not to be visited upon the people of the South any vengeance. They have exhibited a most magnanimous spirit. I

am astonished at their magnanimity and meekness. I think the time has come when we should legislate as well for the benefit of the South as of the North. From the reason and justice of the case and the general definition of *ex post facto*, it strikes me that this is an *ex post facto* law, because the legal meaning of such a law is that you can pass no law after the crime has been committed that places the defendant in more jeopardy than he was in at the time of or directly after the commission of the act. Every one must see that those persons who it is claimed have committed treason will be placed in more jeopardy by the removal of the limitation, because as time goes on the jeopardy increases.

Our fathers knew perfectly well the nature of the offense of treason. They had gone through a mighty rebellion. They had protested against the tyranny and despotism of King George, and they knew the necessity of quieting offenses of a political character as soon as possible consistent with the interests of the nation. Eighteen months having elapsed since peace was proclaimed why should we undertake to legislate against the people of the South in such manner as to induce common informers to seek their blood through the period of a generations life, and to worry and harass a brave and courageous people who are now subdued and pleading for justice and mercy at our feet? Why should we undertake to break up and destroy the commercial relations which ought to exist between the people of the South and the people of the North, and to intimidate the people of the South, and declare them subject to the penalties of treason, although they have received the benefit of the amnesty and pardoning power of the President, and to place them in danger of being under the control of a despotic Congress at any time hereafter, who as now may by the impulse of crazy fanaticism be found clamoring for their blood?

We are told by the gentleman who reported this bill that one of the objects of offering it is to frustrate and destroy the pardoning power which the President in his magnanimity, generosity, goodness of soul, and Christian conduct has seen fit to dispense to the downtrodden and fallen people of the South. I want no such impediment in his way. When he came into power he found ten million people guilty before the law. He did as every other human man would have done—as I believe the gentleman from Pennsylvania [Mr. STEVENS] would have done, judging from his remarks of yesterday—he extended his pardoning power over the great mass of the people who had been engaged in the rebellion, and by law that pardon and that amnesty relieve them from all the part they took in the rebellion, and the consequences of their crime, as has been well said by the gentleman who preceded me, [Mr. JENCKES.] Statutes of limitation have been particularly favored in this country, and there is no reason now why this old landmark of the Government, this old principle which was established by our fathers just after the close of the Revolution, should be overridden and subverted by this Congress. I tell you, gentlemen, that the time has come when you should look to the interests of the whole country; when all of us should desire to see all the seats in this Hall filled by Representatives from every State in this Union. The object of the war, as I understood it, was to restore the Union, and I want the principles of justice and liberty laid down in the fundamental lines of the Constitution to be adhered to by this House.

Mr. LAWRENCE, of Ohio. Will the gentleman from New Jersey [Mr. ROGERS] permit me to ask him a question?

Mr. ROGERS. Certainly.

Mr. LAWRENCE, of Ohio. I would ask the gentleman if he desires the seats in this House to be filled by the traitors whom this bill would reach and punish?

Mr. ROGERS. I desire that there shall no longer be known in this country any traitors for what was done in the war. I want to see

the privileges and benefits of our Government extended to the people of the South as well as to the people of the North, and had I been President of the United States I would have issued a general proclamation of amnesty before this Congress met, which should have relieved every person in the South from the treason consequent on the rebellion.

As you all know, I never had any delicacy in stating the positions I assume and occupy. I feel to-day for the downtrodden people of the South who are now subject to despotism and tyranny and held under the yoke of bondage. The conduct of this Congress toward them would be in the eyes of the civilized world a sufficient cause for rebellion. I protest against despotism and tyranny in every form, and especially against the despotism of this Congress. I warn the people of the United States that their liberties are about to be taken from them by a Congress imbued with crazy fanaticism, who are engaged in plotting the destruction of the fairest Government ever framed by men.

I am in favor of general amnesty and pardon, and there are others, men in the Republican party, who are in favor of the same thing. Horace Greeley, the leading light of the black Republican party, is in favor of general amnesty and general suffrage, and he says that if he cannot get general suffrage he wants general amnesty any way. He came here and offered himself as bail for Jefferson Davis. He wants that man relieved from the punishment now inflicted upon him by being kept in prison for two or three years after the offense was committed, and deprived of a speedy trial to which the basest criminal is entitled by our organic law.

This Congress outstrips in wicked despotism the worst Parliaments of England. Its action disgraces and degrades the people of this country. It is inimical to the Constitution of the United States, and as long as God Almighty gives me breath I for one will raise my voice against such despotic conduct whether it comes from the legislative, executive, or judicial branch of the Government. The white people of this country were born freemen, and I shall do all I can to have them die freemen.

I have seen enough of the course of this Congress upon these questions to make a lover of his country shed tears of blood. The whole object of its legislation appears to be to punish the South. We do not hear in these Halls, except from a few individuals, any utterance of charity, Christian sympathy, or magnanimity with regard to the people of the South. The southern people are a brave people. They have fought for what the great body of them believed a just and righteous cause, and they have been defeated; but they have done nothing but what thousands and thousands have done in former days in rebelling against both monarchies and republics. The recent rebellion of the southern people was simply an uprising against a Government whose powers they believed were exercised in a despotic and unconstitutional manner. Yet I am not here to justify their action; I am here to condemn it, as I have always done. I did what I could to prevent their success in the rebellion. Yet I have sufficient charity in my heart to be willing to accord to the great masses of the southern people honesty of intention. This was demonstrated by their exhibitions of valor and their outpouring of blood in their conflict with the heroic Army and Navy of the United States. And when the President wiped out the consequences of their guilt through the pardoning and amnesty power he did but imitate the example of our Saviour, who in order to pardon a condemned man shed His own precious blood upon the cross. The gratitude of posterity and of civilization throughout the world will be poured upon the great name of Andrew Johnson for his humanity and charitable conduct.

This country must be united at some time. We cannot continue in our present state of division and alienation. The civilized world



is now looking with pain and amazement at the spectacle which our country presents. And, sir, I tell you that though the people of the South may be obliged for a time to submit to the galling yoke of despotism, reason and judgment will eventually assert their sway, and the day is not far distant when the bright casket of human liberty will be again intrusted to the hands of men who will transmit it to their descendants as we received it from our fathers of the revolutionary era.

In speaking on this subject I employ strong language; I do not intend any disrespect toward anybody on either side of this House. Gentlemen on both sides of the House will bear me witness that I have always treated them in a courteous and gentlemanly manner. I have no ill-will or antipathy toward any member of this House; but I implore gentlemen, in behalf of my country, in behalf of those who are to come after us, to join with me and others on this side of the House in an effort to reunite this country in a bond of fraternal affection upon the basis of the Constitution and the old Union established by our patriotic forefathers, so that we may again become the envy and admiration of the civilized world.

My motive in thus plainly talking is to warn the people of approaching danger that they may stand upon the watch-towers and guard the citadel of their liberties against Girondists and Jacobins who would destroy their country for political power. It springs from an earnest and sincere desire to promote the best interests of my country. I see with pain the spirit of vengeance which gentlemen here are seeking to exercise toward the people of the South, and I implore Almighty God that He may enlighten their consciences to a sense of the real demands of the country before we are plunged into another revolution. May Christian love and charity prevail and the innocent mother and harmless babe of the South no more be the victims of the fire and smoke that once ascended from the dwelling which sheltered age and infancy.

As a matter of law, as well as of policy and justice, the legislation now proposed should not be adopted. Why, sir, if the doctrines which are advocated here be correct, none of the men of the South who have been engaged in rebellion can be indicted or convicted for treason. The honorable gentleman from Pennsylvania, [Mr. STEVENS,] in the honesty of whose sentiments I fully believe, has proclaimed—and the declaration has been seconded by the other gentlemen on that side, and has been embodied in a preamble to a resolution or bill presented in this House—that the southern States are out of the Union and have lost their constitutional relations to the Government of the United States, and are dead in law, and their people public enemies; that those States have become mere Territories, and bills have been introduced for the purpose of declaring and enforcing this doctrine.

If this be the true view, then why should we undertake to repeal the law which limits the time within which those men can be indicted and tried for treason? For if those States are out of the Union and have lost their constitutional relations to the Government of the United States, then they must have constituted a *de facto* Government; and those who participated in that *de facto* Government, the only Government that could give them protection, cannot, according to the principles of public and international law, be convicted of the crime of treason. Men cannot be guilty of treason to a Government to which they do not owe allegiance. No man who is not a citizen of the United States can be convicted of treason against the United States for being engaged in a war against them. If those who were engaged in the rebellion were, by virtue of their secession, taken outside of the Union, then they do not come within the constitutional provision in regard to treason. They were subjects of a *de facto* Government, and according to the principle settled in the English and American law adherence to such a Govern-

ment in opposition to a Government *de jure* cannot render an individual guilty of treason.

We all know that the rebellion was brought about by the Radicals of the North and South; one set to destroy slavery and the other to preserve it. The Radicals of the North were all the time hounding the people of the South. In fact they are more accountable for the rebellion than the people of the South, because the people of the South had reason to believe from what was stated in the speeches and in the public press of the North that they would be permitted quietly to secede. It was well known that Horace Greeley advocated secession. We know that throughout the length and breadth of the North men of character in the different States proclaimed that the South had the right to secede.

Now, after they have failed in the act of secession, after the rebellion has been put down, after you have laid waste their fields, burned their cities, desolated their homes, destroyed all their branches of industry, is it not time to show some magnanimity, some charity, and to say that after three years have elapsed from the time those offenses were committed they shall go acquitted? I know you would hesitate to pass a resolution in this House saying that the people of Ireland, who are fighting against the despotism and tyranny of England, were guilty of treason and should be hung. Do we not know that the President is using all the peaceable machinery of the Government of the United States to prevent the Canadian Government executing upon the gallows men who went upon its soil, having their base of operations here, for the purpose of relieving the millions of the downtrodden people of Ireland from the yoke of bondage in which they are held by the Queen of England.

Gentlemen, there is no difference to-day between the *status* of the people of the South and the people of Ireland, except that the people of Ireland have less despotism exercised over them by the English Government than the people of the South have by you; because the people of Ireland have some representation in the British Parliament, while the people of the South, with the exception of one single State, and that not having a republican form of government, have none. I mean Tennessee. I know perfectly well if I should offer a resolution in this House protesting against hanging the Fenians in Canada, every man in this House, especially the Radicals who pretended at the recent elections to be great friends of the Irish, would cordially vote for it.

Perhaps, however, you will not be so friendly now, as you have had all the use you can make of the Fenians for the present. I want to see your friendship by the repeal of the neutrality laws. Why do you feel willing to extend your sympathy and hospitality to the people of Poland, Hungary, Ireland, and other countries where revolutions have taken place, and want to hang your own countrymen for being engaged in a like revolution? Why will you extend the hand of charity and friendship to them and refuse it to the people of the South?

Mr. MAYNARD. I understand the gentleman to make reference to my own State. I do not know precisely the terms in which he referred to it, and I would like to have him repeat them.

Mr. ROGERS. I said there was one State in the Union which had representation in Congress from the South, and that was one without a republican form of government, one governed by despotism, where three fifths of the people are disfranchised, where an oligarchy or aristocracy rules over the people.

Mr. MAYNARD. The gentleman's remarks relieve me from some misapprehension I was under from the previous portion of his speech, in which he announced that in a short time, perhaps after the 4th of March, this country would be governed by despotism and its liberties be gone. I suppose now he means to be understood that the people of the whole country will be governed by a policy similar to that

which prevails at this time in Tennessee, by which the State is governed by the loyal people, those who have been its friends, those who during all our troubles have stood by it, those who by their sacrifices and efforts have saved it as a nation among the nations of the earth. If that is his meaning I congratulate the country it is going to pass, as I believe it will, into the hands of that class of the people who during this generation and every succeeding generation will continue to manage and control its affairs.

Mr. ROGERS. No State is a free one with a republican form that by force deprives three fifths of her white male voting population of the right of self-government. That is the case in Tennessee. Its government, as administered, is a despotism, and that was the only reason that induced Congress to give her representation, knowing that as but few but Radicals could vote her power would be at least equally balanced in the House. When I speak of this Congress being a despotism I speak of the very same causes that induced our fathers to rebel against the mother country—because the Parliament of England taxed the people of these Colonies without allowing them representation. I say that this Government taxes the people of the South millions and millions of dollars without allowing them representation in the law-making department, that this is a tyranny and a despotism that ought to be discontinued by every Union-loving man, and that I hope succeeding generations will scoff at and put down.

Mr. GRINNELL. I would like to ask the gentleman a question. There happen to be some four million people in this country who for a good many years have not only been taxed without representation, but enslaved without their consent.

Mr. ROGERS. No, sir. Three fifths of the slaves and all the free negroes have always been represented and taxes paid for them. They were not citizens, and your constitutional amendment, which you ask the South to adopt, proves they were not citizens. You propose by virtue of it to make them citizens, for which there is no necessity if they were so before. Yet three fifths of the slaves and all the free negroes, who were not citizens of the United States, have had heretofore a representation allowed to them in the Congress of the United States. I am not here to find fault with the policy of a State as to who shall be allowed to vote, but I am here to claim that great right of representation in conjunction with taxation which our fathers maintained and for which they fought for more than seven years against the mother country.

Mr. KELLEY. Will the gentleman yield to me?

Mr. ROGERS. Certainly.

Mr. KELLEY. I wish to congratulate the gentleman on having accepted my convictions, and to ask him whether I understood him rightly; whether, now that the people of whom we speak are citizens, slavery having been abolished, he agrees with me that they should not be taxed unless they are represented. He says he did not deem them entitled to representation while they were slaves. Does he think them entitled to representation now that they are citizens?

Mr. ROGERS. The gentleman does not understand my premises. I have not yet admitted, and nobody can draw that inference from my remarks, that the free negroes of this country were citizens of the United States. Sir, it was understood in the early history of the country, and was settled in the Dred Scott case, and it has been followed from that time to this, that the free negro was not a citizen and he is not a citizen now; and to prove that he is not, it is only necessary to refer to the amendment which you ask the people of the South to adopt so as to make these very free negroes citizens of the United States. If they were citizens before, and if they are still citizens, what is the use of having the South or the North ratify that amendment? The sub-

mission of the amendment to them is an admission on the part of every radical member of this House that they are not citizens or entitled to all the privileges and immunities of white citizens. They should not be taxed without representation, and are not deprived of representation, for all are to be counted in the basis of representation.

Mr. FINCK. I desire to ask my friend from New Jersey whether it is not true that since 1789 the negroes of the southern States and of all the States have been represented in Congress?

Mr. ROGERS. Most certainly, all of them have been represented, and three fifths of the slaves. My question is not about too much representation, but because the South have no representation. My point is that this Government does not give to the southern States any representation at all. I do not care how far you allow the negroes to be represented, for they are all now to be counted, as they are all free. You cannot extend representation too far, because our fathers founded representation on population, and I want the whole population of this country to be represented. But the question now arises as one between despotism and liberty, a question wherein the majority of this Congress by the exercise of unlawful, unauthorized, and unconstitutional powers are depriving our southern brethren of their rights of representation and still taxing them as did Great Britain her Colonies.

Mr. KELLEY. I understood the gentleman to state the question as one between despotism and liberty, and it is upon that point I wish to interrupt him. I understand him to assert that that is despotism which denies to a citizen representation, and I desire to ask him whether that is liberty or despotism which denies to millions of its people not only representation but citizenship and yet taxes them.

Mr. ROGERS. It is not citizenship I complain of but the want of representation, and as I before stated all the negroes have representation. If the gentleman's theory of despotism as to suffrage and citizenship be correct, then our fathers who framed the Constitution of the United States were despots themselves, because they did not grant the right of suffrage to the people of this country by virtue of the Constitution, and only made white persons citizens, but left each of the States to regulate and control those subjects for itself, and all I ask is that each State in this Union shall have the right to regulate and control this question of suffrage and citizenship according to its own will. I want South Carolina and New Jersey and the other States to settle for themselves this matter of citizenship and suffrage as the Constitution gives them authority to do, and to allow such persons to vote as they please. And if they allow all negroes and all women and children and all foreigners to vote I will not find any fault, because it will be but an exercise of the sovereign power of the State expressly reserved to it, and over which this Congress has no control.

Mr. KELLEY. The gentleman misunderstands the scope of my question. I did not ask him as to the opinion of the founders of the Government, but those of the leader of the Democratic party in the House. Is he in favor of denying the right of representation and citizenship to four millions of the American people and their posterity, and will he declaim against that as despotism which asks that every man shall be a citizen, and that no citizen who is not allowed a free voice in electing his Representative shall be taxed directly or indirectly?

Mr. ROGERS. Sir, my position is simply that I am opposed to imposing upon the people of the South citizenship or suffrage by virtue of any congressional legislation or of amending the Constitution so as to give that power. I want each State to legislate on and control this question of citizenship and suffrage according to its own will. I claim that the power is in the hands of the people of each State to control and legislate on their own domestic policy, according to their own individual wishes, and

I say that there is no authority in the Federal Government delegated to it by the States that will authorize three fourths of the States to take away, by virtue of a constitutional amendment, any reserved powers not delegated and handed over to the Federal Government in the formation of the Constitution of the United States. I have always taken the ground that you cannot amend the Constitution of the United States so as to affect powers that did not come within the scope and meaning of the delegated powers. That is my position. Because if you can you can amend it so as to strike down and destroy every fundamental and reserved power which the Constitution gives to the States and which the States withheld from the Federal Government at the time it was established. That is my position. I am for liberty as much as any one, but I am not in favor of negro suffrage. I oppose negro suffrage in every shape and form.

Mr. THAYER. I understand the gentleman to say that he is for liberty as much as anybody else. I ask him if he did not vote against the constitutional amendment abolishing slavery.

Mr. ROGERS. Yes, sir, upon the very simple ground that the institution of slavery was one that belonged to the States and one which the States had not delegated to the Federal Government.

Mr. WILSON, of Iowa. I understood the gentleman to say that he opposed the constitutional amendment abolishing slavery. My recollection is that he did not vote on the subject.

Mr. ROGERS. The first time I voted; the next time I did not. I did not vote on it the second time because I was sick upon my bed, and the physician who attended upon me will file an affidavit that I was unable to leave my bed at that time. I was confined to my room for six days. I would have deemed it a duty and a pleasure if my health would have allowed me to have voted against it. But if has been passed, the slaves are free, and as long as I live I will stand by and maintain their freedom. Slavery was made the corner-stone of the rebellion, and when the rebellion went down it went down with it. It was submitted to the arbitrament of arms, and the decision went against it. It is now dead and gone, and when it rises again somebody else must blow the horn of resurrection. I never was in its favor in the abstract, but sustained the right of the States to control it as they pleased.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. ROGERS. Certainly.

Mr. THAYER. The gentleman said a little while ago that in his opinion the constitutional amendment was void. Now he says that the negroes are free, and he admits the fact. I want to know from him how he reconciles these two statements.

Mr. ROGERS. I do it in two ways. One is that any law upon the statute-book, or any amendment to the Constitution, commands the obedience and respect of every law-abiding man in the land until it is repealed or set aside by some competent authority. The other and main reason is, that the rebellion was founded upon the institution of slavery, being inaugurated to preserve that institution; it was submitted to the arbitrament of arms, the highest arbitrament known to civilized nations, and the decision was against it. I am not for reviving anything that was destroyed by the results of the war, and there is no authority to revive an institution that was submitted to such an ordeal. It is an institution that never should have existed. It is now a dead issue, and the question is not how to free the blacks from slavery but how to free the southern whites, who are held in a worse slavery than were the negroes before the war.

But the war did not destroy the States or their rights and institutions. The war does not authorize the representatives of the nation to break down the Constitution and trample it under their feet; to prostrate the old Union and destroy the liberties of the country. The war

only authorized us to carry out the fundamental principles of the Constitution. And when we go against that we are morally as guilty of treason as were any who engaged in the late rebellion.

It makes no difference to me what the opinions of others may be, for I am entitled to my own opinions, and although I am in the minority I will stand by the President of the United States. I stand by him from one end of his plan of reconstruction to the other. And I believe he will go down to posterity honored and loved for his pure patriotism and self-devotion to the Constitution of his country. [Laughter.] And although he may be scoffed at, ridiculed, abused, and trampled upon by traitors and disunionists to the Constitution of their country, his countrymen will cause it to be written in letters of gold upon the altars of constitutional liberty, charity, and Christianity, that he stood as a barrier against the tide of despotism, vengeance, barbarism, and tyranny which but for him would have shaken down the Constitution and laws of his country and implanted a monarchy upon their ruins. [Great laughter.]

I know you laugh and scoff over the downfall of liberties made venerable by the care of a century. I know you exalt over the successive blows struck at public liberty and public law. I know that no sense of the future of this country will arrest the reckless clouds of despotism and tyranny that now hover over you in your hour of frantic revelry. Still you will find one here, as long as I am here, and that will be for a short period, [laughter,] who will protest against your wicked machinations to destroy our country. You may laugh, but I have a right as a Representative of the people to express my sentiments, and I am going to express them. And the only way you can prevent me, as long as your Speaker allows me my rights as one of the members of the committee, will be for you to do as you have done with several other honorable gentlemen, expel me from the floor of the House. I have always been respected by this House, because I have openly and boldly, but respectfully stated my principles, the honest convictions of my heart.

I know, sir, that I am human; I know that God has not given me power to foresee the momentous events of the future. But my heart is wedded to the Constitution, and I desire when I die to transmit that rich inheritance as a legacy unimpaired to my descendants to the remotest generation. I wish to preserve our Constitution and Union as the brightest casket of civil liberty that was ever witnessed on the eastern or the western continent. I wish to preserve our noble fabric of Government from the effects of the destructive measures urged by the degenerate sons of noble sires, who fought and bled for the very liberties which I am now defending amid the scoffs and jeers of these Radicals. [Derisive laughter.]

The SPEAKER. Gentlemen must come to order.

Mr. ROGERS. Gentlemen of this House, and the Speaker especially, will bear me witness that I have always extended the utmost courtesy to members on both sides of the House. I advocate my own views. I do not undertake to speak for anybody else. Each man is entitled to his own views and is bound to advocate the opinions which he entertains; and when he believes that the Constitution is being violated and his country destroyed, he is bound to interpose his voice, feeble though it be, against the violation. This is the reason why I have talked so plainly. I feel it my duty to warn the people of the impending danger. Although I am a young man, and my warning voice may not be heeded, although my words are scoffed at here, as they will be by Radicals who read my remarks when published, yet I have the satisfaction of knowing that what I have said here to-day has been prompted by the honest convictions of my heart, and from a desire to preserve that great landmark of civil liberty, the Constitution, which, as admin-

istered under Democratic rule, conducted our Government in a career of prosperity and greatness for seventy years.

While I plead here for humanity toward the South, I must not be charged with entertaining any sympathy for rebellion or treason. Gentlemen who now constitute the majority in this House will recollect well the time when their party was in a hopeless minority; yet they were permitted to stand here and proclaim their principles. Shame upon the men, whatever may be their standing or by whomsoever they may be elected, who will undertake in this House to browbeat or stifle an honest Representative who seeks to tell the people the truth and warn them of the disastrous effects which must attend the mad career of radicalism. I am for free speech, and without it liberty is but a myth. Do not ask me to wait for shackles and chains to convince me that liberty is in danger. Do not ask me to close my eyes to the teaching of ages, but allow me when I see despotism and tyranny groping in darkness and silence in undisturbed impunity, and millions of men, women, and children groaning under despotic bondage in my own country, and the most wicked rule of England against which our fathers fought, established in our own land, to protest and use my voice to warn my countrymen of our approaching destruction.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I was detained from my seat when the discussion began this morning, and therefore I have not heard all that has been said. But it appears to me that the debate has assumed a somewhat wider range than the bill immediately under consideration would seem to require. The discussion, however, has presented some points which are well worthy of consideration. In order that the bill may receive that consideration which its importance demands, I move that it be recommitted to the Committee on the Judiciary.

The SPEAKER. The Chair will state that much of the speech of the gentleman last on the floor [Mr. ROGERS] had certainly no bearing on the bill before the House; but as no member raised any point of order the Chair did not think it proper to interpose.

Mr. ROGERS. Such of my remarks as were not immediately connected with the bill were drawn out by the interrogatories of other gentlemen; otherwise I should have confined myself strictly to the question before the House.

Mr. LAWRENCE, of Ohio. I certainly did not mean to reflect upon the Speaker or any member of the House.

The motion of Mr. LAWRENCE, of Ohio, was agreed to; and the bill was recommitted to the Committee on the Judiciary.

Mr. JENCKES moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### BREVETS IN UNITED STATES ARMY.

Mr. BLAINE, from the Committee on Military Affairs, reported a bill relating to brevets in the Army of the United States; which was read a first and second time.

The bill, which was read at length, proposes to authorize the President, by and with the advice and consent of the Senate, to confer brevet rank on officers in the Army of the United States on account of gallant, meritorious, or faithful conduct in the volunteer service prior to their appointment in the regular Army.

Mr. BLAINE. Mr. Speaker, I will explain in a very few words what this bill is intended to effect. The Army of the United States is or soon will be made up by appointments, almost nine tenths of which are of those who have been in the volunteer service. As the law stands at present, officers appointed in the regular Army cannot be breveted for what they have done in the volunteer service of the United States, whereas officers of the regular Army who performed volunteer service under commissions from the States may be breveted for such service. The design of this bill is that officers

transferred to the regular Army from the volunteer service may have the same opportunity to receive brevets for meritorious conduct as other officers who were in the volunteer service under commissions from the States. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ARMY BILL.

Mr. SCHENCK. I am directed by the Committee on Military Affairs to report back Senate bill No. 401, to increase and fix the military peace establishment of the United States. It is the Army bill of the Senate of the last session, which was disposed of by the committee of conference. I move that it be laid upon the table.

The motion was agreed to.

#### EXTRA PAY.

Mr. SCHENCK, from the same committee, also reported back adversely a resolution to extend three months' extra pay to certain officers; which was laid upon the table.

On motion of Mr. SCHENCK, the Committee on Military Affairs also was discharged from the further consideration of a memorial on the same subject; and the same was laid upon the table.

#### ALEXIS GARDAPIER.

Mr. THAYER, from the Committee on Private Land Claims, reported back Senate bill No. 308, to confirm the title of Alexis Gardapier to a certain tract of land in the county of Brown, and the State of Wisconsin, with the recommendation that it do pass.

The bill was read.

Mr. THAYER. I will send to the Clerk's desk to be read a letter of the late Commissioner of Public Lands, which contains every explanation in regard to the bill.

The Clerk read as follows:

#### DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE, May 21, 1866.

SIR: A bill confirming the title to Alexis Gardapier to a certain tract of land at Green Bay, Wisconsin, has been received with your letter of the 16th instant, and agreeably to your request, that I impart such information to you as this office affords in regard to the merits of the bill, I have the honor to say that the claim of Alexis Gardapier, lying on the west bank of Fox river and more particularly known as vacant strip of land "lying between a tract No. 1 confirmed to Jacques Porlier on the north and tract No. 2 confirmed to Lewis Grignon on the south," &c., appears to be the identical claim as presented to the commissioners appointed under the act of Congress entitled "An act to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan," approved February 21, 1823. (See American State Papers, vol. 4, pages 722 and 723.)

The claim was presented on the 16th day of September and was confirmed on the 1st of November, 1823, to Alexis Gardapier with a proviso "that the same shall not interfere with any confirmation heretofore made."

As the prior confirmations to Jacques Porlier on the north of the vacant land and Lewis Grignon on the south of the same (see page 355, A. S. Papers) have already been surveyed and patents issued therefor for lot Nos. 1 and 2 respectively, there exists no impediment to the vacant strip being confirmed by Congress to the extent of 80x3 arpents as applied for by Alexis Gardapier and confirmed by the board of commissioners as aforesaid.

This bill is herewith returned with suggested marginal addenda, conformable to similar bills of relief heretofore passed by Congress, which I deem proper to add to the same for such disposition as you may think necessary.

I have the honor to be, very respectfully, your obedient servant,

J. M. EDMUNDS, Commissioner.

Hon. IRA HARRIS, Chairman of the Senate Committee on Private Claims.

During the reading of the letter the morning hour expired, but by unanimous consent the case was proceeded with.

Mr. THAYER. As it is not necessary to detain the House with any remarks on this subject I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be read a third time; and it was accordingly read the third time and passed.

Mr. THAYER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

The SPEAKER announced that he had appointed Mr. BROMWELL to fill the vacancy in the select committee on the civil service.

#### REMOVALS FROM OFFICE.

The next business was the consideration of the special order, being House bill No. 664, for the regulation of appointments to and removals from office.

The SPEAKER. The bill is being considered in the House as in Committee of the Whole, under the five minutes' debate so far as the pending amendments are concerned.

The pending amendment is the following, to come in at the end of section two:

*Provided, however,* That so much of this section as makes the office vacant beyond the time of the refusal of the Senate to advise and consent to a renomination shall not be held to apply to cases of commissions to fill vacancies happening during the recess and which, under the Constitution, are made determinable at the end of their next session.

Mr. WILLIAMS. If the amendment I have submitted is not sufficiently intelligible in itself I propose to state in a few words its object. The first clause of this section it will be observed provides that in case of the refusal of the Senate to advise and consent to the nomination or renomination of any officer whose term of office may have expired by its own limitation, the place filled by such person shall be regarded as being vacant from the time of such refusal. Now, this provision, standing as it does without the proviso I have suggested, would infringe the Constitution of the United States, which defines the term of the officer. In that case, as it will be remembered by the House, the President is authorized to fill up the vacancy with a commission which will entitle the officer to hold until the end of the next session of the Senate. The object of the proviso is to prevent any conflict between this section and that provision of the Constitution of the United States.

The amendment was agreed to.

Mr. HALE. I move to amend the amendment by adding to the section as it now stands the following:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled, as aforesaid, during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

This is a provision proposed by the joint select committee on retrenchment, and meets the approval of the gentleman from Pennsylvania.

Mr. WILLIAMS. I am willing to accept it.

The amendment was agreed to.

The SPEAKER. The next amendment is in section four, which the Clerk will read.

The Clerk read the section with the amendment of Mr. WILLIAMS as modified, as follows:

SEC. 4. *And be it further enacted,* That the heads of the several Departments of the Government shall hold their offices, respectively, for and during the official term of the President by whom they were appointed, unless removed by the President by and with the advice and consent of the Senate; and they shall severally appoint their assistants and all other officers pertaining to their respective Departments, subject to the approval of the Senate, on report to be made to that body if then in session, or if during the recess, at the next meeting thereof, to hold for the like period, unless removed with the like concurrence of that body.

The SPEAKER. The gentleman from New York [Mr. HALE] proposes to amend the amendment.



Mr. HALE. That obviates the necessity for my amendment.

Mr. WILLIAMS. This section it will be observed consists of two propositions. The first makes the heads of the several Departments irremovable at the mere pleasure of the President. Having thus made them, as I think, practically independent, then the second clause authorizes them to appoint, as we have unquestionably a right under the Constitution to do the subordinates in their respective Departments. This clause is so framed as to take it out of the rule or precedent established by the Congress of 1789, to the effect that in the absence of any statutory provision or of any legislation defining the term of office the President might remove at will. I propose here, in order to obviate all possible difficulty on this ground, to define the term. As it stood originally in the bill it was in the words, "for the term of four years." It was suggested by my friend from Iowa and other gentlemen that this would make a difficulty at the incoming of a new Administration. I have endeavored to obviate that by so modifying the section as to confine the period to "the official term of the President by whom they were appointed."

The second clause is dependent. If the first should prevail I see no reason why the other should not prevail also. If, in other words, the heads of the Departments can be lifted from their present abject attitude and made independent of the Executive, then I see no reason against conferring the appointing power upon those officers. Under our present legislation and under the precedent that has already been established, so far as regards the Post Office Department, we know in some few cases, where the salary is some one thousand or two thousand dollars, the appointments are made by the Postmaster General without any supervisory power or power of revision in any quarter, except it be on the part of the President himself; and I think the experience of the country shows how this power has been abused. I think there ought to be a limitation on it. I propose, therefore, that no appointment shall be made except subject to the approval of the Senate, and no removals except upon the same terms.

When I offered this amendment, or when it came up yesterday in another form, in regard to this point of making the heads of the Departments independent of the President, I confess I was a little surprised—and I trust I may be pardoned for saying a little pained—at the result of the vote, which was taken in a thin House. I was not allowed the privilege, or perhaps I ought to say I did not claim it in time, for having the yeas and nays on the question, and the gentleman from Iowa, with the aid of the gentlemen upon the other side of the House, was enabled to defeat the proposition. I propose, as I said, to make these appointments independent.

The gentleman from Iowa, in his remarks yesterday, had something to say in reference to the confidential relations of these officers to the President. He seemed to think that they were intended to be confidential advisers of the President. I do not know that any such thing as advisers of the President is known to the Government. I suppose the President may take advice elsewhere; and if he should take such advice it would perhaps be better and more honest than that he now receives.

Mr. KASSON. I oppose this amendment for several reasons. The first is that the proposition is that the heads of the several Departments of the Government shall hold their offices respectively for the term of four years, or for the presidential term. There are but three departments of the Government, one is the legislative, one the executive, and one the judicial. I apprehend that the object is not to limit Chief Justice Chase's tenure of office to the presidential term as the head of our judiciary, or our Speaker's as the head of this branch, the legislative. A change should be made by striking out the words "of the Govern-

ment" and inserting before "Departments" the word "Executive."

There is one other point that I will notice. The gentleman states candidly that his object is to try again the issue decided by the House yesterday. I wish to call the attention of the House to the situation of the President and the Secretary of State if this proposition should be adopted. Everything is done in relation to foreign affairs nominally by the Secretary of State, theoretically by the President. If in the settlement of intricate questions of foreign policy a division of policy shall spring up, and the President shall sustain one policy in dealing with foreign nations and the Secretary of State another, you will find the Secretary of State with his hands tied or the President with his hands tied. You must enable the responsible head of the Government to control its policy. You must enable him to change his agent even in the recess of a session of Congress. You must secure harmonious action in the policy of the Government by the President's direct action in the choice of those through whom alone that action can be had.

It is not so only in respect to foreign affairs, but in some respects also to domestic affairs. The President is by law, and to some extent by the Constitution, the responsible head of the executive office. The proposition of the gentleman now, which was defeated yesterday, is to make these Secretaries, who are themselves theoretically or actually agents of the President in respect to his policy, independent of the President, and leaves him but a sounding title in the administration of the affairs of the Government.

Now, I say that this is a radical change of the Government of the United States, and that Congress ought not adopt that change without a more careful consideration than is involved in a proposed change in the tenure of minor officers of the Government. In respect to the Postmaster General's Department, it has already some twenty-seven thousand officers. It is impossible for the President to make all these appointments, and the power must necessarily be vested in the Postmaster General, just as you invest power in the courts to appoint commissioners and in deputy postmasters to appoint their clerks; but this goes further, this goes to the very essence of the Government of the United States, and proposes to take from the President the powers which the Constitution and laws confer upon him.

Mr. THAYER. I move to strike out the last line of the amendment, simply for the purpose of saying a few words. It seems to me that the proposition which is now made by the gentleman from the Committee on the Judiciary, [Mr. WILLIAMS,] and which I understand to be in substance the precise proposition which the House voted down on yesterday, is called for by no public exigency, and is only fraught with future embarrassment and inconvenience. If the law with regard to the appointing power is so arranged and so bound up that the power shall be controlled by the Senate and the President as regards all the subordinate officers of the Government, I see no possible necessity for trammeling the President in regard to his confidential advisers; or as John Randolph was wont to say, "his head clerks."

It seems to me that it will lead to embarrassment in this way: if a Cabinet officer dissents from the opinions of the Executive, the Executive should possess the power of removing that Cabinet officer; otherwise your plan leads to this result, as was suggested by the gentleman from Iowa, [Mr. KASSON,] that you transfer the executive office from the Executive of the United States to his Cabinet council. And in transferring it you make a new executive consisting of many heads instead of one; because if those officers are not removable from office at the will of the President, they may remain in office and outvote the President; they may take such a course with regard to the administration of the executive office as by a majority of their number they may determine. And what is that but the substitution of a new ex-

ecutive in place of the constitutional Executive? I think the future would reveal the impolicy of the great and fundamental change contemplated by this amendment. It seems to me to be fraught with future evil; to be, indeed, as was said by the gentleman from Iowa, [Mr. KASSON,] a radical revolution in one department of the Government. I hope, therefore, that the House will adhere to its position of yesterday.

Now, while I am willing to go as far as any man upon this floor is willing to go in order to fetter the appointing power, to assert the constitutional power of the Senate in controlling public appointments, and to restrain usurpations of executive power upon that subject, such usurpations as we have witnessed within the last six months; while I am willing to go as far as any man in that direction with regard to all subordinate appointments under the Government, which is all that is necessary for the protection of the appointing power, I am unalterably opposed to such a change as the one contemplated by the amendment now before the House.

I now withdraw my amendment to the amendment.

Mr. HALE. I move to amend the amendment of the gentleman from Pennsylvania [Mr. WILLIAMS] by striking out the following clause:

And shall severally appoint their assistants and all other subordinate officers pertaining to their respective Departments, subject to the approval of the Senate on report being made to that body if then in session, or if during the recess, at the next meeting thereof, to hold for the like period, unless removed with the like concurrence of that body.

There are two or three very important objections to this clause of the amendment. The first is that it introduces into the constitutional practice of the appointing power an element hitherto entirely unknown, and certainly not provided for in words by the Constitution. It is in fact a nomination by the head of a Department, subject to the approval of the Senate. Now, the language of the Constitution is that the President—

"Shall nominate, and by and with the advice and consent of the Senate shall appoint, all officers whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of the Departments."

There is no provision for vesting the appointment in the concurrent action of any two bodies, except that of the President and the Senate. It seems to me it would not be wise to enter upon a policy which is of so doubtful a propriety and of so doubtful a constitutionality as that proposed by this amendment.

Second, I cannot see the ground on which the policy can be justified, even if it were deemed constitutional, of taking away from the President the appointment of a very large class of important officers, and conferring them upon officers subordinate to the President. I do not believe that we should legislate in a bill of this character for to-day merely, for the present Executive, or with reference to the differences that exist between the present Executive and Congress. I believe we should seek to frame a bill which should be of general unlimited application, and which should be found to work well through all time. But this proposes to take from the President the appointment of all the Assistant Postmasters General, the assistant secretaries of the different Departments, the collectors of all our ports, and marshals of all our districts, and give that appointment to the heads of the Departments, subject to the approval of the Senate.

But, again, this bill also provides that the appointment of every clerk in the Departments, of every employé down to the very lowest grade of the civil service, shall be submitted to the Senate for confirmation. There are about thirty thousand of these officers. If the appointments of all these postmasters, clerks, deputy marshals, deputy custom-house officers, &c., are to be sent to the Senate, then it appears to me that body has before it a duty that will

engross its entire time to the exclusion of everything else.

Mr. WILLIAMS. If the gentleman will allow me, I desire to ask him whether he regards clerks as "officers" within the meaning of the Constitution.

Mr. HALE. Certainly I regard a clerk as an officer; and a watchman in one of the Departments is an officer. I had not supposed there was any doubt about that. Certainly postmasters are officers; and here are I do not know how many thousand postmasters whose appointments are to come before the Senate for confirmation. I trust, Mr. Speaker, that the amendment which I propose will be adopted.

Mr. WILLIAMS. If the gentleman will withdraw his amendment, in order that I may renew it, I would like to say a word or two.

Mr. HALE. I withdraw my amendment for that purpose.

Mr. WILLIAMS. I renew the amendment. Mr. Speaker, I desire to say to my friend from Iowa that, in using the term "heads of Departments," I followed the language of the Constitution, as I endeavor to do in all cases. I refer the gentleman to that clause of the Constitution which authorizes Congress to "vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Mr. KASSON. Will the gentleman allow me to read another clause of the Constitution? It provides that "the executive power shall be vested in a President of the United States of America." The proposition now is to vest it in the Secretaries. In the second place, the Constitution provides that—

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Now this bill proposes to vest the appointing power in the heads of the Departments, with the concurrence of the Senate. That, I hold, is an explicit violation of the Constitution. If the appointing power be vested in the heads of Departments it must be exclusive; we cannot authorize them to send nominations to the Senate.

Mr. WILLIAMS. I did not yield the floor for the purpose of enabling the gentleman to make an argument, for my time is restricted. I say the gentleman has failed to make good the distinction he asserted. He said that the language of the bill is erroneous; that it would comprehend the judiciary as well as the other departments. I affirm that the language used in the bill is the constitutional language. When the Constitution declares that Congress may vest the appointment of certain officers "in courts of law or in the heads of Departments," the latter phrase was surely not intended to comprehend the legislative, executive; and judiciary departments of the Government.

But I desire to say a word in reply to my colleague, [Mr. THAYER.] He thinks there is no necessity for controlling the exercise of this enormous power, which has been so long enjoyed and so much abused by the Executive—abused not merely now, but in previous administrations of this Government; abused now, as we know from declarations publicly made, for the very purpose of thwarting and setting aside the will of this nation as expressed by its representatives. I think the gentleman has not read the elections aright. He certainly has not read them as I have. Perhaps he has not interested himself in them to quite the same extent.

Mr. THAYER. My colleague, I am sure, does not intend to misstate my position.

Mr. WILLIAMS. No, sir.

Mr. THAYER. He will then allow me one word of explanation. What I said was that,

in my view, there is no necessity for interfering with the Cabinet officers in this respect and departing from what I conceive to be the intention of the Constitution on this subject, while the control of the appointment of every other officer remains as at present.

Mr. WILLIAMS. Mr. Speaker, I will only add that, judging from the debate in the Congress of 1789, if the idea had not generally prevailed that this power could not be taken away from the President, that, in other words, it could be exercised by him alone, a majority of that Congress would never have consented to lodge it there. And let me say to my Democratic friends, who may be considered as representing by a sort of apostolic descent the anti-Federalists of 1789, that I am now maintaining precisely the same position which was occupied by their supposed forerunners in the Congress of 1789.

Mr. WILSON, of Iowa. Mr. Speaker, I do not accept the doctrine which has been advanced by my colleague from Iowa, [Mr. KASSON,] and by the gentleman from Pennsylvania, [Mr. THAYER,] and the gentleman from New York, [Mr. HALE,] in regard to the executive department of the Government as correct. I find, sir, that the Constitution says that the executive power shall be vested in the President of the United States of America. Now, I should like to know what there is in the executive part of the Government as we find it in the Constitution which would confer upon the heads of Departments power to override the President of the United States in the determination of any policy however independent of the President you may make these heads of Departments? What right has a head of a Department to a policy except it be that policy established by law? What right under the operation of this amendment offered by my colleague on the Judiciary Committee would the heads of Departments have to convene themselves together and override the President in the exercise of his power? The President is, as the Constitution says, the Executive of the United States. He is to execute—what? He is to execute the law, and any policy which he may have, or which his Cabinet may have, or the two combined may have, in violation of law, is a violation not merely of the law, but of the Constitution itself.

Now, sir, the practice that this amendment proposes radically to change in the executive branch of our Government is one which has obtained too often and too long in our Government. It is in regard to foreign affairs and the administration of domestic concerns as alluded to by my colleague from Iowa. Sir, it is the duty of the legislative department of the Government to determine the policy of the Government, internal and foreign. The laws passed by Congress impose duties upon the President and upon the heads of Departments, and they are to see to the execution of these laws. I ask any gentleman to point out to me how we are creating another branch of the executive department. I say Cabinet officers, if you are pleased to call them such, shall hold their offices during the term of the President by whom they are appointed. How does that make them independent in the determination of the policy of the President? What have they to do but to obey the laws and to obey the order the President may issue as Executive of the United States? Suppose a Cabinet officer should have one line of policy in his Department, and the President should conclude that another line of policy should be pursued, what has the President to do but to order this head clerk to pursue his policy? Suppose he should disobey any mandate of the legislative department embodied in law, what right has he to override the order of the Executive of the United States, who is made by the Constitution chief executive officer, any more than he has to override a mandate of the law, provided the order of the President is within the proper limits of the executive power?

[Here the hammer fell.]

The SPEAKER. Debate is exhausted on

the amendment and on the amendment to the amendment.

Mr. WILLIAMS. I withdraw the amendment to the amendment.

Mr. SCHENCK. I propose to renew that amendment. The gentleman from Pennsylvania, from the Philadelphia district, [Mr. THAYER,] has made a proposition which it seems to me is entitled to great consideration as to what might be the practical effect of denying to the President the right to control the appointment and removal of those who immediately surround him, what are ordinarily called his constitutional advisers, heads of Departments, invited to consult with him from time to time. He says if that be made the law of the land, the consequence would necessarily follow you would make the heads of Departments so independent of the President that upon every question of policy considered in Cabinet meeting they would vote down the President, and thus an executive power would be built up unknown to the Constitution. The gentleman shakes his head. I understood him to make that argument.

Mr. THAYER. The gentleman will allow me a moment to explain. He does not understand what I said.

Mr. SCHENCK. I yield for that purpose.

Mr. THAYER. What I meant to say, and what I presume the House understood me to say, was this: it will be practically impossible for any executive department to carry on this Government without a certain degree of harmony between those who administer the Government in his name and upon his responsibility. I say if in their collective capacity these gentlemen are opposed to him, he will of necessity be compelled to yield. It will be impossible to resist their joint influence, and in that manner they will become practically a new executive.

Mr. SCHENCK. That is precisely as I understood the gentleman—that they will practically become a new executive unknown to the Constitution. Now, I entirely concur with the gentleman in his opposition to this section and desire the amendment as proposed by my friend from New York. But I put my reasons on an entirely different condition of things. I hold that instead of building up a Cabinet power against the President we should strip him of all advisers who have any responsibility resting upon them if we pass this law. What is a Cabinet officer? Not anything known to your laws. The President by the Constitution has a right to call for information from the heads of Departments and to ask their opinion; out of this has grown up the usage or practice of assembling them around him as his advisers. There is no law requiring him thus to consult with them in Cabinet meeting, and the time was when these same officers were not called to advise with him. The Postmaster General was not formerly called a Cabinet officer. By and by he was called in to advise. And so in regard to the Attorney General. Thus it is not a matter of law but of usage.

Now, if you say the President shall not have the control of appointments and removals of the heads of Departments, who by usage are his advisers, what will he do? He will call none of those heads of Departments to advise with him; he will have a kitchen Cabinet; he will reign supreme and alone. He has as much right to call somebody outside to advise with him as to call upon these men in what are called Cabinet councils—not morally, not properly, but so far as any letter of the law is concerned. He may call upon his youngest clerk to advise with him, and the practical effect will be just as bad, I think, as the gentleman from Pennsylvania [Mr. THAYER] supposes, but as I think for a different reason, you will compel the President to give up Cabinet meetings if you force upon him those he does not personally trust, and make him resort to others for the advice which those known to the law as heads of the Departments are ordinarily called upon to give him.

[Here the hammer fell.]

Mr. THAYER. I wished to ask the gentleman before he sat down whether the popular usage to which he has referred, authorizing the administration of the executive department of the Government, by the aid and advice of these Cabinet officers, has not become by an interrupted usage a part of the public law; and whether in his opinion the people of this country would now tolerate the dismissal of these officers by the Executive, and the attempt to carry on the Government without any of their aid.

Mr. SCHENCK. If I may be permitted to reply, I will say that an appeal will have to be made to the people in that case. We are now endeavoring by such acts of legislation as are within our constitutional power to control this matter. If we go so far that we have no power to control it as a legislative body, we then throw the matter over upon the people. The gentleman admits everything I claim when he makes it an appeal to the people for the exercise of legislative power.

Mr. BINGHAM. I rise to oppose the section. There is nothing clearer to my mind than that the last clause of this section is in direct conflict with the express letter of the Constitution. No attempt of this sort has ever before been made in an American Congress. The provision of the Constitution is as plain as it is possible for man to write it, that all appointments that are to be made with the concurrence or consent of the Senate must be made by the President. Therefore I cannot well see how the mover of this bill can persist in having an argument running on here upon a section of the bill which contains a clause of this sort in direct contravention of the instrument under which we are assembled and by the authority of which alone we legislate. That clause of the bill is as follows:

"The heads of Departments shall severally nominate, and by and with the advice and consent of the Senate appoint, all their assistants and other officers within their respective Departments."

Now, how can this become law while the Constitution contains the following provision:

"He [the President] shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice of the Senate shall appoint, ambassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

What appointments are herein—that is, in the Constitution—otherwise provided for than by the President with the consent of the Senate? It is provided therein that Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments. Congress cannot by these terms vest by law these appointments in the President and courts, for it must be in him alone; and to say they can by law vest them in the courts with the Senate is simply to disregard plain words, and would justify an enactment that the courts and town constables jointly might make such appointments. If there is any provision of the Constitution which in any manner authorizes this kind of color legislation I would like to know what it is. The proposition is that—

"The heads of these several Departments of the Government shall hold their offices respectively for four years, unless removed by the President by and with the advice and consent of the Senate; and shall severally nominate, and by and with the advice and consent of the Senate appoint, all their assistants and other officers within their respective Departments."

The point I make is that there is no officer known to the Constitution who is authorized to appoint to office with the consent of the Senate but the President of the United States.

Mr. WASHBURN, of Illinois. The Constitution says that "the Congress may by law vest the appointment of such officers as they may think proper in the President alone, in the courts of law, or in the heads of Departments."

Mr. BINGHAM. That has nothing to do with nominations to the Senate or appoint-

ments made by the President with the consent of the Senate.

Mr. WILLIAMS. The gentleman is mistaken as to the terms of the amendment as it now stands. It does not propose a nomination to the Senate. It places the power in the hands of the Department, subject to approval and consent after the appointment is made.

Mr. BINGHAM. The gentleman then has some other bill than that which been printed.

Mr. WILLIAMS. It is in the printed bill. I modified it some days ago.

Mr. BINGHAM. The gentleman says the printed bill is not the bill as now pending. I should like then to know what that bill is.

The SPEAKER. The Chair has stated several times that the gentleman from Pennsylvania has modified his bill in several particulars. The Clerk will again read the bill as modified.

The Clerk read the bill as modified.

Mr. BINGHAM. I understand the language still to be that the heads of Departments shall appoint all their subordinates and assistants, subject to the approval of the Senate. So it is just reported by the Clerk. That is substantially what I before represented it. The modification is only in words, not in substance.

Now, the point I make is simply this, that the provision of the Constitution for the appointment of certain inferior officers is that Congress by law vested in the President alone, or in the courts of law, or heads of Departments the power to appoint such officers; but that provision never contemplated that by law the Senate might be authorized to disapprove such appointments so made either by the President or courts or heads of Departments. It simply provides that the Congress may by law vest the power in the President or courts of law or heads of Departments to appoint the inferior officers of the Government without consulting the Senate. But what is attempted here is, by act of Congress to vest part of this power in the Senate in connection with the heads of Departments. Why not confer it on any other body or person in whole or in part? [Here the hammer fell.]

Mr. SCHENCK. I withdraw the amendment to the amendment with the understanding that it will be renewed.

Mr. SHELLABARGER. I renew the amendment to the amendment. If I rightly apprehend the drift of the debate, it does seem to me that we are now in danger of falling into some inconsistency in this legislation. There are two constitutional views that have been entertained in this country in regard to this matter of the power to appoint and to remove superior officers of the Government. One class of opinion holds that the Constitution requires, in order to the removal of those whose appointments must be confirmed by the Senate, that the Senate should also assent to the removal. That opinion is the one that was presented very ably by the gentleman who introduced this bill, supported by the very highest class of opinions and authorities; the result of all of which is that it is not constitutional, that it is not competent for Congress to permit, either by legislation or otherwise, a man to be removed without the assent of the Senate who cannot take office without the assent of the Senate. Now, if that be the law, then we can pass this bill. If that be not the law and the practice, then we cannot pass this bill at all; we cannot regulate the matter of removals in those respects in which we propose to do it. But if, on the other hand, the form and scope of this bill is warranted by the Constitution, if, in other words, the Senate must concur in the removal of officers who can only be created by its consent, then it is not competent for us to enable the President, even by law, to remove men from office who cannot take their offices except by the assent of the Senate. Then, sir, what I submit, and all that I submit, is this: let us make our legislation harmonious; let us not say in one section of the bill that a Cabinet officer who must be confirmed by the Senate may be removed without its consent

and our constitutional view in that way violated; let us rather strike down the bill entirely.

This power of removal is either executive and in the President alone, or else it belongs to the President and to the Senate together. Do not, therefore, say in regard to Cabinet officers that they can be removed without the assent of the Senate, and as to other officers that that assent must be obtained.

Mr. WILLIAMS. Mr. Speaker, I desire to say a few words in reply to the argument of the gentleman from Ohio, [Mr. BINGHAM.] He denies the constitutional power of this Congress to enact the second clause of the amendment now under consideration. I do not understand that he holds any objection to the first clause; he seems to regard it as a clear case; so do I. But we differ *tote calo* in our conclusions.

Why may we not exercise this power? Why may we not associate the Senate with the heads of Departments in making appointments? The Constitution authorizes us to vest that power either in the President alone or in the heads of Departments or in the courts. Is there anything there that denies to us the power of regulating the exercise of appointments by subordinate officers? It strikes me that I can furnish authority upon this subject which the gentleman will not question; the authority of a very distinguished judge of the Supreme Court of the United States. Judge Story remarks in his Commentaries, in section fifteen hundred and thirty-seven, that as far as Congress has the power to regulate and delegate the appointment of inferior officers, as it unquestionably has, so far they may prescribe the term of office, the manner in which and the person by whom the removal as well as the appointment to office shall be made. That I think is an authoritative answer to the objections of my friend from Ohio, [Mr. BINGHAM.]

But there is still more. When you come to look into this provision of the Constitution you will find that when the President is spoken of in connection with this matter he is spoken of as "the President alone." The Constitution authorizes you to give the appointment to him exclusively. But when the heads of Departments and the courts are spoken of no such language is used. And the inference may reasonably be drawn that in those cases we may associate with them something in the shape of a supervising authority.

The question was upon the amendment of Mr. HALE (as renewed by Mr. SHELLABARGER) to the amendment of Mr. WILLIAMS.

The amendment to the amendment was to strike out the following:

And shall severally appoint their assistants, and all other subordinate officers pertaining to their respective departments, subject to the approval of the Senate, on report to be made to that body if then in session, or, if during the recess, at the next meeting thereof, to hold for the like period, unless removed with the like concurrence of that body.

Mr. WILLIAMS. I call for the yeas and nays upon agreeing to the amendment to the amendment.

The question was taken upon ordering the yeas and nays, but before the result of the vote was announced.

Mr. WILSON, of Iowa, called for tellers upon ordering the yeas and nays.

Tellers were ordered; and Messrs. WILLIAMS and HALE were appointed.

The House divided; and the tellers reported that there were—ayes forty-one; noes not counted.

So one fifth having voted in the affirmative, the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 78, not voting 36; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Anderson, Baker, Barker, Baxter, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Branderage, Bundy, Campbell, Cooper, Darling, Dawes, Dawson, DeFrees, Denison, Dodge, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Goodyear, Hale, Aaron Harding, Hart, Hise, Hogan, Edwin N. Hubbell, Hulburd, Hunter, Ingerson, Jenckes, Kasson, Kerr, Ketcham, Kuykendall, Laflin, Latham, LeBlond, Marshall, Marston, Marvin, Maynard, Niblack, Nicholson, Niboll, Patterson, Phelps, Plants, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Schenck, Shanklin, Sit-



greaves, Stilwell, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Andrew H. Ward, Elihu B. Washburne, and Woodbridge—77.

**YAYS**—Messrs. Allison, Arnell, James M. Ashley, Baldwin, Banks, Beaman, Bidwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Grinnell, Abner C. Harding, Hawkins, Henderson, Higby, Hill, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Julian, Kelley, Kelso, Koontz, William Lawrence, Loan, Lynch, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—78.

**NOT VOTING**—Messrs. Delos R. Ashley, Boutwell, Chanler, Culver, Davis, Delano, Deming, Dixon, Dumont, Ferry, Griswold, Harris, Hayes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Johnson, Jones, George V. Lawrence, Leftwich, Longyear, McCullough, Morrill, Morris, Radford, John H. Rice, Rousseau, Stevens, Strouse, Robert T. Van Horn, Warner, Henry D. Washburn, Whaley, Winfield, and Wright—36.

So the amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. WILLIAMS, which was to insert an additional section, as follows:

**SEC. 3. And be it further enacted,** That the heads of the several Departments of the Government shall hold their offices respectively for and during the official term of the President by whom they were appointed, unless removed by the President, by and with the advice and consent of the Senate, and shall severally appoint their assistants and all other subordinate officers pertaining to their respective Departments, subject to the approval of the Senate, on report to be made to that body if then in session, or, if during the recess, at the next meeting thereof, to hold for a like period unless removed with the like concurrence of that body.

The question was taken; and upon a division there were, yeas 59, noes 60.

Before the result of the vote was announced, Mr. WILLIAMS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 81, not voting 33; as follows:

**YEAS**—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Beaman, Bidwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Grinnell, Abner C. Harding, Hayes, Henderson, Hill, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulbard, Julian, Kelley, Kelso, Koontz, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Maynard, McClurg, McIndoe, Mercer, Miller, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pomeroy, Price, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—77.

**NAYS**—Messrs. Alley, Ames, Ancona, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Brandegee, Campbell, Cooper, Darling, Dawes, Dawson, Defrees, Denison, Dodge, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Goodyear, Hale, Aaron Harding, Higby, Hise, Hooper, Edwin N. Hubbell, Hunter, Ingersoll, Jenckes, Kasson, Kerr, Ketcham, Kuyken, Ladin, Le Blond, Marshall, Marvin, McCullough, McKee, McKuer, Morrill, Niblack, Nicholson, Noel, Patterson, Phelps, Platts, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Schenck, Shanklin, Sitgreaves, Stevens, Stilwell, Taber, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, Windom, Woodbridge, and Wright—81.

**NOT VOTING**—Messrs. Boutwell, Bundy, Chanler, Culver, Davis, Deming, Dixon, Dumont, Ferry, Griswold, Harris, Hart, Hawkins, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Johnson, Jones, Latham, Leftwich, Marston, Morris, Pike, Radford, William H. Randall, Rousseau, Strouse, Nelson Taylor, Warner, Henry D. Washburn, Whaley, and Winfield—33.

So the amendment was not agreed to.

Mr. WRIGHT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. Mr. Speaker, would it be in order to move to postpone this bill until to-morrow, with the direction that it be printed, together with the amendments already adopted, so that we may know the precise shape in which it now is?

The **SPEAKER**. That motion would be in order. There are, however, two amendments yet to be voted on.

Mr. FARNSWORTH. I will wait, then, until they have been voted upon, and then I will make the motion.

Mr. SCHENCK. I ask the gentleman to include in his motion the substitute prepared by the joint select committee on retrenchment, and also the amendment offered by the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. FARNSWORTH. I will do so.

The **SPEAKER**. The next question is upon the amendment offered by the gentleman from Ohio, [Mr. GARFIELD,] to add a new section.

Mr. GARFIELD. I will modify my amendment so that the section I propose to add will read as follows:

*And be it further enacted,* That it shall be unlawful for any disbursing officer or any officer having charge of public money to pay any money out of the Treasury of the United States or out of any contingent fund, or out of any appropriation whatever, to any person who has been or who may hereafter be nominated by the President to any office for the appointment to which the advice and consent of the Senate is required by law, until the appointment of the person so nominated shall have been confirmed by the Senate; and any public officer who shall pay or receive any moneys, or advise or connive at or consent to the payment of any moneys, in violation of the provisions of this act, shall be held guilty of a misdemeanor in office, and on conviction thereof, by impeachment or otherwise, shall be sentenced to removal from office, and shall pay to the United States a sum equal to the amount of moneys so paid or received, to be recovered, with costs, by action of debt, in the name and for the use and benefit of the United States.

This, I believe, will not come in conflict with any other proposition. I can explain in a few words what it is designed to accomplish.

I think no one will doubt the constitutional right of Congress to enact such a provision. It simply declares that whenever any person shall be nominated by the President to an office, for the holding of which confirmation by the Senate is necessary by law, the person so nominated shall not draw pay out of the Treasury of the United States or any fund belonging to the United States until his nomination shall have been confirmed by the Senate; so that, if one man is turned out of office to make room for another, the latter may feel that in assuming the duties of the office he incurs the risk of never getting any pay in case the Senate should refuse to ratify the removal of his predecessor and the appointment of himself. Thus we shall take away the chief motive which actuates men in seeking to make merchandise of the public offices of the United States, namely, "the bread and butter."

The last part of the section makes it an offense, a misdemeanor punishable by law for any disbursing officer of the country, or any officer having charge of any funds, or any officer whatever, to pay out of any appropriation or out of any fund belonging to the United States, to any such person until he shall have been confirmed by the Senate to the office to which he has been appointed. It seems to me we may clearly do this within the scope of the Constitution. No one can doubt our right to do it; and it is proper even to do it as the most successful mode of taking the bread out of these children's mouths, the children of politics and the children of party. I think it is the most appropriate mode we can adopt.

Mr. MILLER. Does it cover vacancies happening during the recess?

Mr. GARFIELD. The gentleman will observe it does not cover the case of filling up a vacancy happening during the recess. I call his attention to the fact that my section as drawn refers to appointments by the President under the Constitution. It does not call for an appointment when the vacancy happens in the recess. It is then in the power of the President to fill up the vacancy which happens, temporarily to fill it up, whereas the section I have drawn only refers to nominations made by the President, that the persons so nominated shall not draw pay until they are confirmed by the Senate.

Mr. HALE. Does it prohibit the drawing of any warrant on the Treasury?

Mr. GARFIELD. That might be well, but if the money is never paid I do not think that drawing of the warrant will be a serious matter. Still I will make no objection if the gentleman desires to make the modification.

[Here the hammer fell.]

Mr. BINGHAM. I move to strike out the following words in the fifth, sixth, and seventh lines, "by impeachment or otherwise shall be sentenced to removal from office and."

Mr. Speaker, I make this motion for the reason that it is expressly provided, and very wisely, in the Constitution that the Senate of the United States shall have the sole power to try impeachments; and that "the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." This provision of the Constitution undoubtedly left the Senate of the United States the only tribunal in the Republic to determine what is an impeachable offense within the meaning of the term misdemeanors. It is not therefore competent for the Congress of the United States to say any particular act made punishable by statute is an impeachable misdemeanor; yet the bill so provides, by declaring certain acts therein specified misdemeanors in office, and that on conviction thereof by impeachment or otherwise the party convicted "shall be sentenced to removal from office."

The five minutes of time to which I am restricted precludes any fit discussion of this important question. I admit that Congress may declare official acts to be misdemeanors, and as such indictable and punishable in the civil courts, but I submit to my colleague that while you may thus subject to imprisonment for life any civil officer on conviction, you cannot empower the civil court to inflict the sentence of removal from office. That power is committed by the Constitution to the Senate. It is provided in the Constitution that notwithstanding the impeachment of an officer he shall be triable in the courts, and therein subject to "judgment and punishment according to law;" yet it was never intended that the power of removal from office for high crimes and misdemeanors should be vested elsewhere than in the Senate of the United States. Vest this power of removal on conviction in the civil courts, and it might result that the Senate after trial as a high court of impeachment of an officer so sentenced by the civil court might refuse to convict and sentence upon the same state of facts.

If my colleague consents to strike the words out as I have moved, I have no objection to his increasing the penalty either by fine or imprisonment. I hope he will not insist on the words being retained. If there is any power which is exclusively vested in the Senate of the United States as a high court of impeachment, it is the power to determine upon their oaths whether the offense charged is a high crime or misdemeanor within the meaning of the terms as used in the Constitution. It is not in the power of Congress by statute to enlarge or to restrict the causes of impeachment as declared in the Constitution.

[Here the hammer fell.]

Mr. GARFIELD. I was unable to hear the first part of the gentleman's remarks, but I will not object if he thinks it will make the section more perfect to strike those words out. I should be sorry however if it should be taken as an indication that such persons ought not to be removed.

Mr. BINGHAM. Not at all.

Mr. GARFIELD. If we strike them out it will make the sentence too light.

Mr. BINGHAM. I suggested if the sentence is not heavy enough I would agree to add to it.

Mr. GARFIELD. I accept the modification.

Mr. HALE. I rise to propose an amendment to the amendment by inserting in line four, after the words "of this act," the words "or of any other statute of the United States."

Mr. GARFIELD. That is well enough.

The amendment was agreed to.

The next amendment was then read, being offered by Mr. WILSON, of Iowa, as follows:

Sec. —. *And be it further enacted*, That any officer of the Government of the United States who shall appoint or commission any person to an office in violation of the provisions of this act shall be deemed guilty of a misdemeanor in office, and on conviction thereof, by impeachment or otherwise, shall be dismissed from office.

Mr. WILSON, of Iowa. I propose to modify my amendment by striking out the words "by impeachment or otherwise." The object of this amendment is to provide some penalty for violation of duty in the exercise of the appointing power either by the President or by the heads of Departments. It is well known in the history of the country, and not very far back, that the appointing power has been exercised in a manner directly in conflict with the laws of the United States; and yet it has neither been declared by law a misdemeanor nor has any penalty been attached to it. I therefore ask that this amendment may be incorporated in this bill, so that if the President or any other officer of the Government intrusted with the appointing power should exercise it in violation of law he may be reached by impeachment or by conviction in a court, as the case may be, and that if he be found guilty of misdemeanor in office by the high court of impeachment, he may be dismissed from office.

Mr. BINGHAM. I move to amend the amendment offered by the gentleman from Iowa [Mr. WILSON] by striking out the words, "dismissed from office," and inserting in lieu thereof the words "fined in a sum not exceeding \$10,000, or imprisoned not exceeding ten years, at the discretion of the court." I will state briefly my reason for offering this amendment. I think gentlemen will find, when they look at this question considerably, that it was intended when the specific provisions just referred to by me in the discussion of my colleague's [Mr. GARFIELD'S] amendment were put into the Constitution of the United States, to thereby place it beyond the power of a dominant party, a mere majority in the legislative department of this Government, to clothe a court and jury anywhere in this land with the power of impeachment or of pronouncing the judgment of impeachment removal from office. I think it was clearly intended by the men who framed that instrument when they inserted the provision, "the Senate should have the sole power to try all impeachments," and that "the judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States," to limit the legislative power both as to the tribunal to try and the judgment to be pronounced. It seems to me clear that it was intended that this power to try should be confined exclusively to the impeaching tribunal appointed by the people, and that in no event should the people be deprived of their executive head or other civil officer for an impeachable offense on conviction thereof, save by the vote of two thirds of the Senate.

Mr. WILSON, of Iowa. Will the gentleman yield for a suggestion?

Mr. BINGHAM. Yes, sir.

Mr. WILSON, of Iowa. I wish to suggest that by striking out the words "dismissed from office" his amendment will apply to all appointing officers. Now, I believe with the gentleman that no court upon conviction, other than the high court of impeachment, can remove a President from office; but other courts may remove other officers; and yet the penalty of removal from office, if his amendment shall prevail, will not attach to any such officer. It cannot apply to the President because that would be in contravention of the Constitution. Therefore there is no necessity for it unless the gentleman intends to relieve other officers from liability of dismissal.

Mr. BINGHAM. I was led to the remark by what fell from the lips of the gentleman when he first spoke upon his amendment, the gentleman having said that upon conviction

the President of the United States ought to be removed from office.

Mr. WILSON, of Iowa. If the gentleman will allow me to explain, when I speak of conviction in relation to the President and removal from office I mean by the court authorized to remove him.

Mr. BINGHAM. Well, Mr. Speaker, I so understood. There is no misunderstanding.

Mr. WILSON, of Iowa. I do not believe any other court can do it.

Mr. BINGHAM. There is no occasion for any legislation to clothe the Senate of the United States with the power of impeaching the President.

Mr. WILSON, of Iowa. "There is for other courts."

Mr. BINGHAM. The gentleman says "there is for other courts," and yet he tells us that he does not desire to clothe "other courts" with the power of removal from office. That is the very thing he is doing by the proposed section. He has struck out the words "by impeachment or otherwise," and leaves the words "on conviction," which means on indictment and trial before a civil court and conviction therein. How does the section stand, then? Why that "any officer of the Government of the United States who shall appoint or commission any person to an office in violation of the provisions of this act shall be deemed guilty of a misdemeanor in office, and on conviction thereof shall be dismissed from office." That clothes the civil courts with power to remove any officer from office, the President not excepted.

Now, what I desire to impress upon the House is, that in my opinion such legislation is in conflict with the express provisions of the Constitution of the United States and with the manifest intent of its framers. I would remind gentlemen of the remarks made by Hamilton on this subject. He said when discussing this question before the people upon the adoption of the Constitution:

"Where else than in the Senate could have been found a tribunal sufficiently dignified or sufficiently independent? What other body would be likely to feel confidence enough in its own situation to preserve unawed and uninfluenced the necessary impartiality between an individual accused and the representatives of the people, his accusers. Could the Supreme Court have been relied upon as answering this description?" "The awful discretion which a court of impeachments must necessarily have, to doom to honor or to infamy the most confidential and the most distinguished characters of the community, forbids the commitment of the trust to a smaller number of persons. These considerations seem alone sufficient to authorize a conclusion that the Supreme Court would have been an improper substitute for the Senate as a court of impeachments."

I therefore insist on my amendment.

Mr. STEVENS. I suppose the House is about to adjourn, and before it does so I desire to offer an amendment.

The SPEAKER. There is now an amendment and an amendment to the amendment pending. No further amendment is in order under the rules.

Mr. STEVENS. I desire to propose it so as to have it printed. I propose to strike out all after the first section and insert the three last sections of House bill No. 832.

The SPEAKER. When the amendments are disposed of that motion will be in order under the rules, being a proposition to perfect the original bill.

Mr. FARNSWORTH. It seems to me that the best thing that can be done now will be to commit this bill to the Committee on the Judiciary and have it printed with all the amendments. I think very few members of the House know precisely the situation of the bill.

Mr. STEVENS. I thought the House was about to adjourn and I wish to have my amendment printed.

The SPEAKER. It can be printed by unanimous consent.

No objection was made.

Mr. BROOMALL. With the permission of the gentleman from Illinois, I desire to make some modifications in my amendment, so that it may be printed. I desire in the eighth line

of the first section to strike out "ten" and insert "twenty," and to make the same alteration in the tenth line. And in accordance with the vote had, I propose in the fifth line of the third section to strike out the words "by impeachment or otherwise," and the words "removal from office" in the fifth and sixth line, and insert "imprisonment for a term not exceeding ten years."

Mr. FARNSWORTH. I now move that the further consideration of the bill be postponed until to-morrow; and that meantime the bill with the substitutes and amendments pending be printed.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to submit the following amendment as an additional section, in order that it may be printed with the rest:

*And be it further enacted*, That no appointment to any office in the civil, military, or naval service shall be antedated or take effect prior to the time such appointment was actually made; and no salary or compensation shall be allowed or paid to any officer appointed under the authority of the Government, except from the time such officer actually enters on the duties of his office, nor beyond the expiration of his official term.

No objection being made, the amendment was received.

The motion of Mr. FARNSWORTH was then agreed to.

#### NATIONAL CURRENCY.

Mr. HOOPER, of Massachusetts. I am instructed by the Committee on Banking and Currency to ask leave to report a substitute for House bill No. 771, to amend an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, and for other purposes." I ask that it be printed, as the original bill which has been assigned for consideration on Tuesday next is now out of print.

No objection was made, and the substitute was received and ordered to be printed.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, namely:

An act (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown and State of Wisconsin; when the Speaker signed the same.

#### INTERNAL REVENUE FRAUDS.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select committee for the investigation of frauds upon the internal revenue have leave to sit during the sessions of the House.

#### NEW ORLEANS RIOTS.

Mr. NIBLACK. I ask unanimous consent to submit for consideration at this time the following resolution:

*Resolved*, That the President be requested to communicate to this House, if not incompatible with the public interest, all correspondence, reports, and information in his possession in relation to the riot, which is alleged to have occurred in the city of New Orleans on the 30th day of August last.

No objection was made.

The question was upon agreeing to the resolution.

Mr. WASHBURN, of Illinois. I think the resolution is incorrect in one particular. It refers to a riot that occurred in New Orleans on the 30th day of August last. I think it was on the 30th day of July last.

Mr. NIBLACK. I was told that it was in August.

The SPEAKER. The riot was within a few days of the close of the last session, which adjourned on the 28th of July.

Mr. NIBLACK. Very well; I will modify the resolution so as to read, "on the 30th day of July last."

The resolution, as modified, was agreed to.

And then, on motion of Mr. DRIGGS, (at twenty-five minutes before four o'clock p. m.) the House adjourned.

## PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. ANCONA: The memorial of Nelson Bell, of Berks county, Pennsylvania, late a member of company K, third regiment Pennsylvania artillery, praying for an act of Congress authorizing the payment of bounty due him, withheld in consequence of the loss of his discharge certificate by fire.

By Mr. DARLING: The petition of 50 Sandy Hook pilots, asking for an appropriation by Congress to remove wreck of the steamer Scotland.

By Mr. LAWRENCE, of Pennsylvania: The petition and document of Mrs. Margaret Boucher, for increase of pension.

By Mr. SPALDING: The petition of Rev. Samuel M. Beatty, for compensation as chaplain in the United States hospital at Cleveland, Ohio.

By Mr. WILSON, of Pennsylvania: The petition of John P. Gulick, for compensation for services rendered the United States.

## IN SENATE.

THURSDAY, December 13, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. HOWE presented the petition of Mrs. Laura Houghton, praying for compensation for property alleged to have been stolen from her by officers and soldiers of the United States Army at New Orleans; which was referred to the Committee on Claims.

Mr. WILSON presented three petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented the petition of N. Callan, clerk of the levy court, and Samuel E. Douglas, register of the city of Washington, and William Laird, clerk of the corporation of Georgetown, asking for compensation for services rendered in preparing the ballots for the juries for the several courts of the county of Washington, District of Columbia; which was referred to the Committee on the Judiciary.

Mr. MORRILL presented the petition of Nathan Sargent Dustin, praying that his name may be changed to that of Nathan Sargent; which was referred to the Committee on the District of Columbia.

## REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution directing the Public Printer to cause to be engraved the drawings accompanying the annual report of the Columbian Institution for the Deaf and Dumb, and also to print for the use of the institution one thousand additional copies of the report, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 635) to amend an act regulating proceedings in criminal cases, and for other purposes, approved March 3, 1865, reported adversely thereon.

## TRANSPORTATION OF FRICTION MATCHES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (S. R. No. 147) amending the ninth section of an act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam,' and for other purposes," approved August 30, 1852, have directed me to report it back without amendment and to recommend its passage. I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution? It requires unanimous consent.

Mr. GRIMES. It seems to me that the resolution had better be printed.

Mr. CONNESS. Let it be read that we may know what it is.

The PRESIDENT *pro tempore*. The reading of the joint resolution being asked for, it will be read at length.

The Secretary read the joint resolution, which proposes to amend the fifth division of the ninth section of the act of August 30, 1852, so that inspectors may, in the license therein provided for, exempt a steamer from the obligation to carry in a safe, chest, or compartment composed of or lined with metal compact packages of friction matches securely packed in strong, tight wooden chests or boxes, the covers of which shall be firmly fastened on by locks, screws, or other fastenings, and which shall be stored in a safe part of the steamer designated by the inspectors in their license and at safe distance from any fire.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It was reported to the Senate and ordered to be engrossed for a third reading.

Mr. GRIMES. I wish the chairman of the Committee on Commerce would be kind enough to explain the provisions of the measure. As I understand it, instead of putting additional safeguards around the transportation of goods and passengers which it seems to me the public voice unanimously demands all through the country, this resolution takes off some of those safeguards by permitting vessels to carry friction matches otherwise than in the safe that has hitherto been required by the law to be provided.

Mr. CHANDLER. In 1852 a law was passed which contained the following provision:

"Upon the application of the master or owner of any steamer employed in the carrying of passengers for a license to carry gunpowder, oil of turpentine, oil of vitriol, camphene, or other explosive burning fluids, and materials which ignite by friction, or either of them, the inspectors shall examine such vessels, and if they find that she is provided with chests or safes composed of metal, or entirely lined therewith, or one or more apartments thoroughly lined with metal at a secure distance from any fire, they may grant a certificate to that effect, authorizing such vessel to carry as freight any of the articles aforesaid, those of each description to be secured in such chest, safe, or apartment, containing no other article, and carried at a distance from any fire to be specified in the certificate: *Provided*, That any such certificate may be revoked or annulled at any time by the inspectors, upon proof that either of the said articles have been carried on board said vessel, at a place or in a manner not authorized by such certificate, or that any of the provisions of this act in relation thereto have been violated."

That act has never been applied to friction matches until September, 1866; nor was the Department aware of the existence of any such law. In September, a man in Louisville discovered the existence of such a law, and for reasons best known to himself called the attention of the Department to the fact, and compelled the Secretary to issue orders that friction matches should not be carried except in metallic cases. No steamboat in the United States is prepared with metallic cases to carry friction matches. The consequence is that the transportation has ceased; they cannot be carried. They are very bulky. One man in Detroit ships two or three car loads a day. No iron safe can be prepared large enough for them. The Secretary of the Treasury stated to me that he had the matter referred, on this application, to an expert, and that expert told him that you might thrust a red-hot iron bar into a box of friction matches, as at present prepared, and they would not ignite unless you withdrew the bar; you must let in air. This is simply a law which was made to apply to something else, and has never been applied to matches until the present moment. A petition has been sent here, asking for a change of the law, by a very large number of wholesale grocers and others who have occasion to sell friction matches, and the Committee on Commerce this morning unanimously directed this joint resolution to be reported, and I asked that it be put on its passage at once because very great inconvenience is being suffered by the people of the western rivers by the enforcement of this law.

Mr. WILLIAMS. I should like to inquire of the chairman of the Committee on Commerce whether this applies to ocean steamers?

Mr. CHANDLER. It applies to all steamers. Chinese fire-crackers have been shipped with-

out being put in metallic cases for the last five hundred years. They are of the same character as these. This resolution simply leaves things as they have always stood heretofore until this law, which was intended to apply to gunpowder and glycerine oil, was brought to apply to friction matches. They are very bulky and it is utterly impossible to provide iron safes for their transportation.

The joint resolution was read the third time and passed.

## BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 466) for the relief of William L. Adams; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 467) to amend the act entitled "An act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes," approved July 25, 1866; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 468) in relation to the appointment of marshal and also of register of wills in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. YATES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 469) to provide for the publication of amendments to the Constitution of the United States; which was read twice by its title, referred to the joint committee on reconstruction, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 470) to authorize the change of a name; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 471) to authorize the sale of land in certain sand islands to the Mobile Harbor and Railroad Company; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## HOUSE BILL REFERRED.

The bill (H. R. No. 879) relating to brevets in the Army of the United States, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## PRINTING OF STATE CONSTITUTIONS.

Mr. HOWE submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That the Secretary prepare for publication a volume containing the colonial charters and the various State constitutions of each State of the United States, together with all amendments thereto at any time in force, arranging the same in chronological order for each State, and that copies thereof be provided for the use of the Senate.

## PRINTING OF LAND OFFICE MAPS.

Mr. HOWE. I offer the following resolution:

*Resolved*, That ten thousand copies of the maps accompanying the late report of the Commissioner of the General Land Office be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Printing under the rule.

Mr. CONNESS. I desire to ask a question in regard to that resolution. I presume the maps are to be printed, if printed at all, in connection with the report?

Mr. HOWE. No, not this edition. This is an extra edition that I propose. It is simply an edition of the maps.

Mr. CONNESS. Then I hope the Senator will see the propriety of discharging the Committee on Printing at present from the consideration of that resolution, and the other reso-



lution which was referred to them a few days ago, so that the whole subject may be referred to the Committee on Public Lands of the Senate, that they may consider and make a recommendation upon it, and then it can be referred to the Committee on Printing. It is deemed of great consequence by many who have examined the report of the Commissioner of the General Land Office that an extra number of it should be printed, and printed with the maps accompanying it, for the purpose of circulation in Europe through the agencies to be connected with the Exposition at Paris in 1867. For that purpose, if the Senator and other Senators will consent, I will move that the Committee on Printing be discharged at present from the consideration of this resolution and the one referred to them the other day, and that both be referred to the Committee on Public Lands for their consideration so that the whole matter may be considered.

Mr. HENDRICKS. I wish to suggest to the Senator from California that the maps accompany the report, and will be printed with it.

Mr. CONNESS. I am aware of that.

Mr. HENDRICKS. But the reports from the several offices of the surveyors general will not be printed. There is an existing law limiting the reports of the different Departments to a certain number of pages, and because of that law the Commissioner had to leave the reports of the surveyors general out of his report; and if it is the desire of the Senator from California to have the reports of the surveyors general printed there will have to be a special order to that effect. Some of these reports, I presume, are very important, and they have usually accompanied the report of the Commissioner, but under existing laws they cannot.

Mr. CONNESS. My purpose was that this question should have full consideration by the Committee on Public Lands of this body before the Committee on Printing consider it, and I hope that course will be taken.

Mr. HOWE. Allow me to say that I have very little choice as to whether the resolution goes to the Committee on Printing or to the Committee on Public Lands. I have a resolution in my hand that refers to the printing of some copies of the report of the Commissioner for distribution at the Paris Exposition, and that I propose to send to the Committee on Public Lands. The purpose I had in view in offering the resolution now before the Senate was entirely different; and that was, to get some extra copies of some new maps, very valuable, I think, for home consumption, and not very valuable for foreign distribution.

Mr. CONNESS. Let the whole matter go to that committee.

Mr. HOWE. Very well; I will change my motion and ask to have the resolution referred to the Committee on Public Lands.

The PRESIDENT *pro tempore*. That change will be made, no objection being interposed.

Mr. RIDDLE. I object. I think the proposition involves a probable expense of \$25,000, and the Committee on Printing have been in the habit of investigating these questions and reducing the expenditures. It is usual for such subjects to go to the Committee on Printing, and that committee having investigated them heretofore I think are competent to decide upon the propriety of this resolution.

The PRESIDENT *pro tempore*. Then the question will be on discharging the Committee on Printing, to whom the resolution was referred, from its further consideration and referring it to the Committee on Public Lands.

Mr. CONNESS. My purpose, I will say to the Senator from Delaware, was not to discharge the Committee on Printing from the consideration of that portion of the question that belongs to them legitimately. When the Committee on Public Lands shall have reported upon the policy of an extra publication, then I desire that that report shall go the Committee on Printing, and in that way we shall get at what the Senate want in all probability. I hope, therefore, that that course will be taken,

for it will be regular, and if the Senator will permit me to have the question put on sending the resolution to the Committee on Public Lands, I will make that motion now.

Mr. RIDDLE. I withdraw my objection. That explanation is satisfactory.

The PRESIDENT *pro tempore*. Then by common consent the Committee on Printing will be discharged from the consideration of the resolution, and it will be referred to the Committee on Public Lands, no objection being interposed.

#### LAND OFFICE REPORT FOR EUROPE.

Mr. HOWE. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire and report upon the expediency of printing the report of the Commissioner of the General Land Office for the year ending June 30, 1866, in the different languages spoken on the continent of Europe, for distribution at the Paris Exposition.

There being no objection, the Senate proceeded to consider the resolution.

Mr. POMEROY. Does that mean all the languages that are spoken in Europe, or only some of the principal ones, such as German and French?

Mr. HOWE. I did not undertake to specify in the resolution just how many languages nor which the report should be printed in, but I proposed to refer the matter to the Committee on Public Lands, who I suppose will determine it.

Mr. POMEROY. The Committee on Public Lands have several letters and communications asking to have the report printed in German and French, but the Senate have never ordered any of these reports to be printed in any foreign language, and I do not know whether it would be the sense of the Senate to order them to be so printed now. If the Senate are in favor of this resolution, I think it would be very agreeable to the committee to report it.

Mr. HOWE. The simple question is, whether the Senate will direct the Committee on Public Lands to inquire into the expediency of such a publication; that is all.

Mr. POMEROY. Very well; let it go to the committee.

Mr. DOOLITTLE. I suggest to my colleague whether the question of printing this report in foreign languages and distributing it in foreign countries does not appropriately belong to the committee over which the gentleman from Massachusetts [Mr. SUMNER] presides, the Committee on Foreign Relations?

Mr. HOWE. This question of conflicting jurisdiction here is one that embarrasses me more than any other; and it happens because the boundaries of the different jurisdictions do not seem to be very accurately defined. This is a question of the expediency of printing in the different foreign languages a report from the Commissioner of the General Land Office just made to Congress. Now, whether that belongs to the Committee on Public Lands, to the Committee on Printing, to the Committee on Agriculture, to the Committee on Foreign Relations, to the Committee on Mining, or to the Committee on the Pacific Railroad I am unable to determine; but I do not think it is of any very great importance which committee does consider it. I propose to have the Committee on Public Lands inquire first and I have no particular objection to its going through the roll of the other committees afterward.

Mr. SUMNER. I should like to hear the resolution read again.

The Secretary read it.

Mr. SUMNER. I have no desire to take to the committee with which I am connected any other business than that which naturally belongs to it, but by repeated votes of the Senate the whole subject of the Paris Exposition, the appropriations for it, and what the United States should do for its representation there has been referred to that committee, and it has reported repeatedly upon it, and the appropriations which have already been made have been made on the recommendation of that committee.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution. The resolution was adopted.

#### ADMISSION OF COLORADO.

Mr. WADE. I move that to-morrow be set aside for the consideration of the bills for the admission of Nebraska and Colorado. I wish them acted on at an early day, and I hope we shall meet to-morrow and dispose of them.

The PRESIDENT *pro tempore*. It is moved that the bill for the admission of Colorado be made the special order for to-morrow.

Mr. HOWARD. At the last session the two Houses of Congress passed a bill for the admission of Colorado as a State of the Union, and it had the misfortune to encounter the presidential veto, and we have never yet taken up the bill as returned by the President to the Senate for reconsideration. It strikes me that we might very properly proceed to the consideration and disposition of that veto message and the bill which was the victim of it at an early period in this session. I see no necessity, I must confess, for introducing another upon another and separate bill for the admission of Colorado while a bill for the same purpose is still pending before us. I merely throw out this suggestion to my friend from Ohio.

Mr. WADE. That subject is not up. Whether we shall act on the veto message or on a new bill will be proper for consideration when the question comes up. I do not know that that is a very important matter. My object is to have the question disposed of. I find, however, that there is an opposition among Senators to making the bill a special order for to-morrow, and as I do not know that anything is to be gained by that, I will content myself with expressing the hope that we shall not adjourn over from to-day, and I give notice that I shall early to-morrow move to take up the bill.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Ohio as withdrawing his motion.

Mr. WADE. Yes, sir. I withdraw it.

#### NATIONAL BANKS.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to report to the Senate the names of the several national banking associations which have failed to comply with the provisions of law requiring a reserve of money on hand; and that he report what legislation, if any, is necessary to enforce against such associations the provisions of the law.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 378) releasing to Francis S. Lyon the interest of the United States in certain lands.

Also, that the House had passed a concurrent resolution for the adjournment of the House from Thursday, the 20th instant, to Thursday, the 3d day of January next.

#### ENROLLED BILLS.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown, and State of Wisconsin; and the enrolled bill (S. No. 373) releasing to Francis S. Lyon the interest of the United States in certain lands.

#### SUFFRAGE IN THE DISTRICT.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will call up the unfinished business of yesterday, which is the bill (S. No. 1) to regulate the elective franchise in the District of Columbia. That bill is now before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Connecticut [Mr. DIXON] to the amendment reported by the Committee on the District of Columbia. On this question the Senator from Missouri [Mr. HENDERSON] is entitled to the floor.

Mr. HENDERSON. I do not desire to be heard on the subject.

Mr. GRIMES. Let the amendment of the Senator from Connecticut be read.

The Secretary read the amendment of Mr. Dixon, which was to insert at the end of the first section of the committee's amendment the following proviso:

*Provided, That no person who has not heretofore voted in this District shall be permitted to vote unless he shall be able at the time of offering to vote to read and also to write his own name.*

Mr. COWAN. Mr. President, I do not know what I might say if this were really an intelligence qualification; but of the fact that the ability of a man merely to write his own name and read it is intelligence I am not informed. One of my friends near me suggests that it is not even necessary that this writing which he is to read should be in the English language; it is not even necessary that it should be in any language other than that of the person who is supposed to be able to read. But, Mr. President, to be serious about this thing, what kind of a qualification is it for the exercise of the duties of an American citizen that he be able to read and write his own name? To write a man's name is simply a mechanical operation. It may be taught to anybody, even people of the most limited capacity, in twenty minutes; and to read it afterward certainly would not be very difficult. I have the highest respect for the sagacity, the intelligence, and the statesmanship of my honorable friend from Connecticut, [Mr. Dixon,] but I really (why it is I am not prepared to say now) cannot see the force of this qualification which he proposes to attach to negro suffrage.

I understand that in Massachusetts—and, by the by, I may as well remark that Massachusetts is "the hub of the universe," even so far as Maine is concerned, and that it is from Massachusetts that we are now to derive all our ideas, particularly upon the subject of Government and upon new reforms—I understand that in Massachusetts a man is not only required to read, but he is required to read the Constitution of the United States. Whether he is required to understand it or no, I am not prepared to say, I am not informed; but I suppose that even Massachusetts herself would not pretend that it was any kind of qualification for a man to read unless he understood, because that has been the difficulty in all ages from the earliest times. The thing was not only to read, but to understand. Now, if it be the case that in Massachusetts a man must read the Constitution and must understand it—I mean not only understand the words in the Constitution but their significance in the connection in which they are found there—then I agree that I will admit and I will go heart in hand for every man as a voter who can do that. The man who can read the Constitution of the United States and who can understand it, understand its words, its meanings, its phrases, is qualified not only to be an American citizen but I should say he would be very well qualified for a seat upon this floor; because I think I have met Senators here who failed to recognize any difference between a bill of attainder and an attainder for treason. I think I have found here that Senators failed to recognize what was meant by an *ex post facto* law. I have seen here that Senators were defective in a great many respects so far as constitutional learning is concerned.

But the idea of setting up this mere mechanical art of writing a man's name and being able to read it as a standard, to me is mockery. Such an intelligence qualification as a general rule is a mockery. If you ask the radical side of this House to-day whether it is for want of intelligence that they complain of their opponents, they will tell you "No; those conservative fellows can read and write as well as anybody; some of them really are very learned men; some of them have grasped the whole range of the sciences; it is not because they cannot read and write; it is not because the avenues of knowledge are not open to them;" but what a party always complains of on the

part of its opponents is that they are rascals; they intend to destroy the country, they intend to overturn its institutions, they intend to destroy liberty, and on the whole they are the very incarnation of concentrated diabolism! It is not because people do not know that they are supposed to be incapable of performing their duties as American citizens—I mean the mass of them—it is because they are supposed to be perverse, they are supposed to be malignant, they are supposed to be so far impregnated with that general malice which makes them oppose that which is a good thing if it comes from their opponents, just as I was encountered the other day in starting a very good thing. It was opposed by a great many persons because it came from me. That illustrates exactly the position of the great parties of the country. "No good thing can come out of Nazareth" was the old cry. We have a man in my town who is particularly obnoxious to some people; and they do not take any newspapers; they do not read anything about politics; but on the morning of the election they come into town and inquire how he is going to vote, and they vote on the other side. You see how cheap that is, how easy it is, how much it saves, how much of trouble and turmoil and difficulty and contention you get rid of by adopting some simple method of that kind when you come to determine whether you will support a particular project or not. There are other people that you know of, perhaps, and I, too, who use the same economical method of preparing themselves for political duties, but in a different form, by taking for instance some exceedingly intelligent gentleman as my friend from Iowa; and coming into town in the morning and asking, "How is Mr. GRIMES going to vote? Mr. GRIMES is a sound man, I am going to vote just as he votes."

All these methods are resorted to; but I believe that I have never yet encountered any difficulty upon the score of reading and writing, and particularly reading and writing a man's name, which, as it has been suggested, may be in a foreign language, may be in a language utterly unknown to anybody except the writer. If he chooses to say there is such a language as that in which he writes, how are you to determine it?

I feel constrained to vote against the qualification proposed by the honorable Senator from Connecticut. I do so moved by the considerations which I have stated. I do so more from a feeling of the utter insufficiency, the utter inadequacy of his qualification. If I had been consulted as to the proper safeguard to throw about this privilege which we are to grant to the colored citizens of this District, I would have desired another one, a very different one, and one for which I think there are more precedents even than for the one he has chosen to father and adopt; and that is that no person should be admitted to this privilege who had voluntarily given aid or encouragement to the recent rebellion. I think that would be proper, because I have learned—whether from authentic sources or not I cannot say, not being sufficiently acquainted to determine—that a great many colored people of this District really sympathized with the South in its late struggle for independence, and if they had any favors whatever to bestow would have given them in that direction, and that in many cases they really did. Whether they aided the discomfited confederate upon the same principle that they helped our prisoners and our unfortunate soldiers down South, I cannot say; but it is pretty clear that there are people of that class; and if the number is to be limited or qualified in any way I should think that much more proper than merely to set up this shadowy, unsubstantial, mechanical—because it has but very little of intellect about it—qualification of being able to read and write one's name. Therefore, Mr. President, with all deference to those who suppose they can fix some measure by which to gauge a man's patriotism, to gauge his virtue, to gauge his intelligence, I shall be obliged to vote against this proposition.

Mr. FOSTER, (Mr. ANTHONY in the chair.) Mr. President, I differ very widely from the honorable Senator from Pennsylvania in my estimate of reading and writing. The Senator from Pennsylvania agrees with the Senator from Delaware, who spoke yesterday almost sneeringly of reading and writing, thinking it was a very small affair, and that it had very little to do with qualifying a man for the exercise of the elective franchise or any intellectual or moral pursuit—

Mr. SAULSBURY. Let me correct the honorable Senator.

Mr. FOSTER. Certainly, if I misrepresented him.

Mr. SAULSBURY. To the extent of reading and writing one's name. I spoke of that alone.

Mr. FOSTER. I did not so understand the honorable Senator. Of course I submit with great pleasure to the correction.

Mr. SAULSBURY. That is what I meant.

Mr. FOSTER. That, however, is not and was not the proposition before the Senate. I was sorry also that the honorable Senator from Massachusetts [Mr. WILSON] expressed an opinion similar to the opinion expressed by the Senator from Pennsylvania and the Senator from Delaware in regard to reading and writing being a qualification for a voter. The honorable Senator from Pennsylvania, from the manner in which he treats this subject, I should think was now fresh from his reading of "Much Ado about Nothing," and was quoting Mr. Justice Dogberry, who, said I believe—the honorable Senator will correct me if I misquote, for he is very fresh in his readings of the English and other classics—"to be a well-favored man is the gift of fortune, but to read and write comes by nature." Like that very high authority, Mr. Justice Dogberry, the honorable Senator from Pennsylvania and the honorable Senator from Delaware, and I am sorry to include in the same category the honorable Senator from Massachusetts, seem inclined to say—"away with writing and reading till there is need of such vanity."

Now, I agree that to be able simply to read and to write does not prove that a man has either the intellectual or moral qualifications necessary for a voter in the United States. But, sir, when I agree to that I must be permitted to lay it down as a proposition that the man who cannot read and who cannot write is in all human probability unqualified to perform the duties of an elector. The avenue to all the knowledge necessary to qualify one for that duty seems, under those circumstances, to be absolutely closed to him. It is possible, I agree, that a man who can neither read nor write may have sufficient intelligence to cast a vote; but such a case is exceptional; the great mass of mankind who can neither read nor write surely have not that intelligence which voters in this country ought to have and must have if our institutions are to be upheld and perpetuated.

The honorable Senator from Pennsylvania is mistaken in supposing that this idea comes from what he calls, perhaps correctly, the "hub of the universe," Massachusetts. Massachusetts is certainly a most distinguished and renowned State; her people are intelligent and learned, but they did not discover the propriety or necessity of establishing as a test in their constitution the ability to read and write as a necessary qualification for their electors. Several years before Massachusetts incorporated such an article in her constitution the State of Connecticut had made reading a necessary test for the qualification of voters in that State. This was not in the ancient days which the Senator from Pennsylvania might take pleasure in characterizing as the "blue law" times, but at a later period, after our people had been enlightened by the intelligence of Pennsylvania. In the year 1855 the people of Connecticut adopted as an amendment to their constitution in substance the following:

"No person who cannot read any article of this constitution or any section of the laws of this State shall be admitted as an elector."

The State of Massachusetts copied that in substance two years after, in the year 1857. And, sir, I submit to the honorable Senators from Pennsylvania and Delaware and Massachusetts that it is in very bad taste to sneer at reading and writing as qualifications for voters. I was astonished to hear the honorable Senator from Massachusetts express the opinions he did on that subject. I cannot but think that the great majority of the intelligent—and most of the people of Massachusetts are highly intelligent—the great majority of the people of Massachusetts if the question were put to them to-day would say a man should not vote in that State who cannot read and write.

The State of Connecticut first adopted a constitution, having till that time lived under the charter of King Charles, in the year 1818. One of the qualifications of an elector in that constitution was that he should be a man of good moral character. There were various other qualifications. In 1845 an amendment was adopted enabling all white males twenty-one years of age and of good moral character to become electors. In Connecticut we have always made the possession of a good moral character a necessary qualification for an elector, and in 1855, as I have before stated, we added to that qualification, or rather we denied the privilege of an elector to any person who should thereafter apply who could not read any article of the constitution or any section of the statutes of the State.

Mr. President, I do not believe that that was going backward in human progress; on the contrary I believe it was going forward, and I believe the idea of admitting men to the elective franchise who can neither read nor write is going backward and downward. We all agree—at least I hear no one bold enough to deny it that intelligence and morality are at the basis of free institutions: On intelligence and morality, under God, all free Governments, all free institutions must rest. Why, then, are not intelligence and morality necessary attributes in those whom we admit to exercise and enjoy the elective franchise? Why sneer at reading and writing when almost all the knowledge which the world has thus far accumulated can be acquired now only by reading; I mean substantially all, of course not literally and absolutely. The knowledge of the past comes to us substantially through history, and history comes to us through the volumes which are stored in our libraries, and we acquire from them the wisdom of past ages. Now, where a man, no matter from what cause, cannot thus become acquainted, through books, by reading, with the wisdom of past ages, nor with the events and occurrences of the day, I say he is not and cannot be an intelligent, and is not therefore a safe voter.

I was astonished also to hear the honorable Senator from Massachusetts say that from 1789 to the present time we had suffered little from ignorance. The assertion was not indeed made, but the idea was pretty clearly expressed, that the evils we had encountered were rather chargeable to the intelligence of the people, that the late rebellion had been caused by intelligent, acute, well-informed men, and that the ignorant were disposed to support the flag of the Union and stand by the Government. I certainly differ from that honorable Senator most widely on that proposition.

It is true that many of the men who were active in inaugurating this rebellion were men of intelligence, men of culture, men of education, but most of them were ignorant of the real condition of this country, lamentably ignorant of the free States, ignorant of the stuff that the men inhabiting the free States were made of, and of the temper and capacity of those men to resist aggression. Had they not been thus ignorant they never would have incited this rebellion. Further than that, the great mass of the southern people who joined in the rebellion were not thus intelligent and educated; they were ignorant, grossly ignorant. The masses from the southern States, who made

up the bulk of the armies in the field, were ignorant, unlettered men; many of them could neither read nor write. These were the men who furnished the support, the strength of the rebellion, the men who fought its battles, without whom it could not have lasted six months. Ignorance was the cause of the rebellion; ignorance sustained it; intelligence, morality, and patriotism overcame it. The honorable Senator would make up an issue between intelligence on the one side, and perhaps equal or greater intelligence on the other. That was not the true condition. It was, I repeat it, an issue between ignorance, ignorant men led on by men of disappointed ambition, wily demagogues, evil designing men, who can always impose upon the ignorant and lead them where they list, and true and loyal intelligent men. Thank God, the true and patriotic men of the country were numerous enough and strong enough to overcome in the struggle; but if reading and writing had not been more common in the northern and free States than in the southern States the rebellion would have triumphed, and we should not be sitting here to-day.

Mr. President would not occupy that chair, no Senator here would occupy a seat in this Chamber to-day if reading and writing had not been more universal through the northern and free States than in the southern and slave States. The ablest and most popular northern leaders could never have set on foot such a rebellion as this in the free States because the people were too intelligent to be thus imposed upon. I repeat it, I was astonished to hear the honorable Senator from Massachusetts intimate that ignorance had done little or no harm in this country. Ignorance connected with its handmaid, or rather with its twin sister depravity, has done all the harm; where you find ignorance you find depravity almost universally.

Now, sir, it must not be understood that I am not in favor of enlarged suffrage. I am. I lay it down as a proposition that the broader you can with safety make the basis of suffrage, the more stable, the more firm will be the foundation of your Government, and for the most obvious reasons.

If I am asked, "Would you let every person vote?" I reply, "Yes, I would let every person vote who is fit to vote." I voted yesterday to allow what is called female suffrage, not because, as I think, the great mass of the women of this country desire to vote. I know, on the contrary, that within the circle of my acquaintance and observation the great mass of them do not desire to vote; but that is not the question. I should not be disposed to grant to a class of persons the right to vote simply because they desired it. The desire to do a thing or to occupy a position, however strong that desire may be, is not always the best evidence of the necessary qualifications. We may desire to do many things for which we are unfit, and we may be unwilling to perform many duties for which we are eminently fit. I voted for female suffrage because in principle I can see no reason for denying the right to every person who is fit to vote. Of course it makes a Government strong to enlarge the basis of suffrage as far as you can with safety, for you thus bring every person, so to speak, into the Government; it makes every person an integral part of the Government; every person feels that to some extent it is his Government, and his interest and his duty will therefore be to protect, support, defend the Government, because it is his, and because he is a constituent part of it. Such a Government will have elements of strength and perpetuity which no other Government on the earth can have. A Government which does not thus grant the elective franchise to all its people who are fit to exercise the right cannot be so strong as one which does. The persons who are left out make an element of weakness. They may not be hostile to the Government, but in time of emergency and great peril it would, in my apprehension, be safer to subtract this power

from the sum total of the power of the body-politic than it would be to add it to that sum total.

But, Mr. President, while I am thus in favor of this enlarged suffrage without reference to race or color or sex, I am not in favor of allowing ignorant, grossly ignorant men, the mass of whom because of their ignorance will also be criminal, to exercise the right of suffrage. I believe it cannot be done with safety.

It is not strange, sir, that there should be diverse opinions on this subject. While some argue for extending this privilege to all classes, all sexes, all colors, making perhaps the attainment of a certain age the only qualification, others would restrict it to the male sex of one race, others would restrict it with certain qualifications of intelligence and morals. I am one of those who, while I go for the largest extension, would have a qualification of intelligence and morals, and have that an essential qualification, and I do not believe that the interests of society will be safe unless you apply some test as a qualification for your voters.

I would ask the honorable Senator from Massachusetts, whether if he were a member of the State Legislature at home, as he often has been, he would vote for a Senator in this body who could neither read nor write. He may say that such a contingency is not probable. I agree that it is not, but it is possible. It is possible that such a man may be a candidate for the Senate from the State of Massachusetts; that is, it would be possible if it were not for the qualification she requires. He is for abolishing the qualification; and in that state of things a man might be a candidate for the Senate from Massachusetts who could neither read nor write. I must take leave to presume, in the absence of the honorable Senator's denying the assertion, that he would not vote for a man to represent his State in this body who could neither read nor write. I take it I have his assent to that proposition. I take it he would not vote in this body to confirm a man as a judge or as Chief Justice of the Supreme Court who could neither read nor write. I trust I may assume that no member of this body, not even the honorable Senator from Pennsylvania, or the honorable Senator from Delaware, would vote to confirm a man as a judge or as Chief Justice of the Supreme Court who could neither read nor write. I trust not. I believe not. And why not? Because they would say it is impossible that a man who can neither read nor write should be qualified to discharge his duties in this body or his duties on the bench of the Supreme Court.

There would I take it be great unanimity of opinion on that question. If that be granted, I would ask these same gentlemen whether they would vote to constitute a tribunal, if there were such a one known to our Constitution, or if such a one should be created, higher than the Supreme Court, higher than the Senate, higher than Congress whose duty it should be to revise the proceedings of the Supreme Court, the proceedings of Congress, and correct whatever errors they found in the administration of those two tribunals. Of course they would say that they would not vote for men to sit in that tribunal who could neither read nor write; for surely they would not call upon men who could neither read nor write to correct the errors of men who could read and write, and to fill whose places they would not permit men who could not read and write to sit.

Now, Mr. President, I understand all these gentlemen to be prepared to vote to allow men who can neither read nor write to vote at the ballot-boxes. And what are the ballot-boxes, and who are the men who come forward to deposit their ballots in the ballot-boxes? They are the people of this country to whom all questions must ultimately go for examination and correction. Every act of Congress may under certain circumstances come before the Supreme Court for construction as to its constitutionality. The Supreme Court, if they set it aside on the ground of its unconstitu-



tionality, in one sense annul the law; but all of us of course are subject at all times to error. The Senate and every tribunal is fallible; and the Supreme Court being fallible, are liable to make mistakes, and where are their mistakes corrected? They are corrected at the ballot-box and they can be corrected only at the ballot-box; not directly I agree; a decision of the Supreme Court is not directly reversed at the ballot-box. I do not claim that; but if the Supreme Court make a decision which the people of this country, a majority, think to be unsound and wrong they will take a course which will reverse that decision. It will take some time to do it, but it will certainly be done. If an act of Congress perfectly constitutional is in the judgment of the people an unwise and impolitic and injurious law the people will take measures at a very early day to have that law repealed, and it will be done. It will be done through the people acting at the ballot-boxes. They correct the mistakes which we make and which Congress makes and which the Supreme Court makes. The electors at the ballot-boxes are the grand court of errors for the country. Now, sir, these Senators propose to allow men who cannot read and write to correct our mistakes, to become members of this high court of errors. It seems to me I confess little short of an absurdity to say that while men ought not to sit in Congress, ought not to sit in the Supreme Court who can neither read nor write, we will put it in the power of men who can neither read nor write to correct their errors, rectify their mistakes. How far short of an absurdity is it? This is suffrage without intelligence, without morality.

Mr. President, I am not prepared for that. The honorable Senator from Massachusetts says he wants to put the ballot into the hands of the black man for his protection. If he cannot read the ballot, what kind of protection is it to him? A written or printed slip of paper is put into the hands of a man, black or white, and if he cannot read it, what is it to him. What does he know about it? What can he do with it? How can he protect himself by it? As well might the honorable Senator from Massachusetts put in the hands of a child who knew nothing of firearms a loaded pistol with which to protect himself against his enemies. The illustration is by no means wanting in its force in various respects. The child would be much more likely to endanger himself and his friends by the pistol than to protect himself. A perfectly ignorant man who cannot read his ballot is much more likely to use it to his own detriment and to the detriment of the country than he is to use it for the benefit of either. It seems to me ridiculous to talk about putting the ballot into the hands of a man who, when he has got it, cannot determine the character of it. Whether he proposes to vote for one man or another; whether he proposes to vote yea or nay on any question, the ballot does not inform him. Is there any protection in that?

I submit, sir, that on general principles without intelligence there can be no safety in allowing people to vote; there can be no safety in ignorant suffrage. I know that the honorable Senator and other gentlemen here make an appeal in regard to the blacks of the country because as it is said, and truly said, they have for a long period of time been held under oppression; it has been a criminal offense for them to learn to read; and now to make reading or writing or both a qualification of suffrage is adding insult to injury. I do not so understand it. I do not understand that because we have been doing a cruel wrong and injustice to these people for centuries we are thereby bound to give them privileges which will not inure to their benefit, and which will be dangerous to society. Did I not believe they would be thus dangerous I should vote most cheerfully to give every man of them the right of suffrage. I do believe that the principle is unsound, unsafe, dangerous in a free community, and I cannot vote for it.

It is intimated that the freedmen will vote right on questions now pending before the country. They, as it is asserted, know enough to know their friends, and they will vote right. That means, I suppose, that at the present time these men would cast ballots such as the honorable Senator from Massachusetts and I would cast at the same time, if we were authorized to vote at the same place; and it means that men like him and others in whom these people might have confidence would put ballots into the hands of those of them who cannot read, and tell them what the character of those ballots was, in order that they might deposit them in the ballot-boxes and have the benefit of their votes. So far as the results are concerned at once and immediately it might be well; but when we are making a law in regard to suffrage we are not taking the part of men who are electioneering for a particular canvass; we are making a law which should have in it wisdom, which should have in it strength, and which is entitled, at least so far as we can judge, to remain perpetually on our statute-book. In that state of things, I say, and I think history verifies the assertion, that it would be entirely unsafe to give to men whom we can influence to do right now a power which years, and possibly ages, after will be in the same hands, during all which time they will be subject to evil influences, and far more likely to do wrong than to do right.

As to the question of hardship to the blacks, it is greatly overestimated; many of them can read now, those who cannot will soon learn, and the right to vote is a healthy stimulus to them to acquire knowledge; very few will be excluded by this test in two years' time. I cannot regard it so certain as gentlemen seem to do that these people will be sure to vote on the right side. How long will it be before these men forgetting the wrongs, injuries, and cruelties that have been practiced upon them in the state of slavery to which they have been subjected will be forming new relations, new ties, new friendships? The honorable Senator from Massachusetts even anticipates that it will be a very early day, for he says with a significance which perhaps will astonish himself when he comes to contemplate the full bearings of it, that the moment these men have the ballot those who formerly oppressed and tyrannized over them will be courting their friendship and treating them kindly. If that should happen, what would be the result? There would be the tie of friendship, of kindly influence immediately arising between those who had at a very late period been in this relation of antagonism. The honorable Senator repeated more than once "they know enough to know their friends." The African race, I believe, is peculiarly susceptible to the feeling of gratitude; they remember benefits; and if their former masters, even those who have been cruel to them, come forward and treat them with kindness, with friendship, with justice, with generosity, they will be drawn to those masters by a tie stronger than any extending from South Carolina to Massachusetts, and one that will be much more efficient and much more practicable. The very men who are now yielding to right influences and who will vote with those who are voting right will be led, I fear, to vote wrong, and will be giving strength and irresistible strength to a power against which the honorable Senator from Massachusetts has been warring for many years of his active and useful life, southern aristocracy. Now, if the ballot is put in the hands of these men at this time he will find it necessary within a few years to war with this same power hereafter; I fear to his dying day, which I hope will be very remote.

Though men who are ignorant and uninformed may for a time be influenced on the right side of a question, yet as a general rule those men will be influenced most easily and most certainly to go on the wrong side. The honorable Senator from Massachusetts cannot play the wily demagogue, the evil-designing

man. There are men in this country who can, and the men who can will dupe the ignorant. Ignorant men are always tools and instruments in the hands of the ambitious, the unprincipled, the unscrupulous. They are a potent element of strength in the hands of such men, and can be used for the most mischievous and dangerous purposes. You increase the power of such men indefinitely when you grant the elective franchise to persons ignorant, simple, credulous, grateful for kindness, ready to bestow their confidence where they receive kindness, and ready to be led in any direction by men to whom they give their confidence. In this struggle for influence the Senator from Massachusetts and those who act with him—and it is my pleasure and my pride almost always to act with him—will find themselves beaten, overcome to a certainty. I repeat we are not making a law for one year or for two years, but we are making a law which we ought to consider perpetual; a rule for voters not merely in this District, but one which would be safe and salutary if adopted throughout the United States.

Under these circumstances I support the amendment proposed by my colleague to the amendment reported by the committee. I wish it were somewhat stronger, but it is better than no qualification. If it shall be adopted I shall then move, if no other Senator does, an amendment declaring that this provision shall not apply to men who have borne arms for the country during this rebellion. I would give such men the right to vote, even though they could neither read nor write. I think, under those circumstances, we should break the rule, first, because it would be but just to do so, and in the next place, the number would not be large enough to exercise a controlling influence. While I do not agree to the doctrine that the ballot and the bayonet necessarily must go together, for, as the honorable Senator from Missouri showed us conclusively yesterday, and as others have showed, there is no connection between them; yet where men have borne arms for the Government in this rebellion I would give them the right to vote, even though they were illiterate.

If, Mr. President, I need any excuse for supporting this amendment, I beg leave to refer again to the constitution of my State, not, of course, binding on me as a representative of that State here, but still a light to guide me in my actions to a certain extent. We all, as I trust, respect the constitution and laws of our own State, and unless we assume to be wiser than those who made the constitution of our State and who make its laws the principles of that constitution and of those laws will have their proper influence upon our action in this body. As I have said, Connecticut has this article in her constitution, superadding to it the qualification of a good moral character. I would be glad if that, too, could be adopted here; but it would be hardly practicable to carry that into effect, although in my own State it has been a test of qualification from the earliest times. While I by no means claim that every elector in that State is a man of good moral character, I still think that provision of the constitution has been and is a wholesome and salutary one. It has had an effect on young men coming forward to be qualified as freemen of the State. The fact that when they presented themselves before the board where every man takes what we call the freeman's oath before he is admitted as an elector, the fact that a man knows that the question of his moral character will come up and may be examined, has had a salutary effect, not that it makes every man moral, for we have our bad men as well as other States.

Mr. MORRILL. If my honorable friend will allow me, I wish to ask him whether he finds it practicable in the actual administration of affairs to carry out that provision? Are men in that State interrogated and excluded for want of morality?

Mr. FOSTER. In reply to the honorable Senator, I will state that I have heard the

question asked before the board repeatedly, whether the applicant was a man of good moral character. The question is not universally asked, but I have known testimony to be taken up on the subject. The provision is not a dead letter in our constitution, although I repeat we do admit men unfortunately who are not really fit men, as we break the Maine law, which we derive from the honorable Senator's State. It is against the law of our State to sell intoxicating beverages; but I admit, and I regret to admit, that the law is broken, shamefully broken; but still I believe it exercises a valuable restraint in many sections of the State.

My honorable friend on my right [Mr. Cresswell] asks how it is as to men who become immoral, vicious, after they once have been admitted to the list of voters. In regard to them, I may say that unless convicted by a court of a crime which makes them infamous, they are not excluded. The tribunal which admits electors and administers the freeman's oath is not empowered to try the question of a man's good moral character after he has once been admitted. That can only be passed upon by a court. If he is convicted of an offense for which an infamous punishment is affixed, he is then disqualified and can no longer vote.

I say then, Mr. President, that if I needed any apology, which I do not, for insisting upon intelligence and morality as a qualification for voters, I should have the example of my own State; which I always take pride in quoting, to sustain my action. The honorable Senator from Massachusetts, it seems, was in 1857 opposed to the adoption of this test by his State. But when the State of Connecticut as late as 1855, and the State of Massachusetts as late as 1857, have made this a test for the qualification of voters in those several Commonwealths, I do think that I, at least, am called upon to sustain a qualification such as we here propose to this bill. With that I can cheerfully give the bill my support; without it, I confess I shall not be able to vote for the bill.

Mr. COWAN. Mr. President, I am very sorry the honorable Senator from Connecticut has not been able to agree with me on this subject, for certainly there is no member of this body for whose opinions at all times I entertain higher respect, and none with whom when I agree I feel so well assured of being right. I am also pleased, on the other hand, that what I may have said has induced that honorable Senator to give his views upon this point. If I have one thing to suggest to my brethren above all others, which I would wish to impress upon them, it is that they ponder well the speech to which they have just listened. The honorable Senator from Connecticut has depicted the consequences of the introducing to this great privilege, the ballot, of large masses of ignorant people. He has shown the consequences which have heretofore happened to the country from allowing such classes of people to exercise the franchise. He has told you, Mr. President, that to this the late rebellion has been owing. He has told you that it is attributed to the fact that the masses of the southern people were so entirely ignorant that they were to be led away into rebellion by ambitious leaders, and that thus were brought upon the country such perils as it has recently undergone.

If that be true, if such consequences follow from conferring the elective franchise on people of this character, is it not the plainest proposition imaginable that if you undertake to set up any barrier, that if you undertake to correct the evil which you anticipate, if you undertake to guard against that which you say has happened, and which will most likely happen again, your barrier ought to be effective, it ought to be that which would restrain, that which would keep back and limit. There is where I differ with the honorable Senator from Connecticut. He says that to provide that the voter shall read and write his own name is such a barrier, that with that we may be secure; that if, for instance the confederate in grey had been universally able to read and write his name

therefore we should have had no rebellion, therefore John C. Calhoun would have had no followers, the doctrine of nullification would have had no advocates, the doctrine of secession would have had no disciples, the doctrine of primary State allegiance would have had no argument.

Mr. President, I have very great and very grave doubts about all these things. The conclusion he arrives at is to me a *non sequitur*. Whether the southern masses could read and write their names, or whether they could read and write generally, and whether they were intelligent generally, I am by no means prepared to say that all these things would not have happened, perhaps happened in greater intensity than they have happened. I am not so certain that all these doctrines, pernicious as they have been, plausible as they were, fortified as they were by argument, by logic, and by, perhaps, the highest form of skill and learning in statesmanship, would not have been worse if the constituency had been as intelligent as that of the honorable Senator from Connecticut. But, sir, when he proposes here to vote for a bill to give the right of suffrage to men far lower even than the confederate masses, men who had condescended to be the slaves and the servants for hundreds of years of that same people; when he proposes to confer the right of suffrage upon them, and to expose us to all the dangers which he alleges are sure to follow this kind of ignorant constituency—I say, when he proposes to do that, and then has set up this barrier of being able to read and write a man's own name as a sufficient protection, I cannot agree to it.

Mr. WILLEY. Will the honorable Senator allow me to interrupt him?

Mr. COWAN. Certainly.

Mr. WILLEY. If I understand the honorable Senator from Pennsylvania's remarks correctly, I certainly misunderstand the amendment which is pending. Does the honorable Senator say it only requires that the voter shall be able to write his name and read it?

Mr. COWAN. That is my point.

Mr. WILLEY. I understand the honorable Senator from Pennsylvania to argue as if this amendment confined the test simply to the qualification of being able to write the man's name and read it simply.

Mr. COWAN. That is it.

Mr. WILLEY. I understand the amendment to include the qualification of reading generally, and also of writing his name; two tests, one the reading generally and the other the writing his own name. Certainly if the proper interpretation of this amendment is as the Senator from Pennsylvania construes it it amounts to nothing.

Mr. COWAN. That is the way I construe it; and I suppose as this is to be a law, it is to have that legal precision which will make it effective. In making a law, and particularly a law which is calculated to limit the highest of man's rights, as this is supposed to be, there ought to be that certainty and that precision about it which would enable the test to be applied. If it is to be reading generally, what is the man to read? Is he to read the First, Second, Third, or Fourth Eclectic Reader? Is he to read the acts of Congress, or is he to read the New Testament? Is he to read the confession of faith, or the Constitution of the country? What is he to read? How much is he to read? Who is to determine what he can read, and the amount of it? And as I before remarked, shall he understand as he reads, or is he merely to read as a parrot might be taught to read or as an idiot might be and has been taught to read? I suppose that if truly a test at all, it was to be a legal, practical test which would satisfy legal and practical men. Who shall determine this thing? Is it to be the judge of the election? The judge of the election, according to the theory, may not be able to read, because there is no provision to deprive other electors and other people eligible to this office of judge who are not able to read. Then you would have the most extraordinary spec-

tacle presented in the capital of the nation, here in the city of Washington, in the District of Columbia, of having a board of three election judges no one of whom could read or write his own name or read or write anything else, to determine the qualifications of one of this new batch of voters who are to be admitted on qualifications, one of which it is not possible for these judges to judge of!

Think of it! It is one of the difficulties which will have to be encountered. It is perfectly immaterial to me whether you take it one way or the other. If you confine the construction as I have done to the simple fact that he shall be able to read and write his own name, then I say to my honorable friend with all due deference, this is no barrier at all; this is a mockery in the name of a barrier; this is an insult to those who expect barriers. What! a barrier which can be surmounted in twenty-four hours, because I venture to say that with the acknowledged imitative ability of the African (and he has that unquestionably in the highest degree) he may be taught in twenty-four hours not only to write his own name legibly, but afterward to read it, recognize it as he would recognize his own mark. Take that to be his qualification if you please; take that to be the test, and I say it is a mockery, worse than a mockery, it is a barrier inadequate when the want of an adequate one is acknowledged.

But if you please take it in its broader sense, as the honorable Senator from West Virginia understands it; then I ask where is its precision, where is it to begin and where is it to end, and who shall determine its limits? I tremble for my sable brother when I reflect that he may be at the mercy of some political board in this respect. I beg my friends here to observe that this sable gentleman may not be quite so certain, as they fancy he is, on their side. Now, I will put the case of a board belonging to the dominant party, and suppose they have the statute amended by my honorable friend from Connecticut before them; and a colored man comes forward and proposes to vote. They put to him the question "Can you write your name and read?" "Oh yes," "Well, let us see you try it." He then writes his name and he reads it and he is admitted if he is understood to belong to that party. But suppose, as has recently happened, that this dark man should come to the conclusion to vote on the other side, and it were known that he meant to vote on the other side, what kind of a chance would he have? Then the man of the dominant party who desires to carry the election says, "You shall not only write your name and read it, but you must read generally; I have read the senatorial debates upon this question, and the honorable Senator from West Virginia who originated this amendment was of opinion that a man should read generally. Now, sir, read generally if you please." "Well," says he, "what shall I read?" Read a section of the *Novum Organum* or some other most difficult and abstruse thing, or a few sections from Oken's *Physiology* would be delightful. [Laughter.]

Is this to be an engine? Instead of being a test for the true voter, and instead of being that which will enable us to detect the American citizen even under this sable garb, is it to be a snare and pitfall in the poor man's way? Is it to be made the instrument in the hands of cunning politicians and corrupt election boards to permit the law that we now make in such tribulation for their benefit to be annulled and made void, or to minister merely to the will of a party? Certainly my honorable friend from Connecticut would not say that. I understand him to say that a barrier is needed; that a barrier is needed against every ignorant population, every population which has not enjoyed the advantages of education, which have made that little yellow spot in the map called Connecticut, as De Tocqueville once demonstrated, such a remarkable place.

The honorable Senator from Connecticut, when ignorant populations of this kind are to

be admitted to franchises of this sort, admits that there is very great danger. The fact is there is the greatest danger in the world. And, as I said before, I have no doubt that he desires, if there be a barrier at all, that that be an effective barrier. That this should be considered a barrier in the State of Connecticut, that it should be found to work well in the State of Connecticut, I have no doubt. In the first place, I think the State of Connecticut would work just as well without the barrier. I would not be afraid of such a population as the State of Connecticut has if there was not a barrier in the world. I believe, too, the people of the State of Connecticut (and I do not desire it to be taken in any very high complimentary phrase) could get along very well if they had no constitution whatever. If they were allowed to go, as Dogberry said, simply by the light of nature, reason; if they were to take the gifts which they have from nature alone without education, I think they could get along. But you set up such a barrier as that they should be able to make a wooden clock and to understand its mechanism, there might have been some force in the thing. I am sorry that I was guilty of such a want of knowledge of the origin of this test as to attempt in any way to deprive Connecticut of the honor of it. I really supposed it belonged to the State of Massachusetts, although I cannot say that I had examined it carefully before.

But, Mr. President, with all deference to Connecticut and her ability in restraining ignorant masses by means of this kind, I have to say that it is only about equal to another test that I heard they had applied a good while ago for another purpose, and that was an ancient enactment of that State, that no girl should get married until she could bake a doughnut that would preserve its twist for a year. [Laughter].

Mr. FOSTER. The Senator is mistaken; that was a Pennsylvania law, there was no such law in Connecticut. [Laughter].

Mr. COWAN. Well, I may be misinformed there, because really I have not read Brant for a long while; it may have originated in Pennsylvania; but it has not been applied since my knowledge of the State commenced. I am very well satisfied that girls can get married there and do get married there every day, I am sure, without being able to bake a doughnut at all. [Laughter].

Here is the difference: I insist that this barrier is no barrier; I insist that this test is no test, that it is no limitation whatever, that the virtue and intelligence of those classes which are entitled to the franchise are not to be measured in this way at all. They must be measured by the great good sense of the community. The community in which a man lives is to determine it. The question of suffrage, in other words, belongs to the States. When the community of Massachusetts determines that her negroes shall have a vote the same as white people, that is a just, righteous, legal determination of that question. She has the right to make it, and it is an appeal to the good sense of Massachusetts to make it. So when the same question comes before Pennsylvania, which has ten or fifteen times as many negroes as Massachusetts has, and Pennsylvania decides that this class of the community shall not vote, that is equally just, equally righteous, and equally legal in my judgment. And so it is everywhere else.

Now, the question is before the Senate to decide for this community, the people of the District of Columbia; and the first question, and one which I think is important, is, is it safe? It has been admitted by the honorable Senator from Connecticut that there is danger in admitting this class. The man who undertakes to limit and to restrain it admits that danger. If there be danger then I argue that all the rest of us have a right to insist upon it that the barrier proposed shall be effective to protect against that danger.

The danger admitted, the next question is as to the efficacy of the barrier against that danger.

Just in proportion to the magnitude of the danger, just in the same proportion must be the efficacy of that which you set up in order to prevent its happening.

Now, what is the danger? The danger is that which we have encountered, the danger of another rebellion, the danger that by conferring ballots upon these men you furnish food for demagogues, you furnish the material upon which they live and upon which they run riot, by which and through which they have destroyed heretofore governments and communities. That is the danger and the danger depicted by the honorable Senator from Connecticut in terms much more exact and much more expressive than I could use. That is a great danger. That is the worst of all possible dangers. That is a danger that nobody heretofore apprehended from an admission of the white race to this privilege even in its widest latitude. Then I say if that be the character of the danger, as wise men here, feeling our responsibilities, acting as we do for the nation, we should oppose to it such safeguards as will at least protect against the danger we anticipate, the danger we know of, the danger we have been warned of as the honorable Senator has warned us.

I was rather surprised to hear the honorable Senator say that he would confer without any test and without any limit the right of suffrage upon those who had borne arms for their country. I have a very high respect for the soldier. I think that courage is the highest quality of man. I am so certain after all is said and done, but that the patriotic soldier, brave, exposing himself for his people and for his Government is the highest spectacle on the earth. But what connection is there between bearing arms and casting ballots? Have we forgotten the lessons of the past? Have we forgotten the fact that while one soldier is patriotic and brave and well deserving of the country, another is really mercenary? Have we forgotten the fact that it was the soldiery that overthrew republican Rome? Have you forgotten the fact that the Pretorian Guards were soldiers?

Mr. President, the same kind of discrimination must be made with regard to soldiers that is made with regard to other men. I am free to say that I would award the highest meed of praise as I would give the highest pension and the highest pay to the soldier; but when a man asks me to make that the measure of his capacity to fulfill the duties of a citizen, I have a right to say to him that the evidence is not conclusive. He may be a very good soldier and a very bad citizen; and a man may be a very good citizen and yet make a very bad soldier. The evidence must in some way connect itself with the qualifications necessary to perform the function; and in so far this as far as it goes is well enough. But the difficulty is that if you depart from the strictly legal construction of the amendment of the honorable Senator from Connecticut you are at sea, you have no guide; you are at the mercy of the corruptions of factions, their disregard of all law in the heat of contest, and your barrier or test becomes utterly and totally useless.

Mr. President, I have said thus much on this point because I thought it necessary that I should say it. I have no faith whatever in these tests. If there is danger in front, that danger must be met and must be counteracted by something entirely different from this kind of flimsy bulwark.

Mr. FRELINGHUYSEN. Mr. President, having a day or two ago made a few remarks on this bill, and having so recently taken my place in the Senate, my sense of propriety and my inclination both suggest that I remain silent; and yet the importance of the measure leads me to express my views. But before considering the specific point that has been under discussion this morning, I have a remark or two to make in reply to several objections that have been made to the measure.

A distinguished lawyer and Senator has stated before the country that he cannot vote for this bill because it is unconstitutional in that it is *ex post facto* in its character, imposing a severer

punishment on the crime of treason or giving aid and comfort to the rebellion than existed at the time the offense was committed. Mr. President, there is a clear distinction, as was stated by the Senator from Maine, [Mr. MORRILL] between absolute rights and conventional rights. Except for crime this nation cannot take from me my life; not if by doing so the whole debt of the nation could be paid. If the nation did it, the nation would be a murderer. My life must run the mission that God intended it, and until God recalls it. But surely a Legislature can take away the right to fill an office at thirty years of age, and say it shall not be filled till thirty-five, or the right to vote at twenty-one, and say it shall not be exercised till thirty-one, or, where the conventional right is not secured by the Constitution, can take away the right entirely.

But the argument is that this law is unconstitutional and *ex post facto*, because the right to vote is taken from those who gave aid and comfort to the enemy, as a punishment. That is begging the question. The law does not say so, and it is not for that purpose that the Senate vote for it. I believe I express the sentiment of this Senate when I say that they would be perfectly willing to give the right to vote, not to a repentant, for that term is offensive as between men, but to a reformed rebel. It is in that spirit that the proviso is appended to the admirable constitutional amendment which has been adopted by the loyal States. The reason that one who has given aid and comfort to the enemy is not permitted to vote, is because he has not the qualification of loyalty, a qualification which this nation has a right to insist on all over the land.

There is magnanimity in the people of the North, and they would be ready to extend to the South free forgiveness as soon as it manifested that quality of loyalty which this very law contemplates and for want of which this disqualification is annexed. But the people of the South should remember that the people of the loyal States are inexorably in earnest. They are radical, but their radical sentiment consists only in the fixed determination to eradicate every root and branch of disloyalty and of human slavery; and the very first minute the South will accept and meet them on these terms and join them in this purpose, the whole difficulty in this country will be at an end.

But to return to the specific question: even if the disqualification annexed to those who gave aid and comfort to the enemy is inflicted in this law as a punishment, is it *ex post facto* in any sense? When this crime was committed, by the laws of this country, by a statute signed by Washington on the 30th of April, 1790, the person who gave aid and comfort to the enemy became civilly dead; and what is civil death but a deprivation of every privilege—the privilege of holding office, the privilege of voting? Besides, the persons alluded to in this bill have voluntarily surrendered the right to vote by dissolving their allegiance with this Government and giving their allegiance to another so-called government. Therefore, Mr. President, I think there is no difficulty, and need be none, on any man's conscience in voting for this bill on any such constitutional ground.

Another objection I have heard urged here, and that is that this is a white man's Government. I admit that *de facto* this is a white man's Government; but that it is so *de jure* I think it would be difficult to establish. Who can put his finger on the provision of the Constitution which makes it so? I think it will be very difficult to prove that a Mongolian or an Ethiopian has not rights under this Government. Practically, it is a white man's Government; and it seems to me that those gentlemen who urge that fact against the passage of this bill show very little confidence in the energy and courage and ability of the Anglo-Saxon race. I do not expect to be seized with that apprehension that this Government will cease to be a white man's Government until I change my complexion.



But then, it is said we are going to give suffrage to an inferior race. That I do not argue. Be it so that they are an inferior race; that is only an additional reason why every true white man should do all in his power to incite them to energy and give them every aid to their elevation. Why, sir, the oracles of God have been appealed to here repeatedly, and we have been told that it was prophesied that cursed should be Canaan, and servant of servants should be he. If we are to justify our conduct by undertaking to show that we are fulfilling prophecy, then Judas and Pilate and the Roman soldiery cannot only prove their innocence, but can prove themselves entitled to immortal honor for the murder that they did on Calvary, for that act brought to this dark world the only ray of true light that has ever broken upon it. It seems to me, sir, that if we are going on a crusade to fulfill prophecy, we had better accelerate the fulfillment of that other prophecy which is about to be accomplished, that Ethiopia shall stretch forth her hands unto God.

Another objection that is made is, that by giving these colored people the right to vote we are inducing distasteful associations between races. What possible connection is there between the right to vote and the social associations and intimacies of life? That is the echo of an old prejudice that never had any foundation. Is any gentleman obliged or bound to associate with me because I vote any more than because I work, or write, or walk? It is the same kind of logic which is used where one said that he who drives fat oxen must therefore himself be fat. There is no possible connection of cause and effect between the two circumstances.

It is objected that this question of negro suffrage has never been submitted to the people. That is strictly true; it never has been directly submitted to the people; but is it usual before legislative action is had in reference to this ten miles square to submit the question of legislation to the people of America? The question has been before the people, and the testimony is very uniform from all parts of the nation that they are opposed to the irrational qualification of complexion in determining whether one shall perform an act of judgment. The people believe that as the test of complexion is not applied to the burdens, so it should not be applied to the privileges of Government. The people believe that with the toga of the citizen comes the armor of citizenship. The people believe that if you take from the French or the German or the Irish the ballot, they would be treated with disrespect and would be made the victims of oppression and of imposture.

But, sir, the soldiers of this country, not mercenary soldiers, the patriot soldiers of this country have done much toward enlightening society. They have seen these colored citizens in the same ranks with themselves; they have seen their manhood; they have shared their rations; they have been taught by them how to avoid the scent of the bloodhounds. These soldiers have seen these colored men lying in columns on the field of battle with their faces upturned to Heaven mutely pleading, as has been said, for the rights of their race; and they have done a missionary work among the people of this country.

But, Mr. President, that is not the whole of this case. While the people of this country are much interested in having the right of suffrage extended, they want to avoid ignorance in the elective franchise. The people of this country believe that human slavery is a great curse. They have been taught it from this Capitol. They have been taught it in strains of eloquence from the lips of those who will ever be associated with the cause of human freedom. They believe it is a great evil. They have been taught it on the field of battle and by the vacant places at their own hearth-stones. The two evils which they see in slavery are, the arrogance of the master and the ignorance of the slave. They would be most happy to secure this franchise, and be most happy on

the other hand to avoid the introduction of any greater degree of ignorance in the elective franchise, and I believe that is just the reason why the people of this country have with such unanimity adopted the admirable constitutional amendment. It is because they see that by that provision which makes the ratio of representation to depend upon voters rather than upon inhabitants, the disloyal States will be constrained by State action, and as fast probably as the films and scales of ignorance incident to slavery fall away, to give suffrage to the negroes.

But we have got to determine the question now, whether we will give the right of suffrage or not, and with what qualifications. I confess that I have listened to the debate on this question of a reading qualification with great interest. There are clearly two sides to it. The argument in favor of insisting upon the ability-to-read test is that making the prize of the ballots contingent upon the ability to read would be a powerful stimulus to induce the colored citizen to learn to read. His pride, his shame, his ambition, his fear of degradation would all urge him to learn to read. But, sir, there is another side to the question; and it seems to me, when we consider all the difficulties there are in applying this reading test, that the argument is in favor of universal suffrage. The argument in favor of making the right to vote universal is that the ballot itself is a great education; that by its encouraging the citizen, by its inspiring him, it adds dignity to his character and makes him strive to acquire learning; secondly, that if the voting depended on learning, no inducement is extended to communities unfavorable to the right of voting in the colored man to give him the opportunity to learn; they would rather embarrass him to prevent his making the acquisition unless they were in favor of his voting, while if voting is universal, communities, for their own security, for their own protection, will be driven to establish common schools so that the voter shall become intelligent. I suppose that in the northern States the universality of the elective franchise has had much to do with the vigorous and extended common school systems which there exist. Besides, from the peculiar structure of society in this country, and in view of the possible necessity of resorting to measures of this nature to secure a loyal constituency elsewhere, I believe, that the true way to try the experiment here is to make it universal. I hope, I trust, I believe, that the experiment will be successful. I believe that communities will then go to work to give education to these men, and that they, feeling their manhood, will be animated to greater application and industry.

If this should be so, what results would we behold from this rebellion? We would see these people able to read, having the rights of citizens; then comes the newspaper; then comes the open Bible; and as the result of this rebellion we would see the mother of infamies dethroned and intelligence and virtue, twin sisters heaven-born, enthroned in her stead. Then we would see a teeming population all over this continent intelligent and virtuous, fit to exercise the rights and privileges of citizens. We would see this country extending on the one hand to Europe with its telegraph, and on the other to Asia with its railroads and its steamer connections, so that the influence of this country would be felt all over the world; the pulsations of the great American heart would vibrate intelligence and virtue and freedom to all the earth. I believe that this action which is being taken in this District is the beginning of great things. I admit that the question is a nice one to solve, whether the intelligence qualification shall be insisted on or not; but in view of all the case and all the circumstances of the country, I shall be constrained to try the experiment here, so far as my vote is concerned, by making the elective franchise universal.

MR. WILSON. Mr. President, I am always glad to hear the honorable Senator from Connecticut, [Mr. FOSTER,] for he states his

views with great clearness, precision, accuracy, and candor; but certainly I regret that he should have felt it his duty to advocate this amendment. I say to him frankly that while I am opposed to it, while I am opposed, in the present condition of the country at any rate, to making reading and writing a test, I believe that reading and writing do aid in qualifying men to discharge the duties that belong to citizens of the United States at the ballot-box. In opposing this amendment, I cannot consent to be put in that class of men who do not believe that reading and writing are qualifications for the duties of a citizen of the United States.

Let the Senator see the exact position in which the colored man in this District will be placed if this amendment should prevail. If he is allowed the right of suffrage without this condition, the cause of education will be advocated by the negro himself, by this whole community, because it will fit him to exercise more intelligently the great duty imposed upon him. If you put this qualification upon him, the bitter hostility to the education of the colored race that has distinguished this city and the government of this city; which has led the government of this city even to violate the express laws of Congress within the last two years, will be intensified and increased. The enemies of the colored man may not do here what they are doing in Maryland, in Virginia, in all the rebel States, burn down the school houses for the freedmen; they may not be strong enough to do that here; but they will do nothing to erect school-houses for the education of the freedman; they will do nothing to encourage his education. These thousands that went to the ballot-box last year and voted with so much unanimity against extending the right of suffrage to the colored people of this District, finding that we will only allow the colored men who can read and write to vote, will see to it that as few colored men shall be qualified as possible. They kept the colored man in ignorance to keep him in slavery; they will continue to keep him in ignorance to prevent his becoming a voter.

I regard this amendment as a proposition against school-houses for the education of the colored men of this District; if not to tear down the school-houses for the education of the black man, it is to prevent the erection of the school-house for the education of the black man. Who is to pass upon this qualification of reading and writing? The man who has voted that the black man shall not vote at all? It is proposed here in Congress to allow the man who has voted that the black man shall not vote at all to say whether he can read and write well enough to vote. How many of them will be permitted to vote? Possibly there might be a few negroes fit to fill seats in Congress or to sit upon the bench of the Supreme Court who might be permitted to vote. But few, very few of them would be permitted to vote under this amendment. You put it in the power of the enemies of this race to keep them from the ballot-box. By this provision we put the black men at the mercy of his avowed enemies. But, sir, allow them to vote without this qualification and they will demand education; they demand it; the school-houses will rise; school-teachers will be employed; these people will attend the schools, and the cause of education will be carried forward in this District with more rapidity than at any other period in its history.

Apply this same principle in these rebel States. I hear this foolish cry in the present condition of the country about impartial suffrage. Here are four million colored people in the rebel States; here are eight hundred thousand voters; perhaps ten per cent. of them may have the ability to read and a few thousands to write; but not one per cent. of those who could read and write would ever be permitted to vote under this reading and writing amendment by the men who are determined to keep them from the ballot-box. You put the whole of the freedmen at the mercy of their

enemies. All over this rebel country the midnight skies are lightened by the burning school-houses erected by the humanity, the charity, and the Christianity of the country to instruct the darkened intellects of emancipated bondmen. Adopt this provision that they shall be required to read and write, and their enemies who are now burning their school-houses will see to it that the school-houses they have spared are given to the flames. Strike off this qualification, let them vote at any rate, and these wicked people who are burning their school-houses will cease to burn their school-houses; they will then join in building school-houses for their instruction.

I have heard a great deal said, and it has been hinted at in the Senate, that we ought to address ourselves to restricting suffrage in this country instead of extending it. I hold that doctrine to be at war with the fundamental ideas upon which this Government rests. It is an aristocratic, undemocratic doctrine that ought to be scouted from the legislative halls of America. I have no sympathy with it. I say, and I am ready to maintain it anywhere, that the extension of the suffrage in this country has tended to extend education and liberal legislation, and to develop the moral, intellectual, and physical resources of America. Yes, sir, the extension of suffrage to the poor, to the toiling men of the country, has lifted them up, inspired them with hope, and developed everything that builds up a Christian, democratic Commonwealth. I thank the Senator from New Jersey for maintaining this doctrine as he has done, so ably and so clearly. It is the doctrine of progressive Christian statesmanship.

The Senator from Connecticut has great deference to the opinion of his State, as he ought to have. I have a reasonable deference to the opinions of the people of my State, but I will say to my friend from Connecticut, that I think the constitutional provisions to which he refers were born about a dozen years ago in those States. The States of Massachusetts and Connecticut were not harmed by the ignorance of the people; perhaps in no States were the mass of the voters better educated than in those States; we could have absorbed all the ignorance we had without any great harm to our institutions. That reading and writing provision was put into the constitution of my State by my political associates and friends, by the men who sent me to the Senate, but I thought then they were mistaken. They put another provision into the constitution, and that was that a man should be required to remain two years in the State after he was naturalized before he could vote. I openly opposed it. I received denunciations for it; but I told them they would get it out of the constitution as soon as possible, and it came out of the constitution as soon as the standard of rebellion was raised and our people, foreign-born as well as native-born, thronged around the banner of the country.

Sir, I believe in the right of suffrage for my country. I believe in it far more for the poor ignorant man. I believe that he is more of a man when he has it, and that he will use it in the future as he has in the past generally for the elevation and protection of the poor and lowly and dependent. No loyal man who has the right of suffrage shall ever have it taken away or abridged by me unless for crime. No poor laboring man shall ever accuse me before the bar of man or of God of voting against giving him the same right that I possess to go to the ballot-box.

The Senator from Connecticut asked me if I would vote for a man to come into the Senate who could not read and write, or to go on to the bench of the Supreme Court. Certainly I would not. Then he asked this question: would you raise a tribunal composed of men who could not read and write, that should pass upon the acts of the Senate and of the judicial tribunals of the country? I hope the Senator does not mean to restrict the right of suffrage only to the few who are capable of passing intelligently upon

the decisions of the Supreme Court and the action of the Senate. He certainly could not mean that. I would not vote for a man to come into this Senate who could not read and write, but I freely invite every man in this country, whether he can read and write or not, to pass judgment upon the acts of the Senate, upon the words of Senators, and I believe that the judgment of the masses of the country will be generally correct.

It has been more than hinted that the people are growing more corrupt. Sir, I do not believe it. I believe the history of the world can furnish no such example of fidelity to country, liberty, and justice as has been furnished by the great mass of the people of this country during the last four months. The whole power and patronage of this Government, its corrupt and corrupting influences, have been freely used, dishonorably used, all over the country, to purchase, seduce, corrupt the masses of the people, and the people have emphatically spurned these bribes. They have shown to the world that they cannot be bought nor sold nor corrupted by such influences. There are a few corrupt men who may be bought or sold; but the masses of the people of this country are increasing in intelligence, are increasing in virtue, and they vote more intelligently every year of their lives. The country to-day is safer in the hands of the masses of the people than it was in the beginning of the century, when we had restrictions, when we required men to hold property in order to vote. Sir, I believe that the men who made the Constitution of the United States, who made the constitutions of the several States, so made the constitutions of the several States that a majority of the men who fought the battles of the Revolution could not vote and did not vote. I believe if you were to bring back the laws that existed in 1789 that a majority of the men who fought the battles of their country in this rebellion could not vote. The States required property qualifications so large that I doubt whether the majority of the soldiers who fought the battles of the rebellion would have property enough to vote under the earlier constitutions of the States. Sir, [Mr. ANTHONY in the chair,] in your State up to a very late period this property qualification existed. These restrictions upon suffrage have been brushed away by the people themselves, and the cause of liberty, justice, humanity, has been promoted by so doing.

I believe, Mr. President, we can educate these freedmen better by giving them the right of suffrage than we can if we keep them a lowly, degraded, and dependent class. We have applied this principle to the men who have come into the country from abroad. Suppose we had refused the right of voting to the Englishman, the Irishman, the German, and other emigrants to this country, they would have been nothing but the hewers of wood and drawers of water to this people. Giving them the right of suffrage, although misused often and abused, has advanced their condition and the development of the country. I am ready to apply the principle and accept the consequence of manhood suffrage. Christian democracy bids us lift the lowly up, and we shall find it safe to be just.

It has been hinted here by my friend from Connecticut that these enfranchised men may not always vote as we think they should vote. He reminds me that I have said they know their friends. Amid all the trials and darkness and outrage of the last seven years they knew the old flag; they knew the boys in blue, they knew the men who were fighting for the country and liberty; they revered the name of Abraham Lincoln, their emancipator, next to the God that made them; they were always for their country; they prayed for it, they fought for it, and they will stand by it in the future as in the past.

The Senator says they may be kindly treated and may be won by kind words and deeds. Sir, I hope they will be kindly treated. One of the chief reasons why I am for suffrage for them is that they may be kindly treated. What do we witness to-day? In the State of Texas

it is said that nearly two thousand freedmen have been murdered since the close of the rebellion. I am told by General Hamilton that he has knowledge of hundreds of them. Seventy-nine are known to have been murdered in the State of Georgia, and double that number are believed to have been. Who has been convicted, who has been punished for these hundreds of murders, and for these terrible cruelties and outrages that have been perpetrated upon them? Nobody. Two men were sentenced to death in the State of Georgia a year ago last spring for murdering an old woman over sixty years of age, shooting her down and then beating her brains out with stones, and the President of the United States pardoned them. Where are the others? Phil Sheridan says it is folly to think of trying a white man for the murder of a freedman in his department. What white man has been tried, convicted, and executed for these hundreds, ay, thousands of murders that have taken place in the old slave-holding States? None.

We want to change all this. I want the ballot in the hands of these men so that their lives, their homes, their school-houses, their churches, their wives, and their children will be safe. If, when these men have got the power in their hands to protect themselves, the white men will give them their rights, build their school-houses, instruct them, employ them, deal honestly with them, protect the brutal, ignorant, cross-road, bar-room rowdies that infest portions of the country, I say if they will do justice, God will bless them for doing it. If the black man votes for the men who are just and humane, I shall not upbraid him. I do not believe the negro is to be any party's slave if you put the ballot in his hands. I want to call the attention of my Democratic friends especially to that point.

Our Democratic friends in Massachusetts have been sneering at me for years for advocating the emancipation of the negro and for his enfranchisement and elevation. What do we now witness? This autumn, in the cities of Boston and Charlestown, two black men were elected to the Legislature. One of them was an educated soldier, a lieutenant in the Army, whose leg had been shot off in a battle in South Carolina. He was elected in Boston. The other gentleman was a lawyer of good standing, a man of capacity and character in the city of Charlestown, residing right under the shadow of Bunker Hill. Last Monday there was an election for mayor, aldermen, and common councilmen in the city of Boston. In the third ward the colored men thought they ought to have one of the councilors, and in the Republican nominating convention they did not get what they wanted. A colored man was taken up at once by the Democratic party and put upon their ticket. The black candidate on their ticket ran ahead of any one of their other candidates. One of the Republicans ran behind. The lowest on the Republican ticket received four hundred and ninety-four votes; the highest on the Democratic ticket, a black man, Mr. Brown, received four hundred and ninety-four votes, so there was no choice. Another election was ordered, and on Wednesday the spectacle was witnessed of the Democracy of the third ward of Boston going up to the ballot-boxes, their candidate a negro, and the Republicans going up to the ballot-boxes, their candidate a white man, and we know to-day who won. [Laughter.]

Senators, give the negro the right of suffrage in this District, and before a year passes round you will see Mayor Wallach and aldermen and common councilmen attending their schools, making speeches to them at their meetings. You will see these men, who voted that they should not have the right to vote, running after them and inquiring after the health of their wives and children. These negroes will then be just as sweet as anybody else. [Laughter.] I do not think the Senator from Kentucky [Mr. DAVIS] will be examining their pelvis or shins, or making speeches about the formation of their lips or the angle of their

foreheads on the floor of the Senate. You will then see the Democracy, with the keen scent that always distinguishes that party, on the hunt after the votes of these black men, [laughter;] and if they treat them better than the Republicans do they will probably get their votes, and I hope they will.

And it will be just so down in these rebel States. Give the negroes of Virginia the right to vote, and you will find Wise and Letcher and the whole tribe of the secessionists undertaking to prove that from the landing at Jamestown in 1620 the first families of the Old Dominion have always been the champions and the special friends of the negroes of Old Virginia, and that there is a great deal of kindred between them, [laughter;] that they are relations, brethren; that the same red blood courses in the veins of many of them. They will establish all these things, perhaps by affidavits. [Laughter.] And I say to you, sir, they will have a good opportunity to get a good many of their votes, for in these respects they have the advantage of us poor Republicans.

You will find that the school-houses will spring up. No Representative will come from Virginia and boast that he has not a newspaper in his district after that. The cause of education, the cause of liberty will be advanced everywhere by it. If these black men, whose rights I advocate here to-day, whose rights I have advocated for thirty years, and mean to advocate no matter how they vote, shall hereafter be better treated, their rights better secured by those who went into the rebellion to establish slavery forever, those who opposed their enfranchisement, I shall be content. The great thing in this world is not to run after votes. I am ready to do my part of that work, and I think I have done my full share of it. The thing is to establish just, humane, and equal laws, laws that shall recognize the rights of all classes and conditions of men, and give the poorest man that breathes God's air or walks His green earth the right to make of himself all that his Creator intended for him. When we have established these rights in law, when we have put them in execution, the great work will have been done; and these people, as they grow in education and intelligence, as their rights are permanently secured, I have not a doubt will divide like other men among political parties, and will follow their own inclinations, their own wishes and interests; and that is what all right-minded men desire they should do.

Mr. HENDRICKS. I did not intend to say a word on this bill, and shall not now occupy the attention of the Senate more than a moment or two.

I always listen to the Senator from Pennsylvania with interest and instruction, but I am not able to agree with him upon the construction which he has given to the amendment proposed by the Senator from Connecticut. I feel it to be my duty to support that amendment, but not upon the construction given by the Senator from Pennsylvania. The amendment provides that "no person who has not heretofore voted in this District shall be permitted to vote unless he shall be able at the time of offering to vote to read and also to write his own name." I think a fair construction of that amendment is that the voter shall be required to be able generally to read, and in addition to that, to write his own name; and with that construction of the amendment I propose to vote for it, as I said yesterday, not because I am in favor, as a general proposition, of an intelligence qualification for the right to vote, but because, in this particular instance, I think it to be proper to prescribe it.

I cannot speak for other sections of the country, but for the Northwest I think I am justified in saying that there is a great deal of intelligence found among men who are not able to read. They do not acquire their information from books, but from intercourse one with another. In that part of the United States our population is made up of men coming from the New England States, men coming from the

central portions of the country, and also persons from the southern States. These people meet in the same neighborhoods. They have intercourse with each other, and the one communicates to the other what he knows. They attend the popular meetings; they hear the political questions of the day discussed; they are called upon the juries, and they hear the law discussed both by the attorneys and by the court, and in the course of a generation many men who are not able to read and write become very intelligent men and entirely competent to the exercise of political power. I have addressed, in the course of my professional life, very many men as jurors, who were excellent jurors indeed, who were not able to read. Perhaps gentlemen from other sections of the country are not able to understand exactly how this may be. I attribute it to the fact that our population is made up of citizens coming from every part of the country, and in their intercourse they communicate to one another the peculiar information of each, and because also of the popular institutions which prevail, calling the people together in public assemblies and hearing the great questions of the day discussed, and the popular character of our courts in which the laws of the land are freely discussed.

But, sir, does that state of fact at all apply to the colored people? They have had none of these opportunities of obtaining intelligence which I have mentioned. They have been in a state of servitude. They have never mingled with citizens of other sections of the country, and thereby acquired information. They have never been called into the courts to hear the laws and institutions of the country discussed. They have never attended the popular meetings and there heard discussed the institutions and policy of the land. They have had none of the means of information which has made intelligent men out of many in the Northwest who are not able to read and write.

The Senator from Pennsylvania will hardly say that intelligence acquired in some way or other is not important to the citizen. He certainly is not prepared to question that which has become almost an axiom with us, that our institutions rest upon the virtue and the intelligence of the people. Has that been a mistake all the while, or in fact do our institutions rest upon public virtue and public intelligence? If so, I submit to Senators whether the slave coming from the farm, who has never heard the Constitution of his country either read or discussed, who has no knowledge whatever, and has had no opportunity of acquiring knowledge of the laws of the country, of the policy proposed, of the policy that has governed us in the past, or that is proposed for the future, is competent to exercise political power in this country? For many offices it is only important to know the character of the candidate. For merely administrative or executive offices it is enough for us to know that the man we vote for is an honest man and a man of ordinary intelligence, because the discharge of the duties of his office has no influence upon the political policy of the country; but when we come to vote for the legislator or any executive officer who has any influence upon the legislation of the country, is it then only important that we should know the man? Is it not important, then, that we shall comprehend the policy that he is to advocate and carry out as a legislator? Then intelligence becomes important, not only to know the particular candidate, his qualities, whether he has intelligence and honesty and fitness for the office, but it becomes important that we shall know the policy and system of laws which he will favor; and I submit whether the negroes coming from the plantation have that sort of information or have had the opportunity to acquire that sort of information in any way.

Mr. President, the objection has been made to this bill that it proposes an *ex post facto* punishment. I thought the objection made by the Senator from Pennsylvania was well made, and I think the Senator from New Jersey did not

meet it. It is not enough to say that the right to vote is a conventional and not a natural right, that it is the result of the social organization. Suppose it be a conventional right; but it seems to me if goes back of that. I know that the right of voting is regulated by law, yet when men enter into the social compact as equals and agree to a form of government and that the power shall rest with the people, is it not a natural right after they have made such a compact that their equality shall not be disturbed. But suppose it to be a conventional right, and a conventional right is taken away from a man because he has committed a crime, is not that a punishment? It has so been considered. This is not a new question. In the reign of George III an act of Parliament taking away the right to vote was regarded as a bill of attainder, a bill of punishment. Upon that subject I will read from Woodson's Lectures, volume one, lecture forty-one:

"Thus in the case of New Shoreham sixty-eight electors for that borough by name are disqualified to vote for members of Parliament. Such incapacity was part of the punishment provided by the general law against bribery. The operation, therefore, of this legislative sentence was to preclude the necessity of formal convictions against each individual, their guilt being thought sufficiently apparent."

"It must be admitted that in all penal statutes passed *ex post facto*, except where the innovation mollifies the rigor of the criminal code, justice wears her sternest aspect. Moral conscience and human frailty have no longer the additional guidance of the law."

There, sir, an act of Parliament which took away from sixty-eight men the right to vote for a member of Parliament because those sixty-eight men had committed the crime of bribery at an election was regarded as a bill of pains and penalties, regarded so by this writer, regarded so by Parliament itself, regarded so by the courts.

Mr. DOOLITTLE. If the honorable Senator from Indiana will allow me, I desire to call his attention to a section of the statute passed by Congress punishing treason.

Mr. HENDRICKS. Certainly.

Mr. DOOLITTLE. One part of the punishment is described in the third section:

"And be it further enacted, That every person guilty of either of the offenses described in this act shall be forever incapable and disqualified to hold any office under the United States."

This is the act of 1862 "to suppress insurrection, to punish treason and rebellion, and for other purposes;" so that the disqualification to hold office was a part of the punishment for the crime of treason committed after the passage of the act.

Mr. HENDRICKS. The act of Parliament to which I refer, is the fifty-fifth chapter of the second of George III. I will ask Senators who apologize for this proposition whether citizenship is a natural right. It is very clear that it is not. The man who comes from a foreign land into our country is not, by virtue of any natural right, a citizen. He becomes a citizen because our political community agree to it. The right of citizenship is a conventional right; yet as a punishment, in direct terms, for crime, Congress has said the right of citizenship shall be taken away. I refer to the act passed in 1865 punishing desertion. It is on the same line of thought suggested by the Senator from Wisconsin:

"That, in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States who shall not return to said service or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof."

Expressly as a punishment. It is not, certainly, and no lawyer will say it is, important by what term this is known. The question is, is the proposition a punishment for an act done? I suppose in all the States disfranchisement is found as one of the punishments. I will read from one section of the laws of Indiana, with which I am more familiar than with the laws



of other States. As a part of the punishment for larceny, it is provided that upon conviction thereof the party—

"Shall be fined not exceeding double the value of the goods stolen, be imprisoned in the State prison not less than two nor more than fourteen years, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period."

I suppose similar legislation is found in the other States. I have not taken the trouble to examine. Then, sir, a proposition to take away the right of voting from sixty-eight men by an act of Parliament because of an offense committed before that time was regarded as a bill of attainder, a bill of pains and penalties. The act of Congress to which I have referred, the act of Congress to which the Senator from Wisconsin has referred, applies in express terms to the stripping of the citizen of his citizenship as a punishment for a crime, and the laws of the State do the same. In this bill we propose to take away from men the right to vote which they now enjoy under existing laws because of a crime committed before this time. Can that be done when the Constitution prohibits the enactment of an *ex post facto* law?

Upon the general proposition, I have but very little to say in regard to this bill. I will not vote for it. In regard to the people of this District, I hold that I occupy the same relation to them that I would to the people of the State of Indiana were I a member of the Legislature of that State. The people of the District I understand to be my constituency in passing laws that are to govern them and them only. By a very large vote, almost unanimous, they have declared that they want no such law as this. If I were a representative in the Legislature of Indiana, and all the people of the State of Indiana at a popular election, except thirty-five, were to say to me not to vote for a bill, would I dare to vote for it? Would any Senator in his State Legislature, being instructed by all the people except thirty-five to vote against a measure, dare to vote for it? I think every Senator will say he would not, that he would regard so strong an expression of the popular desire as controlling his conduct. Then, sir, when we legislate for the people of this District, enacting a law not affecting our constituencies at home at all, but only affecting the people of this District, why have they not the right to instruct us? If all the people desire that a law shall not be passed, why will we not respect that instruction? I cannot understand that Congress being clothed with the legislative power for this District has the power to disregard the desires of the people. Are laws not to be made agreeable to the people that are to obey them? Is not that a general principle of popular government? But because these people in the District do not elect us, because we are not dependent upon their votes for our offices, have we a right to disregard their wishes? In regard to the people of Indiana, when the law affects them I should obey their wish; and when I come to vote upon a bill that affects only the people of the District, it seems to me, for the purposes of that bill, they are my constituency and I must respect their will.

Mr. LANE. Mr. President, at this stage of the debate, when the Senate are exceedingly anxious to vote, in which anxiety I certainly participate, I shall content myself rather with stating my positions upon the question than arguing or giving reasons for them. It is necessary, perhaps, in order that my position may be fully understood, that I state very briefly how I shall vote, and still more briefly the reasons for that vote.

I understand, first, that all the just powers of government derive their authority from the consent of the governed. Here is a proposition to confer, first, the right of suffrage upon the colored people of this District without qualification. An amendment proposes to confer that same right with certain qualifications. I shall vote to confer the right upon the colored people of the District without regard to qualifications, recognizing simply that they are the

governed in this District, that they are citizens by virtue of the civil rights bill, by virtue of the constitutional amendment, from the fact that they are native, born to the manor. I, then, shall vote for this proposition without any qualification or restrictions.

I do not feel with my distinguished colleague that I am simply the representative of the people of the District. I read in the Constitution of the United States that Congress shall have exclusive legislative jurisdiction over the ten miles square to be ceded to the United States for the purposes of a General Government. In my vote here to-day I am equally the representative of the whole people of the United States as I am the representative of the people of this District. If we are alone the representatives of the people of the District, why are we not alone elected by the people of the District? This is a great question in which the whole people are interested, every voter in Indiana precisely as much as every resident in the District of Columbia. Our power to legislate is full and plenary over all subjects of legislation. Then the only question is, whether the right of suffrage is a proper subject of legislation? If so, our power is complete and ample over the whole subject. I believe that no man will doubt the constitutional power of Congress to legislate upon all subjects proper to be legislated upon, and that the right of suffrage is one of the subjects most peculiarly within our legislative jurisdiction.

But we are told that we should not force this measure upon an unwilling constituency, taking it for granted that the people of this District upon this subject are alone our constituents, that we should not force it upon them, because they, the citizens of this District, by a deliberate vote, have determined that they do not desire any such thing. Who has determined it? Who ordered this election, and who voted at this election? Your mayor and common council, without any authority of law whatever, ordered an election in the District to determine upon a question over which they had no possible jurisdiction. They derive all their power to legislate from the acts of Congress. They have an act of incorporation allowing them to do certain things and to legislate upon certain subjects; but where is the authority of your mayor and common council to order an election to instruct the people's representatives as to the legislation in this District? Where is any such authority? The whole election was unauthorized and a voluntary act upon the part of the people of this District, and was so regarded by very many of the most loyal residents of the District. Such was their understanding of this election and its invalidity that they refused to attend the polls; and hence it is that you have only thirty-five votes in favor of this proposition. But by your legislation you have made the colored people of this District citizens. The question now is, whether you shall enfranchise them. The men who have oppressed them, who have grown rich upon their unrequited toil for two hundred years, meet in solemn conclave and resolve that the colored man, a freeman and citizen as he is, shall not be permitted to vote! If you wish a vote, pass an act of Congress and let all vote, the colored as well as the white, and then there may be some validity and some authority in your election. So much for the instructions that we have received upon this subject.

I shall vote to enfranchise the colored residents of this District because I believe it is right, just, and proper, because I believe it is in accordance with those two grand central truths around which cluster every hope for redeemed humanity, the common fatherhood of God above us and the brotherhood of universal mankind. I go to the original principle and right of the question, and hence I shall vote to enfranchise the colored people of this District.

But gentlemen tell us they are not qualified to vote. What are the two constituent elements which should enter into the character of a good voter? Loyalty first, and intelligence secondly.

These are the only two elements which need necessarily enter into the constitution of a good voter—patriotism and intelligence—in order to exercise appropriately the right of suffrage. First, as to loyalty, how does it stand in this District? According to numbers, the colored population have furnished more soldiers to the Army of the Republic than the white residents of the District. The report of our Provost Marshal General shows it. Their patriotism is undisputed. Their color, a badge as it is of oppression and degradation and servitude, is equally a badge known and read of all men of loyalty and devotion to the Government under which we live. Their loyalty has been tested everywhere upon the battle-field and in administering kindly to your prisoners. They were and have been the loyal element. They have turned out nobly to defend the country. Without any attack upon the people of the District, the records of the provost marshal's office show that here at least, in proportion to numbers, they have given more soldiers to the Army than have the patriotic white residents of the District. Then we have the first element—loyalty.

Now, secondly, as to their intelligence, my distinguished colleague from Indiana says that although opposed to this test of intelligence as applied to white men, yet, under the peculiar circumstances of the case, he is in favor of applying it to colored men. For the last two hundred years it has been impossible for these poor slaves to educate themselves. Under the laws of many of the States it has been a penal offense to teach them their letters, and to read the Gospel of eternal truth and to teach them to read it has been a penitentiary offense. These poor people have hitherto had no opportunity of education, no opportunity of learning; and because they cannot read and write now they are to be disfranchised, while white men who have had the advantages of free institutions and of the means of education are to be permitted to vote in ignorance, the result of their own want of attention, perhaps, or want of disposition. It is not proper to apply the test to the white man who cannot read, but altogether proper to apply it to the colored man who has had no possible opportunity to learn to read! I think the ballot itself is worth all the schools and all the schoolmasters to educate voters to enable them to vote intelligently.

You have freed by your legislation and by your constitutional amendment four and a half million slaves; you have made them citizens, free before the law, free before the Constitution as it soon will be declared. Now, sir, one of two things is true: you must either give these colored people the right to protect themselves, or you must take upon yourselves for all time to come the duty of their protection; for they cannot be abandoned. They must be enabled to protect themselves or you must protect them. If you protect them, you must continue in operation your charitable associations, your Freedmen's Bureau, your civil rights bill, and all that system of legislation, or you may abandon them the very moment you permit them to vote. Then they are self-protecting, self-sustaining. I vote therefore to confer this ballot upon the colored people here because of our duty to protect them, and because it is cheaper and in every sense better to give them self-protection than to extend to them the protection of the Government. So much in reference to that.

Now, in reference to their intelligence, we find that in the District of Columbia the colored people subscribe, pay for, and read over five thousand daily newspapers. We find that they have seven thousand colored children in their own schools. We find that they have religious, benevolent, and philanthropic associations sustained alone by the colored people of the District. That would argue, to my mind, a state of intelligence far from dangerous to the public liberty of the country.

But my distinguished colleague would not force this right of suffrage upon an unwilling people. Do you not remember that the same protest was urged by those same resident citizens of Washington against the emancipation

of the slaves in this District? Would my colleague recall that glorious act, that act which flashed like a sunburst of liberty in the darkness of our legislation upon the subject of African slavery in this District and under the shadow of the Capitol? Would he recall that act emancipating the slaves in the District? Would any man recall it? Would he again rivet the chains of slavery upon the freed limbs of these emancipated slaves? And yet that act was passed over the earnest remonstrance of the people of the District. When we placed them in the Army they remonstrated against that, and against the general proclamation of emancipation. They have thrown themselves across the pathway of the onward march of this nation to the redemption of the nation and the supremacy of free institutions from the beginning of the rebellion to the present moment. What act of ours calculated to suppress the rebellion has yet met the approbation of the white residents of the District of Columbia? Not one single one.

Mr. President, I shall vote to enfranchise and give the right of suffrage to the colored people of this District. But gentlemen ask me if I would force negro suffrage upon the States lately in rebellion. I understand that under the Constitution of the United States the right of suffrage is left to be regulated by the respective States as they see fit. Those loyal States that have never forfeited their right to participate in the Government of the country have to-day full control over that whole subject. Whenever the rebel States shall be remitted to their rights under the Constitution and permitted to participate in the government of the country, when their relations to the Federal Government shall be fully restored, the regulation of the right of suffrage may appertain to them; but they never can be remitted to those rights except upon the terms and at the time that the Congress of the United States shall permit them. We have proposed to them the constitutional amendment. One reason why I voted for that amendment was that I supposed that in order to retain their political power in the country they themselves, when remitted to their constitutional relations, would permit the colored people to vote.

I yet believe that will be the operation of the constitutional amendment. But suppose they reject it, what then? We have held up to the rebellious States the constitutional amendment as the brazen serpent was held up in the wilderness to the children of Israel. We tell them to look approvingly upon the constitutional amendment and be healed from all the evils inflicted by the fiery serpents of treason, sedition, and rebellion. If they look not, then they perish in their sins and in the wilderness, and by my vote shall never get representation in these Halls. When they shall reject that amendment giving to them the full power to determine the right of suffrage in their own States, it will be necessary perhaps to resort to other means. What are those other means? To assert all the constitutional power which devolves upon Congress. We alone have the power to restore, to reconstruct, to revivify, to resurrect; and without the almighty power of Congress neither the President nor the Cabinet nor any earthly authority has a right to restore these rebellious States to their constitutional relations to the United States.

Gentlemen ask me how I would vote if the same proposition were pending in my own State. I have only to say this: as I understand it the State of Indiana has forfeited none of her rights of State sovereignty by any rebellion; she has a right to fix this matter as she pleases within her own limits; but if I were called upon in my State to vote for a constitutional amendment in favor of universal manhood suffrage I should unhesitatingly vote for it. I should unhesitatingly vote for it in Indiana or anywhere else. The right to vote may not be strictly a natural right, but it is so intimately connected with the right of self-defense and self-preservation that it is hard to

distinguish where the one begins and the other ends. So far I am clear, "sufficient unto the day is the evil thereof;" to-day I vote to enfranchise the colored people in the District of Columbia. I do it proudly. I believe the people demand it. I have never dodged the issue. I have been ready to vote for it for the last six years, I am ready to vote for it now, and I give this vote with more pride and as much pleasure as I have given any vote in this body.

Mr. SUMNER. Mr. President, I have already voted against the proposition to strike the word "male" out of the bill, and I shall now vote against the pending proposition to fix an educational test. In each case I am governed by the same consideration.

In voting against striking the word "male" out of the bill, I did not intend to express any opinion on the question which has at last found its way into the Senate Chamber, whether women shall be invested with the elective franchise. That question I leave untouched, contenting myself with saying, that it is obviously the great question of the future, which will be easily settled, whenever the women in any considerable proportion insist that it shall be settled. And so in voting against an educational test I do not mean to say that under certain circumstances such test may not be proper. But I am against it on the present occasion.

The bill under consideration is the enfranchisement of the colored race in the District of Columbia. It completes Emancipation by Enfranchisement. It entitles all to vote without distinction of color. The courts, and the rail-cars of the District, even the galleries of Congress, have been opened to colored persons. It only remains that the ballot-box be opened to them. Such is my sense not only of the importance but of the necessity of this measure; so essential does it appear to me for the establishment of peace, security, and reconciliation, that I am unwilling that it shall be clogged, burdened, or embarrassed by anything else. I wish to vote on this measure alone. Therefore, whatever may be the merits of other questions, I shall have no difficulty in putting them aside until this is settled.

The bill for Impartial Suffrage in the District of Columbia concerns directly some twenty thousand colored persons, whom it will lift to the adamant platform of Equal Rights. If it were regarded simply in its bearings on the District it would be difficult to exaggerate its value; but when it is regarded as an example to the whole country under the sanction of Congress, its value is infinite. It is in the latter character that it becomes a pillar of fire to illumine the footsteps of millions. What we do here will be done in the disorganized States. Therefore we must be careful that what we do here is best for the disorganized States.

If the question could be confined in its influence to the District, I should have little objection to an educational test. I should be glad to witness the experiment and be governed by the result. But the question cannot be limited to the District. Practically it takes the whole country into its sphere. We must, therefore, act for the whole country. This is the exigency of the present moment.

Now, to my mind nothing is clearer than the absolute necessity of the suffrage for all colored persons in the disorganized States. It will not be enough if you give it to those who read and write; you will not in this way acquire the voting force which you need there for the protection of Unionists, whether white or black. You will not secure the new allies which are essential to the national cause. As you once needed the muskets of the colored persons, so now you need their votes; and you must act now with little reference to theory. You are bound by the necessity of the case. Therefore when I am asked to open the suffrage to women, or when I am asked to establish an educational standard, I cannot on the present bill simply because the controlling necessity under which we act will not allow it. By a singular Providence we are now con-

strained to this measure of Enfranchisement for the sake of peace, security, and reconciliation, so that loyal persons, white or black, may be protected and that the Republic may live. Here in the District of Columbia we begin the real work of reconstruction by which the Union will be consolidated forever.

The PRESIDING OFFICER, (Mr. ANTHONY.) The question is on the amendment of the Senator from Connecticut [Mr. DIXON] to the amendment of the Committee on the District of Columbia.

Mr. YATES. Upon this proposition I have agreed to pair off with the Senator from Maryland, [Mr. JOHNSON.] If he were present he would vote "yea" and I "nay."

The question being taken by yeas and nays, resulted—yeas 11, nays 34; as follows:

YEAS—Messrs. Anthony, Buckalew, Dixon, Doolittle, Fogg, Foster, Hendricks, Nesmith, Patterson, Biddle, and Wiley—11.

NAYS—Messrs. Brown, Cattell, Chandler, Conness, Cowan, Creswell, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Norton, Poland, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Williams, and Wilson—34.

ABSENT—Messrs. Cragin, Fowler, Guthrie, Johnson, McDougall, Nye, and Yates—7.

So the amendment to the amendment was rejected.

Mr. POMEROY. I move to amend by striking out in the fifth line of the first section the words "left the District of Columbia to give," and insert "given," so as to make the exception read, "and excepting persons who may have voluntarily given aid and comfort to the rebels in the late rebellion."

The PRESIDING OFFICER. The Chair is advised that the clause which the Senator desires to amend has already been agreed to as an amendment, and therefore it cannot be now amended.

Mr. POMEROY. Then I shall move my amendment in the Senate. We are now acting as in Committee of the Whole.

Mr. WILSON. I move to amend the amendment of the committee by adding two new sections:

*And be it further enacted, That it is hereby declared unlawful for any person, directly or indirectly, to promise, offer, or give, or procure, or cause to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, understanding, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any person with the intent to influence his vote to be given at any election hereafter to be held within the District of Columbia, and every person so offending shall on conviction thereof be fined in any sum not exceeding \$2,000, or imprisoned not exceeding two years, or both, at the discretion of the court.*

*And be it further enacted, That any person who shall accept, directly or indirectly, any money, goods, right in action, bribe, present, or reward, or any promise, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever to influence his vote at any election hereafter to be held in the District of Columbia, shall on conviction be imprisoned not less than one year and be forever disfranchised.*

I will simply say that one of these sections makes it unlawful to buy votes and punishes a man for attempting to buy them, and the other punishes the man who sells his vote.

Mr. HOWARD. I know very little about the laws relating to the District of Columbia; but I cannot imagine that any civilized community could have existed as long as this District has done without some legislation to punish bribery at elections; and I will therefore call on the honorable chairman of the Committee on the District of Columbia to inform the Senate as to the necessity of the proposed amendment. Is there not some law to punish bribery at elections in the District of Columbia that is sufficient?

Mr. MORRILL. There is no uniform law on the subject I believe. All there is on the subject is under the law of Maryland existing in this District at the time when it came under the jurisdiction of Congress. I think there is no law on the subject except such as may be found in the Maryland code at the time this District fell under the jurisdiction of Con-

gress, and the rule is not uniform in either of the two cities or in the country quarter of the District.

Mr. HOWARD. If that be the case I hope this amendment will pass.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move to amend the first section of the amendment reported by the committee by striking from the seventh line the words "is a citizen thereof," and inserting in lieu thereof the words "shall have been born in." The object of this amendment is to leave it not open to dispute what class of persons are citizens of the United States, inasmuch as the present standing law on the subject, the decision of the Supreme Court of the United States in the case of Dred Scott, declares that negroes are not and cannot be citizens of the United States. I know that the civil rights bill declares that they are. I have no doubt whatever that they were so without the civil rights bill, and that if they were not, the civil rights bill clearly and lawfully makes them so; but it will be made a question by the persons who are authorized to decide in this District who are voters and who are not standing upon that decision, and I very much fear that without this amendment it will be many years, as this District is at present organized, before these people are allowed to vote if you leave open to them the question of who is a citizen and who is not. With that view, governed by the same impulse which has governed us hitherto when we have been called upon to act on this subject, I move this amendment.

Mr. POMEROY. I would suggest to the Senator from Vermont that he add the words "or naturalized" after the word "born."

Mr. EDMUNDS. I accept that.

Mr. POMEROY. There are a great many citizens who were not born here.

Mr. EDMUNDS. I agree to the modification. Being a native know-nothing myself, [laughter,] I had forgotten our foreign brethren.

The PRESIDING OFFICER. The amendment of the Senator from Vermont, as modified, is to strike out in line seven of section one of the amendment of the committee the words "is a citizen of," and to insert "shall have been born or naturalized in."

The amendment to the amendment was agreed to.

Mr. MORRILL. I desire to amend the amendment of the committee in line nine of section one. It now reads "shall have resided in the said District for the period of one year previous to." I move to amend by striking out "previous to" and inserting "next preceding," so as to limit the time of residence to one year next preceding the election.

The amendment was agreed to.

Mr. MORRILL. I move further to amend by filling the blank in section seven with the words "1st of March."

The motion was agreed to.

Mr. BUCKALEW. I propose, to change the order of the section, to strike out the fifth section where it occurs, and place it at the end of the amendment. It is the general repealing clause of all formal acts inconsistent with the present, and should be at the end of the bill.

Mr. MORRILL. There is no objection to that.

The PRESIDING OFFICER. That change will be made, there being no objection.

Mr. BUCKALEW. I propose a small amendment at the end of the fourth section by inserting these words, "next preceding the holding of any general or city election in said District." This is the section which directs the court to give this act in charge to the grand jury on the first day of their session. It ought to be done at the session immediately preceding an election.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move to amend the amendment by adding the following section:

*And be it further enacted, That if any person shall knowingly vote at any election or on any question without having a lawful right to do so he shall be punished by a fine not exceeding \$500, and shall be thereafter disqualified to vote.*

I have looked through the penal code of the District of Columbia, and I do not find any provision for the punishment of illegal voting, which is the most common form of a violation of the franchise laws; and I am told by a gentleman from Maryland, a lawyer in whose knowledge and judgment I have great confidence, that the old Maryland laws in force in the District on that subject are exceedingly loose and defective, therefore it is that I offer this amendment.

Mr. HENDRICKS. I desire to ask the Senator why he adds "or on any question." Is it not quite enough to say "at any election?"

Mr. EDMUNDS. It frequently happens in most parts of the country that questions which are not merely elective questions are submitted to the people. Municipal questions, a variety of questions, are often submitted to the voters of an election precinct in a city, town, county, or State, which are not merely the selection of persons to fill offices, but which are public questions left to the primary determination of the people's will. Now, if in such a case a person should claim and exercise the right to participate in the decision of such a question, knowing that he had no legal right to do so, it appears to my humble apprehension that he is equally deserving of punishment.

Mr. HENDRICKS. I do not think that is safe. It is sometimes the case that a vote of the people is taken very irregularly on some questions, and I do not know that there ought to be a penalty of that kind for such a proceeding, and I move to strike out those words.

The PRESIDING OFFICER. This being an amendment to an amendment it is not amendable.

Mr. POMEROY. The Senator from Vermont must be aware that there is a registry law in this bill, and no one's vote can be received unless his name is on that registry. The crime is committed when a man gets himself registered improperly as well as when he votes improperly.

Mr. GRIMES. I apprehend that the difficulty originates from the fact that the Senator from Vermont imagines that the elections here may possibly be of the character of those that are held in New England, where at a town meeting various questions are presented. Such is not the case anywhere out of New England. In the other States all that is done by any elector at any election is depositing his ballot in the box. To all of us who are familiar with elections outside of New England, and as they are conducted here, the word "elections" seems more proper than the phraseology used by the Senator from Vermont in his amendment.

Mr. EDMUNDS. The amendment includes both. It meets the point made by my friend from Iowa, and it goes a step further. It may be possibly that as the law now stands there cannot be any legal mode of submitting a question to the people of this District.

Mr. GRIMES. It would be submitted at an election, would it not?

Mr. EDMUNDS. No, sir; it would not be submitted at an election. Supposing it to be lawful for the common council of this city, if that is the style of the government of it, to leave it to the people of this District to say whether a tax of twenty cents on the dollar of the ratable estate of this District should be raised for the purpose of lighting the streets, and the common council should submit it to the people to say whether they would raise that tax or not, the submission of that question, as I understand the ordinary use of terms, would not be an election; but it would be a question submitted to their legislative authority, if they have it, for them to pass upon.

Now, then, if a man knowingly votes without having authority to do so on a question of that description it appears to me he ought to be punished. Therefore having provided for every case of election, there can be no harm in adding a prohibition and a punishment of any other species of illegal voting which may possibly exist.

Mr. HOWARD. I ask to have the pending amendment read again.

The Secretary read the amendment.

Mr. HOWARD. I move to amend it by striking out the latter clause providing for disqualification.

The PRESIDING OFFICER. This being an amendment to an amendment is not amendable in the third degree.

Mr. HOWARD. I think the provision is too severe. Suppose a man votes under a misapprehension of his right to vote, would you go so far as to disqualify him for voting forever afterward?

Mr. EDMUNDS. The provision is that it must be done knowingly.

Mr. HOWARD. I think the clause is very general in its form and would include everybody who votes unlawfully, whether knowingly or not. I think the penalty would be very severe. I think the Senator from Vermont will find that I am correct about it. If that be the real character of the amendment, I cannot vote for it; because I would not vote to disqualify a person who had voted ignorantly when he was disqualified to vote. At all events I think it entirely unnecessary to add the disqualifying clause, because a fine, in my judgment, would in all cases be quite sufficient. I believe that no such clause is to be found in any of the statutes of the States for the punishment of illegal voting; certainly not in my own State.

Mr. EDMUNDS. I beg that the Secretary may report the amendment again.

The amendment was again read.

Mr. EDMUNDS. I believe that the penal statutes of every eastern State, although I do not upon that subject speak by the book, punish illegal voting, and by that I mean voting by a person who has no lawful right to do so, knowing that he has not the right; that is, a person who commits a fraud upon the other voters of his community by undertaking to participate with them in the exercise of that right. Every statute-book of an eastern State I believe adds to the punishment of fine the indefinite suspension of that privilege until the law-making power shall choose afterward by a pardon of restoration to his legal rights to reinstate him; and it ought to be so. A man who fraudulently and corruptly undertakes to assert the privilege of exercising that high prerogative—and it has been demonstrated to us here in a two days' debate that it is a high prerogative—deserves more than any other man, except it may be for treason, for it is analogous to that, to be disqualified from ever afterward being seen about the polls or at a ballot-box. He ought to be so. If it were open to doubt upon the phraseology of this amendment whether this crime must be committed knowingly, which is the essential element of all crime, there would be great force in the objection to the disqualifying clause and to the whole clause from beginning to end; because no man ought to be punished for merely voting when he has not a right to do so if he honestly believes that he has the right. But this section, framed in the hurry of the moment to be sure, is, so far as I recollect, in the very substance of the language of the penal statutes of most of the States on this subject.

Mr. HENDRICKS. I wish to call the attention of the Senator from Vermont a little more particularly to the suggestion made by the Senator from Kansas. This bill provides that at a certain time there shall be a board in session and that that board shall hear evidence in regard to the qualifications of voters and shall decide and make a list, and none shall vote except those who are upon that list. Now, I submit to the Senator from Ver-



mont whether a man can be an illegal voter after that adjudication. I do not think it ought to be an open question after that. Where a man's right to vote has been inquired into by the proper board and has been decided, I do not think after that it ought to be said that he is an illegal voter.

Mr. MORRILL. I hardly know what the effect of this provision would be, and I must appeal to the Senate to maintain the bill as it is. If it shall turn out in future that there is any necessity for extending provisions in this direction, it will be a very easy thing to do it. Inasmuch as there is some little question about the extent and the propriety of it, I hope my friend from Vermont will withdraw it, and if it be found necessary it may be reported hereafter upon a general view having in view the subject to which he advert.

Mr. EDMUNDS. I shall certainly yield to the wishes of my friend from Maine, the gentleman who has charge of the bill, on this point. I should not have offered the amendment but that it appeared from the report of the committee that they had undertaken to provide a criminal code in the bill itself for the government and the regulation of the exercise of this right; and if in this bill we are to provide a criminal code upon that subject it ought certainly to be reasonably complete and perfect. But inasmuch as my friend from Maine, in whose judgment and in whose faith I have the greatest confidence, desires that this amendment should be withdrawn, I shall, out of deference to his wishes, withdraw it.

The PRESIDING OFFICER. The question now is on agreeing to the amendment reported by the Committee on the District of Columbia, which is to strike out all of the original bill after the enacting clause and insert the substitute as that substitute has been amended.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. POMEROY. Now, before the question is taken on concurring in the amendment, I move to amend it by striking out in line seven of section one the words "left the District of Columbia to give" and inserting "given;" so as to read "excepting persons who have voluntarily given aid and comfort to the rebellion."

Mr. HENDERSON. I desire to ask the Senator from Kansas whether the effect of that amendment will not be to disfranchise a person who may have once given aid and comfort to the rebellion, although he may afterward have borne arms in defense of the country in the late war. I do not know whether there are such individuals in this District, but in our State we have passed laws excusing individuals who had formerly given aid and comfort to the rebellion but afterward had served in the Union armies.

Another very great hardship in all probability will arise, as this bill provides for all elections, not only municipal elections, but all elections for subscribing money. This would disfranchise any person from voting even upon a money proposition. ["Oh, no."] Yes it would. I have my doubts about the propriety of that.

The amendment to the amendment was agreed to.

The amendment made as in Committee of the Whole, as amended, was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SAULSBURY. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. YATES. I desire to state that I have paired off on this question with the Senator from Maryland, [Mr. JOHNSON.] If he were here, he would vote against the bill, and I would vote for it.

The question being taken by yeas and nays, resulted—yeas 32, nays 13; as follows:

YEAS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Creswell, Edmunds, Fessenden, Fogg, Frothinghams, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart,

Sumner, Trumbull, Wade, Willey, Williams, and Wilson—32.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Foster, Hendricks, Nesmith, Norton, Patterson, Riddle, Saulsbury, and Van Winkle—13.

ABSENT—Messrs. Cragin, Fowler, Guthrie, Johnson, McDougall, Nye, and Yates—7.

So the bill was passed.

The announcement of the result was greeted with applause in the galleries, which was checked by the Presiding Officer.

#### DEFICIENCY BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 876) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867; and on motion of Mr. FESSENDEN, the bill was read twice by its title, and referred to the Committee on Finance.

Mr. WADE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 13, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### APPOINTMENT OF REVENUE OFFICERS.

Mr. MILLER, by unanimous consent, introduced a bill to provide for the appointment of assessors and collectors of internal revenue throughout the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### DEPARTMENT OF AGRICULTURE.

Mr. DONNELLY, by unanimous consent, introduced a bill to reorganize the Department of Agriculture; which was read a first and second time, referred to the Committee on Agriculture, and ordered to be printed.

#### NORTH CAROLINA.

Mr. STEVENS. I ask unanimous consent to introduce for reference a bill to reestablish civil government in North Carolina, to enable it to resume its former relations as one of the constitutional States of the American Union. I do this at the request of certain gentlemen from North Carolina.

No objection was made, and the bill was received, read a first and second time, referred to the Committee on Territories, and ordered to be printed.

JOHN L. SOHAN.

Mr. HARDING, of Kentucky, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions inquire into the justice and propriety of allowing to John L. Sohan an increased pension in lieu of that now allowed to him, in consequence of his total blindness, and report by bill or otherwise.

#### LIGHT-HOUSE ON MENDOTA HARBOR.

Mr. PAINE, by unanimous consent, introduced a bill to provide for the erection of a light-house at the entrance of the harbor of Mendota, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

#### INVESTIGATION OF PUBLIC EXPENDITURES.

Mr. HULBURD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Expenditures, by a delegation not exceeding three of the members, have leave to hold a session in the city of New York for the purpose of closing up an investigation commenced by said committee during the recess of Congress; and that said Committee on Public Expenditures have leave to sit during the sessions of the House.

#### PROTECTION OF THE REVENUE.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, introduced a bill to re-

peal the fourteenth section of an act entitled "An act to protect the revenue, and for other purposes," approved July 28, 1866; which was read a first and second time, and referred to the Committee of Ways and Means.

#### DISTRICT COURT IN PENNSYLVANIA.

Mr. SCOFIELD, by unanimous consent, introduced a bill extending the jurisdiction of the district court of the United States in the western district of Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

#### RANK AND PAY OF ARMY OFFICERS.

Mr. SCOFIELD, by unanimous consent, also introduced a bill relative to the rank and pay of Army officers; which was read a first and second time, and referred to the Committee on Military Affairs.

#### REPRESENTATION OF ALABAMA.

Mr. COOPER presented the credentials of J. Caleb Wiley, claiming a seat as a Representative from the second district of Alabama; which were referred under the rule to the joint committee on reconstruction.

#### SOUTHERN OVERLAND MAIL ROUTE.

Mr. BIDWELL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of reestablishing the southern overland mail route from San Francisco, via Los Angeles, Fort Huma, El Paso, and Fort Smith, to Memphis, in accordance with a resolution adopted January 20, 1866, by the Legislature of California, and that the said committee have leave to report at any time by bill or otherwise.

Mr. WASHBURN, of Illinois. I have no objection to this resolution, if it be modified so as to strike out the clause authorizing the committee to report at any time.

Mr. BIDWELL. Very well; let that be stricken out. I modify the resolution in that respect.

There being no objection, the resolution, as modified, was considered and agreed to.

#### ALMANSON EATON.

Mr. McINDOE, by unanimous consent, introduced a bill for the relief of Almonson Eaton, receiver of public moneys for the district of land subject to sale at Stevens's Point, Wisconsin; which was read a first and second time, and referred to the Committee on Public Lands.

#### WILLIAM M'GARAHAN.

On motion of Mr. JULIAN, by unanimous consent, the Committee on Public Lands was discharged from the further consideration of the memorial of William McGarahan relative to his claim to a certain land grant; and the same was referred to the Committee on the Judiciary.

#### CANAL AND SEWERAGE COMPANY.

Mr. WINDOM, by unanimous consent, introduced a bill to incorporate the District of Columbia Canal and Sewerage Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### REGULATION OF CIVIL SERVICE.

Mr. JENCKES, from the joint committee on retrenchment, reported a bill to regulate the civil service of the United States, and to promote the efficiency thereof; which was read a first and second time, and on motion of Mr. JENCKES ordered to be printed and recommended.

#### RANGE SHOAL LIGHT-HOUSE.

Mr. NEWELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be requested to inquire into the expediency of erecting a small light on the shoal known as "The Range" in the bay of Little Egg Harbor, in the State of New Jersey.

#### HUGH WORTHINGTON.

Mr. KUYKENDALL, by unanimous consent, introduced a bill for the relief of Hugh Worthington, of Metropolis City, Illinois; which

was read a first and second time, and referred to the Committee of Claims.

FRANCIS S. LYON.

Mr. THAYER, from the Committee on Private Land Claims, reported back Senate bill No. 373, releasing to Francis S. Lyon the interest of the United States in certain lands, with the recommendation that it do pass.

The bill provides that any interest which the United States have in the lands described in a deed executed by Wager Swayne, assistant commissioner of the Bureau of Freedmen and Abandoned Lands in the State of Alabama, to Francis S. Lyon, bearing date February 3, 1866, be released and confirmed to the said Lyon.

The bill was ordered to be read a third time; and it was accordingly read the third time and passed.

Mr. THAYER moved to reconsider the vote by which the bill was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GEORGE HENRY PREBLE, UNITED STATES NAVY.

Mr. BRANDEGEE. I ask leave to report back from the Committee on Naval Affairs Senate bill No. 176, for the relief of George Henry Preble, a commander in the Navy of the United States, with a recommendation that it do pass. There is a report accompanying the bill, and unless some gentleman desires further information, after it has been read I shall ask for the previous question.

The bill provides that the proper accounting officers of the Treasury be authorized and directed, in settling the accounts of George Henry Preble, a commander in the Navy of the United States, to allow him pay as a commander from the 16th of July, 1862, in the same way and manner as if the order discharging him from the naval service had never been issued.

It appears from the report that the petitioner alleges that, being an officer in the Navy on the 5th of August, A. D. 1862, he was promoted to his present rank, to date from the 16th day of the preceding July; that the Senate on the 21st day of the then next February confirmed him as such commander.

He further alleges that while he was on duty, on the 12th of October, 1862, he received official notice by a letter from the Navy Department, dated September 20, 1862, that he was dismissed from the naval service; and that he remained in that situation until he was, on the 21st of February, 1863, confirmed as commander by the Senate on a nomination of the President made on the 12th of the same month. Under these circumstances, he prays that he may be allowed pay as commander afloat from the 16th of July, 1862, to the 12th of October, in the same year, and of a commander waiting orders from the latter date to the 21st of February, 1863, when he was confirmed in his present office by the Senate.

The facts alleged in the petition the committee find, on reference to the official records of the Government, to be true.

The nomination of Commander Preble, made by the President on the 12th of February, 1863, to take rank from the 16th of July previous, the precise time from which his former appointment was to date, and its subsequent confirmation by the Senate on the 21st of the same month, in the opinion of your committee had the effect, and was manifestly intended to have the effect, of putting him precisely where he would have been if the order of the Navy Department of September 20, 1862, discharging him from the naval service, had never been issued, and must be considered and taken to be a full revocation of that order, and a condonation of any real or supposed offense or delinquency on his part subsequent to the period from which his commission was to entitle him to take rank. Under these circumstances your committee are of opinion that the prayer of the petitioner is just and reasonable and ought to be granted, and report a bill for his relief.

Mr. WASHBURN, of Illinois. It seems

to me it is establishing an important principle, and that if we adopt it the Lord only knows where it will end. If we adopt it in the Navy it must apply to the Army. It seems a certain commander in the Navy was dismissed from the service, that he was out of the service for six months and was then restored; and this bill, as I understand, proposes to pay him for the time he was out of the service. If we adopt that principle there are hundreds and hundreds of cases of like character in the Army as well as in the Navy, and there is no telling what amount of money we will be compelled to pay to men who have not been in the service at all. Unless there are some peculiar circumstances in this case, taking it out of this general principle, I hope the bill will not pass.

Mr. BRANDEGEE. As I said on the introduction of the report, I should content myself with the facts there presented, unless some gentleman, or the House itself, showed a disposition that further facts should be stated, or the principles upon which the committee acted should be given. This bill, as will have been seen by the House, is to allow the accounting officers of the Treasury to pay to Commander Preble, of the United States Navy, the amount he would have been entitled to had he not been discharged from the service. Commander Preble, being a captain in the Navy, was promoted by the President to the rank of commander, to date from July 16, 1862. He was then in service in the Gulf—I think in command of a vessel blockading Mobile. Before his commission reached him, for an offense for which the Secretary of the Navy thought adequate, he was removed from the Navy. Subsequently, and while he was laboring under this disability, by order of the Secretary of the Navy, with full knowledge of the facts, and upon representation made to President Lincoln, he was renominated as commander in the Navy, his nomination to date back and take effect from the time of his original nomination. He was nominated on the 21st of February, 1863, to be commander, or to be promoted—for that was the effect of the nomination—as from the 16th of July, 1862. He was removed by order of the Secretary of the Navy on the 12th of October, 1862.

Now, the committee believe—in fact they understood from the gentleman who made a representation of the case to the President—that Mr. Lincoln intended in the renomination of this officer, despite his removal by the Secretary of the Navy, that it should date from the time of his original promotion, and that such was the contemplation of law.

Mr. WASHBURN, of Illinois. Will the gentleman yield.

Mr. BRANDEGEE. The gentleman is always able to take care of himself.

Mr. WASHBURN, of Illinois. I do not wish to take the floor; only to ask a question.

Mr. BRANDEGEE. When I am in the discharge of the duty of reporting a case from a committee I prefer to state my case fully and then answer any interrogatories that may be put to me by any member of the House. It will be observed by the House, upon this statement of facts, that when this officer was reinstated, though he was out of the naval service to be sure for about six months, to wit, from the 12th of October, 1862, to the 21st of February, 1863, his reappointment was to date back as of his original rank.

Now, if I understand the argument of the gentleman, and I feel the speciousness of it if not its force, an officer who was not doing naval service is not entitled to the pay of a naval officer. But it was stated before the committee—I think it came from the proper Department; at any rate the proof was before the committee from officers of the Navy—that in case of an officer being retired by the action of a board and afterwards being reinstated, the original rank and pay dates back to the time of the retirement. At any rate there are cases where special legislation has been had in this way.

Now, it seemed to the committee clear that the intention of the President was to condone the offense for which he was removed and wipe it out as if there was no such offense as justified his removal, and it seemed clear to us that the President renominated him as of the date of his removal.

This bill would draw from the Treasury about \$1,600 as pay for a commanding officer waiting orders. Though it may be of no special consequence in this case, I will state that this officer has since proved to be a very valuable one to the naval arm of the service. During the war he organized and commanded the corps of Marines who led the assault upon Fort Fisher under the bombardment of our fleet. The amount involved is small and it seemed to the committee that they were following the precedent in such case and carrying out the intention of the President and of the law in reporting this bill. With this statement I leave the matter with the House.

Mr. WASHBURN, of Illinois. If my friend will permit me—

Mr. BRANDEGEE. I have no control of the floor now.

Mr. WASHBURN, of Illinois. If the gentleman had permitted me to ask a question it would have obviated the necessity of saying what I propose to say. I did not desire to interrupt the gentleman's argument, but to suggest to him at the point upon which he was then speaking, that it must be treated as if there was no removal at all. The President having put this officer back where he was before, it was in substance no removal; and the question I desired to ask the gentleman was, why was it necessary to come here and ask Congress to pass this bill to pay him if he really was in the Navy and entitled to pay? Why could not the proper accounting officers of the Government pay him his salary? There seems to be something wrong in regard to it. His reasoning seems to fail entirely, because if his reasoning were correct there would be no necessity for an application to pay him for services which it is not contended that he ever rendered the Government.

Now, sir, as I remember this case, this man was dismissed from the Navy by the Secretary of the Navy on grounds which he deemed sufficient, and which I believe the country concurred in at the time, and he was out of the service. But the usual pressure was brought to bear on our good and lamented Chief Magistrate and he finally restored him; and now, after having been out of the service for six months, he is not satisfied with being restored to the service and taking his pay from the time of his reappointment, and he comes here and asks us to pay him for the time that he was out of the service.

Now, I think this is drawing it rather steep, and I think the House will never consent to the adoption of this principle. Where will it stop? Is there a member of Congress here who does not know cases in the military service where men have been dismissed the service and afterward restored? But has there been a single case in which the Government has paid the officer dismissed for the time that he was out of the service? I do not know of a single case, and I do not think the gentleman from Connecticut can show me a case where the Government has paid money under these circumstances.

I think, sir, that we should be establishing a most dangerous precedent, and I trust the House will ponder over the question before they establish it.

Mr. STEVENS. I desire to ask one or two questions for the purpose of obtaining some information. In the first place, I would like to know whether, as a general rule, officers draw their pay from the date of their commissions or from the time of actual service. I am informed that the date of the muster is the time. I asked the question because I really did not know how it was.

I would ask further whether in this particular instance the pay is to date from the time

of the remission of the sentence or of the new appointment made by the President.

Mr. BRANDEGEE obtained the floor.

Mr. SCOFIELD. I move that the bill be referred to the Committee of Claims.

The SPEAKER. The gentleman from Connecticut is entitled to the floor.

Mr. SCOFIELD. Perhaps the gentleman will allow me to make the motion, and then he can speak to it.

Mr. BRANDEGEE. As I am charged by the Committee on Naval Affairs with the duty of reporting this bill to the House, of course the gentleman will see very readily that I cannot consent, so far as I am concerned, to any motion that would interfere with the present consideration and passage of the bill, but having reported it to the House, it is for the House to say what disposition they will make of it, either proceed to action upon it or refer it to some more appropriate committee.

In deference to the suggestion of the gentleman, however, I shall refrain from moving the previous question on the passage of the bill, and the gentleman can test the sense of the House on his motion. Before, however, I surrender the floor for that purpose, I will answer, as far as I can, the questions of the gentleman from Pennsylvania. I think that if he had followed my first statement, he would have found it unnecessary to make such inquiries.

He asks whether the action of the President in nominating the applicant in this case a second time to this rank was understood to be or intended to be a reversal of the sentence or whether it was in the nature of an original appointment. That is a matter for each gentleman to decide for himself.

The fact is merely that an officer in the Navy was nominated for promotion and confirmed. That fact having taken place another fact occurred, and that is that he was removed by order of the Secretary of the Navy. And then there is a third fact, the rescission of the sentence or reappointment.

Now, some men may consider that an original appointment. It is such upon the face of it; but the committee came to the conclusion, from the fact that he was appointed as of the same date of his original appointment, and from the fact that the case was presented to the President, that it was intended by the President to reverse the decision of the Secretary of the Navy, as it does in point of fact, and in contemplation of law it must have been intended to be a condonation of any offense, real or supposed, for which he was removed by the Secretary.

In regard to the motion which will be made to refer this bill to the Committee of Claims, I will only say that the Committee on Naval Affairs found this matter before them by the decision of this House. They do not claim jurisdiction over this matter, except so far as the House gives them jurisdiction. This bill came to us from the Senate. In that body it was referred to the Committee on Naval Affairs, which committee reported it back to the Senate for action. I do not know that I am quite parliamentary in referring to the action of that body. But it is apparent from the records that such were the facts, and therefore it may not be unparliamentary for me to refer to them. The bill passed the Senate, and came to this House. The bill was referred by the House to the Committee on Naval Affairs, which committee after investigation instructed me to report it back to the House, as I have done. It is for the House to determine what action it will take in reference to it.

Mr. SCOFIELD. I do not make the motion to refer this bill to the Committee of Claims from any feeling of hostility to the bill. It may be just, or it may be unjust. But by referring it to the Committee of Claims, which committee will have charge of all such claims, we will secure uniformity of action. However able or honest the committee may be that have reported this bill they have not charge of claims of this kind. They have reported this

bill, and the Committee of Claims may report against a dozen bills of the same kind. Now we want uniformity of action in matters of this kind. Let us have the advice of the committee that have charge of all such matters so that all our bills may be treated alike. I therefore move that this bill be referred to the Committee of Claims.

Mr. PIKE. I hope the motion of the gentleman from Pennsylvania [Mr. SCOFIELD] will not prevail, because I do not see how the Committee of Claims can develop by their action any new facts to be presented to this House. Whether it would have been proper originally to have sent this bill to the Committee of Claims; instead of to the Committee on Naval Affairs, is not now to be decided by the House. It was sent to the Naval Committee; they have examined and ascertained the facts in the case, and the bill has been reported to the House by the gentleman from Connecticut, [Mr. BRANDEGEE,] as the organ of the committee. Now, it seems to me to be entirely unnecessary to send this bill to another committee to decide upon the facts of the case.

Mr. SCOFIELD. Will the gentleman from Maine [Mr. PIKE] allow me to interrupt him a moment?

Mr. PIKE. Certainly.

Mr. SCOFIELD. Perhaps the Committee of Claims may develop no new facts. But they will report under the rule which has been established by that committee for their government. At the last session we defeated a bill here which everybody admitted was a meritorious one, simply because it came from the Committee on Appropriations instead of the Committee of Claims; at least that was one of the arguments used against the bill. Now, let this bill go to the Committee of Claims, and let them report whether they are in favor of it under the rules that have governed them and the action of this House in connection with such subjects. The Naval Committee have nothing to do with making appropriations to pay claims merely because the claimant happened to be a naval officer, who was dismissed from the service and afterward restored. They might just as well say they have charge of the claims of men who have been in the military service. It is not at all within the line of duty prescribed for the Naval Committee by this House.

Mr. PIKE. The position of the gentleman from Pennsylvania [Mr. SCOFIELD] may be correct, if it should appear that the Committee of Claims have established a rule in relation to the payment of claims similar to this. But I do not understand that there are any of the claims pending before the Committee of Claims, or any other committee of the House, which is similar in character to this.

Now, this report from the Committee on Naval Affairs simply provides that the accounting officers of the Treasury shall examine and award under the rule now established by the House in this case. It does not fix any amount to be paid, that is for the accounting officers to determine. It makes no appropriation of money, but simply provides that the accounting officers under this rule shall give to the applicant in this case whatever may be due to him during this period of his suspension. It would seem that the suspension was ordered by the Secretary, and subsequently removed by the President. Under these circumstances I hope the bill will not be referred to the Committee of Claims.

The question being taken on the motion of Mr. SCOFIELD; it was agreed to—ayes 62, noes 35.

So the bill was referred to the Committee of Claims.

Mr. SCOFIELD moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN GRAY.

Mr. McINDOE, from the Committee on Revolutionary Pensions, reported back, with

a recommendation that it do not pass, a bill (H. R. No. 835) for the relief of John Gray; and the bill was laid on the table.

CHARLES M. RAYMOND.

Mr. McINDOE also, from the Committee on Revolutionary Claims, submitted an adverse report upon the petition of Charles M. Raymond for a pension; which was laid on the table.

#### ADJOURNMENT OVER THE HOLIDAYS.

Mr. WASHBURNE, of Illinois. I rise to a privileged question, and submit the following resolution:

*Resolved*, (the Senate concurring.) That when the House adjourn on Thursday, the 20th instant, they adjourn to meet on Thursday, the 3d day of January next.

In offering this resolution I will simply say that if we are to take a recess for the holidays, we had better agree upon the time as soon as practicable, so that gentlemen may know what we shall do and regulate their arrangements accordingly.

Mr. ASHLEY, of Ohio. I hope this resolution will not be adopted. I move that it be laid on the table.

On the motion, there were—ayes 45, noes 93.

Mr. FARNSWORTH. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 112, not voting 83; as follows:

YEAS—Messrs. Delos R. Ashley, James M. Ashley, Baker, Beaman, Benjamin, Bingham, Blow, Bromwell, Bundy, Reader W. Clarke, Cobb, Cullom, Donnelly, Farnsworth, Garfield, Abner C. Harding, Hooper, Hotchkiss, Ingersoll, Jencks, Julian, Kuykendall, George V. Lawrence, William Lawrence, Lynch, McKee, McRuer, Morrill, Moulton, Orth, Paine, Pike, Plants, William H. Randall, John H. Rice, Rollins, Scofield, Shellabarger, Sitgreaves, Spaulding, Stevens, Stokes, Trowbridge, Burt Van Horn, Hamilton Ward, and Woodbridge—46.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Baldwin, Baxter, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Broomall, Buckland, Campbell, Sidney Clarke, Conkling, Cooper, Darling, Dawes, Dawson, Deftrees, Delano, Deming, Denison, Dixon, Dodge, Driggs, Eckley, Eggleston, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hill, Hise, Holmes, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Hunter, Kasson, Kelley, Keise, Kerr, Ketcham, Krontz, Ladin, Latham, Le Blond, Loan, Longyear, Marshall, Marston, Marvin, Maynard, McCullough, McIndoe, Mercer, Miller, Moorhead, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Patterson, Perham, Price, Raymond, Alexander H. Rice, Ritter, Rogers, Rees, Rousseau, Sawyer, Shanklin, Sloan, Starr, Stilwell, Taber, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Van Aernam, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, James M. Wilson, Stephen F. Wilson, and Windom—112.

NOT VOTING—Messrs. Arnell, Banks, Barker, Chanler, Cook, Culver, Davis, Dumont, Eliot, Ferry, Hart, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Johnson, Jones, Leftwich, McClurg, Morris, Phelps, Pomeroy, Radford, Samuel J. Randall, Schenck, Strouse, Nathaniel G. Taylor, Robert T. Van Horn, Warner, Henry D. Washburn, Williams, Winfield, and Wright—33.

So the House refused to lay the resolution on the table.

Mr. WASHBURNE, of Illinois. I now demand the previous question.

Mr. MORRILL. I appeal to the gentleman from Illinois to withdraw the call for a moment till I can make a statement to the House.

Mr. WASHBURNE, of Illinois. I must insist on the call for the previous question.

Mr. ASHLEY, of Ohio. I call the attention of the House to the fact that this resolution proposes to vote away one sixth of the whole session.

Mr. WASHBURNE, of Illinois. I call the gentleman to order.

The SPEAKER. Debate is not in order pending the call for the previous question.

On seconding the call for the previous question, there were—ayes 75, noes 36.

Mr. MORRILL called for tellers.

Tellers were ordered; and Mr. MORRILL and Mr. WASHBURNE, of Illinois, were appointed.

The House divided; and the tellers reported—ayes ninety; noes not counted.

So the previous question was seconded.



Mr. MORRILL. I rise to a question of order. I want to know whether it is in order now to move to amend the proposition so as to provide for an adjournment *sine die*. [Laughter.]

The SPEAKER. It is not.

Mr. MORRILL. Is it in order to move to postpone the further consideration of this subject?

The SPEAKER. It is not; the previous question having been seconded.

Mr. GARFIELD. Is it in order to offer an amendment?

The SPEAKER. It is not.

The main question was ordered; which was upon agreeing to the resolution.

Mr. GARFIELD called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 58, not voting 84; as follows:

YEAS—Messrs. Alley, Ancona, Anderson, Arnell, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Broomall, Buckland, Campbell, Sidney Clarke, Conkling, Cooper, Darling, Dawes, Dawson, Defrees, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Briggs, Eckley, Eggleston, Eldridge, Eliot, Finck, Glossbrenner, Goodyear, Grinnell, Aaron Harding, Hale, Harris, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Hunter, Kasson, Kelley, Kelso, Kerr, Ketcham, Koonz, Latham, Le Blond, Loan, Longyear, Marshall, Marvin, McCullough, McIndoe, Mercur, Miller, Moorhead, Myers, Niblack, Nicholson, Noell, O'Neill, Patterson, Perham, Pomeroy, Raymond, Alexander H. Rice, Ritter, Rogers, Ross, Rousseau, Sawyer, Shanklin, Sloan, Starr, Stilwell, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Upson, Van Aernam, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Williams, and Stephen F. Wilson—104.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bingham, Bromwell, Bundy, Reader W. Clarke, Cobb, Cullom, Farnsworth, Farquhar, Garfield, Abner C. Harding, Hawkins, Hise, Hooper, Ingersoll, Jenckes, Julian, Kuykendall, George V. Lawrence, William Lawrence, Lynch, Maynard, McKee, McRuer, Morrill, Moulton, Orth, Paine, Pike, Plants, William H. Randall, John H. Rice, Rollins, Scofield, Shellabarger, Sturgeons, Spalding, Stevens, Stokes, Trowbridge, Burt Van Horn, Hamilton Ward, James F. Wilson, Windom, and Woodbridge—53.

NOT VOTING—Messrs. Banks, Barker, Blow, Chanler, Cook, Culver, Davis, Dumont, Ferry, Griswold, Hogan, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Humphrey, Johnson, Jones, Ladin, Lettwith, Marston, McClurg, Morris, Newell, Phelps, Price, Radford, Samuel J. Randall, Schenck, Strouse, Robert T. Van Horn, Warner, Henry D. Washburn, Winfield, and Wright—34.

So the resolution was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CRAWFORD KEYS AND OTHERS.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President be requested to communicate to this House copies of all official documents, orders, letters, and papers of every description in his possession relative to the trial by a military commission and conviction of Crawford Keys and others for the murder of Emory Smith and others; also, in relation to the respite in the case of said Crawford Keys or either of his associates, and their transfer to Fort Delaware and subsequent release on a writ of *habeas corpus*.

#### NEW ORLEANS RIOT.

Mr. TAYLOR, of Tennessee, by unanimous consent, from the select committee on the New Orleans riot, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to transmit to this House any information in the War Department in reference to the riot at New Orleans on the 20th of July last, including any telegraphic dispatches sent or received, and all the reports and testimony of military commissions in the possession of the Department.

#### LEAVE OF ABSENCE.

On motion of Mr. CULLOM, leave of absence was granted to his colleague, Mr. Cook.

#### COMMITTEE ON PATENTS.

Mr. BROMWELL. The Committee on Patents was passed over without my knowledge, although I was ready to make report from that committee.

Mr. MYERS. I ask that the committee be considered as not having been passed.

Mr. WASHBURN, of Illinois. Gentlemen on other committees could never consent to that.

Mr. MYERS. I have always understood when a gentleman makes a statement like that of my colleague on the committee it is taken, and the committee is again called by the Chair. I make that point of order.

The SPEAKER. The Chair overrules the point of order. It is not a question of order. It is when a gentleman makes the statement his vote has been overlooked that the statement is taken.

Mr. STEVENS. This committee will be called again after the holidays.

The SPEAKER. The Committee on Agriculture is in the same condition, having been passed over.

#### DEFICIENCY BILL.

Mr. STEVENS moved that the House resolve itself into the Committee of the Whole on the state of the Union on the special order. The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. CULLOM in the chair,) and proceeded to the consideration of the special order, being House bill No. 876, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

The bill was read a first time for information, and then the Clerk proceeded to read the bill by paragraphs for amendment.

The Clerk read as follows:

For public binding, \$450,000.

Mr. STEVENS. I move to strike out "public binding" and insert "paper for the public printing." It is to correct a mistake made in the estimates.

The amendment was agreed to.

The Clerk read as follows:

Southeast Executive Building, including the extension:

For fuel, light, and labor, \$23,000.

Mr. FARQUHAR. I move to strike that out. I simply desire to ask the chairman of the Committee on Appropriations what that covers? It will be recollected that at the last session we appropriated over a hundred thousand dollars for furnishing and improving the Executive Mansion. Now it is proposed to appropriate \$23,000, making an appropriation of over one hundred and twenty-three thousand dollars for furnishing and improving the Executive Mansion. It seems to me we are called upon to exercise economy on these expenditures. We should at least look into them.

Mr. STEVENS. The appropriation asked for is for the Treasury building and not for the Executive Mansion.

Mr. FARQUHAR. Not the Mansion? Then I withdraw the amendment.

Mr. WASHBURN, of Illinois. I move to strike out the following item:

For rendering the Marine Hospital, at Louisville, Kentucky, habitable, \$10,000.

This is a bill for supplying deficiencies, and certainly this is no deficiency, and I doubt the propriety of the appropriation anyhow for several good and sufficient reasons. In the first place, we passed a law at the last session of Congress giving to the Secretary of the Treasury discretion to sell hospitals of this character, and providing for the care of sick seamen and boatmen in another way much cheaper and better. I hope there will be no objection to striking this item out. If there is anything wanted let the subject be brought in properly and sent to the Committee on Commerce, who will give it their consideration.

Mr. STEVENS. We did pass a law for the sale of most of the marine hospitals; but we unfortunately left the matter to the discretion of the Department to say which. I think, however, it is not worth considering, and therefore I shall not object.

Mr. SPALDING. I would like to hear from

the member from the Louisville district [Mr. ROUSSEAU] whether this is necessary. If it be necessary I will vote for it. But I do not know whether it is or not.

The motion of Mr. WASHBURN, of Illinois, to strike out the item was agreed to.

The Clerk read the following paragraph:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. HALE. I would like to inquire for what purpose this sum of \$40,000 is to be expended, and for that purpose I move to strike out the paragraph.

Mr. STEVENS. At the time Congress authorized the company to construct a telegraph line from the Atlantic to the Pacific ocean, very much against my sense of right, it ordered the Government to pay every year a subsidy of \$40,000 for the period of ten years, I believe, from the date of the original grant, which will be for eight years to come. Last year, by a supposed inadvertence—I have never been very anxious to put these appropriations in at any time, and did not look very sharp for it—we left out the appropriation. On referring to the law again I find there is no way of getting around it. By the contract made with the company the debt is due and ought to be paid. Hence we have put it in this deficiency bill.

Mr. WRIGHT. I ask the gentlemen whether we have not been passing bills during the last session of Congress granting privileges to these companies, and giving them extensive grants of land on condition that they should furnish to the Government of the United States telegraph facilities, and to this company among others.

Mr. STEVENS. We did not grant any land to this company at all. There were several companies that got grants of land from Congress.

Mr. WRIGHT. I mean railroad companies.

Mr. STEVENS. There was no legislation whatever in regard to this company at the last session.

The Clerk read the following paragraph:

For a deficiency for work done, or being done by the corporation of Washington city, in front of and across Government property, under act of May 5, 1864, as per estimate of city surveyor in letter to the mayor of said city, accompanying estimate of Commissioner of Public Buildings, \$170,587.

Mr. WASHBURN, of Illinois. I rise to a question of order. This appropriation is not in order. The privilege was reserved when the bill was introduced to take exceptions on points of order in committee. This appropriation is in accordance with no law, I believe, and hence it is out of order here.

Mr. STEVENS. It is in accordance with a law passed by Congress some years ago, by which the Government was ordered to pay for one half of the improvements of this kind which were to be made by the corporation of the city of Washington when the same had been adjusted, where the Government owned the property on one side. That is this case. The law was passed years ago, and the estimate, unless there is some mistake in it, is right. Last year we appropriated a sum for another portion of this work. The estimate has been made and filed and the General Government is asked to pay its proportion. It was put in the general appropriation bill and was then stricken out in order to have a regular estimate made.

Mr. WASHBURN, of Illinois. This whole question was up, very nearly in this shape, at the last session of Congress as the chairman of the Committee on Appropriations may recollect, and there was found to be no law justifying an appropriation of this kind, and I think the chairman of the Committee of the Whole ruled it out of order. It is a proposition which should come from the Committee for the District of Columbia. It has no business in this bill and I think it ought to be stricken out.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WASHBURN, of Illinois. Then I move to strike out the paragraph. I am not disposed, upon the information that we have, to vote for this city of Washington an appro-

priation of \$170,000. I call for tellers on the amendment.

Tellers were ordered; and Messrs. STEVENS and WASHBURNE, of Illinois, were appointed.

Mr. STEVENS. I wish to state, before the question is taken, that this proposition was reported last year by the chairman of the Committee for the District of Columbia, the gentleman from Illinois, [Mr. INGERSOLL.]

The committee divided; and the tellers reported—ayes 56, noes 47.

So the amendment was agreed to.

Mr. KASSON. I move to strike out in lines seventy-six, seventy-seven, and seventy-eight the words "in all the sum of \$35,864 67." There seems to be a surplus of language there.

The amendment was agreed to.

Mr. SPALDING. I move to add to the bill the following:

For payment of O. W. Barnes for lumber and carpenter's work for Indian service, Joco reservation, in the year 1861, \$1,400.

Mr. WASHBURNE, of Illinois. I must make a point of order upon that amendment.

Mr. SPALDING. Let me make a brief explanation. This item was included in an appropriation made by the Senate last session, which was stricken out in the House on the ground that it ought to pertain to a deficiency bill and not to an appropriation bill. The Secretary says that that is the only reason why this item was stricken out, that the vouchers are in the Department, that the claim is correct, and that they only lack the money to satisfy it. I know that this individual is an honest carpenter who performed the work.

Mr. WASHBURNE, of Illinois. I shall have to insist on my point of order for the purpose of doing what the gentleman from Ohio has generally heretofore aided me in, keeping private claims out of appropriation bills.

Mr. SPALDING. I will ask the Clerk to read a few lines from the report of the Commissioner of Indian Affairs.

Mr. WASHBURNE, of Illinois. This may be a very just claim, and if the gentleman will bring it in as a private bill, I shall probably aid him in passing it through the House, but I hope that my friend from Ohio, who has been heretofore very strict in these matters and to whom the country is much indebted, will not press such a proposition as this.

Mr. SPALDING. If I move to put it in a different shape, and increase the sum to \$40,000, then the gentleman's objection would fall. But it was to relieve the bill from that large appropriation that I put the amendment in this shape. This man must either be paid in this way, or there must be an appropriation of \$40,000.

The CHAIRMAN. The point of order having been raised, the Chair will ask the gentleman from Ohio [Mr. SPALDING] what law there is which provides for this appropriation.

Mr. SPALDING. The law providing for the Indian service.

Mr. WASHBURNE, of Illinois. This is certainly a private claim.

The CHAIRMAN. The gentleman from Ohio [Mr. SPALDING] states that the amendment he has proposed is in pursuance of some existing law.

Mr. WASHBURNE, of Illinois. It is customary when this point is raised for the party offering the amendment to show the law which justifies it.

Mr. SPALDING. The gentleman from Illinois [Mr. WASHBURNE] will not dispute that there is law for making appropriations for the Indian service.

Mr. WASHBURNE, of Illinois. That may be. But I dispute that there is any law upon the statute-book for the relief of this man.

The CHAIRMAN. The Chair is of the opinion that unless the gentleman from Ohio [Mr. SPALDING] can show some specific law for this appropriation the amendment must be ruled out of order.

Mr. SPALDING. I will modify my amendment so that it will read "to enable the Com-

missioner of Indian Affairs to supply the deficiency for the payment of," &c.

Mr. WASHBURNE, of Illinois. That does not change the original proposition.

The CHAIRMAN. The Chair is of the opinion that the modification does not change the character of the amendment so as to bring it within the rule of the House. The Chair therefore rules the amendment out of order.

The Clerk read as follows:

Department of State:

To supply a deficiency in the appropriation for the contingent expenses of foreign intercourse for the fiscal year ending June 30, 1867, \$250,000.

Mr. SCOFIELD. I move to strike out the clause just read. I have heard it said that this \$250,000 was wanted to compel Surratt to come home until he shall be pardoned, or some such thing as that. [Laughter.] They do not want to send the pardon over to Europe, for the pardon agents do not do business in foreign countries as yet. [Renewed laughter.] I do not know how it is, but I have heard that statement made, in the way of burlesque, perhaps. Now, I think that before we make this appropriation we should have some explanation of it.

Mr. STEVENS. I would like to ask the gentleman for the author of the statement to which he has referred. The question of my colleague [Mr. SCOFIELD] is a very proper one, and I have no doubt it was put in a very proper spirit, as it certainly was put in very proper language. [Laughter.] I will explain this appropriation; and it may gratify the curiosity of some persons to know one or two things that took place in reference to it.

When this appropriation was requested by the Secretary of State, being a larger amount than that Department ever asked for before—and I will say here that the committee have always agreed that the State Department had been managed more economically than any other Department of the Government—I did not feel disposed to recommend it either to the committee or to the House without knowing the reason for it. Not being very well, I requested the Secretary of State, he being a young man, [laughter,] to call and explain it to me, which he did with great courtesy. And I may as well say to gentlemen now, for they may want to know, that we did not talk about anything except this appropriation. [Laughter.] He convinced me not only that this sum was wanted for useful purposes, but that it would finally be found to be too small.

I will mention some of the items for which it is needed. One or two of them perhaps I shall not mention because they better not get into print. But I will mention enough to satisfy the House, I think, of the propriety of this appropriation. We have pending in various countries of Europe, mainly in England and France, a very large number of suits to recover confederate property from those who claim to be the owners of that property in those countries. The Government has been obliged, of course, in every case to employ counsel. The amount of money involved is considerably more than twenty million dollars. It is the opinion of the Department, an opinion justified by the advice of eminent counsel, that, if the claims be properly prosecuted, a very large proportion of this amount may be recovered. I of course am not able to give an opinion on the subject; but this is the opinion of the Department. Now, in reference to the employment of counsel to prosecute these claims, we know that in England there are three classes of lawyers, solicitors, counselors, and advocates, all of whom have to be fed to a very large amount. Besides that, according to the practice in that country, the attorney must be indemnified for the costs which may accrue in case he fails in the suit. Supposing our claims to this amount, \$20,000,000, to be well founded, I submit that an appropriation of \$250,000 is but a small amount to be expended in the recovery of so large a sum. This is one item, perhaps the largest; and this money must be furnished immediately, or the suits must be abandoned.

I may state that in the case of Surratt, referred to by my colleague, the expenses have been larger, perhaps, than would be desirable. Surratt has been pursued for a year; he has been followed all over the continent of Europe and in the East, and this pursuit has involved very large expenses. Although the amount expended in the pursuit and arrest of Surratt is large, yet if he shall be finally brought to justice I shall consider the money well expended. Nay, we have an ample return for all the expenditures in the demonstration of the fact that no place in the wide world affords to so great a malefactor a refuge from the avenging hand of justice.

But, sir, besides the expense already incurred, it is necessary to have money to bring several witnesses here, as well as to bring home the culprit. In reference to the employment of a vessel for this purpose, I may state one fact of which I was not until recently aware: when the Department of State, having no control over the Navy, orders a national vessel upon any expedition of this kind without an appropriation for the purpose by Congress, the Navy Department charges the expense to the Department of State; and the present Secretary of the Navy, very properly I believe, holds the latter to a strict account, and requires the payment of the money as much as if it were a private transaction.

In this connection, I may state that the expense of transporting the queen of the Sandwich Islands in a vessel of the United States was charged in the same way to the State Department by the Navy Department. Gentlemen may think that such an expenditure was not judicious; but perhaps if gentlemen knew the struggle and rivalry which were going on between England and our Government in reference to that matter they might change their opinions.

The State Department has also been compelled to bear the expense of the expedition to Mexico. There are other items which I might name; but I have now said more perhaps than is necessary. I feel it due to the administration of that Department to go as far as may be prudent in voting the appropriations asked for it; and however I may differ politically with the head of that Department, I cannot allow myself to be influenced by such considerations in acting upon a question of this kind.

Mr. SCOFIELD. The explanation of my colleague is, in general, satisfactory; but he says that there are some "other items;" and knowing his partiality toward the Administration and his recent intimacy with it, I do not know but that among those "other items" may be one to pay the expenses of "swinging round the circle." If the gentleman will assure us that there is nothing of that kind among the reserved items I will withdraw my motion.

Mr. STEVENS. I assure the gentleman that there is nothing of that kind included in this appropriation. There are two or three unpaid bills of that account, [laughter,] but it is expressly understood that they shall not come out of this appropriation.

Mr. SCOFIELD. Then I withdraw my motion.

Mr. STEVENS. I now move to amend by adding the following:

To enable the Commissioner of Public Buildings to pay three watchmen employed in the Smithsonian grounds for the fiscal year ending June 30, 1867, the sum of \$2,475 is hereby appropriated.

To enable the Commissioner of Public Buildings to pay to the watchmen mentioned in the fifth section of the act appropriating for sundry civil expenses for the fiscal year ending June 30, 1867, the difference between their pay as fixed prior to the passage of that act and the allowance made by said section, \$2,000 is hereby appropriated.

Mr. STEVENS. I will explain the reason for offering this amendment. These employes have been engaged under the authority of a law passed at the last session; but in that act we omitted to make any appropriation whatever for their payment. The Department has, therefore, decided that these men cannot be paid out of any fund now at its disposal.

The amendment was adopted.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CURTIS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 876, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. STEVENS. Mr. Speaker, I want to say one word in reference to the amendment of the committee striking out the following:

For a deficiency for work done, or being done by the corporation of Washington city, in front of and across Government property, under act of May 5, 1864, as per estimate of city surveyor in letter to the mayor of said city, accompanying estimate of Commissioner of Public Buildings, \$170,587.

I know it is out of order to speak of what occurred in committee, but gentlemen acknowledged in going through the tellers they did not understand what they were voting on, and they would vote on, the strongest side. I want to say that this expenditure was authorized by the act of 1864; that a part of the money has already been expended, and the other part is in the process of expenditure. I hope the appropriation will be passed and the debt paid off. Last year it was reported from the Committee for the District of Columbia. Unless some gentleman wishes to make some remarks, I shall call for the previous question.

Mr. WASHBURN, of Illinois. I confess the explanation of my friend from Pennsylvania is not satisfactory to me, for the reason I want to know something more about this matter than we have. Are we to pass an appropriation of \$170,000 with no report of a committee, no explanation of the law, no facts upon which we can base an opinion as to whether the work has been properly done?

Mr. STEVENS. If the gentleman will allow me, I will call his attention to the estimates, pages 3 and 4.

Mr. WASHBURN, of Illinois. This statement here does not satisfy me at all. It is a statement made by the surveyor of Washington city, a man whom I do not know. He addresses a communication to the mayor of the city of Washington; this, of itself, shows the loose way in which we are legislating, in which we are voting away the money of the people.

The first item is for constructing sewers in front of Government reservations on Pennsylvania avenue, between Eighteenth and Nineteenth streets west, and also between Twentieth and Twenty-First streets west, \$5,000. Well, sir, what is the evidence the amount has been paid, or at what rate or to whom it has been paid?

Another item is, "for constructing sewer in Seventeenth street west, between Pennsylvania avenue and the canal, in front of Government reservation, \$14,688."

It does not state when it was done. I will read the first part of the communication:

SURVEYOR'S OFFICE, CITY HALL,  
WASHINGTON, D. C., October 13, 1866.

SIR: I herewith furnish a statement of the character and cost of the work done and now being done by the corporation in front and across Government property, for which appropriations ought to be made, under section three, approved May 5, 1864.

I wish the House to notice the language of this communication by an unauthorized officer, a man who has nothing to do with the Government, a simple surveyor of the city of Washington, "for work done and now being done." It is not a liquidated matter as the gentleman from Pennsylvania seems to suppose. They come here and ask us to pay them not only for what has been done but for what they may do hereafter. Here are other items:

For constructing sewer on fourth street west, from Indiana avenue to G street north, in front of Judiciary square, \$4,000.

For constructing sewer in H street north, between

Vermont and Connecticut avenues, in front of La Fayette square, \$3,000.

For constructing sewer in I street north, between thirteenth and fourteenth streets west, in front of Franklin square, \$2,000.

For constructing sewer in New York avenue, between Tenth and Twelfth streets west, in front of Government reservations, \$2,400.

Then we have, for laying flag footways and paving gutters on the north and south sides of Pennsylvania avenue, from First street east to Eleventh street east, the enormous sum of \$56,000. To whom has that money gone, or to whom is it to go?

Mr. DELANO. Let me call the gentleman's attention to what I understand to be the law regulating this matter. By the act of May 5, 1864, I believe there is provision made substantially in this form: that the Government shall pay such proportion of this expense as the Government's property compares with the other property of the city; and in order to know whether the sum charged to the Government is correct or not there should be an examination into the relative value of the Government property and other property benefited by these improvements. I do not discover there has been any such comparison, and it may be that the Government has been left to pay the entire amount.

Mr. WASHBURN, of Illinois. I think the view the gentleman takes is correct. The surveyor seems to charge the whole amount to the Government. I submit, then, whether we are willing to vote the appropriation. I for one am not.

Mr. GARFIELD. Have we Government property enough between the streets mentioned to authorize this appropriation to be made?

Mr. WASHBURN, of Illinois. I do not know anything about it.

Mr. DAWES. I wish to inquire of the gentleman from Pennsylvania if he has ever heard of such an officer in this city as the city treasurer or the city auditor. I have been here a number of years and have legislated in company with the gentleman considerably upon matters pertaining to the city, and I for one have never heard of such an officer as city treasurer or auditor, nor have I ever seen any reports in the newspapers coming from such an officer, nor do I know—perhaps it is my fault—anything about the administration of the finances of this city, what becomes of the funds, and who is responsible for them. I have heard that this whole matter of the control of the funds is in the hands of the mayor, and that it is sometime paid out upon his order simply, precisely as an individual pays out his own money. I will not vouch for the truth of this, but I did not know but the gentleman from Pennsylvania had heard of such officers and could tell us what particular functions they discharge. Inasmuch as we are responsible for so much of the legislation in relation to the city of Washington, I thought it proper in connection with this large appropriation to make this inquiry.

Mr. STEVENS rose.

Mr. SPALDING. I desire to say one word with the permission of the gentleman from Pennsylvania. The committee felt themselves bound by the acts of Congress on this subject. This claim on the part of the City of Washington has been accruing for a series of years. I recollect distinctly that last year we rejected a portion of this very claim, but by doing so we only put off the evil day. The amount has been accumulating upon our hands, and just so long as this law is continued in existence which requires Congress to appropriate money to the extent of one half of those improvements opposite public squares and other property belonging to the Government we shall be obliged to pay it. Now, my opinion as one member of the committee is that we had better pay off the debt as it now exists, and repeal all the laws on the subject.

Mr. DAWES. Had we not better repeal the laws before we pay the debt?

Mr. SPALDING. I am as reluctant to pay these claims as any member of this House, but

I do not see any way of escape. If we postpone it we will only put an additional burden upon the next Congress.

Mr. INGERSOLL. I have here the act under which this appropriation is made. It is the act of May 5, 1864, the third section of which is as follows:

And be it further enacted, That in all cases in which the streets, avenues, or alleys of the said city pass through or by any of the property of the United States, the Commissioner of Public Buildings shall pay to the duly authorized officer of the corporation the just proportion of the expense incurred in improving such avenue, street, or alley which the said property bears to the whole cost thereof, to be ascertained in the same manner as the sum apportioned among individual proprietors of the property improved thereby.

Mr. DAWES. I would inquire of the gentleman from Illinois, [Mr. INGERSOLL] who is to determine upon the propriety of the improvements, upon the amount of expense, and when contracts are fulfilled. Let us have a little light on the internal affairs of this city if we are to appropriate such enormous sums for its improvement. Let us stop and ascertain where the money goes and through what channel. Let us know who is responsible. I for one will not be backward while I occupy a seat here in liberal appropriations for the District of Columbia, but I think it is high time we have some responsibility in the disbursement. It may be that that responsibility exists, but it is quite important for the character of the administration of affairs in this city that it be made manifest that it does exist, for according to my information there is no responsibility in anybody; one man holds the money, makes contracts, pays whom he pleases, decides himself whether it is fair, audits his own account, squares it, strikes a balance, and when he is out of money calls for more. It is not proper for us to make these large appropriations in this manner for the District of Columbia if such a state of things exists. It does not result in any improvement. It is a sure way not to have an improvement, and a quite sure way to deplete the Treasury. The moral effect upon the District is bad, and I suggest to the gentleman from Illinois, [Mr. INGERSOLL,] who is responsible for the morals of the District of Columbia that it is high time for him to look into the matter. [Laughter.]

Mr. SLOAN. The gentleman states that a portion of the claim for which this appropriation is asked has been accruing for a number of years past. He made no statement, so far as I heard, as to the time when the work was done.

Now, according to my recollection, there was during the last session of Congress a claim presented in behalf of the city of Washington, which was referred to the Committee of Claims, asking an appropriation of about fifty thousand dollars to pay for work which had been done by the city during the last twenty years. A report favorable to that claim was made by that committee, or authorized to be made; whether it became a law or not, I am unable to say. I had supposed that when we paid that \$50,000 for work done during the last twenty years, it would settle the account between the Government and the city for that old work. But I understand now that this claim comes again before Congress for back work that has been done perhaps twenty years ago. I cordially concur in the suggestion which has been made that it would be well, if it were possible, for the Government to get a final settlement of these claims, yet I doubt that we shall be able to do it, and that if this appropriation is made and made in the form of paying for work under the law of 1864, in such form as to carry the impression to every member that the work has been performed since 1864, we shall still have, session after session, large claims presented by this city for work done no one knows when, no one knows by whom or how performed.

I believe that the true course to be adopted is that no further claims of this nature shall be paid until some investigation has been made and a report has been submitted by some au-



thorized person; so that we may know what basis there is for these claims of the city against the Government. Let us have a final settlement and commence the account anew.

For that reason I am opposed to voting these large sums of money without any explanation of what they are paid for or to whom they are to be paid.

Mr. INGERSOLL. I do not wish to be understood as vouching for the correctness of the particular estimate under consideration. I only desired to have the law read that members might understand the relations that the Government of the United States bears to the city government in reference to these improvements. I am as much opposed as anybody upon this floor to the passage of any claim, come from whatever source it may, that has not been carefully considered by the proper committee, whether it comes from the District of Columbia or from any other section of the country.

Now, in response to my friend from Massachusetts, [Mr. DAWES,] who assumes that I am responsible for the morals of this city, I have this to say: that I protest against being held responsible for the morals of the city of Washington while Congress is in session. [Laughter.] During the recess I have no objection to taking that responsibility.

Mr. DELANO. Prior to 1864 there was no law regulating the manner of dividing the expense of improving the city between the property of the Government and the property of individuals, and up to that time there was always a large claim against the Government for its proportion of the expense of those improvements. That claim has been alluded to by the gentleman from Wisconsin, [Mr. SLOAN.] It was presented to the Committee of Claims last session, and after being largely reduced, a bill was reported in favor of what the committee was willing to allow, and that bill is now pending.

Now, under the law of 1864, there is a rule by which these expenses shall be apportioned, but whether this proposed appropriation covers those old claims I do not know.

Mr. SPALDING. My supposition is that this includes the very claim to which the gentleman refers.

Mr. DELANO. Well, if that is so, how improper it is for us to act on it; and it was because I saw that under the vagueness of this appropriation it might be made to accomplish that that I directed the attention of the House to the law on this subject.

Now, sir, the old claim ought to stand upon its own merits. Notwithstanding a portion of the claim has received the sanction of a committee, still it deserves the further examination and attention of the House before it is adopted. It ought not to be provided for in this bill without the House investigating it.

I think that subsequent claims for the improvement of the streets and avenues of Washington which are made against the Government ought to be thoroughly scrutinized by the Committee for the District of Columbia so that the House may act intelligently when it is called to pass upon those claims; I mean such claims as shall arise under the law of 1864. In the present form of this proposed appropriation, when it is not certain whether it is for the old claims that are yet to be acted upon by the House or for new claims, it seems to me it should not be made without some further examination.

Mr. SLOAN. Will the gentleman allow me to ask him a question?

Mr. DELANO. Certainly.

Mr. SLOAN. I would ask the gentleman if the items as read from the report are the items which were included in the claims upon which the Committee of Claims acted during the last session? My impression is that the sewer on Fourteenth street and the work on Pennsylvania avenue in the one are the same as in the other.

Mr. DELANO. That would be my impression. I listened, or tried to listen, when the

items were read, but I could not feel sufficiently certain about it to assert the fact. There was a large item for sewerage in the claim, but whether it was for this particular sewerage I am unable to say.

Mr. STEVENS. I desire to say a word or two upon this subject. Last year we had some considerable difficulty about work done some twenty years ago, under an old law by which the Government took back certain land that had been granted to the city. The claim was at first rejected, but finally the sum agreed upon was paid.

The act of 1864 was passed; under that act this work was done. The Government has agreed to pay for the work according to its proportion of the property that is affected by it. Our Commissioner of Public Buildings was charged with the examination of the claim, and this appropriation is to enable him to pay it. It may be that this allowance is too large. I am entirely willing that it should be examined. And I like the suggestion of the gentleman from Wisconsin [Mr. SLOAN] that some committee should take up and finally settle the accounts between the Government and the city of Washington. And in the hope that such a motion will be made by some gentleman, I shall not ask for a separate vote on this amendment, but allow the vote to be taken upon all the amendments together, unless some gentleman desire to have a separate vote on some one or more of them.

Mr. ROUSSEAU. I desire a separate vote of the House upon the amendment striking out the appropriation for the Marine Hospital at Louisville, Kentucky. It is true that at the last session Congress ordered certain hospitals to be sold. But the one at Louisville has not been sold, and I am assured that the appropriation here asked for is necessary in order to enable the Government to derive advantage from the use of that hospital. It is an important one, and I trust the amendment of the Committee of the Whole will not be concurred in.

Mr. SPALDING. I will ask for a separate vote upon concurring in the amendment striking out the appropriation for Washington city.

Mr. STEVENS. I now call the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

The first amendment, upon which Mr. ROUSSEAU asked for a separate vote, was to strike out the following:

For rendering the Marine Hospital at Louisville, Kentucky, habitable, \$10,000.

Mr. WASHBURN, of Illinois. I desire to say a few words as to my reasons for moving in Committee of the Whole to strike out this clause.

The SPEAKER. The previous question having been seconded, and the main question ordered, no debate is now in order except by unanimous consent.

Mr. BRANDEGEE. I object to any further debate.

The question was then taken upon concurring in the amendment made in Committee of the Whole; and upon a division there were—ayes 52, noes 45.

Before the result of the vote was announced, Mr. ROUSSEAU called for tellers.

Tellers were ordered; and Mr. ROUSSEAU and Mr. WASHBURN, of Illinois, were appointed.

The House again divided; and the tellers reported that there were—ayes 56, noes 54.

Before the result of the vote was announced, Mr. ROUSSEAU called for the yeas and nays.

The yeas and nays were ordered.

The question was taken: and it was decided in the affirmative—yeas 80, nays 55, not voting, 56; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Banks, Baxter, Bingham, Blow, Brandegee, Broomall, Reader W. Clarke, Cobb, Conkling, Cullom, Darling, Dawes, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farguhar, Garfield, Grinnell, Hale, Abner C. Harding, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, Hulburd, Ingersoll, Julian, Kelley, Kolso, Koontz, George V. Lawrence,

William Lawrence, Loan, Marvin, McClurg, Miller, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Windom, and Woodbridge—80.

NAYS—Messrs. Ancona, Anderson, Bergen, Bidwell, Blaine, Boyer, Buckland, Campbell, Chanler, Cooper, Dawson, Deffrees, Denison, Eldridge, Fink, Glossbrenner, Goodyear, Griswold, Aaron Harding, Hawkins, Hise, Hogan, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Jencks, Kerr, Ketcham, Latham, Le Blond, Marshall, McCullough, McKee, McKuer, Niblack, Nicholson, Noell, Pomeroy, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Spalding, Stilwell, Taber, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, and Trimble—55.

NOT VOTING—Messrs. Alley, Delos B. Ashley, Barker, Beaman, Benjamin, Boutwell, Bromwell, Bundy, Sidney Clarke, Cook, Culver, Davis, Dumont, Eggleston, Farnsworth, Ferry, Harris, Hart, Hayes, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Johnson, Jones, Kasson, Kuykendall, Ladin, Leffew, Longyear, Lynch, Marston, Maynard, McIndoe, Mercur, Morris, Newell, Patterson, Phelps, Radford, John H. Rice, Schenck, Starr, Strouse, Nathaniel G. Taylor, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Warner, Henry D. Washburn, Welker, Whaley, Williams, Stephen F. Wilson, Winfield, and Wright—56.

So the amendment of the Committee of the Whole was concurred in.

The SPEAKER. The next question is upon the amendment striking out the appropriation for work done by the corporation of Washington city. On this amendment the gentleman from Ohio [Mr. SPALDING] has demanded a separate vote.

The amendment was read as follows:

Strike out lines fifty-two to fifty-eight, inclusive, as follows:

For a deficiency of work done, or being done by the corporation of Washington city, in front of and across Government property, under act of May 5, 1864, as per estimate of city surveyor in letter to the mayor of said city, accompanying estimate of Commissioner of Public Buildings, \$170,587.

Mr. SPALDING. I understand that the chairman of the Committee on Appropriations [Mr. STEVENS] consents to the striking out of this item. I therefore withdraw my demand for a separate vote.

The SPEAKER. The question, then, is upon concurring in this and the remaining amendments reported from the Committee of the Whole on the state of the Union.

The amendments were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. ASHLEY, of Ohio, in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. WENTWORTH was entitled to the floor.

The CHAIRMAN. In the absence of the gentleman from Illinois, [Mr. WENTWORTH,] who is entitled to the floor, the Chair recognizes the gentleman from New York, [Mr. WARD.]

Mr. WARD, of New York. Mr. Chairman, the country has spoken; the popular verdict stands recorded in the recent elections; and the Thirty-Ninth Congress reassembles strengthened, encouraged, and instructed by the great tribunal to which it appealed, the loyal people of the United States.

Great admonitions flow from this result. The President is admonished that his "policy" of reconstruction is not indorsed by the people who put down the rebellion and saved the

Republic; that his denunciations of the legislative branch of the Government, in which he charges them with revolutionary designs, with striving to prevent the reunion of the States, with hanging upon the verge of the Government, and with being a "tyrannical, domineering, and unconstitutional Congress," are not approved; that his reorganizing the rebellion into pretended State governments in the disloyal States, and insisting that they are legal State organizations and entitled to representation in Congress, without affording any security or protection to the loyal men in those States, and in defiance and contempt of the law-making power of the Government and the representatives of the people; that his indiscriminate pardon of rebels, his failure to bring any of them to punishment for the most infamous of crimes, his sustaining the murder of Union men in New Orleans, and his failure to give any protection to the loyal whites and the freedmen of the South who are shot down in the streets and murdered in their beds at night for the sole offense of faithfulness to the Government of their fathers, his refusal to bring any of those murderers to punishment for their crimes; that his relieving rebel property from the confiscation that the law imposes; diverting the public money to create illegal State organizations and to pay officers of his own creation in violation of law; that his attempt by the use of the vast patronage confided to him for a wise purpose to sap the independence of Congress, and, failing in that, to corrupt and debauch the people, the sources of power, by removing from office men, whether they had borne arms in the defense of the country and had come back scarred and maimed from the grandest battle-fields in history or not, who sustained the integrity and independence of Congress, and substituting in their place the creatures of his will, some of whom were men whose hands were stained with the blood of heroes shed in the nation's behalf; and his manifest contempt, in his appointments to offices, of the "advice and consent of the Senate" of the United States; that his opposition to the just and wise constitutional amendments proposed by Congress for adoption by the States, and thereby encouraging a spirit in the South against a speedy restoration to peace and prolonging the time of adjustment and pacification; in short, that nearly his whole conduct, official and unofficial, from his 4th of March presentation to his gyrations "round the circle," have received from the people to whom he so confidently appealed the strongest condemnation, the most withering rebuke.

And those mercenary men who, without principle and devoid of honor, for the sake of plunder followed the standard of their apostate chief into the camp of the traitors; they are admonished by the result that the contempt and scorn of all honest men will be their portion as long as they shall live! Have these worthless sensibility enough left to appreciate the "situation," or is the result as to them like "casting pearls before swine?"

But, Mr. Chairman, the admonition does not stop here; it comes with tremendous force to the Congress of the United States. You have done well, say the people, but you have not done enough. Eight months you stood on guard to keep traitors from the high places of power; you proposed needed changes in the Constitution, passed the "Freedmen's Bureau" and "civil rights bills," and recognized the loyal people of the State of Tennessee as entitled to representation in Congress—all that was well, but we require you to do more. And, Mr. Chairman, I believe that this grand and sublime manifestation of the popular will has a far deeper significance. While it approves of what has been done, it decides that the work is still incomplete; it indicates that at last, after passing through centuries of contest and blood, combating with thrones and despots, with false systems, political and religious; with persecution, ignorance, and superstition, the great principle should at last be asserted on this continent and ingrafted upon our regenerated

nationality, that all men, native-born or naturalized in this country, shall be equal before the law, equal at the ballot-box, equal before man as they are before God.

Who that has watched the terrible ordeal through which we have passed can have failed to discover the superintending protection of Heaven all through the darkness and gloom until our salvation was complete, can now doubt that in this crowning victory at the ballot-box the "voice of the people is the voice of God?"

Sir, the responsibility of rebuilding the shattered column of the national edifice rests upon Congress. All hope of favorable coöperation from the President must be abandoned. To Congress the four million loyal people of the South are looking for protection. Away in their southern homes, or in the mountains and caves to which they have fled for safety, or languishing in dungeons, or suffering in exile, they are offering up their daily prayers to God in our behalf and stretching forth their hands to us for help. The loyal millions who have just spoken at the polls; the silent throng of cripples and mourners that sadden the land; the sacred dead that fell in the struggle; the sacrifices of blood and treasure the country has made; the holy cause of liberty and free government itself, all appeal to us to come up to the high demands of the hour, to do our whole duty, do it promptly, and do it well.

What is that duty? One, sir, that has been too long neglected. I was one of those who believed last session that Congress should then have gone to the root of the matter and reorganize from the foundation. I was in favor, as some honorable gentlemen here well know, of providing by law of Congress for the reorganization of the State governments in all the States that have been in rebellion, except the State of Tennessee, and that in that reorganization all loyal men, irrespective of color, should take part. I still believe that we should have done so; but more timid counsels prevailed. Gentlemen feared that the people were not ready for this, that they had not reached the high stand-point necessary to approve such a course. I hope these gentlemen have learned that the people are ahead of them, that they are radical, that they comprehend the whole question; and, sir, they will insist upon their representatives doing everything that the nation needs.

The most radical men of this Congress are returned by the largest majorities, while all of those in the originally free States, and most of those from the slave, who followed the pernicious example of the President and left the Union party are rejected by the people.

Then away with your timid conservatism; away with that quality that would compromise the right, that would barter away equality, justice, and plighted faith for expediency, trade, and the good-will of traitors. I am sick of your expediency men and measures; the times demand radical men and measures. Radicalism crowded the Mayflower landed on Plymouth rock, dotted settlements along the Atlantic coast, declared "not one cent for tribute, but millions for defense," threw the tea into Boston harbor, made the immortal Declaration, achieved our independence, redeemed this great land from the wilderness, built the school-house and the church, covered the land with cities and towns, and the ocean with ships, stretched the electric cord through the great waters so that continent talked with continent under the sea, sent two million men to the front, crushed out the rebellion, kept traitors out of Congress, repudiated Andrew Johnson, the rebels, and copperheads by more than half a million majority, and now it proposes to reap all the fruits of the great victories of the sword and the ballot-box by reconstructing the Republic upon a sound and just basis so that it will stand forever.

We must be fearless as well as just; we must punish traitors and stand by our friends "though the heavens fall." We have a fearful responsibility to meet; we have not discharged our duty to the ten unreconstructed States. The

collapse of the rebellion left those States without civil government and without a "republican form of government." In such an emergency it devolved upon Congress to "guaranty" to them a "republican form of government." This could not be done by proclamation of the Executive or by military orders, but only by law, by solemn acts of legislation of the law-making power of the United States; for it is the highest act of legislation to guaranty and provide civil government for a State.

When the fathers of the Republic founded this unequalled system of government; when in the great councils that they held to frame a Constitution that, in the language of its preamble, "should establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and posterity;" when they were gathering from all ages, all political systems, and all history the materials with which to construct the new edifice that was to be consecrated to those high and noble ends, they with prophetic vision dimly foresaw that the time might come in the nation's life when, through the machinery of State governments, sections, or interests in conflict, real or imaginary, with the policy of the General Government, might seek by revolution to sever the connection of that State or section with the Union, and that in the revolution thus inaugurated all law, all authority, all government, executive, legislative, and judicial, might be overthrown so that the State and people affected thereby would be practically without a republican form of government, and then, with the great wisdom that distinguished all their deliberations, they provided for that contingency and vested the power of reorganizing those States in the national Congress; and while the exercise of this power is new, the power itself is as old as the Constitution. To what else could this constitutional provision refer; the admission of new States and the care of the Territories and other property of the United States are provided for in other sections. It could not relate to anything but the reconstruction of old States that had wandered away from their allegiance and the people of which desired to return to that allegiance.

Again, the great Charter provided for the security to life, liberty, and protection to the rights of property. These are the great ends of the Government they were founding; for these the Revolution was fought, independence achieved, and the Constitution established. And if these rights God given and thus guarantied were denied the people and legislation were needed in the premises, where did the Constitution vest the power thus to legislate? In the very first section of the first article of the Constitution it is provided that—

"All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

And again, in the last subdivision of section eight of the same article, it is provided that Congress shall—

"Make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any Department or officer thereof."

It is submitted, Mr. Chairman, that such legislation can be had by Congress as may be necessary to secure those great ends. Am I told that this is a new construction? If new, then I say that it is time that the Constitution was construed in the interests of liberty and on the side of justice. Slavery, thank God, is abolished. The heresy of "State rights" went down with the monstrous system that gave it birth. This all-controlling influence of human bondage, oppression, and guilt that stalked into legislative halls, made Presidents, made Cabinet ministers, shaped the policy of this country, stood behind power, overshadowed Courts, and put constructions upon the Constitution consistent with its own interest and to perpetuate its own power, no longer.

rules the Government, makes its laws, or writes its judicial opinions.

And now let us construe the Constitution as it was intended by its framers; not to make men slaves, but freemen; not to take life, but to save it; not to rob men of their property, but to secure that property to them; not to deprive them of the liberty of speech and of the press, but to place those rights beyond jeopardy. I think it is clear that Congress has all the needed power to reorganize by law the governments of those States, and it follows that the particular means to be resorted to to effect that object are such as Congress shall determine.

But we are told that those ten States are reorganized, that they have State governments. I am aware that there are rebel machines in the territory recently in rebellion that call themselves States. I am aware that the President has undertaken to galvanize them into States by proclamation, but no good lawyer will for a moment contend that these organizations have any validity as State governments until they are recognized as valid by Congress. They are monstrous systems of fraud, oppression, and murder. They exclude from power all men loyal to the Union. They screen from merited punishment the assassins of ten thousand loyal men who have been butchered in their territory since they "accepted the situation." They deny to Union men and freedmen that which the Constitution guarantees to them. They were erected without the consent of the people, and decided to be without validity by the highest court of North Carolina; and whenever the question comes for final decision before the United States Supreme Court, no doubt can exist but the decision of the North Carolina court will be sustained. They have had the audacity to elect Senators and Representatives to Congress almost exclusively from the leaders of the rebellion, and because they were such leaders and were the most conspicuous in the work of destroying this Government; and those "statesmen," instead of being suspended with a pressure of hemp about their necks, as they richly deserve, are coolly demanding seats in the Congress of the United States.

Ah, Mr. Chairman, we have neglected the duty too long of formally rejecting these creations of treason. We must begin the work anew and provide by law that all male persons in those States aside from the excepted classes of the age of twenty-one years, native-born or naturalized, shall have the right to vote in electing delegates to conventions to frame new State constitutions or amend old ones, in electing State legislative and judicial officers, and all other elections that may occur in the reorganization of these State governments; that no person who has engaged in rebellion shall be eligible to office in the new State organization or in the conventions aforesaid.

The excepted classes are all persons that have held office, civil or military, under the confederacy or in the army or navy thereof; all persons who have been educated at military or naval academies of the United States and afterward engaged in the rebellion; all persons who had once taken the oath to support the Constitution of the United States and then in any manner engaged in rebellion; all editors, authors, or publishers of any book, pamphlet, paper, or publication that advocated the cause of the rebellion, and all persons who were guerrillas, and persons carrying on war against the Government and not belonging to the regular army of the confederacy and acting under its direct orders.

When the people thus acted and so framed their State constitutions and laws as should secure to all persons permitted, as above, to participate in the work of reorganization, and to all loyal men full political and civil rights, with the ballot as their shield and buckler, and shall disqualify from suffrage and from holding office all the persons and classes above excepted, and when the Legislatures of those new State organizations adopt the constitutional amendment abolishing slavery and the amend-

ments to the Constitution recently proposed by Congress, and shall present Senators and Representatives that can take the congressional oath of admission, then, sir, I would have Congress admit those Senators and Representatives, recognize those State governments as valid, and the work of restoration will be complete.

But, Mr. Chairman, it will be said that I am in favor of universal negro suffrage at the South. Indeed, sir, I am. The ballot is the only protection after all that men have in this country. Take the ballot away from a class and that class will not have equal rights with those who do exercise the ballot. Your civil rights bill is well, necessary, but what avail is it unless it is enforced. Put it into the Constitution as you will, and as you should, but it will be as a rainbow in the cloud to the oppressed people of the South without there is some power there to enforce it; beautiful to look upon, but giving no warmth or light, it "will hold the word of promise to the ear and break it to the hope."

We have a good civil rights bill in the Constitution as it stands. The freedom of the press, of speech, and protection to life, liberty, and property are secured thereby, and yet for more than half a century none of those rights have been enjoyed by a large portion of the southern people; they were only granted to a privileged class. The black man was not allowed to learn to read the Constitution that pointed him to liberty, or the Bible that pointed him to God; the white man who had spoken or written against slavery was hanged upon the nearest tree or banished from the realm. And so it will be again if suffrage is not impartial. Southern courts now defy and disobey the civil rights bill. Everything there is organized against the black man, from the judge upon the bench to the constable with his process; every officer, State, legislative, judicial, county, town, and municipal, who is called upon in any manner to enforce those laws and carry out those sacred guarantees of the Constitution are the enemies of the loyal men and freedmen; and opposed to the execution of those laws and guarantees. The black man is helpless to punish or remove from office those unfaithful officers; he has no vote, no place in the jury-box, no means of organization for the defense of his rights; but with the ballot in his hands all will be well; these officials will do him justice, and there will be in every State, county, town, and precinct in the South a power in the hands of our friends to protect themselves and to preserve the Republic.

We cannot afford longer to feed these people upon husks. We denied them their rights until those rights were reasserted in the smoke of battle and in the blood of a million men. Let us be wise at last. We put the bullet into their hands when traitors struck at the nation's life, why not give them the ballot to preserve that nation from treason in another guise.

Their skins are black you say; ay, but their hearts are true and their blood is loyal. They were good enough to fight, why not good enough to vote. I cannot upon this subject but quote my own words upon a former occasion:

"And the four million black men who were the slaves and under the control of the rebels, who were away from the Union lines and its protection, who only knew God because they saw Him in the stars and heard Him in the winds—for the Bible to them was a forbidden book—they who had only known the flag from the stripes it gave them and the Union from the chains it bound them with; they who from the first sent their morning and evening prayers to Heaven that the nation might live, who furnished our soldiers flying from captivity and death with guide and shelter, food and fire, while the master let slip blood-hounds on the fugitive's track; who of the four millions betrayed a loyal man? Not one but exposed the traitor master. This faithfulness on the part of those poor, simple, ignorant men is to my mind one of the grandest phases that the war has displayed.

How strange the contrast between the slave in his chains and the master who had been pampered by the Government. The former kissed and upheld the rod that had smitten him, the latter smote the hand that had fed him. And yet we are asked at this time to consign these loyal men, both white and black, to the mercy, as I have said, of these rebels and enemies.

"I am free to say, Mr. Chairman, that if such is to be the policy of this Government it is recreant to its high duty; it is unworthy of all the blood shed and treasure expended in its cause; it deserves to perish in its ingratitude and be blotted from the face of the earth."

But we are told, "give them a qualified suffrage," "give it to those who can read and write or who own property and pay taxes."

As to the first proposition I must say that I deem it wholly impracticable. We cannot with any justice or fairness apply an intelligence qualification to the black unless we do so to the white voters, and in so doing we would disfranchise many thousands who are now voters. We cannot take the back track and disfranchise loyal white men in the South and elsewhere who have exercised that privilege for years, and some of whom, white and black, have confronted treason upon many a bloody field and have worn the livery of the Republic. Would you take the ballot from them? Besides we need them all to vote down traitors. Are they not good enough for that?

We did not ask the black men at Port Hudson and at Petersburg whether they could read when we trusted them with the country's honor and its flag; shall we insist upon it now when the ballot is needed for their and our protection in the South? As to a property qualification, that is simply absurd and a blot where it exists upon the civilization of the age. Benjamin Franklin's illustration in such a case, that it is the jackass that votes and not the man, has never been controverted. Discriminations in political privileges against some classes and in favor of others in a free country are odious and productive of popular discontent. The only test of suffrage in this country is manhood; give it to all men; to the poor and the lowly; lift them up to the dignity of the sovereign. Some say that the ex-slave will vote as the ex-master directs; and this slander has been repeated in high official quarters.

The negro knew on which side to fight and to pray during the rebellion; he will know well on which side to vote; he has got his liberty after a century of oppression and bondage, he will guard that liberty well when he handles the ballot.

These same objectors said that the negro would not fight, that he would be guilty of all kinds of excesses in his newly-found liberty, that he would not work. Like the sixty day oracle of the State Department they are shown to be false prophets.

The negro fought well, he obeyed the law, he went to work like a good citizen; he is learning to read and write all over the South with an earnestness and a rapidity that is astonishing; trust him with the ballot he will use it better than a white traitor.

But, says another, you would allow former rebels to vote. Certainly I would allow the masses who were led into the rebellion, conscripted or forced into it, to resume the right of suffrage; I would have no conflict with them. Clothe them with power and thus assure them that a just Government, while it punished the leaders of the rebellion for example's sake and to prevent their doing further mischief, is humane and generous to the misguided masses. They got only poor fare and hard knocks from the confederacy. Disqualify all these leaders, false teachers, and guides both from office and suffrage; give the black man the ballot; trust the people; let the masses reconstruct the new State government. The people have interests and sympathies in common; they will readily assimilate and act together.

Trusted by the Government and protected by it, those who have been disloyal will come to love it. In most of the States the men hitherto loyal will be in the majority, and in all the States powerful enough to defend themselves. Politicians and ambitious men will become the servants of their will; new men will spring up from the people faithful to our Government, who will assume the place of the



leaders of to-day who have betrayed the people almost to their destruction.

Again, we cannot permanently disfranchise large bodies of men in this country with safety to the nation. Deprived of political power every subterfuge will be resorted to to regain it, and the masses will grow more restless and discontented until they sweep over all barriers, as they have in Maryland, and render the presence of the military continuously necessary to preserve the peace of the State. I hope Tennessee and Missouri will be wise in time by availing themselves of the black vote at once. With the Government in the hands of a majority of all the people of each State, all will be protected and the true theory of a free Government carried out, and the State is republican indeed. Is not this a "consummation devoutly to be wished?"

That nation is wise whose policy tends to the elevation of the masses of its people, to dignify and honor labor, to give to all loyal citizens a share in the Government they uphold. In so doing each man feels a direct responsibility in himself; he shares in the pride, glory, and prosperity of his country; he feels great inducements to qualify himself for the duties of the citizen; he feels encouraged to educate his children that they may be better fitted still for those duties. When the land is assailed by foes from without or convulsions within he springs to arms as one whose personal rights and highest privileges are in danger. Each true man that is clothed with political rights is a pillar to the State; each mind that is elevated in the scale of intelligence binds stronger the bonds of the Republic and makes liberty more secure.

The instincts of the people, ignorant and lowly though they be, are right. They seek out justice and abhor tyrants; they are naturally inclined to be loyal and true. Trust them and the nation will live, ignore them and the nation will perish.

Why not meet the issue now? Why not, men of this Congress, come up to the high demands of the times and complete the work? We cannot put this negro question out of sight; like the ghost of the murdered Banquo, it will arise at every feast and "shake its gory locks" at us; it will not down at our bidding. All acknowledge that suffrage to the black man must come in time; why not insist upon it now, when we are building anew the national temple and have the power to accomplish it? As a matter simply of expediency, is it not better than to let the agitation go on for another generation, to be ended, perhaps, in another rebellion, in more blood?

Adopt the plan I propose and all the States will be represented in the next Congress, the murder, persecution, and banishment of Union men will cease. The Constitution, the civil rights bill, and all other provisions of law for the protection of the people of the South will be a living fact realized in every portion of the South, for everywhere the loyal man will be clothed with the power of enforcing those rights. The South will turn its attention to reviving its exhausted fields and repairing its desolate places. The country, relieved of the problem of reconstruction, will turn its attention to many neglected questions of national importance, to reviving its trade and industry, correcting the errors of its financial system, and paying its debts. Pursue the other policy further, let things drift, and finally let those rebel organizations into Congress without giving our friends in the South the protection of the ballot, and I can see many dark hours in store for the Republic.

Mr. Chairman, we may be told that Congress has agreed to admit the representatives from those States when they adopt the constitutional amendments now before them. Congress has agreed to no such thing, but I most earnestly desire the adoption of those amendments, and we should insist upon it to the last. But you will observe that these rebel State organizations do not propose to adopt the amendments. Some of them have already rejected them, and the

tone of the Governors and presses of the other States leave no doubt but the whole ten will reject them. This is in pursuance of the policy announced by Alexander H. Stephens, that the South would submit to no further conditions and forms—an additional reason why new State governments should be organized in which the friends of the Government and the amendments should take part so that the amendments will finally receive the approval of the requisite number of States, and become part of the Constitution.

Let them rail on about their rights, these "last ditch" gentlemen, and proclaim what they will or will not do. They have tried the wager of battle, been vanquished in the field, and now they must submit to the will of the conqueror, and whether they will adopt the amendment or not will not retard the great work before us. Other men will answer the demands of the nation; other State organizations will sanction the amendments; and if these malcontents hatch up a new rebellion, the problem of reconstruction will be solved as to them finally and forever, for not one of them will be left unburied or unhung.

But we are told that if we reject these State organizations the constitutional amendment abolishing slavery will fall to the ground. Well, if the Supreme Court, as it is very likely to do, should decide that those rebel machines were not States that claimed to adopt this amendment, and that the concurrence of three fourths of the thirty-six States is necessary to pass the amendment, then we should have it solemnly decided and settled that the great amendment was not adopted. Let us avoid any such contingency; let us make this amendment a part of the Constitution beyond doubt by creating valid State organizations that will legally adopt it. The emancipation proclamation of Mr. Lincoln struck the shackles from the bondmen in all the seceding States. The amendment has been adopted by all the free States, and can be adopted by the requisite number as soon as the southern States are properly reorganized.

The leaders of the rebellion should never again return to power in this country. Our fathers disfranchised Tories, and so should we disfranchise all those bold bad men who fired the southern heart,

"Who cheered the band and waved the sword,  
As leaders in a rebel horde."

They should never again be clothed with trust in this Government. The prowling guerrilla, the wretch that starved prisoners to death, should likewise be deprived; and the editors and publishers of those vile secession sheets that fanned the flame of the rebellion, that studiously misrepresented the Union and its friends, deceived and beguiled the southern masses into rebellion, and then prolonged it for years by the same means, and are still seeking to widen the breach and keep alive the spirit of insubordination in the hearts of their victims; none of these restless, dangerous men should ever again cast a vote or hold an office under this Government.

A few of the more prominent of these leaders should be tried for treason, and if convicted hung for treason. Let the remainder of them live and have an abiding place even under the flag they dishonored and sought to tear down; but let them go, disfranchised, shorn of all political power, with the mark of the traitor upon them, until they shall perish from the earth, and let their names and memory go down to all coming time as infamous, and as a warning; thus "treason will be made odious."

I am opposed to general amnesty. For all time to come ambitious and unscrupulous men should be admonished by the fate of the moving spirits of the great rebellion that such acts are attended with danger; that life and property may be lost in such an attempt; that treason is not a pastime or an adventure, to be undertaken without risk to lift those engaged in it to power and honor if successful and to be attended with no evil consequences if unsuccessful, but that the nation while magnanimous

is just, and justice will punish with severity a sufficient number to be a lesson to all others in like case offending. The fact that we have neglected that duty so long makes no difference. The traitor cannot complain of the delay in his own favor. Every consideration of duty, justice, honor, and public safety demands this. The warnings of the past, the terrible realities of the present, and the hopes of the future all require it. I have hope for the nation, for I believe it will be just. My dream is of a model Republic, extending equal protection and rights to all men from ocean to ocean, from the great lakes to the Gulf, that a mighty people shall rise up strong in freedom, in knowledge, and in power.

The South shall cease to be a section and become a part of the nation; her sons and daughters shall build altars to freedom in her waste places; the wilderness shall vanish, the church and school-house will appear, and light and knowledge will illumine her dark corners; freedom of speech, of opinion, and of the press will be as much secured in South Carolina as in Maine; all men shall be citizens, and high and clear in the fundamental law will that charter of citizenship be found guiding the nation like a pillar of flame; the whole land will revive under the magic touch of free labor, and we shall arise from the ashes of the rebellion to a purer life and a higher destiny, illustrating the grand truth of man's capacity for self-government; then Columbia will march on through the ages that are to come, her navies triumphant on every sea, her commerce encircling the earth, her arms the terror of tyrants and the hope of slaves, her influence ascendant in every capital; the oppressed of all nations will come to our shores, and free Governments everywhere be founded from the inspiration of our example; firm upon the rock of justice and equality the temple reared by our fathers and purified by the blood of our brothers shall stand in the midst of the wondering nations the most potent, free, and glorious of all. Shall this be so? It is ours to say.

Mr. GRINNELL. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ASHLEY, of Ohio, reported that the Committee of the Whole on the state of the Union, having had under consideration the President's annual message, had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 373) entitled "An act releasing to Francis S. Lyon the interest of the United States in certain lands;" whereupon the Speaker signed the same.

Mr. GRINNELL. I move that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ANCONA: The memorial of Martin Reiff-snyder, of Berks county, Pennsylvania, late a member of company K, forty-seventh Pennsylvania volunteers, praying for an act granting him a pension.

By Mr. FARNSWORTH: The petition of Thomas Reed, and 150 others, of Lake county, Illinois, for investigating the conduct of the President of the United States, and his impeachment, if found guilty, for high crimes and misdemeanors.

By Mr. HOLMES: The petition of Nelson S. Stone and Albert Fitzgerald, for American register for the Canadian-built schooners Wolland and Governor.

Also, the petition of John W. Tyler, and others, for American register for the Canadian-built schooner Emperor.

By Mr. HOOPER, of Massachusetts: The petition of the Humane Society of Massachusetts, for a grant of money for life-boats and the support of stations upon the coast of Massachusetts.

By Mr. HUBBARD, of Connecticut: The petition of W. E. Ward, for renewal of patent.

By Mr. INGERSOLL: The petition of G. V. Dietrich, Henry R. Sanderson, M. O. Cooke, T. R. Greene, postmaster at Ionia, A. C. Higgins, and many others,

citizens of Knox county, Illinois, containing thirteen charges against Andrew Johnson, President of the United States, and praying for his impeachment and removal from office.

By Mr. JENCKES: The petition of Ambrose E. Burnside, and others, for appropriation for removal of sunken wrecks in Providence river.

Also, the petition of citizens of Pawtucket and North Providence, Rhode Island, for an appropriation for improvement of the navigation of Pawtucket river.

By Mr. McINDOE: Papers in relation to moneys lost by Amanson Eaton, receiver of public moneys for the district of lands subject to sale at Stevens's Point, Wisconsin, by the destruction of the Stevens's Point land office by fire.

By Mr. McRUER: The memorial of the Chamber of Commerce of San Francisco in regard to China mail.

Also, the memorial of the same regarding mail facilities with Arizona.

By Mr. NEWELL: The petition of employes in the various Executive Departments, praying for increase of compensation.

By Mr. ROLLINS: The remonstrance of Messrs. Phillips, Messer, & Colby, and Messrs. Greenwood & Burpee, citizens of New London, New Hampshire, against any increase of duty on steel.

## IN SENATE.

FRIDAY, December 14, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

## PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of J. H. Merrill, a captain in what was known as the naval brigade, praying for compensation for his services; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the petition of James Jones, praying for compensation for services rendered as assistant assessor of internal revenue for the sixth division of the first district of South Carolina; which was referred to the Committee on Finance.

He also presented the petition of H. Claremont Moses, praying for compensation for services rendered as assistant assessor of internal revenue for the first district of South Carolina; which was referred to the Committee on Finance.

Mr. WILSON presented two petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE. I present the petition of Charles Appleton, an inmate of the Soldiers' Home, with a pension of three dollars a month. He is compelled to remain in that position, kept from his family and from his friends and from all social intercourse. This would seem to be rather a penalty than a reward for having served his country. Rather than make institutions wherein our soldiers will be kept away from social intercourse, I think we should give them pensions of a sufficient amount to enable them to remain at home in social communion with their family and friends, and in that way pass their lives happier and better. I move that this petition be referred to the Committee on Pensions.

The motion was agreed to.

Mr. GRIMES. I have been requested to present the memorial of the clerks and civil employes of the respective Executive Departments in Washington, indorsed and approved by the heads of the Departments and by the chiefs of the bureaus, praying for an increase of their compensation. I move that it be referred to the Committee on Finance.

It was so referred.

## COMPENSATION OF TENNESSEE SENATORS.

The PRESIDENT *pro tempore*. The Chair has received from the Secretary of the Senate a communication addressed to him personally, asking direction in regard to the payment of the salaries of the Senators recently admitted from the State of Tennessee. As the case is one in some respects of first impression, the Chair deems it proper to lay the communication before the Senate in order to have the benefit of the judgment of the Senate on the case stated in the communication. With the per-

mission of the Senate the communication will be read.

The communication was read, as follows:

OFFICE OF THE SECRETARY OF THE SENATE.  
WASHINGTON, December 13, 1866.

SIR: My attention has been called to the question of the payment of the Senators admitted from the State of Tennessee at the last session of Congress. As the decision of the question properly pertains to you as the Presiding Officer of the Senate, I desire to be informed whether the payment of compensation to them is to be made from the commencement of the Thirty-Ninth Congress or from the date of their admission as Senators.

I am, very respectfully, your obedient servant,  
JOHN W. FORNEY,  
Secretary of the Senate.

Hon. L. F. S. FOSTER, President *pro tempore* of the Senate.

The PRESIDENT *pro tempore*. What order will the Senate pass in reply to the suggestion made in the letter just read?

Mr. WILSON. I move that the communication be referred to the Committee on the Judiciary.

The motion was agreed to.

## DEFICIENCY BILL.

Mr. FESSENDEN. The Committee on Finance, to whom was referred the bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, have directed me to report it back with two amendments. This is a bill containing a very few items which it is necessary should be passed immediately. It is a very short bill and can readily be understood from the reading; but if any gentleman wants information I can give it.

By unanimous consent the bill was considered as in Committee of the Whole.

The first amendment reported by the Committee on Finance was to strike out the following item:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

The amendment was agreed to.

The next amendment was to strike out the following item:

To enable the Commissioner of Public Buildings to pay the three watchmen appointed under resolution of July 25, 1866, at \$900 each, \$2,700.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time and passed.

## ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills, which yesterday received the signature of the Speaker of the House:

A bill (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown, and State of Wisconsin; and

A bill (S. No. 373) releasing to Francis S. Lyon the interest of the United States in certain lands.

CLARA MOORE.

Mr. WILLIAMS. The Committee on Claims, to whom was referred the petition and accompanying papers of Clara Moore, widow of Ely Moore, deceased, praying for payment to her of the claim of her husband for an amount paid for additional clerks and office accommodations for those clerks in the register's office at Leecompton, Douglas county, Kansas, have instructed me to report back the papers and ask to be discharged from the further consideration of the case. There was an adverse report in the case at the last session.

The PRESIDENT *pro tempore*. The question will be on discharging the committee from the further consideration of the subject.

Mr. POMEROY. I hope the committee will not be discharged. I have further papers in the case that I desire to present to the committee, and I would be gratified if the committee would withhold that report and allow the additional papers to be presented. It is early in

the session, and I did not suppose the report would be made so soon or I should have had the papers in before.

The PRESIDENT *pro tempore*. Does the Senator move to recommit the report?

Mr. POMEROY. Yes, sir; I make that motion.

Mr. WILLIAMS. I suppose the additional papers to which the Senator from Kansas refers are now in the hands of the clerk and have been examined by the committee. Since the adverse report was made at the last term certain affidavits have been submitted to the committee, but in the judgment of the committee they do not change the state of the case so as to entitle the petitioner to the relief for which she prays. I will say to the Senator from Kansas, that the difficulty in this case is not so much in the particular facts presented by the petitioner as in a decision establishing a dangerous precedent. The committee are not inclined to make a decision in this case which will be a precedent for similar decisions in other cases. The fact is that nearly all the land officers of the United States stand in the position in which the husband of this petitioner stood; and if an allowance be made to her in this case there will be no reason why all the land officers that have been employed by the Government for the last ten, twelve, or twenty years should not be allowed extra compensation. It is chiefly upon that ground that the committee have instructed me to make this adverse report, and I do not think that any additional papers can be submitted by the Senator which will change the decision of the committee in this case. It has been twice thoroughly examined by the committee and considered, and I think it is time that the case was ended.

Mr. POMEROY. I have no doubt the committee desire to do exact and equal justice, whatever the precedent may be. The papers in this case show what cannot be shown in other cases, that there was in the first place a permission, and in the second place an agreement, that clerk hire should be had; and those are the papers upon which I rely, and which I desire to place before the committee. I do not wish to argue the case on the mere question of recommitting it to the committee; but when the committee shall have all the papers before them, and examined the case fully, I have no doubt they will report in favor of allowing something—perhaps the whole claim.

Mr. HENDRICKS. If the Senator from Kansas will allow me, I wish to ask the Senator from Oregon if the attention of the committee was called to the law which authorizes the adjustment of the accounts of the registers and receivers for the expenses they incur, by the Commissioner of the Land Office, with a view to their reference to Congress for compensation? There was a law of that kind passed somewhere about the year 1856, I think, and under that law the registers and receivers thought they were authorized to employ clerks and to meet the expenses of their offices out of the public Treasury, but the Commissioner of the General Land Office was not authorized to adjust the accounts finally and give them a credit for the expenditures, but it was contemplated that the claims should come before Congress. The act of Congress contemplated it; and I wish to ask the Senator, whether the committee has considered that law in connection with this particular claim? It seems to me that it has something to do with it.

Mr. WILLIAMS. I will say, Mr. President, that the attention of the committee was called to that law, or to the supposed law, and the conclusion of the committee was that there has been no law authorizing registers and receivers to appoint clerks; and as the appointment of those clerks was made without any authority of law, of course it is discretionary with Congress whether extra compensation should or should not be allowed. The uniform practice has been in all other cases, with perhaps one or two exceptions, to deny to registers

and receivers extra compensation for clerk hire, and there is no reason that I can see why this case should be excepted from the general rule that has been applied to all the other land offices in the country.

Now, there is a grave question as to the merits of this application. I did not think it necessary to discuss that. But independent of the justice of this claim, it is the judgment of the committee that if an allowance be made to the petitioner in the case it will open the door to hundreds, perhaps thousands, of claims of a similar nature by all the land officers of the United States, for they have all, as I understand, or nearly all, employed clerks and incurred extra expense. The opinion of the General Land Office has been that the law provided sufficient pay to them for their services; and in this particular case the evidence shows that this man for four years' service received over eighteen thousand dollars from the Treasury, and out of that he paid a portion for clerk hire and incidental expenses; and it is the opinion of the committee that he was very well compensated for his labor. There is an elaborate report from the Commissioner of the Land Office showing that he might have discharged this labor without the employment of extra force. If he saw proper, rather than perform the duties himself, to employ clerks to perform them, it was the opinion of the Department that he ought to pay those clerks. He could not be idle and employ clerks to do the business, and then ask extra compensation for the payment of those clerks. These additional affidavits that have been filed were to the effect, that while he was register of the Land Office he was engaged for a portion of the time in adjudicating conflicting claims and questions before the Land Office, as though that gave him a right to extra compensation. If he did that he only did what all registers and receivers have done and are constantly doing in the country, and there is no reason that I can see why this case should be made an exception to the general rule. If it is desired, however, I shall not insist upon my objection to its recommitment; but it seems to me that if a case has been twice examined the parties concerned ought to be satisfied.

Mr. HENDRICKS. I think this claim should be recommitted. If the committee has given the construction to the act that was intended by Congress for the relief of the registers and receivers which is intimated by the Senator from Oregon, I do not agree in that construction, unless I fail to recollect the law altogether. The law did authorize the Department to adjust the accounts of registers and receivers upon the discretion of the Commissioner, and to report that adjustment to Congress for allowance. I do not see how the account could be adjusted unless the clerks were employed in advance. I do not see what the Commissioner could possibly have to adjust, upon the construction which the Senator from Oregon says the committee has given to that law. I think it would be well enough for the committee to give their attention once more to that law. I was not, when I was Commissioner of the Land Office, of the opinion that that law had the construction now named. I thought that the register was expected to employ the clerks, and that on the faith of that law Congress would make them an allowance where the case was proper.

Mr. WILLIAMS. If the Senator will allow me, I will ask him if he is not aware that a decision has been made by the Supreme Court of the United States upon this question as to allowing registers and receivers extra compensation? I am advised that a decision was made by the United States district court of the State of Iowa in conformity somewhat with the views expressed by the Senator from Indiana. That case was taken to the Supreme Court of the United States, and the judgment was reversed, and, as I understand the decision—I have not examined it particularly with reference to this case—it was in effect that registers and receivers were not allowed extra compensation

for their services or the care of money in their hands.

Mr. HENDRICKS. I will explain to the Senator from Oregon the case which was considered by the Supreme Court of the United States. It was not in relation to the compensation of registers and receivers for any expense of clerk hire or office expenses whatever. When I was Commissioner the office held that the registers and receivers were limited in their compensation to \$3,000, but they claimed that they were entitled to all the fees for locating land warrants, and that they were not required to account to the Government at all for those fees. I am free to say it was a very doubtful question, in my judgment; the laws were very conflicting and confused upon the question. The district court of the United States for Iowa, upon a suit brought to recover those fees for locating land warrants, held that the registers and receivers were not bound to account for them, but that they were their individual fees and did not go into the maximum of \$3,000. The Supreme Court of the United States reversed that decision. It had nothing whatever to do with the compensation for clerk hire; and if the Commissioner of the Land Office has recently informed the committee that there was no occasion to employ clerks at the LeCompton land office, at the time Colonel Moore was there, I think he has given that information without sufficient information on his own part. Kansas was then being filled up very rapidly, and mainly by preemption settlers. Each case had to undergo an adjudication, and there were very many litigated cases in Kansas, and the litigated cases required nearly all the time of the register and receiver in their examination. Many of those cases occupied a week of careful investigation, these men holding a court. Much of their time was thus occupied; and the clerks were necessary to carry on the ordinary business of the office for the convenience of the settlers. There is no question about it that they were compelled, if the business of the Government was to be carried on at all, to employ clerks. I did not, when I was in the Land Office, think that they were sufficiently compensated, nor do I yet. I do not think this extends to all the land officers in the United States holding offices at that time. It would apply to some portions of Iowa, to some portions of Kansas, and some portions of Minnesota, where the settlements were being made very rapidly under the preemption laws. Where they have paid out much of the money that they received for their own compensation for clerk hire, it seems to me some compensation ought to be given, and therefore I shall support the proposition to recommit this case.

Mr. POMEROY. When the case shall be reported from the committee for action I shall desire to make a very full statement in regard to this land office. I am perfectly familiar with the whole matter. It was in the county of Douglas where I lived at that time, and where nearly every claim was contested. It was an office of constant litigation. Our men camped out before the office for months waiting for their turns. It is one of those cases that recommends itself more strongly for extra compensation than any case I ever knew, and I do not know in fact of another one in the State. The Senator from Oregon says this will be a precedent for other cases. It is the only one that has ever come to my knowledge from our section of the country.

The PRESIDENT *pro tempore*. The first motion in order being that the committee be discharged from the further consideration of the subject, the Chair will put that motion in the first instance.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The motion now is that the report be recommitted to the Committee on Claims.

The motion was agreed to.

#### LAND OFFICE REPORT FOR EUROPE.

Mr. POMEROY. The Committee on Public

Lands, to whom was referred the resolution of the Senate directing them to inquire and report upon the expediency of printing the last report of the Commissioner of the General Land Office in the different languages spoken on the continent of Europe, for distribution at the Paris Exposition, have had the same under consideration, and believing that the publication of that report and accompanying papers in the leading languages of Europe, and the distribution of the same at the Paris Exposition, will promote immigration and the development of the public lands of the United States, respectfully recommend that they be printed in the following languages: five thousand copies in German, five thousand in French, five thousand in the Swedish, and five thousand for the use of the Senate of the United States; but the committee not being informed in regard to the expense of this printing desire me to move that the resolution and report be referred to the Committee on Printing.

Mr. CONNESS. There was also, if I remember aright, a resolution offered by the Senator from Wisconsin [Mr. HOWE] concerning the printing of some extra copies of the maps accompanying that report, and I should like to know whether they are included in this motion.

Mr. POMEROY. I have simply said "the report and accompanying papers." Those are the reports of the surveyors general and the maps accompanying the report, which the committee recommend to have printed as well as the report proper.

The PRESIDENT *pro tempore*. The question is on referring this subject to the Committee on Printing.

The motion was agreed to.

#### PAYMENT OF SENATOR FOOT'S WIDOW.

Mr. POLAND submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate, to Mrs. Mary Foot, widow of Hon. Solomon Foot, deceased, late a Senator from the State of Vermont, the amount due the deceased at the time of his death, for compensation according to the act of the last session increasing the compensation of members of Congress.

#### PAYMENT OF SENATOR COLLAMER'S WIDOW.

Mr. POLAND submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate to Mrs. Mary N. Collamer, widow of Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death according to the act of the last session increasing the compensation of members of Congress.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 472) to authorize the establishment of a library in the City of Washington for the use of Government employes and other persons; which was read twice by its title, ordered to lie on the table, and be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 473) making agricultural and mechanical college scrip receivable in payment for preemption claims; which was read twice by its title, and referred to the Committee on Public Lands.

#### DARIEN SHIP-CANAL.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 149) to extend aid and facilities to citizens of the United States engaged in the survey of a route for a ship-canal across the Isthmus of Darien; which was read twice, and considered as in Committee of the Whole. It is as follows:

*Resolved, &c.*, That the Secretary of the Navy be, and he is hereby, requested to issue orders to the senior officers of the Navy at Panama and at Aspinwall to aid parties from the United States who are



undertaking a survey of the Isthmus of Darien for the purpose of discovering a favorable line for a ship-canal to connect the two oceans so far as the same can be done without prejudice to the interests of the naval service at those stations, or at additional expense to the Government.

Mr. SPRAGUE. In this connection I desire simply to state that informally I presented the matter to the consideration of the Committee on Commerce, who as informally gave it their approval, so far as the manner of arriving at the desired result is concerned. I have also consulted with the chairman of the Committee on Naval Affairs, who in the same manner approved of the proposition. The case is simply this: some ten or more gentlemen of high standing and of wealth and of enterprise have associated themselves together and have contributed a fund for the employment of a party of surveyors for the purpose of investigation. They have some slight idea, from the knowledge of the past and from the investigations of the present, and from information from parties with whom they have connection, that there may be found a line of connection between the two oceans where many hundred years ago the Indians sailed from the Atlantic to the Pacific and *vice versa*. The object of this resolution is to request the Secretary of the Navy, when it can be done at no expense to the Government, and so as not to be incompatible with the naval service, to aid these parties in the prosecution of that enterprise.

Mr. CONNESS. Mr. President, it will be remembered that about the end of the last session of Congress there were some resolutions passed upon this subject, and an appropriation of money obtained, to enable the War Department to conduct a survey wherever it should be found practicable upon the report to be made from the chief of the Naval Observatory on that subject; and further explorations were directed with a view of ascertaining the best route for a ship-canal between the two oceans, the Atlantic and the Pacific. This appears to be a movement entirely separate and apart from that, and instituted or to be instituted by private parties or capitalists on their own account. For one, I am in favor of any and every means of developing further knowledge and throwing further light upon the great subject involved; but I would suggest to my friend who has introduced this resolution that it should be more specific in its character, and that in place of directing the Secretary of the Navy to furnish ships at the instance of persons who might apply, a particular organization of citizens should be designated and their responsibility shown before action should be taken; or, in other words, that the resolution should have that shape. I would say also to my friend that the Committee on Post Offices and Post Roads had charge of the subject last year and have considered it, though I have no choice, for one, as to which committee of this body it should go to. I think it will be found that perhaps another shape for the resolution will be necessary. I am very glad that the honorable Senator has undertaken to aid in the preliminary steps of the grand enterprise of constructing a great ship-canal between the two oceans.

Mr. SPRAGUE. Mr. President this is preliminary; the formation of the company is in the future. It may be remembered that the Government of the United States have for many years had the matter of a ship-canal under their serious consideration. We have from time to time had reports in relation to that object. We have sent expeditions there, obtaining the consent of the authorities of the Isthmus, and have at great expense and at great loss of life been unable up to the present time to succeed. It would not be a marvel, nor would it be surprising, if that which the Government has failed to accomplish should be accomplished by private enterprise. It would not be astonishing if in this case as in many others a great enterprise should be successfully carried into effect after Government had made every effort for its accomplishment and had failed. I can see no possible objec-

tion to affording whatever facilities the naval officers at these points may furnish to the party of gentlemen who are undertaking this enterprise. I can guaranty, as a Senator, the respectability and the reliability of these gentlemen, and I know that what they may ask for will not be any expense to the Government or in any form contrary to the interests of the naval service upon this continent.

I trust the Senate will pass the resolution. There is nothing more in it than is presented on its face; and I should support a similar resolution of the honorable Senator from California, if he or a company of his friends should have an idea that there might be a line in the secret recesses of that region not thought of, not known, and not believed by ninety-nine hundredths of mankind.

Mr. GRIMES. When the Senator from Rhode Island was kind enough to show me this resolution yesterday, no objection occurred to my mind at that time and none has since occurred to its passage; but I suggest to him that it would be well enough for him to modify it so that this direction of the Secretary of the Navy may be sent to any officer rather than to the officers who may happen for the moment to be in command at Aspinwall and Panama. They may be subordinate officers; and were the Secretary of the Navy disposed to shrink from the responsibility which the resolution naturally confers upon him, which I have no reason to suppose would be the case—in fact I am satisfied it would not be the case—there would be abundant opportunity for him to do so according to the phraseology of the resolution. I would suggest to the Senator that he modify it so as to authorize the Secretary to direct either the admiral in command of the South Pacific squadron or the admiral in command of the South Atlantic squadron to attend to this matter, or to detail any naval officer that he may see fit, and not to specify that this service must be rendered by the naval officer who may happen for the time to be in command at Aspinwall or Panama. Now, I think, we have no naval officer at Aspinwall. We had a receiving-ship there during the war, but have not now.

Mr. SPRAGUE. It is intended by the Department, as I am told, to have a vessel always at one or the other of these points.

Mr. GRIMES. One of them.

Mr. SPRAGUE. I shall be very glad to modify the resolution as proposed by the Senator from Iowa, to meet the desired end, so that the order may be addressed to any officer instead of the officer in command at those points.

Mr. POLAND. I move that the Senate proceed to the consideration of House bill No. 598.

The PRESIDENT *pro tempore*. The joint resolution before the Senate is not yet disposed of.

Mr. SPRAGUE. I will prepare an amendment to the resolution to meet the views of the Senator from Iowa.

The PRESIDENT *pro tempore*. With the permission of the Senate, while the joint resolution is being modified, the Chair will lay before the body a concurrent resolution from the House of Representatives.

#### ADJOURNMENT FOR CHRISTMAS HOLIDAYS.

The Secretary read the following resolution received yesterday from the House of Representatives:

*Resolved*, (the Senate concurring,) That when the House adjourns on Thursday the 20th instant, they adjourn to meet on Thursday the 3d day of January next.

Mr. GRIMES. I move that the Senate proceed to the consideration of the resolution.

Mr. FESSENDEN. That will lead to debate. The PRESIDENT *pro tempore*. Is there any objection to its present consideration?

Mr. FESSENDEN. Yes, sir.

The PRESIDENT *pro tempore*. Objection being made, the resolution must lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced

that the House had passed the bill (S. No. 1) to regulate the elective franchise in the District of Columbia; and also that the House had concurred in the amendments of the Senate to the bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

#### ADMISSION OF NEBRASKA.

Mr. WADE. I move to postpone all prior orders and proceed to the consideration of the bill for the admission of the Territory of Nebraska into the Union as a State.

Mr. POLAND. Early last week I gave notice to the Senate that on Monday of this week I would move to proceed to the consideration of the House bill to establish a uniform system of bankruptcy. I was not aware at the time of giving that notice that a similar notice had been given by the honorable Senator from Maine, the chairman of the Committee on the District of Columbia, [Mr. MORRELL,] that he would ask at that time to have the bill taken up which has been under consideration for the last three or four days. I did not desire to antagonize this bill against that one, and I therefore waived the notice I had given and allowed that bill to be taken up without any controversy in relation to the order of business. The motion is now to proceed to the consideration of a House bill, which was passed at a later period in the last session than the bill that I have in charge, the bankrupt bill. It seems to me that if there is any bill which is deserving of consideration, deserving of precedence, one in which a very large number of persons are interested, and very deeply interested too, it is this bill to establish a uniform system of bankruptcy. Certainly no bill is now before the Senate, there will be none before the Senate—I mean none having no political significance—in which so large a number of persons are interested and feel a deep interest. I hope that the motion of the Senator from Ohio to take up the bill he refers to will not prevail, but that the Senate will allow me to have the bill to establish a uniform system of bankruptcy taken up and considered. It is an earlier bill and a more important bill, as I believe, than the one which the gentleman has in charge.

Mr. WADE. I think that this bill for the admission of a State into the Union, which has been delayed so long, is as pressing and as worthy of immediate consideration as any other business which could be presented. I do not think it is quite just to those gentlemen who have been elected to this body as Senators, and who have waited for a long time in a state of uncertainty, for us to delay the decision of the question whether they shall come into this body or not. If they are entitled to their seats here, as I have no doubt they are, it is their right, and what is more, it is the right of their State, that they should be upon this floor and participate in the disposition of the very question that the Senator from Vermont wishes to antagonize with this and all other important questions. I cannot conceive that there is any question more pressing and important than for us to ascertain who are entitled to seats upon this floor and to participate with us in the legislation of the body. If the people of Nebraska have entitled themselves to admission, it is their right to be represented here; and it is discourteous to the gentlemen whom they have sent not to consider their case. They have been exceedingly patient; they have been kept long waiting; they are anxious to have the question decided; and I hope the Senate will take it up now and decide it. In regard to the bill of the Senator from Vermont, I will only say that my mind is not quite made up as to how I shall vote upon it; but that does not affect the question now before us. I think the bill I have in charge is one which is entitled to precedence.

Mr. SUMNER. Mr. President, I am against the bill which has been moved to-day by my excellent friend, the Senator from Ohio, and I

am in favor of the bill which has been moved by the Senator from Vermont. In saying that I am against the bill for the admission of Nebraska, I do not now intend to argue that question. There will, perhaps, be a time for that. I merely state now why I think we should not so swiftly proceed to its consideration.

You do not forget, sir, the great act of yesterday. By the vote of this Chamber you have recorded yourselves in favor of human rights, and in favor of the establishment of human rights to the extent of your ability under the Constitution. And now, sir, a proposition is before you to set aside human rights in the very respect in which you honored them yesterday. You have before you a constitution containing the word "white." You have before you a constitution creating a white man's government, that government which Senators over the way yesterday declared themselves in favor of. Sir, I am against any such government, and I am against the Senate proceeding with its consideration, especially now when it has recorded itself in favor of enfranchisement in the District of Columbia.

I, sir, entreat you not to-day to undo the good work of yesterday. Perhaps you do not forget the story of antiquity of the personage who unwove at night the web which she had woven during the day, so that her work never proceeded to any end. The Senate of the United States, I hope, will not imitate that ancient example. Do not to-day unweave the web of yesterday, that beautiful web woven for freedom and human rights.

Against this measure there is another measure beneficent in its character, which involves no sacrifice of human rights, which the Senate may properly consider on this day after it has recorded itself so bravely yesterday in favor of human rights; that is, the proposition for a new bankrupt bill. It is a measure of beneficence which is to carry tranquillity and repose into the business of the country. It is a measure that has been long postponed. You do not forget that during two sessions it was in charge of the Senator from Connecticut who is now in the chair, [Mr. FOSTER,] and that we failed to reach a vote upon it. During the last session it was in the charge of my friend from Vermont [Mr. POLAND] and we failed to reach a vote. The other House has voted upon it. It only remains that the Senate should vote upon it in order to consummate that great work.

I hope, therefore, that the Senate will not enter upon that measure which has in it nothing that is good, nothing but a disastrous example to this Republic at this time, but will proceed with the consideration of a measure which has in it so much of real advantage.

Mr. WADE. I was in hopes that the merits of the bill would not be discussed upon a mere motion to take it up for consideration. I do not believe that course of proceeding is strictly in order, because if that were allowed we might spend a whole day on a motion to take up a bill. But when the Senator from Massachusetts undertakes in advance, and out of order, as I think, to prejudice a measure of which I am the advocate, I must be allowed a moment to answer him.

He says there is no merit in the bill, and therefore it should not be taken up, undertaking himself to prejudge it and to judge for the whole Senate. In his judgment it is a bill of no merit. Sir, if he were the sole judge here, I should give it up at once, I should come down very quickly; but he is not the judge to decide ultimately for this body; and this way of dealing with the subject is not altogether satisfactory to me.

As the Senator has made allusions to antiquity, he will permit me to remind him that there was an ancient saying, that some men would strain at a gnat and swallow a camel, and I do not see but that the remark is applicable to him on the present occasion. Why, sir, on the very objection which the Senator makes, he is himself committed upon the merits of this bill to vote for it. No Jesuit can draw the line of distinction between his

votes on former measures and the vote I ask him to give for this measure. How was it when the constitutional amendment was up last session? That Senator voted for it. Did that compel a State before coming into the Union to allow franchise to all citizens indiscriminately? No, sir, not at all. The only penalty it prescribed for a State which made discriminations was that the class whom it excluded from the franchise should not be counted in the basis of representation. So it will be with Nebraska if we pass this bill. The only difference between the cases is that the Senator gave his vote in favor of a rebel State that now has her representation on this floor, equally divided between rebellion and loyalty. He voted that she might come in. I allude to Tennessee.

Mr. SUMNER. Did I vote for that?

Mr. WADE. I believe you did.

Mr. SUMNER. Oh, no.

Mr. WADE. But the principle on which you did vote would have brought it in nevertheless. It is exactly the same question with this difference, this is a Territory which has always been loyal, always patriotic, which sent into the field to fight the battles against rebellion more troops in proportion to her inhabitants than perhaps any other State or Territory in the Union. Small though she was, she was extremely patriotic, and exerted herself to the utmost to perform all her duties to the General Government. And yet, sir, (turning to Mr. SUMNER,) you now raise an objection against her though you voted for a rebel State. That is all there is in the case. I hope no such consideration will induce us for one moment to postpone the consideration of this bill. Let us put it upon its merits, and let us do justice to the Representatives and Senators from these new States that are waiting here and are compelled to wait here in the performance of their duty to their constituencies. Let us decide their case, and if it is the judgment of this body that they are not entitled to seats here, let their constituents know it that they may take other steps. My judgment is that no Territory ever knocked at your doors for admission as a State with greater reason to be successful than does this Territory of Nebraska, and I think I can show it when the question comes up properly. There are gentlemen upon this floor and elsewhere contending that the little State of Florida, with not so many inhabitants as Nebraska, a State scarred all over with rebellion, must be admitted here and cannot wait a moment; but when this loyal Territory of Nebraska with more inhabitants asks for admission, the Senator from Massachusetts stands like a lion in the pathway to keep her out, when really he wants her aid to carry great measures in the direction that he and I advocate. I hope the question will not be postponed.

Mr. POLAND. Mr. President, I do not propose to go at all into the respective merits of these bills on the question of which shall first be taken up. I am very decidedly in favor of a bankrupt law; I believe that it is a most wise and beneficial measure, and I believe that this bill which has passed the House of Representatives is a very excellent, well-drawn bill; but I apprehend there may be other gentlemen in the Senate who may differ from me in that regard. As to the measure that is proposed to be taken up by the Senator from Ohio, I am not prepared to say whether I am in favor of it or not. I have not given it sufficient consideration. I do not put the question of precedence between these two bills at all on the question of their respective merits; and I apprehend that if we are to determine that beforehand, in advance, if that is to be a preliminary question always, we never shall know what to take up. The bankrupt bill was passed at an earlier period in the House than the bill of which the Senator from Ohio has the charge; it came into the Senate earlier. I gave notice, as I said, last week that I would call it up on Monday of this week; but having learned that the honorable Senator from Maine

had given a similar notice in favor of a bill which was earlier than mine, that had passed the House earlier and came to the Senate earlier than the bankrupt bill, I yielded out of courtesy to him. I waived the notice I had given to call up this bill as I did not desire to antagonize with him; but it seems I yielded altogether more to courtesy than I was entitled to do. How far, having given a notice of this sort, entitles a Senator to be allowed to proceed according to the notice he has given, especially after he has once yielded to a prior notice, is more than my experience here enables me to say. Certainly if I am not allowed to proceed with this bill at the present time, I am not allowed that courtesy which I extended. It seems to me that the bill I have in charge is entitled to be first taken up.

Mr. WADE. I barely wish to say, in reply to the Senator from Vermont, that I have not antagonized anything to his measure. He says that he has given way. I believe he does not mean that he has given way to any measure that I had in charge.

Mr. POLAND. No, but to the Senator from Maine.

Mr. WADE. I gave way also to him, because I was exceedingly anxious that the matter of which he had charge should come up and be disposed of. Fair notice has been given of my intention to present this measure. The question is fairly before the Senate: which of the two bills indicated ought to be acted on? I do not wish to take any further time.

Mr. HENDRICKS. I think what the Senator from Ohio demands now of the Senate is unusual, perhaps without a precedent, if not irregular. He says that there is a special demand of the State of Colorado for admission—

Mr. WADE. It is not the Colorado bill that I propose to take up, but the Nebraska bill.

Mr. HENDRICKS. I thought it was the Colorado bill. At any rate the Senator says that Territory has a right to admission as a State. During the last session a bill was passed for the admission of Colorado, and it received a veto. When it was insisted by myself that it was due to the veto and to the subject both that it should be taken up and disposed of by the Senate, the Senator from Ohio then, although the State was here demanding a hearing, demanding admission, was opposed to the consideration of the veto message; and it was by his arguments and his influence in the body that the consideration of the message was postponed at that session. Why, I am not able to say. He now says that a bill introduced for the admission of Nebraska a day or two ago imperatively demands the attention of the Senate; but at the last session he would not allow a bill for a State that he said ought to be admitted to come before the Senate. Why, he knew; I did not know. He did not explain to the Senate; it was enough for him to oppose the consideration of the message.

Mr. WADE. I can very soon relieve the Senator's mind on that subject if he will allow me to do so.

Mr. HENDRICKS. Certainly.

Mr. WADE. I had very strong apprehensions that if I allowed that measure to come up it would not pass at that moment. I was not ready for the battle. That was the reason I wished to postpone it; not because I did not desire to have the State in. I supposed the gentlemen were sagacious enough to apprehend what the reason was.

Mr. HENDRICKS. I am sure the Senator from Ohio ought to understand that subject very thoroughly, for he first made a speech to prove that Colorado ought not to come in at all, and then he voted that Colorado should not come in, and afterward he became the advocate of her admission, and subsequently, as the champion of that measure, he would not allow it to be considered by this body. I am not undertaking to prove the entire consistency of the course of the Senator; but I am contrasting his course at the last session with regard to the admission of a State, which at the

time he said ought to be admitted, with the urgency with which he demands the consideration of this particular bill now. I suppose he thinks it is all ready now for a vote. His proposition in legislation then is, that a bill ought to be considered if it can pass, but ought not to be considered if the mind of the body is against it. I never understood it to be a principle in legislation that it depends on whether a measure can pass whether it ought to be considered. I do not know very much about the particular case of Nebraska; but I think the first bill that ought to be considered here is the one that received the veto at the last session. It is a very unusual course that a new bill should be brought in here and the veto never considered.

Mr. YATES. Mr. President, I am in favor of both these bills, and I desire to give that one of them precedence which it seems to me ought to have preference in the nature of the case. Although I do not profess to be as well acquainted with the rules of the Senate as the Senator from Indiana, I cannot see why the course now proposed is unusual. When the people of a Territory form a State government, and adopt a constitution in pursuance of an enabling act, and elect Senators, and those Senators present themselves before the Senate of the United States, it seems to me it is not only in order, but it has been the custom and rule of the Senate to proceed immediately to the consideration of that subject. It is first in order. It is naturally in order and entitled to precedence. While I favor the bill of the Senator from Vermont, I hope he will not insist upon its precedence to this bill. Here is a State that has been organized in pursuance of an act of Congress; it is demanding admission; and I would say to the Senator from Massachusetts that it is a State after his own heart. It sends Republican Senators. It is one of our young sisters asking admission into this body. I hope the Senator from Vermont will not press upon the Senate his bill in preference to this. It is due to the State of Nebraska, it is due to the Senators whom she has sent here, that we should say whether they are entitled to seats on this floor or not. Common courtesy dictates that we should consider this question first. Therefore while I expect to support, and shall do so most cheerfully, the bill of the Senator from Vermont, I hope the motion of the Senator from Ohio will prevail.

Mr. BUCKALEW. Mr. President, I suppose that every consideration of propriety would be in favor of the Senate taking up the case of Colorado in preference to a bill relating to another proposed new State. I find by the record that the veto of the Colorado bill was sent to the Senate on the 16th of May last, and was made the special order for the 21st. Its consideration, however, went over during the whole of the remainder of the month of May, during the whole of the month of June, and during so much of the month of July as the Senate remained in session, down to the 28th. That measure remained unacted upon; it still remains among the files of the Senate, a subject undisposed of. Now, sir, I repeat that all considerations of propriety are in favor of taking up that measure and acting upon and determining it before we take up a new case and enter upon a new field of debate. It is true that this case of Nebraska was considered just before the adjournment. It came up suddenly and unexpectedly within two days of the adjournment. We were without full or complete information on the subject. Our papers were defective; our information was limited. Under those circumstances we entered upon the consideration and debate of that question, and the bill passed, but it was not signed. There are, therefore, two undisposed of questions regarding the organization of new States before the Senate, or liable to be brought before it. It appears strange indeed to me, and it will appear strange to others outside of our Chamber who observe our proceedings, that the Senator from Ohio should now move to take up the more recent measure,

the later question, in preference to the former one; and particularly when that older measure came back to us vetoed by the President of the United States, thus imposing upon us in a peculiar manner the duty of its consideration.

The Senator from Ohio suggests that the case of Colorado was not acted upon at the last session, because he apprehended that if the judgment of the Senate were then pronounced upon the application it would be against it; at all events that it would fail of obtaining the requisite constitutional vote of two thirds. Mr. President, I think the mode of proceeding which seems to be favored by the Senator from Ohio is one of very doubtful propriety, that a measure should be passed upon at one session of Congress and that at the next session it should be taken up by a single branch of the Government and disposed of. I believe we have a rule that a particular bill which passes the Senate or House at the first session of a Congress may be taken up at the next session, the year after; in the other House, voted upon and passed, so that in point of fact there may be no assent of both Houses at the same time to a measure. The assent of one House is given one year and of the other House and of the President the next year. There is thus no concurrent judgment of all the instrumentalities concerned in the enactment of a law in its passage: assent is given one year by one House and the next year by the other House and by the President. I think that practice, that rule, is open to much question. That, perhaps, ought to be debated hereafter and considered. It may happen in many cases that a bill may become a law, put upon your statute-book, when one branch of the legislative department is opposed to it at the time of its enactment, a thing which ought not to be permitted.

But, sir, how much more objectionable would be such a course of proceeding as that now favored by the Senator from Ohio, a course of proceeding for which he is responsible more than any other person to this Senate and to the country; and that is that a measure shall be considered by the President in the performance of his constitutional duties one year, and then that it shall be hung up in the legislative department another whole year, and in the interval to be the subject of popular consideration and of popular elections in the country, and then be passed upon at the next session by only one department of the Government without any action of the President whatever, without hearing him upon the question at the time when it is to be finally acted upon and disposed of. We cannot, however, change the course of action on that subject now. It has taken place. I only speak of this in order to express my objection against adopting this policy or course of action hereafter, and the hope that we shall amend our course of conduct in this respect.

I say, then, that these measures undisposed of are to be brought up, I presume, at this session for our consideration. I think the Senate ought to require, ought to demand of the Senator from Ohio that he shall take these subjects in the order in which they were introduced, in the order in which they were considered at the former session. I agree that there is great force in the remark of the Senator from Ohio, that those persons who are here claiming membership in our body are reasonably entitled to have their case heard and determined. It was a reasonable claim any day at the last session after this veto was sent to us; I believe it is a reasonable claim at this time, and I for one am ready to vote to take up these cases in their proper and natural order, in a reasonable manner, and act upon them; and if the Senator from Ohio is able to obtain his two-thirds vote against my opinion let him have it; but every consideration demands prompt action.

At present, however, I shall vote against taking up the Nebraska bill because I think that the other measure ought to have precedence, and that we ought to insist on its consideration first.

Mr. WADE. I do not like to be skirmishing on the outside of this question any longer; but as gentlemen endeavor to put me in a position inconsistent with myself, and might, perhaps, make an impression on the Senate that my course in regard to these bills needed some explanation, I shall be pardoned for again trespassing on the Senate. To gentlemen who have been in the Senate all the while, any explanation from me is unnecessary. We expect that certain gentlemen will resort to all the subtleties that legislation permits to stave off and get rid of a measure the political bearings of which they do not like. That is natural enough; and I make no objection to it; but who ever before heard that a Senator at the head of a committee having two or three propositions in charge had not the right to bring them forward in the order that the committee directed, or if they did not direct him, in the order that his own judgment might dictate? Why is it that gentlemen on the other side insist that one of these propositions has the right of priority over the other? They are against both, I understand. So far as their votes are concerned, it will make no difference what is the order in which the measures are considered.

A word now as to the course of proceeding at the last session on the Colorado bill. The Senator from Indiana says that I was inconsistent with myself; for I first made an argument against the admission of Colorado, and afterward voted for it. That is true; I did speak against it at first, because upon the data that I had in my possession at that time I did not think it was proper that she should be admitted. The question was comparatively a new one, and we had not very much light on the subject. On further consideration, and after new light had been presented, I became satisfied that the course which I had taken was wrong, and that Colorado was really entitled to admission as a State. I gave my reasons for both of these opinions, and the gentleman was perfectly at liberty to take the one that he thought the most of. I suppose he thought my first argument was the best; or at any rate, the light which I thought sufficient to convince me that I ought to change, did not convince him. But was there anything wrong on my part? When the facts and circumstances which came before me convinced me that I had acted without sufficient light, and on further consideration it became apparent to me, at all events, that this Territory was sufficient in inhabitants, that she had all the elements of self-government, and ought to be admitted into the Union as a State upon the same principle that all other Territories had been since I have been in the Senate, I ask if I was guilty of any wrong? There is not a single principle which has been presented in argument against the admission of Colorado and Nebraska as States now, that might not have been urged against almost every other Territory that has been admitted as a State since I have had a seat in this body.

I believe now that with the light I had originally my first argument was right; and I think also that on the further light I received my second position was also right. That is my judgment, but it is not the judgment of the Senator from Indiana.

But the Senator says that after the veto message of the Colorado bill came in it was not immediately taken up. Well, sir, the explanation is very simple. The strength to carry my side of the question did not seem to be here; I did not think there would be a fair trial then. Now, my rule is this: I will never be for a measure unless I think it is right; but even when I believe a measure is right I shall not urge it when in my judgment it is apparent that the Senate is not in a condition to give my side a fair hearing. If that doctrine is wrong, I am wrong. I would move to-day to postpone this bill, which I am zealously in favor of, if I believed that we could not consider it to as much advantage now as we could a week hence. If there is anything wrong in that course of action, I am willing to submit to correction.



But, sir, let me say to the Senator from Indiana that I do not propose to take up the veto message at all, because new light has come before our eyes showing the propriety of the admission of Colorado, and showing it, as I believe, to the President of the United States so that, on the presentation of a new bill, he will be very glad to let it pass without his veto. I have no doubt of it. I do not know that it is so; I express no opinion on that point; but I know that if the President shall object to the admission of Colorado into the Union to-day, upon the facts and circumstances which will be presented, he will do that which no other President has ever done. I do not believe that he will do it. I believe that if you were to consult him to-day you would find it to be his wish that we should present him a new Colorado bill, so that he would give it fresh consideration, and, as I believe, he would not veto it. Upon that hypothesis I have introduced a new bill. I hope now that gentlemen will understand the reason that has induced me to take the course I have seen fit to take, both at this session and at the former session.

Now, what is the difference between these two bills, one for Nebraska and one for Colorado? They are both before us. If gentlemen would let us get at them, would not stand here to debate longer than they can give light on the subject, my judgment is that during the day we can pass them both. They stand here together. I have moved to take up the Nebraska bill first, more from accident, perhaps, than anything else. I am anxious to take up and consider both.

Mr. BUCKALEW. I desire to say to the Senator from Ohio that I was not aware that he had introduced a new bill in relation to Colorado.

Mr. WADE. I have.

Mr. BUCKALEW. I desire the statement I have just made to go in connection with my former remarks.

Mr. WADE. I hope we shall have a vote on the question. I sincerely hope that both bills may be taken up and disposed of to-day.

Mr. SAULSBURY. Mr. President, the honorable Senator from Pennsylvania [Mr. BUCKALEW] omitted to notice a very potential argument which has been offered in favor of the present consideration of the bill for the admission of Nebraska—I allude to the argument presented by the honorable Senator from Illinois, [Mr. YATES,] that Nebraska had sent Republican Senators here. This certainly is a very grave argument; it is worthy of the most serious consideration, and should not be lightly passed over! Nebraska, having sent Republican Senators here, their votes being necessary for the accomplishment of some purpose beyond, as has been intimated in the course of this debate, does it not become our duty, to be consistent with ourselves, to hasten on her admission? We were told yesterday, during the course of the debate on the bill to regulate suffrage in this District, that it was advocated because the votes of the negro portion of the population of the District of Columbia were necessary. It has been intimated to-day that the votes of the Senators from Nebraska may be necessary for the accomplishment of some object that is to come in the future.

Now, sir, the Senate of the United States ought to be consistent with itself. If it was necessary to pass the negro suffrage bill because the negro votes were needed, and therefore it was done, and it is now necessary to pass the bill for the admission of Nebraska because she has sent Republican Senators, let us be consistent, let us have a clean record. But there is this question which suggests itself to my mind; suppose Nebraska instead of sending Republican Senators here had sent Democratic Senators here, then the reason would not have applied, I apprehend, so powerfully; we should not have been addressed, I presume, so earnestly for the present consideration of this bill. I should like to have heard my very able friend from Pennsylvania meet these great and weighty

arguments, and I now should like to hear him. I confess that I myself am unable to meet them, but I know that my friend from Pennsylvania can do it if he will.

Mr. SUMNER. Mr. President I hope I shall be pardoned if I make one word of reply to the Senator from Ohio. He seemed to think that his argument was advanced by personal allusions to myself. If I understand him, he sought to show an inconsistency on my part.

Mr. WADE. Yes, I think I did.

Mr. SUMNER. The Senator says yes, he thinks he did. Very well, that will justify me then in one moment's reply. I am at a loss to understand how the Senator can find any inconsistency on my part if he takes the trouble to understand the facts. He assumed that I voted for the admission of Tennessee. I have sent for the Journal of the Senate.

Mr. WADE. No; I did not say you did. When you said you did not I gave it up.

Mr. SUMNER. Very well; I have sent for the Journal of the Senate and my name will be found recorded on all the yeas and nays, and they were very numerous, that were taken against the admission of Tennessee; and I at that time assigned the reason, because it contained the word "white" in its constitution.

Mr. WADE. You voted for the constitutional amendment.

Mr. SUMNER. The Senator says I voted for the constitutional amendment. I did vote for the constitutional amendment; but I should like to ask the Senator whether he considers himself bound now to admit one of these rebel States if it refuses the suffrage to freedmen. I should like to ask my friend to answer that.

Mr. WADE. No; I do not.

Mr. SUMNER. I knew he did not.

Mr. WADE. I do not know that I understand the Senator. Let me say that I should consider myself bound by the constitutional amendment if the southern States complied with it within a reasonable time, and that reasonable time, in my judgment, is nearly elapsed. By a reasonable time I mean as soon as their Legislatures can consider it. If they adopt the constitutional amendment, and comply with the terms prescribed by the reconstruction committee and adopted by Congress, I should feel bound to vote for their admission. I voted for the constitutional amendment on that hypothesis.

Mr. SUMNER. Even with the word "white" in their constitutions?

Mr. WADE. Without regard to that.

Mr. SUMNER. Without regard to the rights of the freedmen?

Mr. WADE. On complying with the requisitions of the constitutional amendment I should vote for them.

Mr. SUMNER. I do not agree with the Senator, and I distinctly stated when that proposition was under discussion that I did not accept it as a finality; that I was not in any respect bound by it; that so far as I had a vote on this floor I would insist that every one of these States, before their Representatives were received in Congress, should confer impartial suffrage, without distinction of color. I insisted upon that at the time, and therefore I ask my friend what inconsistency is there on my part now when I insist upon the same rule with regard to Nebraska.

Mr. WADE. I cannot see how the Senator could have misled the southern States with that. When they complied with all we asked of them in the constitutional amendment I supposed we could not refuse to let them in on those terms. If the Senator did not intend that they should have the benefit of what we had done by compliance with the terms on their part it seems to me there was something wrong. I intended to let them in on the terms we prescribed. I did not ask more, and I would not be satisfied with less; and if now they should comply with them it would be bad faith in me to refuse to admit them. Certainly, I am as much for colored suffrage as any man on this floor, but when I make such an agreement as that I stand by it always.

Mr. SUMNER. Sir, the Senator says, "when I make an agreement I stand by it." I accept the language of the Senator; when I make an agreement I stand by it. I made no such agreement as the Senator attributes to me, and I do not understand that the Senate or that Congress made any such agreement. I know that certain politicians and certain editors have undertaken to foist such an agreement into that proposition of constitutional amendment. It was never so declared. I believe that the committee on reconstruction reported a resolution to that effect, but they never called it up, and I know very well that I offered a resolution in this Chamber expressly disavowing any such agreement.

Mr. DOOLITTLE. The Senator from Massachusetts will allow me?

Mr. SUMNER. Certainly.

Mr. DOOLITTLE. The committee on reconstruction reported a resolution that if each State should adopt this amendment and the amendment should become a part of the Constitution, be adopted by a sufficient number of States, that then the States might be accepted. That was what they reported.

Mr. JOHNSON. It was a bill.

Mr. WADE. That was the understanding I alluded to.

Mr. BROWN. That was not acted upon.

Mr. SUMNER. It was not acted on. It was never passed. I suppose that those who had it in charge did not venture to invite a vote upon it.

Mr. DOOLITTLE. It was laid on the table by a vote in the House of Representatives upon the yeas and nays.

Mr. SUMNER. Very well; that is not in my memory now. I do not doubt, however, that it was so laid on the table in the other House. What is the natural consequence of that? It never became in any respect a legislative act. Nobody entered therefore legislatively into any such agreement as the Senator from Ohio attributes to me. How he could attribute it to me in the face of my constant asseveration on this floor that I would not be a party to any such agreement surpasses my comprehension.

Now, if I understood the Senator, I have answered his two charges of inconsistency against me, first with regard to the admission of Tennessee, and secondly with regard to the constitutional amendment. That part of the Senator's speech therefore falls to the ground.

So far as the Senator entered upon the merits of the question I will not now make any reply. There may be a time for that, if the subject should be taken up and we should enter upon its consideration, although I should say now that I have no desire to occupy the attention of the Senate on this subject. I however must enter my most earnest protest against the measure. To my mind it is one of the most disastrous measures that has been introduced into Congress. I use my words advisedly; I say it is disastrous because it will impair the moral efficiency of Congress, injure its influence, and be something like a bar against the adoption of just measures for the rebel States. Sir, we are now seeking to obliterate the word "white" from all institutions and constitutions there; and yet Senators here, with that great question before them, rush swiftly forward to admit a new State with the word "white" in its constitution. In other days we all united, or many of us did—and the Senator from Ohio was among the number—in saying "No more slave States!" I now insist upon another cry: "No more States with the word 'white' in their constitutions!" On that question I part company with my friend from Ohio. He is now about to welcome them.

The PRESIDENT *pro tempore*. The motion is that the Senate now proceed to the consideration of the bill to admit Nebraska as a State of this Union.

The motion was agreed to, there being on a division—yeas 21, noes 11; and the bill (S. No. 466) for the admission of the State of Nebraska into the Union was considered as in Committee of the Whole.

It recites that on the 21st day of March, 1864, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit the State when so formed into the Union upon compliance with certain conditions therein specified; and it appears that the people of Nebraska have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of that act, and to be republican in its form of government, and that they now ask for admission into the Union. It is therefore proposed to enact that the constitution and State government which the people of Nebraska have formed for themselves be and is accepted, ratified, and confirmed, and that the State of Nebraska shall be one of the United States of America, and admitted into the Union upon an equal footing with the original States in all respects whatsoever. The State of Nebraska is declared to be entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 19, 1864.

Mr. BROWN. I desire to offer an amendment to come in at the end of the bill:

*Provided*, That this act shall not take effect except upon the fundamental condition that within the State there shall be no denial of the elective franchise or of any other right on account of color or race, but all persons shall be equal before the law; and the people of the Territory shall, by a majority of the voters thereof, at such places and under such regulations as shall be prescribed by the Governor thereof, declare their assent to this fundamental condition. The Governor shall transmit to the President of the United States an authentic statement of such assent whenever the same shall be given, upon the receipt whereof, he shall, by proclamation, announce the fact, whereupon without any further proceedings on the part of Congress this act shall take effect.

Mr. WADE. I do not propose to go into a lengthy discussion of this subject, but I wish to make the Senate acquainted with some of the facts and circumstances relating to Nebraska and the condition in which it is at the present time. It will not take me long to do so.

Mr. JOHNSON. I suppose the question now before the Senate is on the amendment.

Mr. WADE. The question is on the amendment, to be sure, but I suppose what I have to say will relate as much to the amendment as to the bill.

Mr. JOHNSON. I do not object at all. I only wanted to know whether the Senator wished to discuss the amendment as well as the bill.

Mr. WADE. Only generally. What I have to say will be as germane to the general bill as to this particular amendment, but I may as well say it now. Before, however, I proceed to consider the subject before us, I am very anxious to be understood on the question that arose between the Senator from Massachusetts and myself.

When the committee on reconstruction, at the last session, brought in their last proposition to amend the Constitution and to provide for the readmission of the seceded States, the labors of that committee I supposed had been directed to the inquiry upon what conditions we should permit those States to come back into the Union. I supposed it was for that purpose the committee was raised. I supposed they had directed all their inquiries to that subject, and that they had settled down upon amendments to the Constitution, which were to be submitted to the seceded States, and upon being adopted and complied with by them in good faith, and being ratified by three fourths of all the States, would entitle them to representation in the two Houses.

I supposed it was on that very condition that we sought to permit them to come back. It would seem to be an inconsistency to say that if classes of people were excluded from the ballot-box they should not be entitled to be counted in the basis of representation, that is

that political power should be based upon voters, if we did not mean to leave it in the power of the States to exclude some class of people from the ballot-box. The provision was that where the States excluded any class from the right to vote, that class should be excluded from the basis of representation. Everybody knew that that was meant for the colored men in the southern country, and the object was to provide that if the southern States shut them out and would not permit them to vote we would not allow those States to count those men in making up the basis upon which their representation should be apportioned. And yet the honorable Senator tells us that he had no idea that anybody was to be excluded. If so the provision would have been senseless, without operation or effect. If we were not going to permit the States when in the Union to exclude anybody from the ballot-box, why make such a stipulation as that? I cannot understand it in any other way than that when three fourths of the States ratified that amendment, and made it a part and parcel of the Constitution of the United States, the southern States would then be in such a condition that they might apply here, and all other things being equal they would be admitted. Of course they must send loyal men; they must send men who can take the oath; but all these conditions being complied with they should be received. If we did not mean that, I do not know what we did mean. Why provide for what should happen on the exclusion of a certain class from the ballot-box, if we did not intend to allow them to be excluded under any circumstances.

I will say in this connection, as we have begun to define our positions here, that I think that proposition was perfectly fair, temperate, judicious, moderate beyond what the world had ever seen before under such circumstances; and if the southern people throw it back defiantly in our teeth and will not comply with it, I am willing to say here that I am for putting them under the strong arm of military power, and ruling them in that way, if it be necessary, so that they shall make no disturbance in this Government. If they will take the terms we offer in a reasonable time I am bound to stand up to my agreement.

Mr. CRESWELL. How long is a reasonable time?

Mr. WADE. When their Legislatures have met and taken the question into consideration, or refuse to consider it at all. Certainly we cannot expect them to reject it until they have had an opportunity to do so.

Mr. CRESWELL. Four or five have rejected it already.

Mr. WADE. They are in the last category I laid down, subject to that rule which I stand ready here to enforce upon them.

Now, Mr. President, one reason why the Territory of Nebraska should be very soon admitted as a State is that the land there is being taken up by your college scrip, by your railroad grants, &c. In various ways the land is being all absorbed, so that if we leave it a little while longer exposed in this way we shall not have the power to give to the State for school purposes and for various other purposes those grants which we have uniformly made to new States on their admission into the Union. We shall deprive them of the privilege of receiving these grants and ourselves of the power to deal with this new State on the conditions that we have dealt with every other Territory which has been admitted as a State. This is one great reason why we should do this act at once, and permit them to avail themselves of the same advantages we have always bestowed upon others in like circumstances.

The next question that generally arises in considering these subjects is whether the Territory applying for admission has a sufficient amount of population to entitle it to admission into the Union. As I said here once before, there has been no uniform rule as to the number of inhabitants that entitle a Territory to

admission into the Union. Sometimes the number has been more and sometimes less; but scarcely ever has it been the fact that a Territory has had enough inhabitants to entitle it to one Representative in the House of Representatives, according to the then existing ratio. I hardly know of any Territory that has had that number of inhabitants when it has applied for admission and has been admitted. We have looked rather to the capabilities of the Territory, its means of sustaining a population, the facility with which it is filling up with population, what will probably be its condition in a short time. The people of the new States and their Representatives generally being in harmony with the great interests of the country, and ready to act and vote in accordance with the principles of progress on which the American Union is founded for the benefit of all, it has not been considered a question of very great moment to fix the particular number of their population at the time of admission into the Union. I know the disparity which exists between great States like New York, Pennsylvania, and Ohio and these new States whose Representatives are brought into this body on exactly equal terms. So far as population is concerned, there is a great and mighty disparity in the condition of things. It seems somewhat hard that a small State should have the same power in this body as a large one with five or six or eight times its population; but nevertheless that was one of the fundamental principles on which the Government was organized. Nobody has found fault with it practically. The reason why this inequality has been submitted to with very little opposition I have already suggested: the interests of all harmonize and they act together. What benefits one benefits the other.

Although the State of Ohio has a population of about three millions she has no more voice in this body than a State having one tenth that population; and yet the Senators of the smaller State have the same great views of government and the same great interests to protect, and the result is that we act in harmony and the disparity is not felt. If we were from different nations, with different religions to maintain and different interests to support, this inequality that exists and ever has existed in the Senate would be perfectly unbearable. As it is, it creates no hardship upon anybody. We are harmonious, we act alike, and all act, I trust, for the great interests of all.

Now, what is the number of inhabitants in this Territory? There has been an examination made by the Bureau of Statistics, and they make out that it has a population of eighty-eight thousand five hundred and thirty, and that was last April.

Mr. GRIMES. What bureau is that?

Mr. WADE. The Bureau of Statistics of the Treasury Department, who were ordered to make out, as well as they could, the number of inhabitants. I have no doubt that that estimate is much below the mark. They gave a vote of nine thousand one hundred and thirty-six at the October election. The votes in these remote Territories, so large in extent, are a very uncertain guide as to the number of inhabitants.

Mr. HENDRICKS. Has the Senator the basis of that calculation? How did the Bureau of Statistics arrive at that result, and on what information?

Mr. WADE. They were directed, as I understand, to ascertain the number of inhabitants, as well as they could, in collecting the taxes there. It was not a census strictly.

Mr. HENDRICKS. There was no census taken.

Mr. WADE. No; I do not claim that. This is what we derive from the bureau as being their estimate, from the best guides they had.

Mr. HENDRICKS. As there is no *per capita* tax, how did the bureau ascertain?

Mr. WADE. I do not profess that it is strictly correct, but it is the best light we can get from those having the best opportunities of ascertaining.

Mr. HENDRICKS. I ask the Senator whether there has been any census taken since 1860?

Mr. WADE. Not that I know of.

Mr. HENDRICKS. The population was then about twenty-seven thousand.

Mr. WADE. I do not think there has been any census taken since that time.

Mr. JOHNSON. What was the last vote?

Mr. WADE. Nine thousand one hundred and thirty-six; and I was going on to say that the vote in these Territories is a very uncertain guide in forming a conclusion as to the number of the inhabitants. The population, we know, is very much scattered; they have to go a great way to get to the places where the votes are given in. Persons going into a new Territory are very much engaged in their own pursuits, and it is a great deal more of a job for them to get to the polls and vote than it is in more populous regions where the precincts are small and the voting places are convenient. For this reason the number of votes furnishes no safe guide as to the amount of population.

I have here the report of the Director of the Bureau of Statistics, arriving at the conclusion which I have stated, and I have no doubt it is an underestimate. This report was made up from data furnished by the officers of the internal revenue in that Territory, and it was made out on facts collected in April last. Since then population has gone in, and the country has filled up faster, perhaps, than almost any Territory ever has done. I suppose there are now several thousand more people in Nebraska than there were at the time this calculation was made.

They have as much as three hundred miles of railroad in Nebraska to-day, running through toward the Rocky mountains, and there is another railroad approaching the Territory from another quarter, and which is to go right through it, although it has not yet got very far in the Territory. It has all the facilities for growing up into a great and flourishing State. It has a great extent of arable and fertile land. Its railroad facilities, its facilities for market, the navigation afforded by the Missouri river, all these circumstances give it as favorable a position as almost any other Territory that has knocked at your door for admission and has been admitted.

At the election on the constitution the vote for admission was 3,988, and the vote against it was 3,838, being a majority of 100 in favor of the proposition. That vote was taken during the summer, in harvest time, when the men were engaged at work, and did not turn out to vote. It was taken a year ago, I think.

Mr. HENDRICKS. When we were here during the last session.

Mr. JOHNSON. The honorable Senator from Ohio will permit me to ask here whether the nine thousand one hundred and thirty-six votes which he says were given were the whole number of votes cast?

Mr. WADE. Yes, sir; the whole number of votes cast at the October election.

Mr. JOHNSON. Will he tell me now how many were for the constitution, and how many against it?

Mr. WADE. That was not the vote on the constitution. That vote was taken over a year ago, and was less than eight thousand altogether.

Mr. COWAN. Was there not a vote on the constitution recently?

Mr. WADE. Not recently.

Mr. HENDRICKS. Just about a year ago at this time.

Mr. COWAN. And it failed once in Nebraska.

Mr. WADE. They had two votes on it.

Mr. COWAN. On the last vote there was one hundred majority for a State.

Mr. WADE. I can state here what I am informed on that subject. I am informed that there are a great many Mexicans in the Territory, scattered about, and they are generally opposed to a State government. They do not want to come into the Union as a State.

Mr. HENDRICKS. You are thinking of Colorado.

Mr. WADE. No; there are some here. There are some in Colorado, but there are a few in Nebraska. We will talk about Colorado when it comes up, that seems to be in gentlemen's minds more than Nebraska a good deal. The population at all events, on the best evidence we have, is certainly much larger than that of several Territories which have been admitted as States; I think I may say more than most of them when they were admitted into the Union. I believe the population of Nebraska to-day is as large as that of the State of Florida. This people as I have said once before are a loyal people and will be the foundation of perhaps one of the best States in this Union. And I will say too that I traveled up through there myself this fall. I saw everything active and in motion there. Omaha is one of the most flourishing towns I have seen in a great while. The evidence of enterprise there is as great as it is in any city I have ever been in. It is all flourishing. Their railroad establishment for the construction of cars and engines and everything else they require is one of the best. It is not completed yet, but they have progressed with it to a great extent and laid out a great amount of money there, and I know of no part of the country that appears to be more enterprising, more flourishing, and filling up faster with inhabitants than the Territory of Nebraska.

Now, can anybody tell me why we should single her out and keep her out of the Union? The Senator from Massachusetts undertakes to tell us why we should go against it and keep it out. Why? Because he has interposed a new principle. Was a State ever before excluded on this ground? Not at all. The Senator will not pretend that this ever was made an objection to any other State or Territory. What position should I be in here arguing against the admission of this State on the ground that they had the word "white" in their constitution? Sir, the State of Ohio has the word "white" in her Constitution. I intend to do all I can to induce the people of Ohio to eradicate it and to give every man the same equal rights; but I will not stand here as a Senator from Ohio objecting to the admission of a new State with a constitution like that of Ohio in this respect.

It is unjust to establish now for the first time a rule of this kind to operate against a Territory which has complied with all the requirements which have ever been imposed on any other Territory seeking admission into the Union as a State. It is unjust to exclude her upon a new idea got up after the enabling act was passed. When you passed the enabling act, why did you not direct that she should make a constitution excluding the word "white"?

Mr. SUMNER. May I remind my friend that by the enabling act the constitution must be republican in form?

Mr. WADE. Certainly.

Mr. SUMNER. I should like to ask my friend whether a constitution which makes a discrimination in rights on account of color is republican in form? Is it a republican government?

Mr. WADE. I should not like to say that the State from which I come was not republican in form, in substance, and in every way. I have said, however, that a State lacks republican elements just in so far as she excludes portions of her population from the elective franchise. There is but a very small part of the population of Nebraska excluded. It is a defect in the constitution in my judgment. So it is in my own State, and there I shall labor to eradicate it, and I have no doubt the people of Ohio will do so very soon. I have just as little doubt that Nebraska will do so, too, if you admit her. I am told by her Senators, I am told by her Delegate, I am assured by all the people I see from there, that there is no doubt they are as faithful to this great principle as any of us, and that they will immediately turn their attention to correcting this defect. It is merely a defect in form, for there are but

very few colored persons there, as I understand; I do not know how many, but probably not fifty in the whole Territory. But, whether they be few or many, I agree that they are entitled to their rights; and they will get their rights quicker if you permit the State to come into the Union now than they will if you exclude her. I do not know what the effect will be if you thrust back these patriotic people who have vindicated your rights and mine by their dearest blood; if you scout them from your Halls of Congress, and fasten conditions upon them you have never required of any other Territory. You never apprised them that you would insist upon the condition you now propose to require. It would have been well to give them notice beforehand that it was expected that they should comply with this condition. If you had, they would have done it; but we all of us, until very lately, voted for the admission of Territories without an observation and without a thought of an objection for any such reason as this.

Mr. HENDRICKS. I think I misled the Senator in regard to the time when the vote on this constitution was taken. I understand that it was in June last. I thought it was about a year ago, but I understand now that it was in June last.

Mr. WADE. I thought it was earlier than that; I did not remember the date.

The pending amendment proposes to attach a condition to the admission of this State. I do not know whether you can do that. She ought to be admitted, if at all, on the same footing with all the other States. Up to this hour the regulation of the elective franchise has been regarded as a State question. It belongs, under the Constitution as it now stands, exclusively to the States of the Union. We have not proposed to take it away from any State. This State has never yet committed an act by which she forfeited her rights. If a State has raised her hand against your Constitution, if by rebellion she has forfeited her right to exist, she has then placed herself in a position where you have a constitutional right to deal with her just as you please. But I do not know what right you have to deal in this way with a State or a Territory which has been always loyal; which has forfeited none of her rights, which has performed all of her duties. I do not know what right you have to say that a State shall be admitted, not on an equality with every other State, and shall not be allowed to regulate her elective franchise as she pleases. I say to the gentleman who offers this amendment that you have not, under the Constitution, as yet declared anywhere that the General Government can fix the status of the elective franchise. You have left it thus far with the States. The constitutional amendment that we passed last year left it to the States, even to the rebel, forfeited States, to regulate it for themselves, the only restriction being that they should not have political power for those of their population whom they excluded from the right of voting.

Of course, I am as much for the principle of the amendment as anybody else. I wish the word "white" were excluded from the constitution of my own State. But neither you, sir, nor I, nor this Congress, can do it under the Constitution of the United States. We have no power here to say to the State of Ohio, "Correct this error in your constitution or we will correct it for you." Will any gentleman contend that we can do it? I do not suppose that is contended in regard to a State which has not forfeited her rights by treason.

Mr. BROWN. Is this a State?

Mr. WADE. She asks to be a State.

Mr. BROWN. That is the very question.

Mr. WADE. Certainly, she asks to be a State, and if you make her a State at all I ask you to make her one upon the same conditions with every other State.

Mr. BROWN. I ask the Senator whether he considers this a State now, and as thereby excluding us from this action?

Mr. WADE. Oh, no. I think, however,



that in parity of reason this amendment stands upon the same grounds as if it were applied to an existing State. You ask an unusual thing. You undertake here to correct her constitution in this particular by act of Congress. You say to these people, "If you come in as a State we will fix your elective franchise." You cannot do it for a State; the moment she is in the Union you agree that she has a right to do it herself. Then, that being the case, what right have you to control her in this particular as a condition on which she shall come in? It is an unusual condition, and it is a test which has never been applied to any State. You gave this Territory no notice in your enabling act that it was necessary for her to comply with such a condition; but now, after she has made her Constitution in good faith and complied with your enabling act, you come in here and say there is another condition that we did not think of at the time, which not having been performed by you we will exclude you and not allow you to come in. I do not believe it is right.

Mr. BROWN. I should like to ask for information of the Senator from Ohio whether this Constitution is framed under and in pursuance of that enabling act?

Mr. WADE. I think it is substantially.

Mr. BROWN. In fact, I mean, is it in pursuance of that act?

Mr. WADE. I will tell you just how it was. There may be a technical distinction. The enabling act enabled the people at a certain time, naming a particular day, to meet and frame a constitution. They did meet at that time and rejected it. They afterward met, however, by the direction of their Legislature, all things being orderly and right, and complied with the requisitions of the enabling act in every respect except as to the time named. The day fixed passed by, and afterward on reconsideration they met again and adopted a State constitution, endeavoring to comply and substantially complying with all the conditions that were required of them in the enabling act.

Now, sir, I do not wish to prolong the debate, and I have but a few words more to say. The questions I have now argued have never been argued in relation to the application of any State which has been admitted since I have been in the Senate chamber unless it was in the case of Kansas, where a great controversy sprang up, but with none of the elements which we are now considering. There was an attempt made to make a constitution here in this District, and then force it upon the people of Kansas—that was called the Lecompton constitution. That gave rise to great controversy. I was opposed to the constitution that was made for that people and undertaken to be forced upon their necks. I contended against it as well as I was able and as long as I could, and finally we defeated it. The general course has been to pass an enabling act, under which the people of a Territory would assemble and make a constitution in accordance with all our constitutions, republican in form, for there is very little difference in them. There was never a better one than this of Nebraska that I have seen. It is perfectly republican in every respect except that to which the Senator from Massachusetts now objects for the first time. He would now impose a condition which has never been required of the people of any other Territory endeavoring to qualify themselves for admission as a State.

I think we shall be doing a great wrong if we interpose this new principle in the way of this people, without notice to them—a people as much in favor of equal rights as the constituents of the Senator from Massachusetts; Republican, Radical, vast majorities of them; contenders for just such a constitution as that Senator wants; but not being apprised that anything out of the beaten track was wanted, they have followed the usual course pursued by other new States. And yet they are now met by this bare abstraction, a technicality that hardly touches anybody, for there are hardly any colored men the Territory; and

what few there are are as anxious for the admission of the State as I am. At least, that is true so far as I know anything of them; because they think they know that this evil will be corrected sooner by the admission than by the exclusion of the State. I hope that we shall not on this mere technicality coldly turn away a Territory comprised of patriotic men who have sacrificed so much for the Union. I do not know what the effect of it will be. For the party in power it would be the most suicidal act that any party was ever guilty of. These men, let me tell gentlemen around me, believe just as you do; they are ready to aid and assist you in carrying out your great principles of liberty, right, and justice. On their admission they will add to the power of your arm to enforce them. No party was ever so blind to the progress of its own principles as you will be if you undertake to shut out this State. It will be an act of suicide, and I should not wonder if a people thus treated would (if they were not purer than we can hardly expect human nature to be) be so indignant as to turn around—

Mr. GRIMES. And turn Copperheads?

Mr. WADE. Yes, turn Copperheads. They will not do it; but you will by such action tempt them to do it. You will be doing them a wrong that you ought not to do. It would be the most impolitic, the most suicidal act that the leaders of any great party were ever guilty of if you now thrust them out and the Representatives and Senators whom they have sent here—some of the best men in the country, approved of everybody. No better men ever knocked at your doors for admission than these gentlemen. A Senator on the other side of the House has intimated that if they were Copperheads or Democrats or something of that sort we should not be so anxious for their coming in. I do not conceal that. Even then, if they had committed no treason I might feel myself bound to let them in; but I should regret that we were to have such company. I am glad they are not of that class. I am glad they are loyal men, patriotic men, men who have been in the wars and hazarded their lives to maintain this Union. I do not think it is right now to exclude them; and I know that you will not be commended by your constituents for so suicidal an act. If there is anything that the loyal people of Ohio are in favor of to-day, it is the admission of these flourishing Territories into the Union as States to strengthen their own arm, to forward the great principles which we advocate, to help us in the great controversies that are before us, to do right and justice to a patriotic people.

Sir, I am opposed to the amendment now pending, not because I am not in favor of the principle of it, but because we have not undertaken heretofore to fix for a State—I mean a loyal State—the regulation of the elective franchise; the Constitution does not permit us to do it. It is true, as the Senator from Missouri says, Nebraska is not yet a State, but he seeks to do indirectly before she comes in that which no one here would think of doing the moment after her admission. In my judgment you ought to leave this matter to this people on the same terms that you have left it to the people of all other States. Place them under your constitutional amendment. If they exclude the colored man from the polls, those men will not be counted in the basis of representation. But I tell you the first thing they will do will be so to change their constitution as to avail themselves of all those votes. Here they are, ready, eager, anxious to adopt your constitutional amendment, and they will adopt it on the first day of the assembling of their Legislature if you give them a chance. Why should you thrust them out when every other State that has come here in exactly the same position has been admitted without any remonstrance or protest? I ask for their admission, sir. I do not wish to prolong the argument.

Mr. SHERMAN. Mr. President, when the bills for the admission as States of Nebraska and Colorado were under consideration at the

last session I committed myself simply by voting for them and took no part in the debate. Since that time I have looked a little more into the question, and have had some personal observation of the condition of both these Territories, and perhaps it is due to myself and the subject that I should say a few words; I do not wish to detain the Senate long.

I felt bound by the enabling act, passed by Congress on the 19th of April, 1864, to admit the people of Nebraska as a State of the Union whenever they should comply with the provisions of that law. There is now no doubt that they have complied with its provisions. No Senator can deny that the people of Nebraska have accepted our proposition in good faith. That proposition was made to them in the midst of the war, in April, 1864. We imposed the terms and conditions upon which those people might be admitted into the Union. We required no condition as to population; we required no condition as to the terms of their constitution that they have not literally complied with. Now, as a sentiment of honor, as well as of good policy, we are bound to admit these people into the Union as a State, unless there is some overriding policy or reason which would justify us in waiving this question of honor. It was on that point mainly that I cast my vote at the last session. You made them an offer; they accepted your offer; you never withdrew it; you let it stand upon the statute-book; it is there now; they have accepted it, and you cannot refuse to admit them on the conditions you yourself proposed.

It is now proposed by the Senator from Missouri [Mr. Brown] to make an additional qualification, an additional condition. Is that fair to a people who after their struggles among themselves have finally settled down upon accepting your proposition? Is it fair now to put them to the expense of calling their convention together again to pass upon a new proposition, a new condition that was not mentioned in the original law? Certainly not. Even if I agreed with the Senator that it was wise to impose upon a State any limitation over its control of the elective franchise, I certainly would not impose that condition now, when two years ago we refused to require it. In the very law which enabled the people of Nebraska to organize a State government we limited the right of suffrage to white voters in the Territory. We authorized all those who under the territorial law could vote to vote at the election for delegates to frame the constitution; and by the territorial law, which was then upon our tables, the elective franchise was confined to the white people of the Territory, so that we authorized the white people of the Territory alone to frame this constitution. Now, shall we, after these people have complied with that condition, turn around and insist that we will not stand by our offer, but will impose other conditions? I think it is not fair to do so. It would not be fair in dealing between men, and I think it is not fair in dealing in political questions between a great nation and a community seeking to come into the Union as a State. The only conditions we imposed upon these people by the enabling act were in these words, which I read from that act:

"Said constitution shall provide, by an article forever irrevocable without the consent of the Congress of the United States:

"1. That slavery or involuntary servitude shall be forever prohibited in said State.

"2. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

"3. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to residents thereof; and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by the United States."

These are the three conditions that have been for many years imposed on new States. These conditions have been literally complied with

in the constitution now submitted to us. I ask Senators whether, under these circumstances, it is reasonable and fair to send these people back and require an additional condition not imposed by the enabling act, compelling them to undergo the expense of again convening their convention (for that is the only way in which they can accept it), to pass upon this new proposition. Even if the proposition was important, it would not be fair and right to do so; but in my judgment it is totally unimportant, and the provision is one that these people will probably make for themselves in the course of time. When this is the case it seems to me a cruel thing to a people so poor and young as these are to impose this condition upon them and keep them out.

Mr. President, a cursory remark was made by the Senator from Massachusetts on a subject to which my colleague also alluded, and which, it seems to me, ought to be discussed more carefully at a future time; but as it is pertinent to the discussion of the nature of this enabling act I may be justified in saying a word upon it. We made a proposition to the southern States at the last session of Congress. It was made after the gravest and fullest consideration, probably that any measure ever received from any Congress of the United States. No legislative act of Congress since the foundation of this Government was surrounded with more difficult questions than the one we acted upon at the last session. After long debate, after considering all the propositions that were made on either side, the Congress of the United States made to the people of the southern States a deliberate proposition. We submitted to them constitutional amendments. It seems to me that no one can avoid the irresistible logic that if they accepted those amendments we were bound to carry them out. I know I voted for those amendments with that understanding. I felt that I would be bound by that action. I felt that if they accepted those amendments they were States in the Union, entitled to Senators and Representatives precisely like the State of Massachusetts and the State of Ohio. I did not dream that there was any doubt about that matter. And, sir, let me say to you that if the southern people had accepted, or if they do accept, the constitutional amendments, those States are just as certain to be represented here by Senators and members as the State of Ohio or the State of Massachusetts.

I know that my friend from Massachusetts, and perhaps some other Senators, were dissatisfied with the constitutional amendments. They did not meet their expectations; they did not impose the terms and conditions that they hoped to impose on the southern people; they did not probably meet their sense of duty; but still, the people of the United States have felt themselves bound by those terms; and if the southern people would now accept them, the people of the United States would hail their acceptance as the most joyful event since the surrender of Lee's army.

I believe now that that proposition made by Congress contained all that is vital, and all that is necessary to secure peace and quiet and harmony in this great country of ours. And, sir, it seems to me the saddest, the most foolish act of the southern people for them to reject the constitutional amendments. I never shall cease to grieve that the President of the United States has committed himself against that important proposition. He never could have done anything more injurious to the people of the southern States than his course encouraging them to refuse to ratify the constitutional amendments. I read this morning that the Legislature of Arkansas, in considering these amendments, among other grounds of objection, claimed that this Congress which proposed them was not the Congress of the United States, and took other grounds similar to those understood to have been held by the President. Sir, if the southern people have not yet discovered that this is the Congress of the United States, I do not know what will make them

know it. They have been subdued and subjugated by acts of Congress and by the armies of the United States, acting under the authority of the acts of Congress, and a Congress composed of Senators and Representatives from those States which are now here represented.

I hope yet that that offer made by the people of the United States will be accepted by the southern States; they will have an opportunity this winter to do it, their State Legislatures are convening and acting upon it; but if they do not accept it, then what is left for us? We have either got to be ruled by those people, or we have got to rule them; and when that choice comes, I prefer to rule them. I say that sooner than allow the States recently in rebellion to come into these Halls with increased political power, arrogant and domineering, banishing loyal people from among them, overriding even the Constitution and laws of the United States, denying protection to the people who were true and loyal during the war, I will keep them out. If they come in that spirit I will not admit them. They shall never enter here until they have entirely changed their tone and manner. They will drive the people of the northern States, unwillingly as they are, to organize new governments there, and they will have to submit to those governments, whether they are organized upon the black basis or the white basis or the loyal basis. We have made them a liberal offer; if they reject it it is their own fault, not ours. We have made them an offer which, in the judgment of foreign nations and in the judgment of our own people, is moderate, reasonable, and fair.

And allow me to say that when we made our appeal to the people of the United States in the recent elections nothing gave us such strength as the moderation of the constitutional amendment. I never heard a man, either on the stump or in the forum, successfully deny that it was fair in all its parts and reasonable in all its terms. We were divided here somewhat upon the terms and conditions, the language and phraseology of the amendment, but the result of our deliberations was a proposition which, by the judgment of the American people, was such a one as we ought to have made to our brothers who had been in error. I never heard a Democrat or anybody else who could controvert it. Indeed, they generally avoided the issue. They talked about our want of power to impose it, but they never did and never would fairly and fully discuss the merits of the constitutional amendment. We can stand upon it; we did stand upon it, and went to our people upon it. Whatever may have been said in other States, in Ohio it was the only question. Our Union convention passed no other resolution except to approve and ratify the constitutional amendment. Our party went before the people on that amendment, rejecting all minor issues; and we all understood, without an exception, that if that amendment was adopted by the southern people it was the end-all and be-all of reconstruction, and that Senators and Representatives from those States were to be admitted into Congress; and we all cited, as an evidence of the intention of Congress on that subject, the actual fact of the admission of the State of Tennessee, following her adoption of the constitutional amendment. After Tennessee had adopted the constitutional amendment we set the example of admitting her promptly. The people of the State of Ohio, at least, understood that if any State in the South accepted this constitutional amendment its Senators and Representatives should take their seats by our side. But this is aside from the question before us, although it grows out of the remarks made in the course of the debate.

I have said that I would rest my vote on this bill solely upon the fact that Congress had passed an enabling act, and that the people of Nebraska had substantially complied with its terms. It is sometimes said, and it was said in the debate at the last session, that at the first vote the people of Nebraska rejected the proposition to admit them as a State. If they

did so, and the offer of Congress was withdrawn, or if, from the nature of things, it was an offer that had to be accepted or rejected at once, probably that argument might hold good. It might be like the offer of an individual in the making of a contract, and the offer being rejected might be considered as withdrawn. But here was a continuing offer standing upon the statute-book, and these people were allowed to go on and hold election after election, involving the admission of the State of Nebraska without objection, and the power conferred by Congress was never withdrawn.

It is said that upon the final vote the majority was very small. So it was; but, sir, the vote was not against the admission of Nebraska. That was not simply the question in the recent election in the Territory of Nebraska. It was a political controversy growing somewhat out of the position of the political power. The Democrats in Nebraska, many of them, voted against the admission of Nebraska because they did not like the present political status of the Territory of Nebraska. Without going out of the record I can probably say that I know the fact that many Democrats in Nebraska desire the admission of the State on its own merits, but they desire to have the organization of the State government themselves, or what is more potent, many of them desire that the executive authority now exercised in the Territory of Nebraska may be continued, and that they may have the political power and patronage of the executive authorities in the Territory of Nebraska.

We know very well that in the adoption of a State government the question merely of the admission of the State is very rarely the chief question. The chief question is a question between parties; and upon this political or partisan question the majority in Nebraska was very small; but on the question of the admission of the State of Nebraska into the Union I have no doubt, from all the information that I can gather, that four fifths of the people of Nebraska, without regard to party, are in favor of it. It is true the Democratic portion of the people might desire to have it postponed in the hope that in the changes of political parties in this country they would have the organization of the State government, and they might therefore vote against the admission of Nebraska for the time being; but upon the question of the formation of a State government in Nebraska there is no doubt about the sentiment of the people of Nebraska. Here, then, is an offer made by Congress and accepted by the people of Nebraska in the very terms in which it was made. Now, upon what ground can Senators refuse to allow this State to take its place here, a place that we have tendered to it? They have elected Senators and Representatives; they have gone through the form of a convention; they have submitted the action of their legislative body to the people; the people have ratified that action; here is their constitution, Republican in form, complying in all respects with the terms and conditions imposed by you. Now, how can you refuse their admission? I say that upon this ground alone I should feel bound to vote for the admission of Nebraska, even if I had not voted for the enabling act.

But, sir, it is commonly said that the population of Nebraska is not sufficient. Let us examine that. There is no law fixing the population. The general idea prevails, and probably it is a correct one in the main, that a new Territory proposing to be admitted into the Union ought to have a representative population equivalent to what is necessary to elect one Representative in Congress; but that rule has never been enforced. It has been talked about, but it has never been made a condition. You did not make it a condition when you passed the enabling act. You did not require a census to be taken; you did not require the inhabitants to be numbered to ascertain that fact. Is it right now to impose that condition? But, sir, I say to you the evidence is conclusive that Nebraska this day has more population than any but three of the States that ever

were admitted into this Union. The best evidence we have before us is that Nebraska in April last had something like fifty thousand. The recent immigration during the last year was about thirty-seven thousand, according to their mode of computing. Perhaps it is not exactly accurate. We cannot tell whether it was five hundred more or one thousand less, because in a new Territory like that they cannot accurately count the waves and mutations in population. But at the election in October last, over nine thousand one hundred votes were cast, and nobody could vote at the election unless he had been a resident of the territory six months and established a residence under the law.

All who went in there during the last summer—a great mass of people, because it was observable everywhere that the population was turning from the East to the West; the war was over and people were going there in large numbers—were excluded, and yet, excluding the immigration of last summer there were over nine thousand one hundred voters, indicating a population of at least fifty thousand upon those voters. But from an actual investigation made by a bureau of the Government perhaps not friendly to the admission of the State of Nebraska, made by a gentleman of opposing politics, the new head of that bureau, made upon statistical information that enabled him to arrive substantially at the conclusion of population, he estimates the population at eighty-eight thousand. That is more than any State but three that have ever been admitted into this Union had at the time of its admission. I have no doubt they have more than that, but we have no official data on which to place it. But admitting that it is eighty-eight thousand, admitting that this gentleman's statements are substantially reliable, let us see the population that other States had when admitted into the Union. Georgia, which was one of the original States, contained at the time she came into the Union and finally agreed to the Constitution, 82,548; Vermont had 85,580; Kentucky had but 73,077; Tennessee had but 77,000; Ohio had but 41,000, and even upon the basis of representation then she had not enough for one Representative.

Mr. HENDRICKS. Oh, yes; the basis then was 37,000.

Mr. SHERMAN. Perhaps I am mistaken in that. It has been very much increased since. But why do Senators talk about the basis? There is no law requiring it. You never made such a law; you never proposed such a law; and a majority of the States that have been admitted recently contained no such population, as I shall show. Louisiana had 76,000; Indiana had 68,000; Mississippi had 75,000; Illinois had 84,000, which was less even than the basis in those old times; Missouri had 66,000; Arkansas had 52,000; Florida had 54,000; Iowa had 81,000. This table does not give the population of Kansas, but there was great controversy at the time of the admission of Kansas about her population.

Mr. POMEROY. We had 107,000.

Mr. SHERMAN. I believe Minnesota also was admitted with a large population, and I think Wisconsin had a large population. They withheld their application until they were entitled, I think, to two Representatives, perhaps three.

Mr. DOOLITTLE. Three.

Mr. SHERMAN. I have shown you that this rule of population has not been an invariable rule; that all the States I have named when admitted had less population than Nebraska now has. But, sir, that is not all. Population is only one mode of ascertaining whether a State is prepared for admission. In every other respect Nebraska is far beyond the condition in which those States were when they were admitted. When Ohio was admitted with her forty thousand inhabitants her beautiful plains were covered with an unbroken forest; there was only a settlement here and there; cabins pretty far in the wilderness; no roads, no modes of communication, no schools, no col-

leges, no opportunities of reaching there. And so when all these other States were admitted they had none of the resources, none of the elements of civilization that this rising Territory has. Nebraska, on the contrary, is open for the settlement of the whole country; railroads now touch its eastern border; the Missouri river passes along its whole eastern border; and a railroad, built partly by the Government of the United States, has already penetrated into it two hundred and eighty miles. They have schools; they have the foundation of colleges; they have all the educational facilities of this modern age. They can be reached from this very point in two or three days, and in a few days more the railroads across Iowa will be built, and then they can be reached in a comparatively few hours. There is a country all ready for the hand of labor, with thousands of square miles almost ready for the plow, a soil rich in agriculture, rich in resources, easy of access, with a population hardy, industrious, and patriotic to the last degree. Shall you deny these people admission here when you have invited them in, when they have complied with your condition, because they have not sufficient population, when you have never made that a test as to any other State?

Mr. President, I do not think it is necessary for me to dwell further upon this question of population which has been made by many Senators a ground of objection. If there is any force in the objection, it is one that will be rapidly overcome. Since the conclusion of the war immigration is flowing in rapidly. During the war all the Territories were suspended in growth. It was a remarkable fact that Colorado, perhaps Nebraska, and Kansas, I think, as well as all the western Territories, were either made the scene of war, or the population, young and active and enterprising, that went there flowed back into the channels of war. Nebraska and Colorado were among the first to send their young men, their best and active men into our service. Colorado organized a regiment and sent it to New Mexico, and probably saved us millions of dollars in the conquest of New Mexico. The men of Nebraska were nearly all young men. Old men do not go to these new Territories. Young men desiring to better their condition go there. The blast of the bugle brought thousands of young men from Nebraska into Iowa and then into the seat of war. No wonder the growth of their population was checked, because the life of their population was in the service of their country. Will you make that a reason for keeping them out when you know that the current has changed, that population is now pouring in there instead of out, and the population they had there was mostly engaged in the service of their country? It seems to me it is unreasonable, and that we who profess to govern the patriotic and loyal people of this country do wrong in imposing upon these patriotic and loyal people harder conditions than have been imposed upon others in former times.

I know very well that a territorial government in a rapidly-growing community like Nebraska is a great burden, irritating constantly. Their Governor is appointed by the President. He may not have any sympathy with them, although I believe as to the Governor of Nebraska, he is in hearty sympathy with the people there; but he may not be. He controls the patronage of the Territory. He is their Governor by no vote or voice of theirs. This state of affairs is always unpleasant to a people. They like to have the choice of their own Governor, even if the office is unimportant. Their judges are appointed by the President. All the machinery of their government is simply executive and provisional. The people of the Territory elect only the Legislative Assembly. Everything, therefore, is unpleasant about a territorial government. They have not their benefit of the share of the public lands. They have not any of the facilities for improvement. Laws of a doubtful character only can be passed to organize corporations and associations. There is all the uncertainty of terri-

torial legislation; there is the well-known corruption of territorial legislation.

Is there any reason why we should continue these people under this kind of pupillage; why we should keep them under this kind of burden, unpleasant, irritating, depending upon the President of the United States for their executive authority, upon judges appointed by him for the administration of their laws, without any opportunity to improve their Territory? Is it right or just that for any slight reason we should keep them in that condition? It is always the case that these new communities rapidly seek to get out of the state of pupillage or territorial state into the government of their own affairs. It is natural that they should do so. It seems to me that this Territory has now within itself all the elements necessary to enable its people to assume their own government. They have a hardy population; they have every advantage that we have. Why not, therefore, let them enter into the race of progress? Until this Territory is admitted as a State they cannot progress rapidly; no encouragement can be held out to them. I therefore see no harm that can result from their prompt admission.

Mr. President, is it not the interest of the United States to form as soon as possible all these infant Territories into States? What object can the United States have in holding any portion of the territory of the United States in a condition where it must be governed by executive laws or executive influence? None whatever. Who among us does not desire to see, upon reasonable and fair conditions, the admission of the southern States to their old relations to the Union? I hope we all do. What objection can we have against the gradual absorption into States of all the new Territories? We can have none whatever. When they organize their own governments they pay all their local expenses. Now a territorial government is a constant expense upon the Treasury. We appropriate this year many tens of thousands of dollars for Nebraska. If we admit Nebraska all these appropriations cease and she assumes the burden of her own government. To say that she is not rich enough to maintain a government is to say that her people do not know what they want and that they are not the best persons to judge of that. If we do not admit Colorado we have tens of thousands of dollars to appropriate for her. Why not allow them to assume their own government?

It is sometimes said that these new States have too much preponderance in the legislative power of the Government; that if they have not sufficient population for one member it gives them an undue advantage in the House of Representatives; and that with a small population they ought not to be admitted into this Senate on an equal footing with the great States of New York, Pennsylvania, Ohio, Massachusetts, and other States. Perhaps that is so; but in the practice of our Government there never has been any difference of interest between the small and the large States. These western States will be governed by the same impulses and the same feelings that govern us. I never yet have seen the line of distinction drawn between the small and large States. There has been no question presented since I have been a member of this body which divided the large from the small States. There is no danger, therefore, of an undue representation. These small States are increasing rapidly in population. I have no doubt that in a very short time Nebraska will contain more population than several of the existing States. By the time the next census is taken this young State, admitted I hope by your action, will have passed in the race of population and progress many of the old States of the Union. It requires but very little time for the American people to fill up one of these new Territories. We must not treat them as if they were any different from ourselves. We must not impose conditions upon them that we would not impose upon our own people. Why should we in Ohio sneer at Nebraska for inserting the word "white" in her constitution when in Ohio we have the same



provision? Why should any of the States object to her admission here because she has the word "white" inserted in her constitution when that is contained in all but a few of them, when every State but one or two makes some discrimination against the colored population? Does not everybody see that the logic of events and the progress of time will cure all these evils? And if it is an objection to the constitution of Nebraska, we have ourselves introduced it into that constitution by our own enabling act.

Mr. President, after a cursory examination of this subject, and after some knowledge of the people myself, from having passed through the whole Territory of Nebraska during the last summer, I am satisfied that it would be an act of wisdom on the part of Congress to admit them promptly as a State with their present constitution, leaving them in the future to make such reforms as may be demanded by the civilization of the age.

Mr. BROWN. Mr. President, I do not intend to enter into any discussion of the constitutional amendment; nor do I propose to enter at this time into any general discussion of the merits of this bill, but shall confine what I have to say distinctly to the amendment which is before the Senate for its action.

The Senator from Ohio has plead very strongly for what he calls justice to these people. I say, sir, that I will do justice to them when they do justice to others. He claims for them the right of representation and self-government. I say that I will give them that right of representation and self-government when they give it to others who are equally entitled to it, and not a moment before.

I do not, so far as my feeling goes, have any especial desire to exclude this new State of Nebraska from coming and taking its place in our Union. On the contrary, all of my predilections, all of my sympathies, would carry me forward to extend the hand to that infant State; all of the interests that tie together those western Commonwealths would induce me to go far, very far, to do all in my power to aid that State in accomplishing its admission into the Union. But, sir, I am not prepared here to-day, in order to accomplish that result, to do what would destroy my own self-respect, and to do what I should always feel would be a violation of my duty as an American Senator, commissioned to protect the rights of freedom in this country. Therefore, not for any purposes of delay, not as militating against this State entering into the Union, but in order that my action may be consistent with my faith, in order that I may stand clear on this record of freedom and not vote to-day for what I voted against yesterday, I have introduced this amendment, which, so far from defeating the admission of this State, will, I believe contribute more to bring it in and to render it permanently a free republic than any other action that we could take.

It has been said that this was imposing unusual and unheard of terms upon the State of Nebraska. I deny it. I represent here a State that had the same terms proposed, though not with the same object, upon it when it was admitted into this Federal Union. I say that the same character of a proviso which is now offered was placed upon the Missouri bill as a Missouri restriction when Missouri was authorized to come into this Union. I will refer to the action at that day: "A resolution providing for the admission of the State of Missouri into the Union on a certain condition." The constitution of the State of Missouri contained a clause which prohibited free colored persons from coming into that State. It was held that that was an invasion of the rights of men in this country and of the rights of citizens, and the Congress of the United States, therefore, before they would admit that State into this Union, passed the following resolution:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition*

*that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: Provided, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act: upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."*

I hold that there is an instance in point which justifies the action which it is now proposed to take. The men of that day who represented the States of the North—and it was by their vote that it was carried—felt that these rights of citizens had to be protected, whether the constitution of the State which offered to come in violated them or not, and finding, as they deemed, a violation of them in the constitution of the State of Missouri, they declared that the State should not come in until that was obliterated.

Now, sir, what else do I propose here to-day except to say that this State of Nebraska, when she does come in, shall come in upon the explicit ground that there shall be no denial of the rights of citizenship on the ground of color? Is that any unfair requisition upon this infant State, that it shall do justice to its own citizens, that it shall not rob them of rights that are just as dear as your rights or mine? And, sir, after having passed yesterday an act which was predicated directly on the right of all men to this suffrage, with what propriety can we come in here this Friday morning and sanction by our vote that which declares that those of a certain color shall be excluded from the suffrage? I ask you, furthermore, after having cast this vote for the admission of Nebraska, with what propriety could I go back to the State of Missouri and engage there in a canvass to strike out the same clause, perhaps, from the constitution of my own State? Would I not be met on every stump in that State with the assertion, "Why, here, when you had the power, when Congress was legislating for the Territories over which it has exclusive jurisdiction, you refused to strike this clause out." The argument would be unanswerable, and I would not dare face the people of Missouri on any such issue.

Mr. President, I do not believe that this amendment, if adopted, will delay the admission of this State for sixty days. I am advised by those who profess to know the feeling and the temper of that people that they are desirous of adopting a clause of this kind, that they would readily sanction by their vote a clause of this character as a proviso to their constitution. I say that it is perfectly feasible that that vote shall be submitted to them within thirty days from this time, or within any brief period that shall be sufficient to accomplish the preliminary legislation of carrying this bill through Congress. I say therefore that it is no argument, except the argument that you will do everlasting injustice rather than wait for sixty days. That is where the argument stands flat and square.

I propose in connection with this amendment, which was drawn somewhat hastily, to modify it hereafter before it comes to a vote so as to indicate precisely the day on which this sense of the people shall be taken there in the State of Nebraska, and the day on which the return of their vote shall be made. That will obviate the last difficulty and the last objection that can be made on that score. I do not see how the American Senate, having voted, as I say they did yesterday, the principle of the right of every man to self-government as exercised through the forms of suffrage, can refuse to vote it again here to-day in regard to the infant State of Nebraska.

Mr. President I shall insist in regard to the State of Nebraska, which professes to come

here as a free State, as a State that is guaranteed to all the essential rights of freedom, upon the same terms that I shall insist in regard to the readmission of every one of these southern States. I never will, so help me God, vote for their readmission into this Federal Union until they shall blot from their constitutions the distinction which excludes the black man from the right of suffrage. And, sir, I think we might as well begin our reforms at home and in our own family; we might as well begin them in our Territories, where there is no question about the right of Congress to control this matter. I think it would be well if Senators would consider in advance where they may be placed by their legislation on this subject if they shall refuse to exercise the undoubted power which they now have. I trust, sir, that the amendment will be received with favor by the Senate.

Mr. HENDRICKS. Mr. President, I have a sympathy with the new States and desire to vote for the admission of any State whenever I feel that I ought to do so; and it is with great reluctance that I shall vote upon this bill against the admission of Nebraska at this time. But my embarrassment is somewhat relieved by the consideration that one half of the people of Nebraska, so far as they have expressed an opinion on this subject, have said that they did not want to come in as a State. While there were but 3,938 voting for the admission, or for the constitution, there were 3,838 voting against it. My vote is not at all influenced by the amendment proposed by the Senator from Missouri. If that amendment were adopted, I surely could not vote for it at all, if every other objection were removed.

I am very much gratified, sir, and I think I may congratulate the country upon the fact, that the Senator from Ohio, who has by some been charged with illiberality, to-day upon this question of territorial rights and the rights of States has expressed those old-fashioned doctrines which governed the legislation of the country upon such questions for more than fifty years. Very often in the Senate I have heard the doctrines which he has proclaimed to-day, but indeed they were mostly urged upon this side of the Chamber, that the people of a Territory have the absolute and entire right to control their own affairs.

Mr. FESSENDEN. Will the honorable Senator give way for a moment to allow me to make a motion which it is necessary should be made now?

Mr. HENDRICKS. Certainly.

#### DEFICIENCY BILL.

Mr. FESSENDEN. I understand that an error has occurred in engrossing the deficiency bill that we passed this morning. It has gone to the House, and it is necessary to get it back again in order to correct the error. A part which should not have been stricken out was stricken out, and the part which should have been stricken out was retained. I therefore offer the following resolution with a view to get it back:

*Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1857, and for other purposes, for the purpose of correcting an error in the engrossment of the amendments of the Senate to the said bill.*

The resolution was considered by unanimous consent, and agreed to.

#### HENRY CLAY WOOD.

Mr. FESSENDEN. If my friend from Indiana will allow me, I should like to make another motion, and that is, that the papers in relation to the claim of Henry Clay Wood for compensation for property lost by the evacuation of Fort Cobb, Texas, under Post Order 57, which was before the Committee on Claims, be taken from the files and referred to the Committee on Claims. I will state that I make the motion with a view to offer some additional testimony. It was reported upon adversely, and that adverse report was agreed to; but I

believe it comes within the rule to refer it again in case additional testimony is offered, and I make that motion.

The PRESIDENT *pro tempore*. The order will be entered, if there be no objection.

Mr. FESSENDEN. I now offer the additional testimony in support of the claim, and move that it be referred to the Committee on Claims with the other papers.

The PRESIDENT *pro tempore*. That order will be made, no objection being interposed.

Mr. HOWE. I wish to call the attention of the Senate to the motion just submitted by the Senator from Maine—I was not in my seat at the time—which was to take a claim which had been reported upon adversely, and recommit it—

Mr. HENDRICKS. As I do not want to occupy much of the time of the Senate, I would rather not take up any other business.

The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor.

Mr. GRIMES. Let us take up the adjournment resolution.

Mr. HENDRICKS. I will consent to that, if it leads to no debate.

Mr. HOWE. I just wish to have this question settled. I call for the reading of the 50th rule. I suppose that would govern the decision of that motion. I have the rule in my hand and will read it myself:

"Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report be adopted by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose, stating in what respect the committee have erred in their report, or that new evidence has been discovered since the report, and setting forth the new evidence in the memorial."

Mr. FESSENDEN. There was no objection made, and I supposed, there being no objection, it passed by the unanimous consent of the Senate. I did not examine the papers. I stated that I wished to present new evidence, which I did, in the same way as it has been done before repeatedly to my knowledge. I submitted the new evidence on the subject. I do not know that there is a particular memorial setting forth the new evidence, but the new evidence went with the papers, or I should not have made the motion.

Mr. HOWE. If the Senator knows that the evidence is important, I shall not insist on the form of a memorial; but I do not like, unless there is something important in the new evidence, to have a claim which has been reported upon adversely, again referred to the committee.

Mr. FESSENDEN. As I have said, I have not examined the papers. The new evidence presented is deemed important by the claimant.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York, in which it requested the concurrence of the Senate.

#### DARIEN SHIP-CANAL.

Mr. SPRAGUE. I have been waiting for an opportunity to call up the joint resolution that was displaced this morning, during the process of meeting the views of the Senators from California and Iowa. I believe there are now no objections to its passage, and it is important that it should pass at once. I trust, therefore, that the Senate will permit it to be disposed of now.

Mr. HENDRICKS. Will it lead to discussion?

Mr. SPRAGUE. There will be no discussion upon it. If there is, I will withdraw the request. I hope it will be taken up. It is necessary that it should pass at once. There are no objections to it as I understand.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks that the Senate

resume the consideration of the resolution referred to by him. Another subject being before the Senate, the motion of the Senator can only be entertained by the unanimous consent of the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 149) to extend aid and facilities to citizens of the United States engaged in the survey of a route for a ship-canal across the Isthmus of Darien.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York, was read twice by its title, and referred to the Committee on Claims.

#### ADJOURNMENT FOR THE HOLIDAYS.

Mr. GRIMES. It is very important to some members of the Senate, especially those who reside at a remote distance from the capital, that the concurrent resolution that came from the House of Representatives providing for an adjournment of Congress over the holidays should be disposed of one way or the other; and I therefore move to postpone all prior orders and proceed to the consideration of that resolution.

The PRESIDENT *pro tempore*. The concurrent resolution to which the Senator refers was read this morning, and objection to its consideration being made, it was laid over under the rule.

Mr. FESSENDEN. I withdraw the objection.

The PRESIDENT *pro tempore*. The motion of the Senator from Iowa can only be entertained by unanimous consent, another subject being before the Senate. Is there any objection to the consideration of the resolution named by the Senator from Iowa? None being made, the resolution is before the Senate.

Mr. FESSENDEN. I understand it is now before the Senate for consideration.

The PRESIDENT *pro tempore*. It is.

Mr. FESSENDEN. I withdrew the objection to its present consideration at the request of several gentlemen who said that, whichever way it might be decided, it was important to them that it should be decided at once; but I did not withdraw or intend to withdraw my objection to the passage of the resolution. I cannot flatter myself for a moment that any objection that I may make with reference to it will be of any avail, for since I have been in the Senate I have found that there is no use in trying to resist a motion to adjourn over the holidays—and the holidays have been increasing ever since I have been a member; they began with the old regular holidays, and they have now got to be a fortnight or three weeks—because the motion is one that takes precedence of all others, I have found, and is considered of infinitely more importance than any other that can possibly come before the Senate. Under these circumstances I can do no more than enter a protest against it.

If gentlemen flatter themselves that there is nothing to do, or wish to convey the idea to the country that there is nothing to do, all I have to say, in the way of answer, is to appeal to what has been witnessed here to-day—a contest of an hour in the morning to ascertain which of two bills should be taken up and considered on account of the immediate and pressing importance of both of them; one of them a very long bill, the bankrupt bill, which will involve a great deal of debate, the other a bill which seemed to be launched also on something of a troubled sea. In addition to those, there is a bill lying on your table, which came from the House very early in the session, calculated to limit or to take away a certain power which was granted to the President with regard to issuing pardons, and many gentlemen considered that bill of such pressing necessity that they wished it to be taken up at once and not even referred to a committee; and I believe

I was denounced privately by some members of the Senate as obstructing the course of justice and of public business by daring to suggest that it ought to go to a committee for consideration. We have several other bills on the same subject, or at least on similar subjects, which are considered to be exceedingly necessary on this side of the Chamber, to say the least of it, on your table; and yet here is a motion at this short session to crowd everything pretty much that we have to do into the time that will be left after the 1st of January.

It may be replied—some gentlemen have in conversation replied to me—"it is probable that the bill will pass calling the next Congress together on the 4th of March, and we can then finish up what remains to be done." Everybody knows that it is not designed to do anything at that session except simply to organize the two Houses of Congress; and if we should undertake to do something at that session we have got to begin anew. Business does not go over from this Congress to that. We must go through all the forms of reporting the measures again.

I desire to say these things to justify myself for the vote which I shall give against this adjournment from Thursday next, which I believe will be the 20th, until some time in the month of January. I wish to put myself on record with regard to it, and for that purpose I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. SHERMAN. What the Senator from Maine says is perfectly correct in theory, but we tried it in practice once and it did not work well. I shall remain here during the vacation at any rate, and therefore I shall not be affected by it. I remember that at one session we did keep Congress in session during the holidays, but we transacted no business. Those who remained in the city came down here and then marched back again, and I believe we never took a vote during the whole time. If the Senator will act as a kind of Sergeant-at-Arms to keep here the Senators who will go away at any rate, then we might transact some of this important business; but I think the experience of Senators and of the Senate is that you cannot do it. If you could devise some way to keep Senators together, then it would be an argument against this usual adjournment.

Mr. FESSENDEN. I wish to say one word in reply to that argument, because I have heard it before, and that is, that I cannot predicate an argument upon the presumption that the majority of this body have no regard for their official duties and will violate them anyhow.

Mr. WADE. I am opposed to this resolution. I do not believe that any session since I have been a member of the Senate has ever had so much important business thrust upon it at this period as this session has. There are a great many bills from the House, unfinished business of the last session, to dispose of, which will be as much and more than we shall be able to do if we pursue a very diligent course; and now it is proposed to adjourn over nearly two weeks and do nothing. I do not understand that we have been in the habit of making such adjournments. The adjournment at the last session was the first one I have known, where I believe we adjourned for about two weeks, and left the pressing business of the country to pursue our own amusements. I do not think we ought to do it. I should be very glad if I could by my vote accommodate gentlemen who wish to go away; but it seems to me the business of the country first demands our attention. I believe there is a great accumulation of business that we ought immediately to proceed with, and I think we are in danger of not getting half through with what we shall have to do. As to the next session, on the 4th of March, I do not know anything about that. It is so remote and so novel that I can predicate no action upon it.

Mr. TRUMBULL. Mr. President, since I have been a member of the Senate I am aware, as has been said by the Senator from Ohio, [Mr. SHERMAN,] that we have usually done

little or no business during the holidays; but that the extent of our adjournments has been from Christmas until New Year's, or till the 2d day of January. Now it is proposed to extend this time—perhaps last year we did so—to adjourn on the 20th, and members want to know whether this resolution is to be adopted so that they can make their arrangements to leave at once. They are not willing to wait till the 20th arrives to have it determined, they desire to have it determined now; and I presume the result will be that there will be no quorum for a day or two before the 20th and for a day or two perhaps after the 3d of January. It is really throwing away almost a month of this short session—a session when we have got more important business, I think, than we ever had at any short session before.

In addition to the bill spoken of by the Senator from Maine, about which there has been such urgency, and which I reported from the Judiciary Committee some days ago—I allude to the bill to repeal that clause of the confiscation act conferring upon the President authority to grant pardons and issue proclamations of amnesty—in addition to that bill which I have tried to get up, and the Senate by a vote refused on one occasion to take up because other business was considered more important, and which I desired and intended to call up this morning, but a debate arose as to two other measures, and there was no opportunity to get it up—in addition to that, I say, we have a very important bill reported from the Judiciary Committee at the last session, and which was called up near the close of the session, entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," the object of which is to protect loyal men from prosecutions in their State courts—a bill of very great importance and very great urgency. The object of the bill is to afford parties an opportunity to transfer their suits to the Federal courts where they can be protected by the United States laws, and where the laws of the United States are respected and enforced, which I am sorry to say is not the case in some of the so-called State courts in the rebellious States.

Mr. HENDERSON. The civil rights bill provides for that.

Mr. TRUMBULL. The civil rights bill did not provide for all these cases. This is a different class of cases. There are a great many other bills of the very highest importance, or thought to be so; and while I do not expect, as is said by the Senator from Ohio, that we shall be able to do very much business between the 24th or 25th of December and the 1st of January, for one week, I think that is no reason for throwing away another week also. I trust that this resolution will not be concurred in by the Senate.

Mr. GRIMES. Mr. President, I have been in the habit for a good many years of listening to just such speeches as we have listened to from the patriotic and industrious Senators who have addressed the Senate, and for some six or seven years I was in the habit of following their advice and constantly voted every year against an adjournment. The result was, that in company with four or five members of this body, I was required to come up here every third day to adjourn the Senate over for three days at a time during the period that the rest of the gentlemen—I do not know that any of the Senators who have now addressed the Senate in favor of a continuous session were among the number—went home to their families. For the last two years I have voted for the adjournment, and voted for the long adjournment at the last session, as long as it is proposed to adjourn now, and I found that we were able to transact the business just as well during the session and accomplish just as much for the good of the country after that long adjournment as we had done when we were in the habit of adjourning only for three days at a time.

Mr. FESSENDEN. That was the long session.

Mr. GRIMES. Yes sir, long sessions and short sessions both. The Senator from Illinois says it has been stated that it is necessary that we should know now whether this resolution is going to pass or not, because gentlemen are unwilling to wait until the 20th shall arrive. That is a wholly gratuitous remark. I do not propose to go away; I never have gone; but I have colleagues and the Senator has colleagues who desire to go to their families. Heretofore, when we adjourned only for one week, from the 25th of December until the 1st of January, gentlemen who are Senators and Representatives from the States along on the sea-board had an opportunity to run home, but gentlemen from Illinois and Iowa, who are just as much attached to their families, and whose business it is just as necessary to look after as it is to look after the business of these gentlemen along the sea-board, had not any such opportunity, because it takes three days and nights to make the trip each way. It was for that reason, and to accommodate them as much as for any other purpose, that I am willing to extend this time. I think that all these gentlemen know, every one of us who has been here for the last six or seven years knows, we are not going to transact any business if we remain here, and there is no use of our making a pretense of virtue when we have not got it. [Laughter.]

Mr. CONNESS. Mr. President, I happen at this time to be one of the persons falling under the description in part made by the honorable Senator from Illinois; except that part of it which the Senator from Iowa has called gratuitous—and I agree with him—that I am now desirous to know what day we shall adjourn so that I may go at once. It happens that I have not been absent from the Senate a day, I believe, since I have had the honor of a seat in it, during its sessions, and that now there is a need that I should be absent for a little while, and I was rather desirous to know what day the Senate would adjourn, so as to make my arrangements accordingly, not wishing that my State should be unrepresented here. But I assure the honorable Senator from Illinois that I am as willing under ordinary circumstances to remain here, though not as useful while here, as he is.

Much has been said and much stress has been placed upon this matter of long adjournments during the holidays being of recent occurrence, or being instituted a year since. That is not so. Such adjournments have been made every year since I have been in the Senate, now the fourth year. Last year we adjourned on the 21st of December to meet on the 5th of January. This year it is proposed to adjourn on the 20th of December to meet on the 3d of January, not as long an adjournment as the adjournment of last year. There has been no difference between the adjournments made annually for the last four years; certainly no greater difference than that of a day or two.

Although I concede the great importance of the business stated so elaborately by Senators as being before the body, I doubt very much whether we shall not come to the transaction of that business with more directness by such an adjournment as is proposed than by sitting here. If the honorable Senator from Illinois were so situated this year as to have his family in Illinois, he would perhaps desire to go out there; but it may be, I do not know, that his family reside here at present. If so, there is a convenience in remaining here, and it is really inconvenient to be idle for two weeks, particularly with the habits of work of the honorable Senator. But I think we should invite and expect to enjoy his liberality toward us who happen to desire or absolutely need the absence. I hope, sir, that the resolution will pass, and I believe that the work of the country will not be the less performed therefore.

Mr. JOHNSON. I ask for the reading of the resolution:

The Secretary read it, as follows:

Resolved, (the Senate concurring.) That when the House adjourn on Thursday the 20th instant, they

adjourn to meet on Thursday the 3d day of January next.

Mr. JOHNSON. Perhaps, if the honorable member from Iowa desires to adjourn the Senate over the holidays, it is necessary to amend that resolution; it only provides for the adjournment of the House. I suppose he wants the Senate to adjourn as well as the House; and if it is amended, as I presume it will be, the question is, whether it will be proper for us to adjourn. We can amend it, I suggest, if the honorable member is desirous that his friends should go home; but assuming that it is amended, or that as it stands it would order an adjournment of the Senate, I am not able, anxious as I am to oblige those who are anxious to get home, to vote for it. It is true that heretofore there has been some difficulty in keeping a quorum of the Senate and a quorum of the House together during the holidays in the absence of any adjournment; but as the compensation law is now different, possibly that difference may have some influence on such a result. As the law originally stood, whether the members were present or were not present, they received their *per diem*. As the law now is their *per diem*, if it can be called a *per diem*, their proportion of the salary which the law gives, which would be due them if they stayed here, cannot be paid, unless they certify that they are absent on account of sickness; so that every member of the Senate and of the House who leaves Congress while Congress is in session, as long as he stays away, has so much deducted out of his allowance. It is barely possible, looking to the expense of going away and the expense of returning, that that may have some little weight in keeping Senators and Representatives to what I understand the Senator from Iowa admits is their duty.

It seems to me to be rather singular for a gentleman who has such a high sense of political honor and moral duty to admit that it would be virtuous to remain; in other words, right to remain, and yet propose to go away. It is for himself and for others for whom he is laboring to judge whether it is a virtue that they assume without having it. He seems to admit that he would not be able to resist the temptation of going away in order that he might actually carry out the virtue of remaining here and discharging the public business.

Mr. CONNESS. I move to amend the resolution in the second line by inserting after the word "the" and before the word "House" the words "Senate and."

Mr. FESSENDEN. I, of course, shall vote against that amendment, because that is applying the rule which I supposed obtained with reference to the resolution as it stood before. I did not observe the peculiar phraseology of it. As it stands now, I understand it simply adjourns the House and leaves the Senate in session. The objection to that would be that it would be substantially obstructing business about as much if one House was absent and the other in session, as there could be no communication during all that time between the two Houses.

Mr. JOHNSON. Except the executive business.

Mr. FESSENDEN. Except the executive business. That we might do. Therefore I should not vote for it in that shape or in any shape in which it can be put. I shall vote against the amendment and also against the resolution.

Mr. CHANDLER. I am rather opposed to this amendment. There seems to be a greater necessity for the Senate to remain in session than the House. They have a peculiar way of doing business in the other House that is certainly expeditious. They meet at nights, with the understanding that no vote shall be taken, and give every member an opportunity to talk himself out. They do not restrict debate, but they do not compel people who do not wish to listen to speeches, to listen; but in this body we must listen to all the speeches



that anybody sees fit to inflict upon us. We have spent the whole of this week in passing a bill which the House passed in half an hour. They put on the previous question, passed the bill promptly, and sent it back to us the very day that it was sent to them.

Now, sir, I think the Senate ought to remain here and do their talking. Let every man who wants to make a speech make his speech with the understanding that all the talking shall be done during the holidays, and that on the 3d of January this body shall meet to do business. The talking having been done, we shall then be ready for voting.

I hope the amendment will not prevail, but that this body will remain, and let every man who wants to talk talk to his heart's content; and on the 3rd of January the other House will appear ready to transact business, and we, having done our talking, will be ready to transact business, and then we can go on and do the business of the country satisfactorily.

I hope the amendment will not prevail, but that the Senate will remain in session and every member will have an opportunity to discuss everything. We have no rules to limit debate, and it is very important that these speeches should be made, and I hope we shall remain in session for that purpose.

The *PRESIDENT pro tempore*. The question is on the amendment to the resolution, offered by the Senator from California.

The amendment was agreed to.

\* The *PRESIDENT pro tempore*. The question now is on the resolution as amended, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 27, nays 16; as follows:

**YEAS**—Messrs. Anthony, Brown, Buckalew, Conness, Creswell, Davis, Doollittle, Frelinghuysen, Grimes, Harris, Henderson, Hendricks, Howe, Morgan, Morrill, Norton, Poland, Pomeroy, Ramsey, Riddle, Ross, Sherman, Sprague, Stewart, Van Winkle, Willey, and Yates—27.

**NAYS**—Messrs. Chandler, Dixon, Fessenden, Fogg, Foster, Howard, Johnson, Kirkwood, Lane, Patterson, Saulsbury, Sumner, Trumbull, Wade, Williams, and Wilson—16.

**ABSENT**—Messrs. Cattell, Cowan, O'ragin, Edmunds, Fowler, Guthrie, McDougall, Nesmith, and Nyce—9.

So the resolution, as amended, was adopted.

#### ADJOURNMENT TO MONDAY.

Mr. BROWN. I move that when the Senate adjourn to-day it be to meet on Monday next.

The *PRESIDENT pro tempore*. The motion can only be received by unanimous consent, another subject being properly before the Senate, on which the Senator from Indiana is entitled to the floor.

Mr. HENDRICKS. I give way to that motion.

The *PRESIDENT pro tempore*. The Chair hears no objection to the reception of the motion of the Senator from Missouri.

The motion was agreed to.

#### ADMISSION OF NEBRASKA.

Mr. DOOLITTLE. I desire now to submit, for the purpose of having it printed, an amendment which I shall propose at the proper time to the bill for the admission of Nebraska.

The amendment was received informally, and ordered to be printed.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The *PRESIDENT pro tempore*. The Senator from Indiana is entitled to the floor on the Nebraska bill. Does he yield to the Senator from Massachusetts?

Mr. HENDRICKS. I do not object to that. I yield to the Senator from Massachusetts.

Mr. WILSON. I now move that the Senate proceed to the consideration of executive business.

Mr. HOWARD. I hope not.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, December 14, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### GOVERNMENTAL LINE OF TELEGRAPH.

Mr. KASSON, by unanimous consent, introduced a bill to authorize the purchase or construction of a military and postal line of telegraph under the direction of the Post Office Department; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### LOYAL GOVERNMENT IN LOUISIANA.

Mr. SHELLABARGER. Mr. Speaker, I have the honor to present to the House a memorial addressed to the two Houses of Congress, signed by Hon. J. M. Wells, Governor of Louisiana; Hon. W. B. Hyman, Chief Justice; Hon. R. K. Howell, Associate Justice; Hon. J. K. Belden, late Associate Justice; Hon. J. W. Handlin, Judge; Hon. H. C. Warmoth, Judge; Hon. Jacob Hawkins, late District Judge, and about one thousand others, electors of Louisiana, praying that Congress may take immediate action for the organization of a new and loyal State government in Louisiana, and for the protection of the loyal people of the State.

I move that the memorial be printed, and referred to the select committee upon the New Orleans riots.

Mr. BINGHAM. Should not this memorial be referred to the joint committee on reconstruction?

The SPEAKER. The Chair understands that this document does not relate to reconstruction in Congress.

The memorial was referred to the select committee on the New Orleans riots, and ordered to be printed.

CHARLES K. DEAN.

On motion of Mr. COBB, leave was granted to Charles K. Dean to withdraw his papers from the files of the House.

#### GOVERNMENT TELEGRAPH.

Mr. WASHBURN, of Illinois. Mr. Speaker, I have a subject which I should like to have permission to introduce and have referred to the Committee on the Post Office and Post Roads, and as it is a matter of some interest I should like to have it read. It is somewhat of an experiment, but one which I think will benefit the country. It is a bill for the construction of a Government telegraph from Washington to New York city.

The bill was read.

The first section authorizes and directs the Postmaster General to construct a telegraph line from the city of Washington to the city of New York, which line is declared to be a mail route, subject to all existing laws in relation to mail routes in the United States, so far as the same may be applicable; and it provides further that the Postmaster General shall have power and authority to establish the necessary offices for the use of said line, and shall have authority and power to procure all necessary rooms for offices, and to procure a sufficient number of agents and operators to operate said line of telegraph.

Section two provides that no message shall be sent over the said line unless it shall be stamped with a three-cent postage stamp, and there shall be a uniform rate for the transmission of messages, without regard to distance, of one half a cent for each word, except for the odd word of any message there shall be no charge; but no message shall be sent for a less sum than ten cents; and there shall be charged two cents for the delivery of each and every message, provided that the Government shall be entitled to send and receive all its messages over said line free of charge, and shall have priority in sending all messages.

Section three appropriates the sum of \$50,000

for the purpose of carrying out the provisions of this act.

There was no objection; and the bill was received, read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### WASHINGTON AND GEORGETOWN CANAL.

Mr. WELKER, by unanimous consent, introduced a bill to incorporate the Washington and Georgetown Canal Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### RECONSTRUCTION.

Mr. JULIAN, by unanimous consent, introduced a bill providing civil governments for districts lately in revolt against the United States, and for the restoration of said districts to their forfeited rights as States of the Union; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

#### PENSIONS.

Mr. TAYLOR, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the expediency of reporting a bill fixing the time when pensions to widows and orphan children of persons in the military and naval service reported as missing in action and not subsequently accounted for during the late rebellion shall commence.

#### ARMY.

Mr. HAWKINS, by unanimous consent, introduced a bill to amend an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### PRIVATE BILLS.

Mr. DELANO called for the regular order of business, which the Speaker stated to be the call of committees for reports of private bills.

#### MISS SUE MURPHEY.

Mr. DELANO, from the Committee of Claims, reported back Senate bill No. 413, for the relief of Miss Sue Murphey, of Decatur, Alabama, and moved that it be indefinitely postponed; which motion was agreed to.

#### OBER, NANSON AND COMPANY.

Mr. DELANO, from the same committee, reported back Senate joint resolution No. 173, for the relief of Ober, Nanson & Co., merchants, of New York, with the recommendation that it do pass.

The joint resolution in the preamble recites that Ober, Nanson & Co., of the city of New York, did, on October 18, 1865, deposit in the post office of the city of New York a sealed package, containing twelve hundred compound-interest notes of the United States, each of the denomination of fifty dollars, dated September 1, 1865, and falling due September 1, 1868, amounting to \$60,000, which notes are described as follows: \$5,000, letter D, Nos. 272,801 to 272,900 inclusive; \$5,000, letter A, Nos. 276,201 to 276,300 inclusive; \$5,000, letter C, Nos. 270,801 to 270,900 inclusive; \$5,000, letter A, Nos. 268,601 to 268,700 inclusive; \$5,000, letter C, Nos. 268,601 to 268,700 inclusive; \$5,000, letter C, Nos. 268,301 to 268,400 inclusive; \$5,000, letter C, Nos. 275,501 to 275,600 inclusive; \$5,000, letter D, Nos. 270,501 to 270,600 inclusive; \$5,000, letter C, Nos. 275,301 to 275,400 inclusive; \$5,000, letter D, Nos. 276,201 to 276,300 inclusive; \$5,000, letter A, Nos. 275,601 to 275,700 inclusive; \$5,000, letter A, Nos. 275,901 to 276,000 inclusive. Which package was directed to Ober, Atwater & Co., merchants of the city of New Orleans, and was registered and receipt given by the postmaster at New York, dated October 18, 1865, and was dispatched through the United States mail, on the steamship Republic, to its place of destination, as certified by the postmaster of New York; and that said steamship Republic, with the United States mails

thereon containing said sealed package, was sunk and lost in the sea on the 25th of October, 1865, at a point about one hundred and forty miles east of Savannah, Georgia, and no part of the mail on board was saved or recovered; and then the joint resolution authorizes the Secretary of the Treasury to pay said Ober, Nanson & Co., or their assigns or legal representatives, the amount of said notes supposed to be lost as aforesaid, with the interest thereon to the time of their maturity, at any time within six months after the maturity thereof; provided, that there shall not appear before such payment evidence satisfactory to the Secretary of the Treasury that said notes have not been lost and destroyed; provided, further, that the Secretary of the Treasury may require of said Ober, Nanson & Co., their assigns or legal representatives, to execute and deliver such bond of indemnity with adequate sureties as he may deem necessary before such payment is made.

Mr. WASHBURN, of Illinois. I should like to have my friend make some explanation in regard to the matter. I think it comes within the principle uniformly objected to.

Mr. DELANO. Ober, Nanson & Co. are merchants under that firm name in New York, and under the firm of Ober, Atwater & Co. in New Orleans. In October, 1865, the New York firm transmitted by mail to the New Orleans firm \$60,000 in seven-thirty notes. A list of them was made by numbers and marks, and they were placed in the Post Office. A receipt was given for them and they were put on board of a vessel carrying the mail between New York and New Orleans. That vessel was lost at sea. The mail was lost and no part of it has ever been recovered. Proof of all these facts is clear and irrefragible. There is no doubt about it. The committee have been very careful in examining the matter.

Mr. THAYER. Was there any insurance?

Mr. DELANO. No, sir; there was a mistake made as to the name of the vessel which carried the mail, and so the insurance failed. These notes, as I have said, all mature in the year 1868. The resolution that we have offered for the relief of these parties is simply an expression of the legislative department of the Government of the right of the Secretary of the Treasury, not, I want it understood, to duplicate this evidence of indebtedness, but to pay for these lost notes six months after their maturity and not before, and then only upon taking such security as the Secretary of the Treasury may deem necessary, if any.

The Secretary of the Treasury and the Comptroller are both of opinion that they have now by law authority to pay the indebtedness of the Government, and to pay these notes after maturity, provided they can be proven, as they have been here, to be lost. But the reason for this bill is this: this house is not one of very large means, and stripping it of this amount of its capital is a great embarrassment to it. Relying upon the naked authority of the officers of the Government to pay them when the notes become due, the house is unable to raise any means upon the credit of these papers. Now, all that is proposed by this joint resolution is simply that these notes may be paid six months after their maturity. It is supposed that this distinct authority will furnish some relief to these sufferers in the way of obtaining credit *ad interim*.

I have thus stated frankly and fully to the House the facts in the case and the reason for the introduction of this joint resolution. I will move to amend it by striking out the word "may" in line eleven and inserting "shall," so that it will read, "that the Secretary of the Treasury shall require of said Ober, Nanson & Co., their assigns or legal representatives, to execute and deliver such bond of indemnity," &c.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. It is with great diffidence that I suggest any opposition to any matter that goes through an investigation by my distinguished friend from Ohio,

[Mr. DELANO.] I know his great care and diligence in these matters, but I must confess that I am not clear as to the adoption of the principle involved in this joint resolution. It seems to me it involves this: that the Government becomes liable to and must pay every dollar of money that shall be lost through the mail—every five or one dollar greenback—if the parties come here and make evidence that it is lost.

Now, I can never forget a matter which came before us very much like the present one, when it was alleged that certain bonds—I think they were Oregon war bonds—were lost on board a mail steamship from San Francisco. Evidence was taken, and it was shown most conclusively to the House that a large amount of these bonds were utterly destroyed. I resisted the passage of that bill, but the House saw fit to pass it. The bill passed the Senate and became a law, but a few days afterward the Secretary of the Treasury wrote to the chairman of the Committee of Ways and Means asking him to have that law immediately repealed, those very bonds, whose loss had been proved by evidence piled mountain high, having been presented to the Treasury for redemption.

Now, we cannot legislate too cautiously in regard to all these matters, and I think if we undertake to adopt this principle we shall wade very deeply into the Treasury, and I do not know where we shall land. The insurance companies are open to all of these men, and they could have got this money insured if they saw fit.

But it may be said that the Government is not protected even in that respect, for I am told by the gentleman from Pennsylvania—and it must have been when I was not present, for I do not recollect it—that the House went to the extraordinary length of passing a bill of insurance. It seems to me that we are very far at sea, and I do not know where we shall land. I submit the matter to the House whether they are prepared to adopt this principle at the present time.

Mr. SPALDING. Mr. Speaker, I have very much respect for the opinion of the gentleman from Illinois upon this subject and all kindred subjects, but I would like to suggest to him, for his consideration, that we are making a different rule as between the Government and individuals than that which obtains between individuals themselves. It is the rule of law in all the States that when the possessor of a note can prove the loss of a note he can recover the amount of it.

Mr. WASHBURN, of Illinois. Is that so as to bank notes, that banks pay for such losses? Never.

Mr. SPALDING. I am inclined to think that a bank would be compelled to pay for the loss, if the loss of the bank notes could be proved satisfactorily. I have no doubt upon that subject as a lawyer. If these notes have been actually lost, the Government loses nothing by paying this amount to these unfortunate persons who have sustained this loss. I would go with my friend from Illinois in demanding the greatest amount of testimony to assure us that the loss has been *bona fide* incurred. So far I would go, but not further.

Mr. WASHBURN, of Illinois. Would it not be well to let the case go to the Court of Claims?

Mr. SPALDING. I have no particular objection to that.

Mr. PRICE. I wish to call the attention of the House to one or two items which have not been noticed in this discussion. So far as this bill is concerned it only sets forth that this package has been lost and that the postmaster gave a receipt for the package. These men allege that there was \$60,000 in compound-interest notes in the package. Now, the House will remember very distinctly the case to which attention has been called by the gentleman from Illinois where it was certified conclusively, by all the evidence necessary, and by some that was almost unnecessary, that certain bonds had

gone down beyond hope of recovery in the Golden Gate, and the House passed a bill to reimburse the owners of those bonds, when it subsequently turned out that the bonds had not so gone down in the Golden Gate. I wish the House to pay particular attention to this fact; these notes are legal tender in the hands of the holders, they may be in the hands of fifty or a hundred parties, and when they are presented at the Treasury for payment they must be paid.

Now, I suggest to gentlemen that we will have established a precedent, if we pass this bill, by which we will open a door against which I know of no safeguard that can be raised. Every man throughout all this country, for the present and the future, as long as it remains the law of the land, can sue and recover against the Government for every greenback, every legal-tender note placed in the mail, every five or ten dollar bill sent by mail to any part of the country, if it shall be lost during the transmission; and all that the party will be required to establish will be that on a certain day he placed a package in the hands of a postmaster, taking his receipt therefor, in which package he alleges he placed a legal-tender or other note of the Government. If the Government is bound to pay \$60,000, with the accrued interest thereon, upon such evidence as is presented in this case, then it must pay for every five or ten dollar note under like circumstances. I hope the House will consider well before it passes such a law as this.

Mr. HOGAN. Mr. Speaker, this is rather a peculiar case. I know very well the gentlemen who have sustained this loss. And in reference to this case, I am informed that these are the facts: these gentlemen proposed to send by mail this large amount of money, and took the precaution to go to the post office in New York city for the purpose of ascertaining the vessel by which the Government proposed to send that day the mail to New Orleans. These parties then deposited the package containing this money in the post office, taking the receipt of the postmaster therefor, and then obtained an insurance upon it by the vessel named to them. Had the Government sent the mail by that vessel then these parties would have had recourse upon the insurance company. But after giving this information to the parties owning this money, the Government post office authorities in New York sent the mail by another vessel. These parties had no information of the change; they had no idea that there was to be such a change. After they had paid the insurance upon the vessel by which they were informed the mail was to be sent the authorities sent it by another vessel, and that vessel was lost. Now these men have no recourse upon anybody, chiefly through the wrong information imparted to them by the post office authorities in New York.

Their only recourse is to come here to Congress for relief. The vessel by which this money was sent is lost, and lost with everything on board of it. The mail sent on board of that vessel is lost, being sent by that vessel without notification to these parties, after they had been informed that the mail in which they had placed this money would be sent by another vessel. Now, I know these gentlemen very well; they are high-minded, honorable merchants.

Mr. WASHBURN, of Illinois, (in his seat.) That has nothing to do with the principle involved in this case.

Mr. HOGAN. These parties would not present an erroneous or unfounded claim here. They did everything in their power to ascertain the vessel by which the mail would be sent, and obtained an insurance upon the money in that vessel. As the money was sent by another vessel the insurers were entirely relieved from responsibility in consequence of the change. I hope, as this question has undergone a very thorough examination by the Committee of Claims, that this House will sustain the recommendation of that committee.

Mr. SLOAN. Will the gentleman from

Ohio [Mr. DELANO] yield to me for a few moments?

Mr. DELANO. Certainly.

Mr. SLOAN. While I agree that the House should exercise great care in passing bills of this character, yet I believe some definite rule ought to be established upon which the House will act. Now, obligations issued by the Government are not the debt itself, but, like the obligations of private individuals, only the evidence of indebtedness. The destruction of the evidences of the indebtedness does not obliterate the debt itself. And it is a well-known principle of law that if the obligation of a private individual is lost an action can be commenced upon the indebtedness as though the obligation had not been lost; and upon sufficient proof of its loss, and indemnity and security given, the person who held the evidence of indebtedness can recover the debt. It seems to me that the same rule ought to be applied in respect to the loss of obligations or evidences of indebtedness on the part of the Government.

Mr. PRICE. I would like to ask the gentlemen from Wisconsin [Mr. SLOAN] a question.

Mr. SLOAN. Very well.

Mr. PRICE. The question I desire to ask is this: will the courts give judgment for a claim for a negotiable paper not yet due? That is one question. Another is: will this Government pay for a twenty or fifty dollar greenback if there is one eighth or one quarter of it torn off?

Mr. SLOAN. The court will not give judgment until the obligation is due. Nor do we propose to pay these obligations before they shall have become due. This bill simply provides for the reissue of the obligation and for its payment after it shall have become due.

In this case the parties who allege that these notes were lost come before the Committee of Claims and present such evidence as would establish in any court of justice the loss of the notes. After they have done this they are entitled to be paid when the notes become due, provided they will comply with the condition corresponding with that upon which in every State, so far as I know, the courts compel the payment of lost obligations; in other words, by giving security that if the obligations should be presented for payment the Government shall not be the loser by paying them.

Now, conceding that the proof before the Committee of Claims is such as would establish before any court of justice the loss of these obligations, these claimants, on giving the proper security, are entitled, in my judgment, upon well-settled principles of law administered in the courts of every State, to have this relief; not to have payment before the obligations are due, as the gentleman from Iowa suggests, but to have payment after the obligations are due.

This bill provides that six months shall elapse before payment is made, and that the Secretary of the Treasury shall take ample security before he makes any payment whatever. Under a bill thus guarded it seems to me the national Treasury is in no danger of suffering detriment, and that the parties should be indemnified for the loss of these evidences of debt.

Mr. DELANO (having obtained the floor) said: I yield to the gentleman from Wisconsin, [Mr. COBB.]

Mr. COBB. Mr. Speaker, I have not risen to make a speech on this question, but only to call the attention of my respected colleague [Mr. SLOAN] and other members of the House to a precedent which was set in the Thirty-Eighth Congress on a bill somewhat similar to this. It was a claim presented to the House by the distinguished gentleman from the fourth district of Maryland [Mr. F. THOMAS] for the relief of a widow, the mother of a soldier of the Union army, who with his earnings had purchased one of the smaller bonds issued by the Government, which bond was destroyed through an accident, a pure accident, happening at the time of the invasion of Maryland by the rebels. That bill was for the purpose of indemnifying

that needy lady by the issue of a new bond. There was no earthly doubt on the mind of a single member of this House that the bond had been destroyed by an accident, without any fault or laches on the part of this poor widow; nevertheless, that House, composed in great part of the members now present, decided by a very large majority against allowing the relief asked; and if my recollection is not entirely at fault my colleague, [Mr. SLOAN,] who has just addressed the House, voted with me and with the majority against the allowance of that claim.

We voted against and defeated that claim not because we did not believe it just that that poor widow should be paid, but because we considered that the passage of such a bill would set a dangerous precedent, of which crafty men, the getters up of false and fraudulent claims against the Government, of which, in short, the "lobby" would not be slow to take advantage, to the serious loss and detriment of the tax-payers of the country. I think, sir, that no member who at that time voted against the claim of that poor widow can vote for this claim to pay gentlemen whom I suppose to be bankers, large moneyed men. Certainly not without self-stultification can I vote for the payment of any such claim.

Mr. HILL. I ask the gentleman from Ohio [Mr. DELANO] to yield to me for a few moments.

Mr. DELANO. I do so with pleasure.

Mr. HILL. Mr. Speaker, I desire to know what objection can possibly exist to referring this, which seems to be a very important question, to the Court of Claims. If that motion will be in order I will move that the bill be so referred. It seems to me that of all claims that can come before this body this is peculiarly one of that class which should be investigated judicially. So far as I can learn from the discussion here—and there seems to be no report accompanying the bill—this package may or may not have contained money according to the correctness of the statements of the parties who are the claimants before this House. So far as appears, it is their own assertion that they put in the post office a package which they say contained a certain amount of money or a certain number of bonds. I desire to know from the gentleman from Ohio whether I am correct in that statement.

Mr. DELANO. No, sir; the gentleman is not correct.

Mr. HILL. I shall be glad to be set right if I am in error.

Mr. DELANO. I will detain the House a few moments in order that I may at least enable members to understand this question properly. I appreciate the cautious regard to the interests of the Treasury which brings gentlemen to their feet in opposition to this bill. I am glad to observe this determination to prevent the Government from being improperly and unfairly dealt with in reference to this subject, for it is an important one.

First, then, in reference to referring this claim to the Court of Claims: the joint resolution does not propose any payment until these notes mature and until six months after they mature. The Secretary of the Treasury has the authority by general law to pay the debts of the Government, and where those evidences of indebtedness are lost and destroyed, and the proof is satisfactory and the debt is matured, he can pay it without any legislation. Referring this to the Court of Claims would be doing entirely a nugatory act. The Court of Claims can do nothing on the subject to relieve anybody.

Now, the simple question is whether it is advisable for this House to pass this specific authority to the Secretary of the Treasury to pay these notes six months after they are due, and whether there are reasons in the case sufficient to justify the specific authority. But before I come to that question I desire to ask the reading of the evidence in the case.

The Clerk read as follows:

"The following is an analysis of the evidence:  
James W. Cole, notary public, 54 Wall street, New

York, certifies, under his official seal, that on the 18th of October, 1865, he placed in a parcel, sealed with his official seal, \$60,000 in fifty-dollar United States compound-interest notes, all dated September 1, 1865, which was directed to 'Ober, Atwater & Co., New Orleans, Louisiana.' This certificate describes the notes by letters and numbers corresponding with the description in the petition. The petitioner's affidavit, sworn to before T. E. Stillman, notary public, New York city, asserts that he is a member of the commercial firm of Ober, Nanson & Co., of New York, and of Ober, Atwater & Co., New Orleans; that on the 18th day of October, 1865, the New York desired to remit to the New Orleans house \$60,000, to pay for cotton purchased there; that he drew from the National Bank of the Republic in New York city \$60,000 in compound-interest notes of the United States, each dated September 1, 1865, and each note of the denomination of fifty dollars and of the numbers designated in the certificate of James W. Hale, notary public; that he caused said notes to be placed in a parcel by said notary public, sealed with his official seal, which was then directed to Ober, Atwater & Co., New Orleans, and was by him delivered at and deposited in the New York post office to be carried in the United States mails to New Orleans; that the said parcel was duly registered at the post office; that the said mail containing said letter was dispatched by the steamer Republic, which was lost at sea October 25, 1865. The receipt attached to his affidavit is the original receipt of the New York postmaster for said letter, and that the certificate thereto attached is the certificate of said postmaster as to the registry of said letter, the dispatch of the mail containing said letter, and the loss and non-delivery thereof.

"The receipt referred to in the foregoing affidavit is as follows:

"No. 1889.—Registered letter.

"POST OFFICE,

"NEW YORK, October 18, 1865.

"Received of Ober, Nanson & Co., a letter addressed to Ober, Atwater & Co., New Orleans, Louisiana. (To which is printed the name of)

JAMES KELLEY, Postmaster."

"The certificate referred to in Mr. Ober's affidavit is dated at the post office, New York, January 11, 1866, signed by James Kelley, postmaster, and certifies that a letter directed to Ober, Atwater & Co., New Orleans, Louisiana, was received at this office October 18, 1865, from Messrs. Ober, Nanson & Co., was registered and dispatched in the mail forwarded the same day, per steamer Republic, which was lost at sea, no part of the mail, so far as he knew, ever having been recovered.

Affidavits of E. Young, master and commander of the steamship Republic; of Sarsfield E. Young, chief officer or mate, and of William H. O. Moorhouse, purser of the same, taken before notaries public, establish the following facts: that said vessel sailed from New York for New Orleans on the 19th of October, 1865, having on board the United States mails; that on the 24th of October, 1865, during a severe gale of wind, the vessel sprang a leak, which continued to gain upon her until about four o'clock p. m. of the day following, when she went down at a point about one hundred and forty miles east of Savannah, Georgia, and nothing was saved on board the ship except the lives of the passengers, who were taken off in the vessel's boats and upon a raft made for that purpose; that the mails remained on board the vessel locked up between decks against the bulkhead of the ladies' cabin, and at the time the vessel went down were lost with their contents in the sea."

"The affidavits of Walter Kelley and James Young, of the city of New York, and clerks in the post office having charge of registered letters, establish clearly that said package directed to Ober, Atwater & Co. was placed in the mail-bag for New Orleans, which was delivered on board the steamer Republic."

"The committee are of opinion that the evidence leaves no reasonable doubt in regard to the destruction of the notes described in the petition. As the securities supposed to be destroyed are in the nature of bank notes, having been issued for circulation, the committee unanimously agree that it would be unwise and unsafe to order duplicates to be issued, no matter how clear and conclusive the evidence of destruction may be."

Mr. DELANO. I want the House to understand, whatever disposition they may make of this case, these were compound-interest notes; that they mature in 1868, and that we do not propose to duplicate them, for I have refused, and so has the committee, to duplicate any of that class of our securities. But we propose to give specific authority to the Secretary of the Treasury to pay these notes six months after their maturity, if no future evidence is shown that they exist, upon the ground that they have been lost or destroyed. The Secretary of the Treasury might pay them, as I have said before, after they mature on sufficient proof of loss or destruction without this authority.

And that brings me to the point made in a private inquiry by the gentleman from Illinois; which I propose to answer to the House.

Mr. PRICE. That was the question I was about to ask, whether there is a regulation of the Treasury by which these notes would be paid in a certain time after maturity.

Mr. DELANO. No, sir.



Mr. PRICE. Such things have been done without legislation on the subject.

Mr. DELANO. Now, let me say on the very threshold of this case, I presented it to the Secretary of the Treasury, that he expressed the strongest desire for the relief of these men, but was unwilling to set the fearful example of duplicating these notes. He said he preferred the course I have taken, this specific authority to allow him to pay it, not because of this necessity, but for the reasons I will state hereafter.

Mr. WILSON, of Pennsylvania. Suppose the notes shall be found hereafter.

Mr. DELANO. It provides six months shall expire before they are paid; and the Secretary of the Treasury may require of Ober, Nanson & Co., their assigns or legal representatives, to execute and deliver such bond of indemnity, with adequate sureties, as he may deem necessary before such payment is made.

Mr. SCOFIELD. I wish to inquire of the gentleman who has the joint resolution in charge, what necessity there is for the passage of this measure at this time? These notes do not fall due till September, 1868, and this joint resolution provides they shall not be paid till six months after that, which will make it two years and three months from this time. If the owners of this claim are not fearful these notes may turn up, or some evidence which will prevent the passage of this joint resolution in the future, what is the necessity of pressing it now? Certainly the reason intimated by the gentleman from Ohio, that these parties want this in order to negotiate or borrow money is not sufficient, if they are men of the character set forth by the gentleman from Missouri, [Mr. HOGAN.]

Mr. DELANO. I think I brought the minds of those gentlemen who have given me their attention to the legitimate question. We avoid the objection of the gentleman from Illinois, [Mr. WASHBURN], that this makes the Government responsible for notes sent by mail, and bring ourselves down to this very question, that the Government may pay its indebtedness for notes that are lost and destroyed. It is asked: why shall this specific authority be given in this case? I want the House thoroughly to understand this matter.

Mr. HUBBARD, of Connecticut. Will the gentleman yield?

Mr. DELANO. Certainly.

Mr. HUBBARD, of Connecticut. I would like to know whether the affidavits that we have heard read may be considered as having been made in court or before the committee under such circumstances that the parties would be liable to be prosecuted for perjury in case it should turn out that their testimony was corruptly false?

Mr. DELANO. These affidavits have all been taken before persons authorized to administer oaths in the city of New York. The claim was brought and represented to me by Hiram Barney, of New York, a gentleman whom I have known for a long time and on whose character I felt that I had some right to rely. I went with him to the Secretary of the Treasury, and under the advice and at the desire of the latter I introduced this joint resolution. But that is of no consequence except to let the House understand why I act. Mr. Barney represented this firm, and the facts in the case convince me that it is true, as being highly honorable, but not very strong. Here is \$60,000 taken out of their business, and it is to them a very serious embarrassment, as every business man can understand.

Mr. PAINE. Will the gentleman allow me to ask whether Mr. Barney in this transaction was the attorney of the parties?

Mr. DELANO. That I do not know. I do not know whether he was acting with a fee or without it; but I know so much of Hiram Barney, that it would make no difference to him whether he was or not. The loss to the business of these men is a serious embarrassment. They wanted duplicates of these notes and they were willing to agree to take notes payable ten years hence with interest if dupli-

cates could be given. But we were unwilling to duplicate them.

This resolution does not increase the legal liability of the Government to pay these notes; provided the destruction is clearly proven. We propose by this resolution that the Government shall pay them six months after maturity, taking proper security, so that when this becomes a law these men will have in the money market the evidence upon which loans can be obtained.

I have thus endeavored to state the case clearly and fairly to the House. It has been only after very full investigation, and with the advice of the Secretary of the Treasury, that I have brought it before the House. It is a relief against a great casualty, which we can afford to give without setting any precedent that will be dangerous hereafter.

Mr. SCOFIELD. Before the gentleman sits down I wish to suggest that this is not a present claim against the Government. The parties expect about two years hence to have a claim, but until the two years expire there is no claim accruing.

Mr. DELANO. Each gentleman can state the question to suit himself. The fact is the notes have been lost, the proof is clear, the money has been taken out of the business of the firm, and the Government will not issue duplicates. These men are therefore deprived of the evidence of the indebtedness of the Government to this large amount, and if we pass this bill we shall say to them in the form of an enactment that six months after the maturity of these notes, if they give the proper security, the amount shall be paid.

Now, Mr. Speaker, I think the House must understand this question, and if no one desires to discuss it any further I will move the previous question.

Mr. WASHBURN, of Illinois. I desire to say one word, with the permission of the gentleman from Ohio.

Mr. DELANO. Very well; I will yield for that purpose.

Mr. WASHBURN, of Illinois. What I wish to say is in regard to the testimony in this case, for I think it is a matter to be closely watched as to the sufficiency of the testimony. I will state that the testimony in this case does not begin to be half as strong as the testimony in the case to which I referred some time since, where the bonds subsequently came to light. There is only a certificate here.

Mr. DELANO. The affidavits are sworn to.

Mr. WASHBURN, of Illinois. It states that Mr. Cole, a notary public, certifies so-and-so. I do not see anywhere that Mr. Cole has made any oath whatever as to these matters. According to the face of the report, which the gentleman has made the only evidence whatever upon which this claim is based, is the *ex parte* affidavit of the parties in interest, and that is the affidavit of the petitioner, sworn to before Mr. Stillman, that he drew the money, and so forth. That is the only evidence that appears here in regard to this money. The certificate of the registered letter which is set out here is merely the ordinary and formal certificate which is made by every postmaster where a letter is registered. There is no evidence here of any disinterested parties that they saw these compound-interest notes in the letter. I submit to my friend from Ohio if upon a reëxamination of the question he really thinks the evidence set out here is sufficient for us to act upon. It seems to me extraordinary that any business man should deposit the sum of \$60,000 in compound-interest notes in a registered letter to New Orleans, when there are express companies everywhere. That seems to me rather strange on the whole. I do not doubt that these gentlemen are very honorable and trustworthy men, but that does not alter the principle. We must act on the testimony. The testimony must go upon the record, so that if we establish this precedent it may be seen upon what we acted.

Mr. HILL. I have prepared a joint resolution for the purpose of referring this case to

the Court of Claims. The report of the committee has been read, and it appears from that, as the gentleman from Illinois has stated, that there is the *ex parte* affidavit of the claimant himself, and that that is the only affidavit before the House.

Now, as has been already stated, there are two years yet before any claim for the payment of these notes can be made, and I think that in the mean time the Court of Claims can investigate the matter. There are certainly some very peculiar circumstances attending this case. It is remarkable that with so many express companies in the country, good business men should deposit \$60,000 in a registered letter. Owing to these peculiarities in the case I wish to submit a joint resolution referring the claim to the Court of Claims.

The SPEAKER. Does the gentleman from Ohio yield for that purpose?

Mr. DELANO. I can see no good that is to be accomplished by referring the case to the Court of Claims. I would rather that the bill should be defeated than referred to the Court of Claims.

Mr. SLOAN. Will the gentleman allow me to make an explanation?

Mr. DELANO. Certainly.

Mr. SLOAN. My colleague [Mr. CORN] has referred to a vote that I gave in the Thirty-Eighth Congress as an inconsistency if I vote now for this bill. I desire simply to say that my colleague is mistaken and that I did not vote for the bill to which he refers.

Mr. DELANO. I will not detain the House any longer, even to reply to my friend from Illinois. I say to the House again that the evidence is as clear in this case as human testimony can make it that these notes were put into a package, which was put into the post office and into the United States mail, and that the vessel containing that mail went down at sea within one hundred and fifty miles of the coast.

Mr. HARDING, of Illinois. I desire to ask the gentleman from Ohio, [Mr. DELANO,] if the witnesses who made proof of the facts here set forth were subjected to a personal examination by the Committee of Claims?

Mr. DELANO. They were not. The character of the men who brought this claim, the character which they bear at the Treasury Department, where they had been before, did not seem to us to require it.

Mr. HARDING, of Illinois. Does the gentleman know of the existence of the notary and other persons named in these papers except from the papers themselves?

Mr. DELANO. And from public rumor; that is all.

Mr. DEMING. Will the gentleman from Ohio [Mr. DELANO] allow me to inquire when this claim originated?

Mr. DELANO. In the fall of 1865. These notes were mailed on the 18th of October, 1865.

Mr. DEMING. During the disturbed relations of the mail service at New Orleans, when the Union army first went there—

Mr. INGERSOLL. Mr. Speaker, I would inquire if the morning hour has expired.

The SPEAKER. The morning hour has just expired.

Mr. INGERSOLL. Then I move to proceed to business upon the Speaker's table.

Mr. DEMING. I believe I have the floor.

The SPEAKER. At the expiration of the morning hour, any member can move to proceed to business upon the Speaker's table, even though another member may be upon the floor addressing the House. The Chair will have the rule read by the Clerk.

The Clerk read as follows:

"It is an invariable practice, too, to permit a member upon the expiration of the morning hour to take the floor, even though another may be occupying it, to make the motion to proceed to business on the Speaker's table."

Mr. DELANO. I hope the gentleman from Illinois [Mr. INGERSOLL] will permit me to call the previous question upon the passage of this joint resolution and have it disposed of now.

Mr. INGERSOLL. If it shall not interfere

at all with my right to make the motion I have indicated I will yield to the gentleman from Ohio, [Mr. DELANO.]

The SPEAKER. The gentleman can reserve his right to make the motion after the pending subject shall have been disposed of.

Mr. DELANO. I should be glad, with the consent of the House, to permit the gentleman from Connecticut [Mr. DEMING] to make some remarks on this bill before I call the previous question. If that is objected to I will call the previous question at once.

The SPEAKER. The gentleman from Ohio [Mr. DELANO] will be entitled to the floor to close the debate after the main question has been ordered. The gentleman can then yield a portion of his time to any member.

Mr. INGERSOLL. I am willing to yield to have the previous question called; but I must object to any farther debate.

Mr. DEMING. I did desire to make some remarks, but I will waive them.

Mr. DELANO. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was read a third time.

The question was upon the passage of the joint resolution.

Mr. DELANO. I call the previous question upon the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 67, not voting 48; as follows:

YEAS—Messrs. Ancona, Anderson, Delos R. Ashley, Baxter, Bidwell, Boyer, Buckland, Campbell, Chandler, Reader W. Clark, Cooper, DeForest, Delano, Denison, Dixon, Driggs, Eggleston, Eldridge, Finck, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Hogan, Demas Hubbard, Edwin N. Hubbard, James R. Hubbard, Jenckes, Kelley, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Marshall, Marston, Marvin, McKee, McKuer, Mercer, Miller, Moorhead, Newell, Niblack, Nicholson, Noell, O'Neill, Perham, Phelps, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Shanklin, Sitzgreaves, Sloan, Spaulding, Starr, Stillwell, Strouse, Taber, Nelson Taylor, Thayer, Francis Thomas, Thornton, Andrew H. Ward, Hamilton Ward, Warner, Welker, Williams, and Stephen F. Wilson—76.

NAYS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Blow, Boutwell, Brandegee, Broomall, Sidney Clarke, Cobb, Cullom, Dawes, Dawson, Deming, Donnelly, Eekley, Eliot, Farnsworth, Garfield, Glossbrenner, Grinnell, Abner C. Harding, Hawkins, Hill, Hise, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Hulburt, Hunter, Ingersoll, Julian, Kasson, Ketcham, Koontz, George V. Lawrence, William Lawrence, Loan, Maynard, Morrill, Morris, Moulton, Orth, Paine, Patterson, Pike, Price, Rollins, Ross, Sawyer, Schenck, Scofield, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, and Windom—67.

NOT VOTING—Messrs. Alley, Banks, Barker, Beaman, Benjamin, Bergen, Bingham, Blaine, Bromwell, Bundy, Conkling, Cook, Culver, Darling, Davis, Dodge, Dumont, Farquhar, Ferry, Hart, Higby, Aschel W. Hubbard, Humphrey, Johnson, Jones, Kelso, Ladin, Longyear, Lynch, McClurg, McCullough, McIndoe, Myers, Plants, Radford, Alexander H. Rice, John H. Rice, Rousseau, Shellabarger, Stevens, Nathaniel G. Taylor, John L. Thomas, Trimble, Henry D. Washburn, Whaley, Winfield, Woodbridge, and Wright—48.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### SPEAKER'S TABLE.

Mr. INGERSOLL. I now renew my motion to proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### DEFICIENCY APPROPRIATION BILL.

The first business on the Speaker's table was Senate amendments to the bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

The first amendment was read, as follows:

On page 2 strike out lines fifteen and sixteen, as follows:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

The amendment was concurred in.

The next and last amendment of the Senate was read as follows:

On page 2 strike out lines eighteen to twenty-two, inclusive, as follows:

For salaries of ten supervising and fifty-nine local inspectors, appointed under the act of August 30, 1862, for the better protection of the lives of passengers by steamboat, with traveling and other expenses incurred by them, \$7,000.

Mr. STEVENS. I will only state in reference to this amendment, that on looking over the bill there appears to be some doubt whether we have not twice included this item. Therefore the Committee on Appropriations have concluded to acquiesce in this amendment.

The amendment was concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### TAX ON CIGARS.

The SPEAKER. The next business on the Speaker's table is a joint resolution introduced by the gentleman from Pennsylvania, [Mr. STEVENS,] and lying upon the Speaker's table at the close of last session. It is entitled a joint resolution (H. R. No. 189) declaring the meaning of a certain provision of the internal revenue act relating to cigars.

The joint resolution, which was read, provides that such part of the internal revenue act as refers to the tax or duty on cigars shall be so construed that the *ad valorem* duty of twenty per cent. shall be levied only on the excess of value above twelve dollars per thousand.

Mr. STEVENS. Mr. Speaker, perhaps I ought to say a single word on this subject. When we passed the internal revenue act in this House the tax on cigars was fixed, I believe, at four dollars per thousand upon all cigars below twelve dollars per thousand, and on those of higher value the rate was to be, in addition to four dollars, twenty per cent. upon the excess over twelve dollars. That bill, after consideration in the Senate, went to a committee of conference; and when before the House, on the report of that committee, I asked the gentleman who made the report whether the provision in reference to cigars had been changed. He told me explicitly that it had not been. The bill was not read at all at that time, and hence there was no opportunity to discover the mistake. It turns out now that by the phraseology of the act as passed, the additional tax on cigars valued at over twelve dollars per thousand is fixed at twenty per cent. upon the whole value, instead of twenty per cent. upon the excess over twelve dollars. Hence on cigars valued at thirteen or fourteen dollars per thousand the tax is so large that it is better for the manufacturer to sell them at twelve dollars. The object of this bill is to correct the mistake, as it undoubtedly was, and fix the tax at twenty per cent. on the excess over twelve dollars per thousand, as originally intended.

Mr. MORRILL. Does the gentleman from Pennsylvania propose that this bill shall be acted on now?

Mr. STEVENS. Yes, sir.

Mr. MORRILL. I suggest to the gentleman the propriety of referring it to the Committee of Ways and Means. That committee expect at a very early day to report a bill in which this subject will be appropriately embraced. A matter of this kind affecting the revenue of the Government should not be hastily acted upon, but should receive examination at the hands of a suitable committee. I move that the bill be referred to the Committee of Ways and Means, and on that motion I call the previous question.

Mr. SCHENCK. I ask the gentleman from Vermont [Mr. MORRILL] to yield to me for a few moments.

Mr. MORRILL. I will do so.

Mr. SCHENCK. Mr. Speaker, I hope that this bill will not be referred. It is designed to correct one of those manifest instances of injustice which, it seems to me, need only to be mentioned to be corrected.

The gentleman from Pennsylvania has stated the circumstances of the passage of the act which embraced the error designed to be corrected by this bill. The act, as passed by the House, levied a tax of four dollars per thousand upon all cigars valued at prices ranging from eight to twelve dollars per thousand; and on all cigars valued at more than twelve dollars there was to be imposed on the excess an additional tax of forty per cent. *ad valorem*.

When the bill was brought back from the committee of conference it was found they had reduced the forty per cent. *ad valorem* tax to twenty per cent. No one objected to that because it did not disturb the principle of a gradual increase; but instead of putting the twenty per cent. upon the excess over twelve dollars, they put the twenty per cent. upon the whole twelve dollars which had already paid four dollars and upon the excess in addition, that is upon the whole value of the cigars.

How does it operate, and why has there been so much complaint? On the twelve-dollar cigar you pay a four-dollar tax. On the thirteen-dollar cigar you pay not four and twenty, that is four dollars and the addition of twenty per cent. *ad valorem*, making \$4 20, but you pay \$6 60; leaping from \$4 40 to \$6 60 at once, for the twenty per cent. *ad valorem* is charged upon the whole value. How does it operate in practice? The man who manufactures a twelve-dollar cigar and pays a four-dollar tax has eight dollars left for himself; but if he makes a thirteen-dollar cigar he has to pay \$6 60 and has but \$6 40 left for himself. It is better, therefore, for him to make the twelve-dollar cigar.

And so it goes on. The fourteen-dollar cigar instead of paying \$4 40 as we intended, putting on the twenty per cent. in addition to the \$4 40, pays \$6 80. The fifteen-dollar cigar pays \$7 instead of \$4 60. By jumping from \$4 up to \$6 60 and making that addition to be paid by adding twenty per cent. *ad valorem*, not upon the excess above twelve, but on the whole value of the cigar, you actually leave a man who makes the thirteen-dollar cigar but \$6 40 after paying the Government tax while the man who makes the twelve-dollar cigar gets \$8 after paying the Government tax.

I say it is clear from this, why over the whole country those connected with this cigar interest are complaining, and justly complaining; but as it went through as I must conceive by some sort of blunder, certainly by a misunderstanding so far as the gentlemen connected with this interest, arising out of an explanation to us by a member of the committee, I think the least we can do is to correct it and not suffer this interest to be longer oppressed as it now is. I demand the previous question.

Mr. ALLISON. I ask the gentleman to yield to me. I will renew the demand for the previous question.

Mr. SCHENCK. With pleasure.

Mr. ALLISON. The House will remember at the last session we had great difficulty on this cigar question. The Senate was opposed to any *ad valorem* duty whatever, and in the committee of conference they insisted we should put an absolute duty and not an *ad valorem* duty. Finally, as a matter of compromise, in the committee of conference it was agreed on the cheap cigar there should be a tax of two dollars, and upon cigars valued over eight dollars there should be a tax of four dollars, and upon cigars above twelve dollars a thousand, those not known as cheap cigars, there should be a tax of four dollars, and an *ad valorem* tax of twenty per cent. on the whole value. I am at a loss to see what interest is injured. These cigar manufacturers who produce more valuable cigars are compelled to pay a higher tax than they would if they only paid a tax upon the excess over twelve dollars per thou-

sand. If there is any one to be injured it is the Government, because it is a scheme to reduce the tax on manufactured cigars in this country. I do not think we are prepared now to reduce taxation on these cigars. I think the House ought to refer this subject to the Committee of Ways and Means so we may consider it carefully.

If the principle contended for by the gentleman from Ohio and the gentleman from Pennsylvania be correct we should increase the tax and make it forty per cent. above twelve dollars instead of twenty per cent. This is upon high price cigars actually no tax at all. I hope the whole question will be referred to the committee so that we may investigate it fully. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was referred to the Committee of Ways and Means.

#### SAFETY OF STEAMBOAT TRAVEL.

The next business upon the Speaker's table was Senate joint resolution No. 147, amending the ninth section of the act to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," approved August 30, 1852; which, on motion of Mr. INGERSOLL, was referred to the Committee on Commerce.

#### SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The next business on the Speaker's table was Senate bill No. 1, to regulate the elective franchise in the District of Columbia; which was read a first and second time.

Mr. INGERSOLL. I demand the previous question on the bill.

Mr. HALE. Will the gentleman yield for the purpose of moving to amend the bill by adopting an educational test? I would like to take the sense of the House upon it.

Mr. INGERSOLL. I cannot yield for that purpose.

The bill was read. It provides that from and after the passage of this act each and every male person, excepting paupers and persons under guardianship, of the age of twenty-one years and upward, who has not been convicted of any infamous crime or offense, and excepting persons who may have voluntarily given aid and comfort to the rebels in the late rebellion, and who was born in the United States or naturalized, and who shall have resided in the said District for the period of twelve months next preceding to any election therein, shall be entitled to the elective franchise, and shall be deemed an elector and entitled to vote at any election in said District, without any distinction on account of color or race.

The second section provides that any person whose duty it shall be to receive votes at any election within the District of Columbia, who shall willfully refuse to receive, or who shall willfully reject, the vote of any person entitled to such right under this act shall be liable to an action of tort by the person injured, and shall be liable on indictment and conviction, if such act was done knowingly, to a fine not exceeding \$5,000, or to imprisonment for a term not exceeding one year in the jail of said District, or to both.

The third section provides that if any person or persons shall willfully interrupt or disturb any such elector in the exercise of such franchise he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not to exceed \$1,000 and be imprisoned in the jail in said District for a period not to exceed thirty days, or both, at the discretion of the court.

Section four makes it the duty of the several courts having criminal jurisdiction in said District to give this act in special charge to the grand jury at the commencement of each term of the court next preceding the holding of any general or city election.

Section five provides that the mayors and aldermen of the cities of Washington and George-

town, respectively, on or before the 1st day of March in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election; and said mayors and aldermen shall be in open session to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said list, and on two days in each year, not exceeding five days prior to the annual election for the choice of city officers, giving previous notice of the time and place of each session in some newspaper printed in said District.

Section six provides that on or before the 1st day of March the mayors and aldermen of said cities shall post up a list of voters thus prepared in one or more public places in said cities, respectively, at least ten days prior to said annual election.

The seventh section provides that the officers presiding at any election shall keep and use the check-list herein required at the polls during the election of all officers, and no vote shall be received unless delivered by the voter in person, and not until the presiding officer has had opportunity to be satisfied of his identity, and shall find his name on the list, and mark it, and ascertain that his vote is single; and any person who shall attempt to influence votes by purchase or bribe of any kind shall be punished by a fine not exceeding \$2,000, or imprisonment not exceeding two years, and any person accepting such bribe shall be punished by imprisonment not less than one year, and be perpetually disfranchised.

The last section repeals all acts and parts of acts inconsistent with this act.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time.

Mr. INGERSOLL. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. NIBLACK and Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question being taken on the passage of the bill, it was decided in the affirmative—yeas 118, nays 46, not voting 28; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos B. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Dawes, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, Maynard, McIndoe, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Francis Thomas, Trowbridge, Upton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—118.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chandler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbard, Hunter, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Marshall, McKee, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Andrew H. Ward, and Whaley—46.

NOT VOTING—Messrs. Banks, Boaman, Benjamin, Bidwell, Bronwell, Cook, Culver, Darling, Davis, Dumont, Parquhar, Asahel W. Hubbard, Humphrey, Johnson, Jones, Lynch, McClurg, McCullough, Morrill, Myers, Plants, Radford, John H. Rice, John L. Thomas, Trimble, Henry D. Washburn, Winfield, and Wright—28.

So the bill was passed.

During the roll-call,

Mr. BINGHAM said: My colleague, Mr. PLANTS, is detained at his house by illness.

Mr. O'NEILL. I wish to make an inquiry. Several members are absent attending to duties on special committees. Will they be entitled to record their votes when they return?

The SPEAKER. They will not except by suspension of the rules, which can only be done on Monday.

Mr. O'NEILL. I will then state that my colleague, Mr. MYERS, is absent on the special committee on revenue frauds, and that if he were present he would vote "ay."

Mr. GRINNELL. My colleague, Mr. HUBBARD, is detained from the House by illness. If he were here he would vote for the bill.

Mr. KASSON. The gentleman from New York, Mr. DARLING, is absent on a committee of investigation.

Mr. FERRY. My colleague, Mr. BEAMAN, is absent on a special committee. If present he would vote "ay."

Mr. INGERSOLL. My colleague, Mr. COOK, is not present. If he were here he would vote in the affirmative.

The result of the vote having been announced as above recorded,

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### TAX ON CIGARS.

Mr. ALLISON. I rise to a privileged question. I move to reconsider the vote by which the bill in relation to the duty on cigars was referred to the Committee of Ways and Means, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. My colleague from the Chicago district [Mr. WENTWORTH] desires to make a speech to-day, and with a view of giving him an opportunity of doing so, I will move to go into Committee of the Whole on the state of the Union on the President's message. Before, however, that motion is put—I do not like to make the motion myself, because I am opposed to adjournments—I will yield to some gentleman to make a motion to adjourn over.

#### ADJOURNMENT OVER.

Mr. WILSON, of Iowa. I move that when the House adjourns, it adjourn to meet on Monday next.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. CONKLING. I move that leave of absence be granted to my colleague, Mr. MORRIS, for this week.

The motion was agreed to.

#### PRESIDENT'S MESSAGE.

Mr. WASHBURNE, of Illinois. I now insist on my motion that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair,) and resumed the consideration of the President's annual message; upon which Mr. WENTWORTH was entitled to the floor.

Mr. WENTWORTH. Mr. Chairman, the Constitution of the United States makes it the duty of the President from time to time to give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. In his first message after the commencement of this Congress he dwelt upon the fact that there were certain States not represented as the most important information that he could give us, and he recommended as the most expedient and necessary of all measures that we give them immediate representation. He informed us of only what we and all our constituents knew before; and he admitted in that message that each House was the judge of the qualification of its own members. Having done what he conjectured to have been his duty, one would have supposed that he might there have



rested, knowing that Senators and Representatives had their responsibilities as well as himself. Instead of this he has been lecturing us upon the subject ever since. [Laughter.] Scarcely a communication did he address to either House of Congress at the last session in which he did not repeat, and in almost the same words, the sentiments of his first message. Not content with this, as early as the 22d of February last, he commenced addressing promiscuous out-door assemblages and dictating newspaper articles and telegraphic dispatches denouncing Senators and Representatives even by name for their fidelity to the principles upon which they were elected; and lest the people should not understand his views he did what no President ever did before, made a tour of the States in which elections were pending and repeated his old story about States lately in rebellion.

I understand that the expenses of this Presidential trip are to be, if they have not already been, paid out of the public Treasury. I shall hold our Committee on Appropriations responsible for keeping all items for that trip out of their report. [Renewed laughter.] If they are to come before us at all let them come in a separate bill and stand upon their own merits. I shall do my best to defeat any appropriation bill, however meritorious, that provides for their payment. [Cries of "That is right."]

It is not the fault of the President if the people did not understand him when they recently uttered their wholesale condemnation at the polls. The present acting President has been not inappropriately compared to the other acting Presidents. I have been a member of Congress under the administration of them all. A doctor once said he could not cure all diseases "unless by some medicine they could be changed into fits; he was good on fits." [Laughter.] Now, while I would not venture to make many predictions about the conduct of the mass of mankind, I can predict exactly how a man will conduct if changed from a Vice President to an acting President. I am as good upon acting Presidents as the doctor was upon fits. [Renewed laughter.] They have all been, now are, and hence it is safe to say, ever will be, traitors to the party that elected them; and the people are sick of them. They, however, sustained Tyler in his second Congress; and they did the same by Fillmore. Both these gentlemen were able to carry their administration measures in the second Congress of their terms.

And the present Executive had an advantage in the universal sympathy which the public had for the soldiers. Profiting by the boast of a former southern President, when told that he could not carry a certain obnoxious measure through Congress, "that the South was with him upon principle and he would soon make the North so on patronage," no sooner had he made up his mind to assassinate the Union party, as Booth had done its acknowledged head, than he caused it to be proclaimed throughout the country that he intended to give all his patronage to soldiers. And he has appointed a few soldiers where they would pretend to be for his policy. For I view the support of the policy of this Administration by the mass of soldiers holding offices as mere pretense, justified perhaps under the idea of foraging upon the enemy. [Great laughter.] In my own city, one of Mr. Lincoln's intimate personal friends was removed from the office of postmaster and a crippled soldier appointed his successor. He was confirmed by the Senate, and he sent to the Department his bond properly approved. In the mean while, it was hinted that he had better go to the Philadelphia convention. This was too much for him. He could face rebel bayonets, shot, and shell, but a Johnson convention frightened him. [Loud and continued laughter.] And so another man was appointed in his place. With all this pretended love of the soldiers, however, the popular elections could not be carried for the

Administration. Impersonated bread and butter, speak if I misrepresent you. [Shouts of laughter.]

After the policy of the Executive has been almost unanimously condemned, after it is apparent that he will have a smaller number of supporters in the next Congress than any other Executive ever did have, he sends to Congress another message. And what does it contain? It begins and ends with a mere repetition of his former messages and popular harangues. Out of twenty pages he has ten for traitors; and ten for all other subjects embracing, according to his own showing, important financial exigencies and delicate foreign relations. The late Senator Collamer, when a member of this House, once told a story of a clergyman who had been in the habit of preaching the same sermon upon great occasions for several years. On one occasion he asked an auditor how he liked the sermon. The reply was, "I always did like that sermon." [Laughter.] Go among the disloyal people who have always been rejoicing over the messages of the present President and ask them how they liked the late message, and the reply would everywhere be that they always did like that message. [Renewed laughter.]

I read a newspaper account recently of an aged college president who was reading to his students a chapter in the Bible daily with the intention of reading the Bible through in course. Some roguish student daily placed back his mark until he had read the same chapter daily for a long time. [Great laughter.] Perhaps some one has been playing a similar prank with our President. We certainly are getting the same message all the time, and I wish for variety's sake that some one would change the mark. [Long and loud laughter.]

The President keeps telling us that he has done all that he could do to complete the restoration of the Union, and that all has been done that is necessary to be done except to admit representatives from the late rebel States. And then he kindly adds that the remainder belongs to Congress, and that each House is the judge of the qualifications of its own members. Now, if he feels that he has done his own duty, why cannot he be quiet and leave us to do ours? The Constitution defines his duties, and he professes to have discharged them. The same Constitution defines the duties of Congress, and its members profess to have discharged them. The people have reviewed the acts of Congress and indorsed them. Its members cannot change their policy without proving as false to the expressed will of the people as he has to the principles upon which he was elected to office. And when men are sustained by their own convictions and by overwhelming majorities of the people, how vainly can any one hope to change them! He has tried denunciation; he has tried patronage; what more can he do?

I see it stated in some of his organs that the Administration is about to remove all the female clerks, mostly the widows and children of our soldiers and nurses in our hospitals. This cannot be to punish Congress, [laughter,] for had he supposed that radical Congressmen had relatives or friends among them he would have removed them long ago. [Renewed laughter.] It must be to import disloyal voters into the District in anticipation of the effects of the universal suffrage bill, which we have this day enacted into a law. If he cannot carry a State he wants to keep this District. [Great laughter.]

Here I must digress to express my wonder at how Omnipotence turns the intended evil of men into real good. When I first came to Congress colored men were carried through the city in shackles and sold at public auction. From the windows of the Capitol a horrid slave-pen could be seen, and children would be shrieking around it trying to get one more gaze at their agonizing parents sold for the southern market. But the rebellion came with all its horrors; the President was assassinated; the Vice President was debauched; yet from

it all came not only the black man's enfranchisement, but his equality in everything that constitutes citizenship.

The President well knows that the conqueror is always entitled to indemnity for the past and security for the future. Now, this Congress, in a spirit of compromise, offers to take either of these two things. But we cannot get the indemnity, according to his own showing in his messages detailing the destitution of the southern people, so we must insist upon the security; and that security is contained in the constitutional amendment. It would have been given long ago, and all the old States would have been represented in this Congress had Mr. Lincoln lived, or had the present Executive pursued his policy. For there was a time when the States lately and still in rebellion would have complied with any executive exaction. But instead of asking the disloyalists to favor the constitutional amendment, he has done everything in his power to make them oppose it. And hence he is responsible for keeping them unrepresented.

His course reminds me of the celebrated fable of *Æsop*, entitled "The Wolf and the Lamb," and running somewhat in this way: A wolf and a lamb happened to come at the same time to drink at a stream that ran down a rocky mountain. The wolf stood upon the higher ground and the lamb at some distance below him. The wolf made the stream so muddy that neither could drink and then charged it upon the lamb, abused him, and finally tore him to pieces. The President is the wolf and Congress is the lamb.

Mr. STEVENS, (in his seat.) That is so. [Laughter.]

Mr. WENTWORTH. He is doing all he can to keep the rebellious States out of Congress, and then he charges it upon us. He is muddying the political waters and censuring us for his own acts. The "White-House" wolf may growl, however, but he cannot devour. [Laughter.] He even vetoed a bill conferring upon southern men their civil rights. When this Congress assembled at its first session there were two classes of men destitute of civil rights. One never had any, and the other once had them but forfeited them. Congress at once relieved them both over the President's veto, and has ever since been anxious to adopt any measure that would tend to their common benefit, showing in its brotherly love no difference between the loyal black and the disloyal white man.

The President dwells upon the injustice of taxing a people without representation. How much worse is the condition of the people in the disloyal States than the condition of the people of this District who never had representation and yet have always been taxed? How much stronger claims have they to representation than the people of Nebraska and Colorado, whom he is keeping out of the Union when they have more white population than some of the disloyal States? Idaho, Montana, and each of the Territories are allowed no votes in Congress, and yet they are taxed. Florida has not the white population of several of our Territories whose people pay more taxes than she does, yet the President would give her a Representative and two Senators. I voted to admit her once to representation upon the same terms with the other States; I am willing to do it again when I find her as I then did, qualified. The President complains that Tennessee was not admitted to representation until after the eighth month of the session. Here applies the fable of the wolf and the lamb again. [Laughter.] It was the President who kept her out. When she complied with the terms of Congress, when she clothed herself in the habiliments of loyalty, when she gave security for the future by the adoption of the constitutional amendments, she was at once admitted to representation. Her erring sisters can be admitted upon the same terms. The road to representation in Congress is a straight one, but rather narrow for traitors. [Renewed laugh-

ter.] If they put on their wedding garments they can come to the feast; otherwise they must remain in their present outer darkness where they are weeping, wailing, and gnashing their teeth. [Laughter.] And I am willing, when the constitutional amendment shall have been adopted, to give universal amnesty for universal suffrage, but not before.

The President dwells upon the efficacy of the test oath in keeping traitors out of Congress. I have but very little confidence in it. The fact that so many traitors have been elected to both the House and Senate, with their own consent, over Union men is proof that they all mean to take the oath. Every man who went into the rebellion after taking the oath to support the Constitution of the United States perjured himself; and why should he hesitate to perjure himself again? I know it is contended that they believed that the Constitution of the United States justified secession. Who knows but they will renew their oath under the same construction? The case of the Tennessee Senator should be a warning to us when the potency of the test oath is quoted. The Senator-elect, a son-in-law of the President, having a delicacy about taking the oath, the Senate in its extreme weakness, [immense laughter,] modified the oath for his benefit. This House by a strict party vote refused to concur. The Senator then took the oath notwithstanding his prior delicacy. So I fear will it be in cases still stronger than his. They will try to have the test oath modified or repealed, and their northern allies will aid them. But, failing in this, they will swallow the oath like an oyster. [Great laughter.] Besides, I believe the President is in favor of repealing the oath. I know his supporters are.

But we are asked what is to become of these States lately in rebellion if they do not secure their representation by the adoption of the constitutional amendment? As well might we ask what is to become of the people of this District or any of the Territories if they do not secure their representation? Without going into details, I will define my own position in general terms by quoting another fable which seems adapted expressly to the present condition of things.

A traveler was one day accosted by a snake from under a rock, asking to be let out. The traveler at first was afraid of the consequences, and told the snake that he was afraid he would bite him if he was let out. The snake asserted that he had been under the rock a long time, that he regretted his natural propensities, and was resolved hereafter to effectually control them. After much parleying the traveler compassionately removed the rock, and he and the snake traveled along some distance agreeably together. Finally, the snake said that he felt like biting somebody; that he might not bite the traveler, but that his venomous propensities had returned with such strength that he could not much longer control himself. [Laughter.] He contended that the promise he had made was made under duress; that God had made him for a snake, that he had no other functions to perform than those of a snake. The traveler entreated him to control himself and reminded him of his original promise. The matter was finally compromised by agreeing to leave the question in dispute between them to the first three animals they should meet. The first was the wolf. He decided that the snake was restored to his original rights, and that his promise made while under duress was not binding. The next animal met was the lamb, who decided in favor of the traveler, and was in favor of peace among all animals. The third animal met was the fox. Before he could give his opinion he wanted to survey the original premises. Upon reaching them he asked the snake to lay down in exactly the position he was in when the traveler found him. He then asked the traveler to place the rock as it originally was. This being done, he said: "This case requires great deliberation, and we must take time to consider it."

And so he and the traveler passed on. [Great laughter in the House and galleries.]

Upon all questions growing out of the rebellion, it is evident that the President will be impotent for the remainder of his term; and he may as well reserve his vetoes for legislation upon other subjects where they will be needed and where they can be sustained. He has in his message called our attention to the necessity of "carrying into every department of the Government a system of rigid accountability, thorough retrenchment, and wise economy." I call his attention to the same subject, [laughter,] and I shall be happy to cooperate with him in that respect. I fear that his language upon the subject of economy will be as meaningless as that concerning making treason odious. It certainly proved so at the last session. But he will have an opportunity to redeem himself in this respect at the present session. A few weeks will determine whether the proverb applies to him of "*Falsus in uno, in omnibus falsus*." [Great laughter.] For never were the signs so ominous of a powerful combination to increase the public debt and postpone its payment, to continue the suspension of specie payments, to donate money to questionable railroad companies who already have large grants of land, and to make extravagant appropriations to questionable objects. This country is in more danger to-day from extravagance and corruption than it ever was from the rebellion. In fact, more Governments have been overthrown by corruption than by arms. A distinguished historian says that all republics have fallen by their own corruption. Will not Andrew Johnson stretch out his arm in time to save ours?

The President indorses the report of the Secretary of the Treasury. In that report I find the following:

"After the proper and necessary reductions shall have been made, the revenues will doubtless be sufficient, if the Government shall be economically administered, to pay the current expenses, the interest on the public debt, and reduce the principal at the rate of from four to five millions per month. In order that this may be done, however, there must be no additional donations to railroads, no payments but in the fulfillment of contracts, and no unnecessary expenditures of money for any purpose whatever."

Now, if the President wishes to redeem himself and to make treason to the best financial interests of the country odious, let him use his veto in instances where he is sure of the support of at least one third of this House.

I reserve any remarks upon the financial necessities of the country for a more appropriate occasion. But while referring to the recent report of the Secretary of the Treasury, let me call attention to the fifth remedy he proposes for the financial embarrassment of the country, namely: "The rehabilitation of the southern States." I have read with the same respect that I always entertain for his opinions what he says upon this subject; and I can find nothing there that does not apply with equal force to the District of Columbia, to Nebraska, to Colorado, or to any of our Territories, all of which are taxed but have no votes in Congress. If, however, it will be of any service to the Secretary in making his financial calculations, he can take it for granted that Congress has done all it intends doing with reference to "the rehabilitation" of the States recently in insurrection. It has done all that it dare do with reference to unmistakable public opinion. From his relation to the President, he can do more toward their "rehabilitation" than Congress can. Let him use his influence for what he says he considers a desirable financial object. Let him persuade the rebel States to adopt the constitutional amendment. Let him tell them that the feast is now ready, that the doors of Congress are now open, and that it is only necessary for them to put on their wedding garments to come in and enjoy liberty, equality, and fraternity on earth, as it is in Heaven.

Mr. HISE. Mr. Chairman, it is not my purpose by any means to become the eulogist of the President, or to indulge in any hyperbolic

eulogy of the present President of the United States, either before or since he became President. I would, however, say that upon a close observation of the course of the President since he has become such, I believe that he has been governed by high and patriotic motives, and further than that, I believe that his communications to Congress and the doctrines and policy which he has recommended in his messages indicate that degree of moderation and wisdom which is peculiarly adapted to the present crisis and the circumstances now surrounding the country.

But, sir, my main object is not to praise the President. I do not intend to be committed in any manner to any party that acknowledges him as its leader. I confine the expression of my approbation only to the course which he has pursued since, owing to the lamented death of his predecessor, he has become President of the United States.

My main object, sir, in seeking the floor in Committee of the Whole on the state of the Union, where alone we have an opportunity for discussion, has been for the purpose of discussing the subjects presented in the first portion of the President's message, to wit, the right of the States that were in insurrection, ten in number, to be represented in the House of Representatives of the United States, and to have their two Senators on the floor of the United States Senate. I propose to discuss the right of those States to be represented in both branches of the American Congress. That is one subject that I wish to consider. Another subject is the questions that arise under the public policy indicated by the bill intended to restrict the appointing and removing power of the President of the United States. Another bill, I believe, has been reported to the House in regard to the system of excise or internal taxes and the patronage that arises under that system; to confer that patronage in substance upon an independent department of the Government; to take the appointment of the officers provided for by the bill, some of whom have large salaries, from the executive department, and to confer it upon the Chief Justice with the consent of the associate judges of the Supreme Court of the United States. I want to have a full opportunity to oppose that bill in Committee of the Whole, inasmuch as I find that it is exceedingly difficult for any one on this side of the House to get the floor to discuss any of these bills when they are up for consideration and action in the House.

I wish also to have the opportunity in Committee of the Whole to consider and discuss another bill, to wit, the bill which proposes to deprive the States lately in rebellion of the right to vote for President and Vice-President until they shall be permitted by the law-making power of this Government to be represented in Congress.

These are the matters I propose to discuss. But inasmuch as the House has already listened to one speech to-day in Committee of the Whole, and inasmuch as it will be impossible for me to go fully into the discussion this afternoon, I will ask the indulgence of the Committee to rise, so that I may have possession of the floor when the House shall again resume the consideration of the President's message. I therefore move that the committee do now rise.

Mr. KELLEY. I would suggest that there may be some other gentleman here who is ready to go on at this time. He might address the committee now with the understanding that when we again go into the Committee of the Whole the gentleman from Kentucky [Mr. Hise] shall be entitled to the floor. I do not desire to show any discourtesy to that gentleman.

Mr. HISE. Rather than that course should be pursued, I will proceed now, although I would prefer to make my remarks some other time. But an old man like myself gets exhausted after these lengthy sessions, especially toward the dinner hour.

Mr. RANDALL, of Pennsylvania. I have

a suggestion to make which will probably remove the difficulty. If the gentleman from Kentucky [Mr. Hise] will yield to some other gentleman who may be ready to address the committee this afternoon, at the close of that gentleman's remarks he can again obtain the floor, and address the committee when the House shall next resolve itself into the Committee of the Whole.

Mr. KELLEY. My suggestion was the same as that made by my colleague, [Mr. RANDALL.] I did not intend or desire to show any discourtesy to the gentleman from Kentucky, [Mr. Hise.] If there be nobody else who desires to occupy the floor this afternoon, of course I will not oppose the motion that the committee now rise.

The question was upon the motion of Mr. Hise, that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. VAN HORN, of New York, reported that the Committee of the Whole on the state of the Union having had under consideration the President's annual message had come to no resolution thereon.

#### NEW ORLEANS RIOTS.

Mr. TAYLOR, of Tennessee. I ask to be excused from further service upon the select committee appointed to investigate the riots at New Orleans. I ask it upon the ground that my State has but recently been permitted representation upon this floor, and the business of my constituency has accumulated to such an extent during the past five or six years that it needs my personal attention in Washington. No objection was made.

The SPEAKER appointed Mr. HIRAM McCulloch, of Maryland, to fill the vacancy.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867; which was read a first and second time, and ordered to be printed.

Mr. WILSON, of Iowa. I reserve the right to make points of order on this bill when it shall come up for consideration.

Mr. STEVENS. I move that the bill be referred to the Committee of the Whole on the state of the Union, and be made the special order for Tuesday next after the morning hour, and from day to day until disposed of. The motion was agreed to.

#### COLONEL L. F. FIX.

Mr. GARFIELD. I move that Colonel L. F. Fix have leave to withdraw from the files of the House the petition and papers in his case, upon the usual condition that he leave copies of the same.

The motion was agreed to.

#### HALE AND RUST, COVINGTON, KENTUCKY.

Mr. GARFIELD, by unanimous consent, from the Committee of Ways and Means, made an adverse report upon the petition of Hale & Rust, Covington, Kentucky, asking extension of the time in which to pay tax upon manufactured tobacco; which was laid upon the table, and ordered to be printed.

#### ADJUSTMENT OF POSTMASTERS' ACCOUNTS.

Mr. BIDWELL, by unanimous consent, introduced a bill to provide for the adjustment of the accounts of postmasters under the act of July 27, 1854; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ALLOWANCE OF EXTRA RATIONS.

Mr. PAINE, by unanimous consent, introduced a bill to place all officers of the Army on the same footing therein as to allowances of extra rations for volunteer service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### T. P. DEVEREAUX, NORTH CAROLINA.

Mr. ELIOT, by unanimous consent, made an adverse report from the Committee on Freedmen's Affairs upon the petition of T. P. Devereaux, Halifax, North Carolina, for relief on account of slaves set free by the proclamation of emancipation; which was laid upon the table, and ordered to be printed.

#### AMENDMENT OF PENSION LAWS.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the expediency of amending the pension laws so as to provide that in all cases where it is proved to the satisfaction of the Commissioner of Pensions that any soldier of the Army of the United States, during the rebellion, died in any rebel prison it shall for all purposes of pensions in such cases be deemed *prima facie* that such soldier died of disease contracted in the service of the United States in the line of his duty.

#### LIEUTENANT JOSEPH P. FYFFE.

Mr. RICE, of Massachusetts. I ask unanimous consent to report from the Committee on Naval Affairs a joint resolution for the restoration of Lieutenant Joseph P. Fyffe, of the United States Navy, to the active list from the reserved list.

Mr. WILSON, of Iowa. I object.

#### DORANCE ATWATER.

Mr. HALE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select committee on the case of Dorence Atwater, appointed pursuant to resolution of this House of last session, be continued for the present session with the same powers.

#### AMENDMENT OF MILITARY LAWS.

Mr. ANDERSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing section twenty-five of an act approved July 28, 1866, to increase and fix the military peace establishment of the United States.

#### CLAIMS OF LOYAL TENNESSEANS.

Mr. MAYNARD. I ask unanimous consent to submit the following resolution:

*Resolved*, That a resolution passed by the House on the 18th day of January, 1866, in the substance following: "That until otherwise ordered, the Committee of Claims be instructed to reject all claims referred to them for examination by citizens of any of the States lately in rebellion, growing out of the destruction or appropriation of, or damages to, property by the Army or Navy, while engaged in suppressing the rebellion;" be and the same is so modified as not to embrace any claims presented by loyal citizens of Tennessee.

Mr. THAYER and Mr. WARD, of New York, objected.

Mr. DELANO. I move that the House resolve itself into the Committee of the Whole on the Private Calendar.

Mr. LE BLOND. I move that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees: By Mr. CLARKE, of Ohio: The petition of Bar Behymer, asking pay for military service rendered the Government in 1864.

By Mr. DENNY: The petition of Captain J. Thomas Turner, for travel pay from Baltimore to San Francisco.

By Mr. GRISWOLD: The petition of Jacob Sharon and Albert C. Corse, for compensation for machine for post-marking of letters, &c.

By Mr. HARDING, of Illinois: The memorial of 300 citizens of Illinois, for additional protective duties for grape and wine producers.

By Mr. McRUE: The memorial of convention of grape and wine-growers of California.

By Mr. MOORHEAD: Several petitions signed by the clerks and civil employes of the Executive Departments, praying for an increase of compensation.

By Mr. PIKE: The petition of Robert T. Osgood for extension of letters-patent.

By Mr. UPSON: The petition of A. S. Dyckman, and 74 others, citizens of South Haven, Van Buren county, Michigan, praying Congress for an appropriation of \$50,000 to complete their harbor at South Haven, at the mouth of South Black river.

#### IN SENATE.

MONDAY, December 17, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 6th instant, information in relation to the appointment of commissioners provided for in the twenty-fourth section of an act to amend an act entitled "An act for enrolling and calling out the national forces, approved March 3, 1863," approved February 24, 1864; which was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a letter from the Secretary of the Treasury, inclosing a communication from the acting Comptroller of the Currency, communicating, in compliance with a resolution of the Senate of the 13th instant, information in relation to banking associations which have failed to comply with the provisions of law requiring a reserve of money on hand; which was referred to the Committee on Finance.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER. I have received from Norfolk the proceedings of a grand mass meeting of the unconditional Union men without regard to color, held at the First Baptist church, December 11, 1866, and signed by the president, vice president, and secretaries of the meeting. I have been requested to present these proceedings to the Senate. They are in the nature of a petition, as one of the resolutions expressly declares that the proceedings are to be submitted to the Senate and House of Representatives of the United States of America. In these carefully prepared resolutions there is a solemn protest against what are called the countless insults, persecutions, and tyrannical punishments of themselves and their loyal friends and neighbors; and they further say that they most positively refuse to recognize any civil government as now existing within the insurrectionary territory of Virginia. They further say:

"That we earnestly pray that Congress ignore the so-called State government of which Francis H. Pickens is the ostensible head, but which is ruled by rebels, and establish in its stead a loyal territorial government with some staunch and firm friend of the Union as territorial governor. Hon. John C. Underwood, now judge of the United States court, we would recommend to your especial consideration."

They further say:

"That if Congress will assume the exercise of their right to regulate the establishment of free government in the South these territories will assume a healthful and vigorous support of a republican form of government."

There are some reasons for a reference of these proceedings, with the accompanying memorial, to the Committee on Territories, as the signers ask that the State of Virginia should be treated as a Territory and provided with a proper Governor and other officers; but as I understand that the committee known as the reconstruction committee is still in existence I shall ask the reference of this paper to that committee.

Mr. SAULSBURY. I object to the reception of that paper. It is, as I understand, the proceedings of a public meeting held in Norfolk, Virginia. Since I have been a member of this body I have known the proceedings of public meetings not to be received by the Senate of the United States because they were not in the character of a memorial addressed to the Senate of the United States. I make the point that, under the rules of the Senate, the proceedings of that meeting cannot be received, the paper not being a petition or a memorial addressed to the Senate of the United States but simply the proceedings of a public meeting. The President will recollect, I have no doubt, that on several occasions the proceedings of public meetings have been presented to the body and been refused to be received by the body on the ground I have stated.

The PRESIDENT *pro tempore*. Objection



being made to the reception of the paper, the Chair will put the question to the Senate: Shall the document offered by the Senator from Massachusetts be received?

Mr. SUMNER. On that I will make one word of explanation. I think the Senator from Delaware did not understand precisely my statement with regard to the paper. I am well aware of the rule to which the Senator has called attention. Had these been simply the proceedings of a public meeting I should not have ventured to present them. It was because on examining the document carefully it appeared to be in the nature of a petition to Congress—the concluding words of the resolutions adopted are especially addressed to Congress and are in the nature of a petition—it was on that account, after careful consideration of the document, that I felt it to be my duty to present it.

The PRESIDENT *pro tempore*. The question is, Shall the document offered by the Senator from Massachusetts be received?

The question being put, it was decided in the affirmative.

The PRESIDENT *pro tempore*. The document is received, and will be referred to the joint committee on reconstruction if there be no objection.

Mr. WADE. I present the memorial of J. W. Phelps, representing that he has been for many years an owner of real estate in the city and county of Alexandria, which city and county, though rightly belonging to the District of Columbia, have been transferred to the State of Virginia. He goes on to set forth that the people there have but little confidence in the courts of justice of that State, and that there are other very strong reasons inducing them to desire to get back to the District. Believing that the act of retrocession was unconstitutional, he prays that that act may be annulled and that part of the District reinstated. As there is a bill on that subject before the Senate, I move that this memorial lie upon the table.

The motion was agreed to.

Mr. WADE. I present also a petition, numerously signed, from citizens of the United States—I do not know what part—who pray Congress—

"1. To propose for ratification by the several States an amendment of the Constitution substantially as follows:

"ARTICLE —. No inequality among citizens on account of birth, race, color, previous inequality, or previous non-residence, beyond the preceding year, shall be made or recognized by the laws of the United States, or by the constitution, laws, or municipal regulations of any part thereof. The Congress shall have the power to enforce this article by appropriate legislation.

"2. To remove, by immediate legislation, any such inequality from the District of Columbia, the Territories, and the ten unrestored States, and to take all necessary measures for peace, order, justice, and the security of life, liberty, and property in the same."

I move the reference of this petition to the committee on reconstruction.

The motion was agreed to.

Mr. WILSON presented the petition of Major General Winfield S. Hancock and other officers of the Army of the United States, praying for the restoration of the law which allowed fifty cents instead of thirty cents as the commutation price for rations; which was referred to the Committee on Military Affairs and the Militia.

Mr. POLAND. I present a petition signed by R. G. W. Logan and a large number of other persons, all of whom represent that they have served in the Army of the United States in the late rebellion, and that all of them have been sufferers by the loss of property taken for the use of the Army of the United States, praying for the passage of some law providing a means of compensating them. Similar petitions were before the Judiciary Committee of the Senate during the last session, and a bill was reported upon that subject, which is now pending. For the present I move that this petition lie on the table.

The motion was agreed to.

Mr. POMEROY presented the memorial of

B. A. Froiseth, of St. Paul, Minnesota, praying for the adoption of a system by law to encourage foreign immigration; which was referred to the Committee on Agriculture.

Mr. COWAN presented the petition of Hackenburgh & Co., Reynolds & Fisher, and a large number of ribbon manufacturers, silk throwsters, dyers, dealers, and others interested, praying for such a change in the tariff law as will impose a specific duty on thrown silk and silk cloths of every description, or so much increase the present rate of *ad valorem* duty as shall bear some comparison with the higher cost of labor, and that will maintain in some degree the respectability ardently sought for by the American artisan; which was referred to the Committee on Finance.

He also presented the petition of seamen, firemen, coal-passers, and marines who served in the defense of the Union during the rebellion, praying for a bounty of \$100 a year or eight and one third dollars a month while in the service; which was referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON. I present the memorial of John A. Ragan, a native of Georgia, who says that he has discovered a plan to prevent the inundations of the Mississippi river, which consists in making canals of different kinds in different portions of the country connected with the river, and he asks that the United States will cause a reconnaissance to be made and appropriate money for that purpose, and to assist also in making the canals. I move its reference to the Committee on Commerce.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 205) for the erection of a statue to the memory of Brevel Lieutenant General Winfield Scott, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 192) relative to certain flags captured during the late war, asked to be discharged from its further consideration, and moved that the joint resolution be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom were referred the bill (S. No. 67) to increase and fix the military peace establishment of the United States, and the bill (S. No. 323) to fix the military peace establishment of the United States, asked to be discharged from their further consideration, and that the bills be indefinitely postponed, the subject-matter of them having been acted upon heretofore in other forms; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (S. No. 218) for the relief of John H. Ellis, a paymaster in the United States Army, reported it with an amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 346) for the relief of Hugh Leddy, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. HOWARD, from the Committee on Private Land Claims, to whom was referred the petition of Mary M. Taylor, praying that certain lands in the island of St. Helena, parish of St. Helena, South Carolina, may be delivered to her upon the payment of the taxes due the United States, reported a bill (S. No. 478) for the relief of Mary M. Taylor; which was read and passed to a second reading.

#### VOLUNTEER ARMY REGISTER.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 83) respecting the publication of the Volunteer Army Register, to ask that the committee be discharged from its further consideration, and that the resolution be indefinitely postponed.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee.

Mr. ANTHONY. I should like to have that resolution read. I have no objection to its being acted upon; but I should like to have it read.

The Secretary read it, as follows:

*Resolved*, That the Secretary of War be, and he is hereby, authorized and required to cause to be canceled the volumes of the Roster of Volunteers already printed, and that the Roster compiled as directed by the joint resolution approved March 2, 1865, be published in accordance with the plan submitted by the Superintendent of Public Printing.

Mr. ANTHONY. I should like to inquire of the chairman of the Committee on Military Affairs what is the present condition of that publication, if it is so far advanced that it will be useless to pass this resolution; for I think the publication is enormously expensive, and entirely useless on account of being full of inaccuracies. I am told that there is not one page in five but what has been canceled after it has been stereotyped. If it is so far advanced that the money is nearly all expended, perhaps it would be useless to pass the resolution; but I believe whenever you stop the publication, all the money that would be required to finish it will be saved. All that has been spent upon it has been utterly wasted. I thought that this resolution passed at the last session.

Mr. WILSON. I will say to the Senator that after the resolution was introduced a statement was made to the committee by officers in the Adjutant General's Department, who had the care of it, that they had made great progress in the work, and the expense of the publication would be much less than was supposed; that there were errors in the first volume, but they thought they could have a correct one for the future. I have not examined how the other volumes compare with the first one. Certainly the first volume was full of errors on nearly every page. If the Senator desires it, however, I am willing to let this resolution lie over, and I will make inquiries into the exact state of the publication.

Mr. ANTHONY. I would prefer to have it lie over. That first volume, which purports to contain a roster of the early regiments, does not have in it the regiment that marched from the Senator's own State, and drew the first blood in Baltimore; it does not have the regiment that General Burnside commanded, and which my colleague led into the first Bull Run; and of all the names I have looked for fully one third were not there. I think it is not only a great waste of public money but a shameful insult to the officers whose names are left out to publish such a book and call it a roster. I thought the publication was stopped at the last session.

The PRESIDENT *pro tempore*. Objection being made to the consideration of the resolution and report at this time, it will lie over under the rule.

Mr. WILSON. I withdraw my motion. Let it go on the Calendar.

#### COMMITTEE SERVICE.

Mr. SHERMAN. I ask to be excused from further service on the Committee on Claims. It is impossible for me to attend to the duties of that committee and also the duties of the other committees with which I am connected. I therefore ask to be discharged from further service on that committee, and that the Chair be authorized to fill the vacancy.

The PRESIDENT *pro tempore*. The first question will be on excusing the Senator from further service on the Committee on Claims.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator further moves that the vacancy in the committee be filled by the Chair.

The motion was agreed to.

#### BILLS INTRODUCED.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 474) to authorize and require amendments and to cure defects in proceedings in the courts

of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 477) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 475) to prevent and punish false and fraudulent representations to induce emigration to a foreign country; which was read twice by its title.

Mr. SUMNER. I ask the reference on that bill to the Committee on Foreign Relations; and in making that motion I desire to make a brief statement. I have some important papers going to show that certain persons have arrived from foreign countries with the expectation of treating the free colored people of the United States very much as coolies have been treated in other countries. They hope to obtain a cargo (if I may so express myself) of free colored persons as coolies. Entering into some species of contract with them they hope, under that form, to get the control of them and virtually to reduce them to a new form of bondage in a foreign country. It is on that account that I have asked the reference of the bill I introduce to the Committee on Foreign Relations; but at the same time I desire to warn the colored people of the country, so far as I can from my place in this Chamber, to be on their guard against any such efforts. From papers now in my hand I feel confident that there are persons here desirous of treating them as coolies. Let them be on their guard.

The PRESIDENT *pro tempore*. The bill will be referred to the Committee on Foreign Relations, no objection being interposed.

Mr. DOOLITTLE. Before the question of reference is disposed of, I desire to call the attention of the Senator from Massachusetts to one point. It seems to me that anything which makes an act a crime, or imposes a new penalty for a crime to be treated by statute, ought to go to the Committee on the Judiciary. They are familiar with those questions and those statutes. All such questions have always gone to the Committee on the Judiciary; for instance, the question of the kidnapping of colored persons and taking them abroad went to the Committee on the Judiciary, and from that committee a bill was reported and we enacted it into a law.

Mr. SUMNER. I can at another moment, if I have an opportunity of seeing my friend alone, explain to him what he will recognize as a sufficient reason for this reference. In moving this reference I believe I have followed the precedents of the Senate. All the bills with reference to the slave trade and its abolition have been considered by the Committee on Foreign Relations.

The motion was agreed to.

#### DEFICIENCY BILL.

The following message was received from the House of Representatives, by Mr. McPHERSON, its Clerk:

Mr. President, the House of Representatives has reconsidered its vote agreeing to the amendments of the Senate to the bill of the House (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes, and it has directed me to return the bill to the Senate in compliance with its request.

On motion of Mr. FESSENDEN, it was

Ordered, That the Secretary cause the error in the engrossment of the amendments of the Senate to the bill (H. R. No. 876) this day returned by the House

of Representatives to the Senate to be corrected, and that he return the said bill and amendments to the House and request its concurrence in the said amendments.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 1) to regulate the elective franchise in the District of Columbia; which was thereupon signed by the President *pro tempore* of the Senate.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. ROBERT JOHNSON, his Secretary, announced that he had approved and signed on the 15th instant the following bills:

A bill (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown, and State of Wisconsin; and

A bill (S. No. 373) releasing to Francis S. Lyon the interest of the United States in certain lands.

#### FREEDMEN'S BUREAU.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish, for the information of the Senate, copies of the reports of the assistant commissioners of the Freedmen's Bureau, together with a synopsis of the local laws respecting persons of color as they now exist in the late slave States.

#### BILLS REFERRED.

On the motion of Mr. PATTERSON, the bill (S. No. 454) for the relief of the widow of Jacob Harmon, and the bill (S. No. 455) for the relief of the widow of Henry Fry, heretofore introduced by him, were taken from the table and referred to the Committee on Pensions.

#### RUSSIA AND AMERICA.

The PRESIDENT *pro tempore* submitted the following message from the President of the United States:

*To the Senate and House of Representatives:*

I communicate a translation of a letter of the 17th of August last, addressed to me by His Majesty Alexander, Emperor of Russia, in reply to the joint resolution of Congress, approved on the 16th of May, 1866, relative to the attempted assassination of the emperor, a certified copy of which was, in compliance with the request of Congress, forwarded to His Majesty by the hands of Gustavus V. Fox, late Assistant Secretary of the Navy of the United States.

ANDREW JOHNSON.

WASHINGTON, 14th December, 1866.

[Translation.]

*His Majesty the Emperor of Russia to the President of the United States of America:*

PETERHOF, 17th August, 1866.

I have received from the hands of Mr. Fox the resolution of the Congress of the United States of America on the occasion of the providential grace of which I have been the object.

That mark of sympathy has moved me sensibly. It is not alone personal; it attests once more the sentiments that bind the American nation to that of Russia.

The two peoples have no injuries to remember, but only good relations. Under all circumstances new proofs of mutual benevolence are added.

These cordial relations are as conducive to their reciprocal interests as to the good of civilization and humanity, and answer the designs of divine Providence, whose will is peace and concord among all nations.

It gives me a lively pleasure to see these ties constantly strengthened more and more. I have imparted my sentiments to Mr. Fox. I pray you to be my interpreter to Congress and the American people whom it represents. Tell them how much I appreciate, and with me the whole of Russia, the testimonies of friendship they have given me, and how happy I will be to see the American nation grow in strength and prosperity by the union and constant practice of the civic virtues that distinguish it.

Accept, at the same time, the assurance of the high consideration with which I am your good friend.

ALEXANDER.

The message was referred to the Committee on Foreign Relations, and ordered to be printed.

#### POWER OF AMNESTY AND PARDON.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill (H. R.

No. 828) to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

Mr. HENDRICKS. I hope the Senator will not call up that bill at this time. The bill for the admission of Nebraska as a State was before the Senate at its last session, and I was submitting to the Senate some remarks on that bill at the time of the adjournment on Friday. When the bill which the Senator from Illinois calls up comes up I shall desire also to submit some suggestions on that bill. I do not wish to discuss both at the same time. I would rather the Senate would proceed with the Nebraska bill if it is going to be considered to-day at all.

Mr. TRUMBULL. I hope we may get through with this bill before one o'clock; we have twenty minutes yet before that hour. I trust the Senate will proceed to its consideration at any rate.

Mr. HENDRICKS. I appeal to the Senator not to call up that bill this morning. The other bill was expected to be completed to-day. Some of us would wish to say something on the bill that he calls up. If gentlemen desire to discuss that bill only until one o'clock, and then take up the Nebraska bill, I do not object to that, but I do not think there will be any advance in the consideration of the bill by taking it up at this time. It can hardly pass in twenty minutes, I should think.

The motion was agreed to; and House bill No. 828 was considered as in Committee of the Whole.

Mr. COWAN. I should like to have the thirteenth section of the act of 1862 which it is proposed to repeal read.

The Secretary read as follows:

"SEC. 13. *And be it further enacted*, That the President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare."

Mr. JOHNSON. I should like to hear the honorable chairman of the Judiciary Committee state what particular reasons there are for passing this proposed bill. It does nothing but repeal, as I understand it, one of the sections of the act of 1862 which gave the President authority in certain cases to grant pardons either general or special. I do not know whether I am right or not, but I have been under the impression that that power is now in the Executive by the Constitution; that it is not conferred by the act of 1862; and that nothing will be accomplished by its repeal. I suppose that the proposition to repeal the act was founded on the opinion that without it the power could not be exercised by the Executive. I should like to know whether that is the opinion of the honorable chairman; whether he proposes to repeal it upon that ground.

Mr. TRUMBULL. Mr. President, I presume the Senator from Maryland and every Senator is quite familiar with the constitutional provision which confers upon the President authority to grant reprieves and pardons. Of course, the repeal of this section of the act of 1862 will not repeal the Constitution, and I suppose no one denies the authority of the President to grant pardons under the Constitution. The only effect of the passage of the bill under consideration is to repeal the thirteenth section of the act of July 17, 1862. It is possible, as has been suggested by the Senator from Maryland, from the haste with which this bill was hurried through the other branch of Congress, and the anxiety manifested in this body by some of its members to press it to an immediate vote without the usual reference to a committee, that an impression has gone out to the country that by the repeal of this thirteenth section the power of the President to grant pardons and restore to rebels their property would be taken away. Such, however, will not be its effect in my opinion. The President's power to grant pardons and restore

property will be just as complete after the passage of this bill repealing the thirteenth section of the act of 1862 as before. The Constitution confers on the President the power "to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." It is not in the power of Congress to deprive him of this prerogative. A pardon is a remission of the crime or offense, and not of the conviction; and may be granted as well before as after conviction; and it also may be either absolute or conditional. All these questions were settled by decisions of the Attorneys General and of the Supreme Court of the United States years ago. Mr. Wirt, who was Attorney General under Mr. Monroe, gave an opinion, I think in 1820, that the President had authority to grant pardons before conviction. He placed it upon the ground that a pardon was of the offense and not of the conviction for the offense; that the conviction was only evidence of the crime or offense which had been committed. Subsequent Attorneys General have given the same opinion, and the practice of the Government, I believe, has conformed to that opinion. The Supreme Court of the United States in the case of *ex parte Wells*, which is reported in 18 Howard, page 311, and which I have before me, quoted with approbation this passage from Lord Coke:

"A pardon is said by Lord Coke to be a work of mercy, whereby the king, either before attainder, sentence, or conviction, or after, forgiveth any crime, offense, punishment, execution, right, title, debt, or duty, temporal or ecclesiastical."—3 Inst., 233.

The same court, in a case reported in 7 Peters, in which the opinion was delivered by Chief Justice Marshall, decided that a pardon may be either absolute or conditional. They quote in that opinion also from common law writers on the subject of pardon and its effect, and say:

"A pardon is a deed to the validity of which delivery is essential, and delivery is not complete without acceptance. It may then be rejected by the person to whom it is tendered; and if it be rejected, we have discovered no power in a court to force it on him."—*United States vs. Wilson*, 7 Peters, page 161.

The point in that case was the authority of the President to impose a condition in granting a pardon; and the Supreme Court held that that authority existed in the President, and they laid down the rule in both these cases that the power of the President "to grant reprieves and pardons" is to be construed as those words were understood at the time they were incorporated into the Constitution of the United States. The President's power to restore property seized under the confiscation act to its former rebel owners will not be affected by the repeal of the thirteenth section of the act of 1862, as the section is silent on that subject. It is certainly within the power of the President to refuse to restore property to pardoned rebels by making it a condition when he grants the pardon that they shall not claim the property which has been seized by the Government. The President, however, has not generally done this, and by granting absolute pardons has given an order in fact for the restoration of property. It will be seen by the report of General Howard, made to Congress at the last session, that the President did direct property to be restored to a person who had been pardoned, and under the rule adopted in that case General Howard states that he proceeded to restore to pardoned rebels more than four hundred thousand acres of land which had been seized under the confiscation act. I will not undertake to say whether the President has authority to restore this property. He certainly has no such authority where the rights of third parties have intervened. Whenever the property has been condemned under the confiscation act his right to take away the title of an individual who had acquired any interest in the property, and restore it to the former owners would doubtless be gone. Whether he could before, after the mere seizure of the property, is another question; but it is not affected in my opinion by the repeal of the section under consideration.

If the President has this power under the Constitution, it may be asked why then repeal this thirteenth section; what harm does it do? I answer that this thirteenth section is broader than the Constitution; it authorized the President by proclamation to grant pardon and amnesty. The difference, as I understand, between a pardon and an amnesty is this: a pardon is an act of mercy extended to an individual; it must be by deed; it must be pleaded—Chief Justice Marshall says it is essential to its validity that it must be delivered—an amnesty is a general pardon proclaimed by proclamation. This statute undertakes to confer upon the President of the United States authority by general proclamation to grant pardon and amnesty to everybody who has been engaged in the rebellion. The President has already issued general proclamations of amnesty and pardon; there can be no occasion for the exercise of that power hereafter; and therefore there is a propriety in repealing the section of the statute which confers this power upon the President. Let him have such powers as the Constitution gives him; of course Congress cannot take from him those powers; but let us not be a party to conferring any additional powers or any additional facility upon the President to grant pardons to persons engaged in this rebellion who have shown themselves after obtaining pardon so undeserving of the mercy which has been extended to them. Let us repeal that clause which authorized the issuing of proclamations of amnesty. This will at least be an expression of opinion on the part of Congress that general pardons and restoration of property should not be continued; and if the President does continue to pardon rebels and restore their property by individual acts under the Constitution, let him do so without having the sanction of Congress for his act.

Therefore, sir, the committee recommended the passage of this bill, believing that the expression of such an opinion on the part of Congress was but carrying out the expressions of the people of this country, and that we should withhold any encouragement on our part to the granting of general pardons and restorations of property for the future until we can see a better spirit manifested on the part of those who are their recipients.

Mr. JOHNSON. Mr. President, I understand now that my friend from Illinois thinks that it is necessary to repeal the thirteenth section of the original act, only because, first, it authorizes the President to pardon by proclamation; and, second, it authorizes him by proclamation to declare a general amnesty.

Sir, the power conferred upon the President by the Constitution is as comprehensive as words can make it. He is authorized, or to use the very language of the Constitution, "he shall have power" "to grant reprieves and pardons for offenses against the United States." How he is to exercise that power, the Constitution is silent. Whether he is to do it in each particular instance of a man who has committed an offense, or whether, where there is a class of offenders, he may do it in some form so as to include the entire class, the Constitution says nothing about. I should suppose that where the power is conferred upon him absolutely, in general terms, it is for him to decide as to the manner in which he will execute it, or as to the number of cases in which he will exercise it; as to the manner, whether he will execute it by granting to each one a pardon for the alleged offense, or as to those who may be included in it, whether he will grant a pardon to the whole collectively, and whether he will or will not grant it in the form of a proclamation, instead of the form which has usually been adopted.

My recollection is—I think I am not mistaken about it—that after the suppression of what was termed the whisky insurrection in Pennsylvania, which became so threatening as to induce General Washington to head his troops and to march with an army collected from Maryland and Pennsylvania and elsewhere, he, I think without any legislative au-

thority on the subject, granted by proclamation an amnesty to all who were concerned in it. I am not aware that he issued a pardon or an amnesty to any individual citizen involved in that insurrection; and I never heard that his mode of exerting the power was questioned.

Now, as to the authority, under the power to comprehend all offenders who may have been involved in any violation of the laws of the United States, the Senate will find by looking at the 74th number of the *Federalist*, written by Mr. Hamilton, that he assumes that the power is coextensive with the necessity, with the exigency; he assumes that where there are many concerned in an insurrection they may be induced to arrest their progress, or after it has been arrested by other means, they may be pardoned in some general way. I will read a few sentences from that number. After quoting the constitutional provision, he says:

"Humanity and good policy conspire to dictate that the benign prerogative of pardoning should be as little as possible fettered or embarrassed."

Then he goes on to examine the reason which to his mind shows that the power should somewhere exist in any well-constituted Government. It was contended at that time that the power should be in Congress, and in the course of that number he meets that objection to the Constitution as it stood, and he does it by saying:

"On the other hand, as men generally derive confidence from their number they might often encourage each other in an act of obduracy, and might be less sensible to the apprehension of censure for an injudicious or affected clemency. On these accounts one man appears to be a more eligible dispenser of the mercy of Government than a body of men."

So far as to the question whether the power is to be vested in one man or in a body of men, or in other words, whether it should be given to the President or be given to Congress—

"The expediency of vesting the power of pardoning in the President has, if I mistake not, been only contested in relation to the crime of treason. This, it has been urged, ought to have depended upon the assent of one or both of the branches of the legislative body. I shall not deny that there are strong reasons to be assigned for requiring in this particular the concurrence of that body, or of a part of it. As treason is a crime leveled at the immediate being of the society when the laws have once ascertained the guilt of the offender there seems a fitness in referring the expediency of an act of mercy toward him to the judgment of the Legislature. And this ought the rather to be the case as the supposition of the connivance of the Chief Magistrate ought not to be entirely excluded."

He goes on to examine that doctrine and comes to the conclusion that the power ought to be where the Convention had placed it:

"On the other hand, when the sedition had proceeded from causes which had inflamed the resentments of the major party they might often be found obstinate and inexorable when policy demanded a conduct of forbearance and clemency. But the principal argument for reposing the power of pardoning in this case in the Chief Magistrate is this: in seasons of insurrection or rebellion there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquillity of the Commonwealth."

As a means of suppressing the insurrection, while it was going on, Congress not in session—an object not to be accomplished by the issuing of individual pardons; but it may be all-important as a means to an end, that end being the suppression of the rebellion, that there should at such moments, to use the language of the writer, be made an offer of pardon to the insurgents or rebels—

The PRESIDENT *pro tempore*. The Senator from Maryland will suspend his remarks. The morning hour having expired it becomes the duty of the Chair to call up the unfinished business of Friday, which is Senate bill No. 456.

Mr. SAULSBURY. Before the Senate proceeds to other business, I wish to present an amendment to the bill which is before the Senate. I move to strike out all after the enacting clause and insert what I send to the Chair.

Mr. TRUMBULL. I trust the bill under consideration will be proceeded with. I hope we shall be able to get through with it in a short time, and I move to lay aside the



other bill informally until we dispose of the one now under consideration.

Mr. JOHNSON. I do not think you can get through to-day.

Mr. HENDRICKS. Have I the floor on the bill that is before the Senate?

The PRESIDENT *pro tempore*. The Senator has the floor.

Mr. HENDRICKS. I desire to finish what I have to say on that bill.

Mr. WADE. It is with very great reluctance that I should agree to suspend the consideration of the Nebraska bill; perhaps it is one of the most pressing measures here; but I am told that the Senate will adjourn before we can possibly get through with it, for which reason I shall not oppose this motion to continue what was before the Senate in the morning hour; but to-morrow I shall endeavor to take up the Nebraska bill at the earliest period possible.

#### ADMISSION OF NEBRASKA.

The PRESIDENT *pro tempore*. Senate bill No. 456, for the admission of Nebraska as a State, is the unfinished business of Friday, which is before the Senate, and the Senator from Indiana is entitled to the floor on that bill. The Senator from Illinois addresses the Chair, the Senator from Indiana being entitled to the floor. I ask the Senator from Indiana if he gives way to the Senator from Illinois.

Mr. HENDRICKS. Not for the motion which he wishes to make.

The PRESIDENT *pro tempore*. In the opinion of the Chair the Senator from Indiana is entitled to the floor, and a motion to postpone the consideration of the Nebraska bill cannot be made unless he yields the floor for the purpose.

Mr. TRUMBULL. Will not the Senator from Indiana allow me to make a motion to postpone?

Mr. HENDRICKS. For anything else I should yield to the Senator, but not for that motion. I yielded on Friday evening to everybody who desired to propose anything, and I would rather finish what I have got to say on this bill.

The PRESIDENT *pro tempore*. The bill (S. No. 456) for the admission of the State of Nebraska into the Union is before the Senate as in Committee of the Whole.

Mr. HENDRICKS. When this bill was before the Senate on Friday I expressed the regret which I felt at making any opposition to the immediate admission of Nebraska as a State, because I said that my sympathies were with the border settlers, and if indeed it were the desire of the people of Nebraska to come into the Union I should hesitate very much to oppose their desire, but that I felt very much relieved from my embarrassment by the consideration of the fact that of the 7,776 people who voted upon the Constitution 3,888 voted against it, lacking but fifty of being one half of the people who voted upon the subject. I also expressed my gratification at the liberality of the views expressed by the Senator from Ohio [Mr. WADE] on this question—views that I had not expected from him and judging from his opinions generally expressed on such questions. That Senator said, speaking of the amendment of the Senator from Missouri, [Mr. BROWN:]

"The pending amendment proposes to attach a condition to the admission of this State. I do not know whether you can do that. She ought to be admitted, if at all, on the same footing with all the other States. Up to this hour the regulation of the elective franchise has been regarded as a State question. It belongs, under the Constitution as it now stands, exclusively to the States of the Union. We have not proposed to take it away from any State."

Then, sir, after expressing some views in regard to the power of Congress over the southern States, in which I do not concur, the Senator went on to say:

"I do not know what right you have to say that a State shall be admitted not on an equality with every other State, and shall not be allowed to regulate her elective franchise as she pleases."

The broad doctrine is here asserted that when

a State is admitted into this Union she must be admitted on terms of equality with the other States; the broad doctrine of the equality of all the States in this Union. And, sir, when Nebraska is admitted I shall regard it as a precedent, after consideration of the question by the Senate, that a State of the Union is to be admitted to representation without reference to the character of her domestic institutions which do not affect her relations to the Federal Government. In other words, I shall regard it as establishing the doctrine that the people of a Territory in forming their State government have a right to form it according to their own pleasure, subject only to the condition that the government shall be republican in form, and that when a State has a right to come here and to be represented she has a right to be represented without reference to the character of her domestic institutions or without complying with any conditions other than those required by the Constitution of the United States.

The Senator from Ohio [Mr. SHERMAN] has expressed the opinion that we are committed to the admission of Nebraska by the enabling act passed in 1864, for he says that the people of Nebraska have complied with the conditions required of them. In some respects the conditions of the enabling act have been agreed to in the constitution which Nebraska has proposed for herself, but certainly the Senator did not wish to be understood as saying that the requirements of the enabling act have been complied with in the adoption of the constitution which is now presented to us. Why, sir, in no respect whatever has the enabling act been complied with. I understand the facts to be that the delegates were elected pursuant to the enabling act, that the delegates met in convention at the time required by that act, and that having thus met, so strong did they know the judgment of the people of the Territory to be against the formation of a State government and the adoption of a constitution, that they adjourned at once without making any constitution, without taking any steps in that direction. The popular opinion in Nebraska was understood to be so decidedly against the policy of forming a State government at the time the delegates met that they adjourned without agreeing upon any provisions of a State constitution whatever; and afterward, at what time I am not prepared to say, the Legislature of the Territory of Nebraska formed this constitution itself. This is not the work of a convention. This constitution was formed, as I understand, by the Legislature of Nebraska. I ask the Senator from Ohio if that was within the spirit, or letter either, of the enabling act? Is it a legislative act to form a State government and to present here a State constitution? Certainly not. And when the territorial Legislature adopted a constitution that constitution was without legal authority or force; but I am free to say that if the people of the Territory being of sufficient numbers had afterward agreed to that constitution in such manner and in such numbers as to satisfy us that it was the choice and desire of the people, then the act of the people would give force and validity to such a constitution. It brings us not to the question whether this State ought to be admitted under the enabling act, but to the question whether the people of Nebraska have agreed to this State constitution.

The Senator from Ohio says that there are eighty-five thousand people in Nebraska.

Mr. WADE. Eighty-eight thousand.

Mr. HENDRICKS. Eighty-eight thousand people would give a popular vote of probably 16,000, and more than that—I should say at least 20,000. In the older States, where there are large families represented by the head, the vote is about one fifth of the entire population. In the State of Indiana, where the settlements are now old and where families have grown up and become numerous, the population is about 1,400,000, and the vote is very nearly 300,000, showing about one voter to every five persons in the State. Now, I submit to Senators that the vote in a Territory, in new settlements, is

much larger in proportion to the entire population than in old settlements. It is known to the Senator from Ohio, it is known to every western man, that the proportion of unmarried men in the Territories is larger than in the older States, and that the families of the emigrants as a general thing are not so large as in the older States, so that the voting population is larger in new settlements in proportion to the entire population than in the older States.

Then, sir, I am justified, I think, in saying that the voting population of Nebraska would be very nearly 20,000 if there was an entire population of 88,000. With a voting population of from sixteen to twenty thousand, we are asked to admit the State into the Union upon an affirmative vote of 3,938. The constitution had no force until it received the sanction and approval of the people. No act of the territorial Legislature could give it any legal force and power. All the power and validity that it should have as a State constitution and form of government was to be derived from the vote of the people. Then, out of an entire vote of sixteen to twenty thousand, we have 3,938 persons voting in favor of this constitution. Is that such an expression of the popular will as justifies Congress in receiving a State, whose constitution has been so irregularly formed and adopted?

The Senator from Ohio [Mr. SHERMAN] then, I think, is not able to maintain his position that we are committed by the enabling act; in his language, bound to admit the State because we passed the enabling act. If the people of the Territory had complied with that enabling act, had come here pursuant to its provisions in every respect, then there would be much force in his position; but in the absence of a compliance with almost every requirement of the enabling act, I do not feel that there is any moral obligation on me to vote for the admission.

The next question that presents itself is whether there is such a population in Nebraska as is claimed for it and as will justify us in the admission of the State. I do not believe that there are eighty-eight thousand people in that Territory, although the Senator from Ohio reads a letter from some bureau in the Treasury Department which undertakes to furnish statistics to that Department. The Senator was not informed as to the means at the command of that bureau for ascertaining the population of Nebraska, and I think I am justified in saying that that bureau has no data on which it may make a calculation. There is nothing in the execution of the internal revenue law which furnishes any information upon that subject. There is no tax upon the head which enables the revenue officers to know the number of persons by the assessment. There is no census required to be taken by the revenue officers. It is no part of their official duty, and if they have expressed any opinion on the subject, it is simply an opinion and not based upon any information in the office; and I think, sir, the opinion expressed by the head of that bureau is not correct.

In 1860, when the census of the United States was taken, Nebraska had 28,841 inhabitants. It is known to every Senator that since 1860 the population of the western States and the Territories has not to any considerable extent increased. The war stopped emigration from the eastern portion of the country to the Territories; and I undertake to express the opinion that at the close of the war it is very doubtful whether Nebraska had as large a population as she had in 1860. I doubt whether in the spring of 1865, at the surrender of the southern armies, there was so large a population in the Territory of Nebraska as there was when the census was taken in 1860. I admit that since the close of the war immigration has again set in to the Territories, and that the immigration is now in very large numbers to Nebraska; that the construction of the great railroad from Omaha westward has invited immigration. But, sir, that is not an answer to the objection which is now made that when this constitution was

submitted to the people and it received a popular vote; there was not a population that justified the formation of a State government. Suppose that next year there may be 100,000 people in Nebraska, that 100,000 ought to have a voice in the making of the State's government. If in June last, when the vote was had upon the constitution, there were but thirty, forty, or fifty thousand, had that thirty, forty, or fifty thousand people a right to form the State government which shall be over the one hundred or one hundred and fifty thousand that may be there next year? When the population is filled up to such a number as justifies the formation of a State government, that entire population ought to have a voice in the formation of the government that shall be established.

In June, upon a very interesting question, the question of a State constitution, the entire vote was 7,776, showing a population of perhaps 85,000. I understood the Senator from Ohio to say that in October at the popular election for State officers, for a Legislature, for a member of Congress, a very important election, when all the voters were likely to be out, the entire vote was about 9,000. Now, sir, if the voting population is about one fifth of the entire population, that would show the entire population of Nebraska to be in October about 45,000, about one half the number assumed by the Senator from Ohio. If there are about 85,000 people in Nebraska, then the vote in October ought to have been about twice as large as it was. A population in a Territory of 85,000 will show a voting population of at least 18,000, perhaps 20,000; but that voting population is not there. When they voted upon their constitution less than 8,000 votes were polled, and when they voted under the State government for all the officers of the State, for the member of Congress, and for the Legislature that was to elect Senators, upon a most exciting occasion, when the political excitement perhaps was as high as it has ever been in the Territories, only about 9,000 votes were cast. Is any Senator justified, then, in saying that the population of Nebraska is above forty or fifty thousand? I assume that the evidence before us does not justify the opinion that the population is above that number. With a census in 1860 of 28,000, with a vote in June upon the constitution of about 7,776, with a vote in October upon an election that called out the entire population, at least as fully as any popular election can call out the voting population, the entire vote was but 9,000. Then, sir, from the information that is before the Senate, (I exclude the opinion that came from the Bureau of Statistics,) we are not justified in saying that the entire population of Nebraska at the time of the adoption of the constitution was more than 35,000, at the time of the State election more than forty or forty-five thousand; and then it presents the question whether that population ought to form a State government and be admitted to representation in this Hall and in the other House.

I know very well, as was said by the Senator from Ohio, that there is no law upon the subject and no very uniform practice; but it has come to be the opinion that before a Territory shall be admitted as a State it ought to have a population entitling it to a Representative in the other House, or very nearly so. In the States each section of country is entitled to a Representative in the House when the population is about 127,000, and with a less population than that a section of a State is not entitled to a Representative. Upon what principle, then, has one third of that population or one half of that population in a Territory the right to a voice in the House of Representatives? Upon what principle can 40,000 people living in the Territory of Nebraska claim the same voice in the Senate of the United States that is given to the million and a half of people of the State of Indiana? I am not upon this occasion going to complain of the unequal distribution of political power in the Senate; we all know it; it is felt by the country; but it is under a compromise of the Con-

stitution, and I make no war against it now. But, sir, when we feel it, shall we increase it? Shall we give to a people in a Territory two Senators in this body when they have a population not half enough to entitle them to a Representative in the House of Representatives? I think it ought not to be; and upon that ground, and that ground only, I vote against this bill. Had there been a sufficient population in Nebraska and had the people in fact of that Territory expressed themselves in favor of this Constitution, I should most cheerfully vote for her admission.

I think that the consideration to which reference has been made in the course of this debate does not influence my judgment. The fact that Senators and a Representative belonging to a particular political party have been elected, I think would not influence my judgment. I simply ask that when a new State seeks admission she shall have such a population as reasonably and fairly entitles her to a Representative in the House; and I think that is consistent with the principles of the Government and with the almost uniform practice of the Government.

The Senator from Ohio [Mr. SHERMAN] referred to another subject, not connected with the admission of this State, to which I shall allude but for a moment. He expressed the opinion that the constitutional amendment which received the sanction of this body and of the other House at the last session was a mild proposition, and was just and fair toward the southern States. I think I recollect to have asked that Senator at the last session a question which he did not then answer, and I will repeat the question to him now, and let him then, as a representative of one of the States of this Union, say whether one of the provisions of the constitutional amendment is fair. That amendment was so carefully and artfully framed as to leave the northern States a representation of from fifteen to twenty Representatives in the other House, based upon a non-voting population. It was so carefully framed as to leave to Missouri, to Tennessee, to West Virginia, and to Maryland their full representation, when one half of their people by State policy and legislation are denied the right of voting. A full representation is allowed to four States, notwithstanding one half of their population is disfranchised. A full representation, including a basis of non-voting population, securing twenty Representatives in the House, is left to the northern States.

Now, is it right in a constitutional amendment to give to one State a representation based upon a non-voting population and to deny it to another State because a particular population is not allowed to vote? Is it right, is it just, is it a mild and fair proposition to say that New York may retain four or five Representatives based upon a non-voting population and to deny to Georgia representation for her non-voting population? Is it equal and just that one State shall be represented for her non-voting population and another State not represented for her non-voting population? That is the question. The Senator at the last session did not answer it, and I think it cannot be answered.

I know it may be said that these people in the South have been in a state of rebellion. The wickedness and folly of the southern States in going into that rebellion cannot be too strongly expressed by the Senator from Ohio; but when they come back by their representation into this body and into the other House do they come as States?

Mr. WADE. Does the Senator contend that the constitutional amendment provided that they might exclude a portion of their population from voting in New York, Ohio, or any other State, and still have representation for that portion in the other House?

Mr. HENDRICKS. Certainly, sir.

Mr. WADE. I do not so understand it at all.

Mr. HENDRICKS. There is no question about it.

Mr. WADE. The amendment, as I understand it, refers to all the States alike in that particular.

Mr. HENDRICKS. No, sir.

Mr. WADE. But I take a distinction between the power of this Government over States that have forfeited their rights by rebellion and those that never have.

Mr. HENDRICKS. I am not discussing the view of the Senator who has just addressed the Senate, but that of his colleague. His colleague has said that the amendment proposed at the last session was a fair, a mild, and a just one; that because of its character in these respects great advantage was secured to the party with which he acted during the last political contest.

Mr. SHERMAN. Do I understand the Senator to wish an answer to his question now?

Mr. HENDRICKS. Oh, no. Now, I will call the attention of the Senator from Ohio who interrupted me a moment since to the language of this amendment:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

That is a general proposition and includes as a representative basis all the population of the States, except Indians not taxed.

"But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

It requires some mathematical ability to understand this section, but I think the Senator will not have much trouble in arriving at the opinion which I have expressed, that it leaves to the northern States fifteen or twenty Representatives, based upon a non-voting population, while it takes from the southern States entirely all representation based upon their non-voting population, for I will ask the attention of the Senator to the language:

"When the right to vote is denied to any of the male inhabitants of such State."

That is general; that would include all; but it goes on:

"Being twenty-one years of age, and citizens of the United States."

Then they are not to be counted; and it further proceeds:

"Or in any way abridged except for participation in rebellion."

That language was inserted "except for participation in rebellion" so as to give Missouri her full representation, so as to give Tennessee her full representation, and the same of West Virginia and Maryland. They are not excluded from the basis of representation because they are excepted from the exclusion. So the exclusion from the basis of representation does not include those who are not citizens of the United States. It is very artfully, very carefully prepared. It presents simply the question, whether it is equality among the States of this Union that one State shall have a representation upon a described class of her population, and another State shall not be allowed a representation upon such class.

Mr. CRAGIN. Will the gentleman allow me to ask him a question?

Mr. HENDRICKS. Certainly.

Mr. CRAGIN. Does that constitutional amendment exclude the non-voting foreign population of the southern States more than of the northern States?

Mr. HENDRICKS. Certainly not.

Mr. CRAGIN. That is the point.

Mr. HENDRICKS. "That is the point," the Senator says; and what is the point? That the southern States, according to the census, would not perhaps have one Representative based upon a foreign population, while the northern States, as was stated by one of the most distinguished Representatives at the last session,

have from fifteen to twenty Representatives based upon a non-voting population. It cannot be said now that the negroes are not citizens and therefore are not to be counted for the purposes of representation. The legislation of Congress has undertaken to make them citizens and to give them political equality. Then, sir, if you say that a non-voting population, a population excluded by the laws of a particular State because of the policy of that State, shall be allowed as the basis of representation in favor of that State, why not carry the same doctrine into other States?

I am not going to refer to the intimations of the Senator from Ohio, that if the southern States do not accept of this constitutional amendment governments will be established over them. Of course we shall see what will be done. I am not going to discuss that question now. It has been proposed to Congress, and I suppose will come up for our consideration. All that I undertook to discuss at this time was the proposition of the Senator from Ohio [Mr. SHERMAN] that the constitutional amendment was a fair one, and that it was equal. I like the doctrine of his colleague [Mr. WADE] that the States coming into this Union are to come in as equals, and that we have no right to impose conditions on Nebraska that are not to be imposed upon other States. I like that doctrine. I believe that doctrine is to be the salvation of this country when it is entirely saved. I do not believe that this Union can permanently rest quietly and securely for the prosperity and greatness of this people on a Constitution that makes the States unequal in the Union. I look forward to the time when all the States shall be here—here not upon terms and conditions other than those prescribed in the formation of the Government, but here, according to the argument of the Senator from Ohio in regard to Nebraska, as equals. I look forward to that time. I have my hope of the complete restoration and prosperity of our country.

Mr. TRUMBULL. Mr. President, the Senator from Indiana having delivered his speech to the Senate, and insisted upon delivering it without allowing the Senate to determine what business it would proceed with, I move now that the subject under consideration be laid aside for the purpose of proceeding with the bill upon which we were then acting.

Mr. HENDRICKS. The Senator from Illinois has made a remark which in my judgment is not in good taste, and not within the proprieties of the Senate. I had the floor; it was my right to complete the remarks that I had to make. I had desired to complete these remarks very briefly on Friday evening, but the Senator from Maine [Mr. FESSENDEN] asked me to yield that he might make a proposition; then another Senator asked me to yield still further, and as a matter of course I yielded. Now the Senator from Illinois, because I desired that what I said on Friday and what I had to say to-day should not be entirely disconnected and separated, intimates that I sought to interpose my will against the desire of the Senate. I do not think he is authorized to say that; I do not think he is authorized in saying that the Senate desired to take up the bill he refers to—a bill, according to his own showing, that is not of much practical importance. I proposed to discuss a bill that was of practical importance; he desired that I should take my seat in the midst of an argument; I did not choose to yield to him upon that. It was not between me and the Senate. The Senator insisted that I should yield to him that he might interpose a motion; I refused to do it; it is a question between him and myself. I did not yield to him when he wished to make a motion to call up another bill, and that is not the subject of any lecture.

Mr. BROWN. Mr. President, before the motion is put in regard to postponing this bill and taking up another, I ask the unanimous consent of the Senate to permit me to substitute an amendment, drawn in somewhat different language but substantially the same thing,

for the one which I presented the other day, it is simply designating the time at which the election shall be held. I desire that it may be printed when the bill goes over. I ask that permission unanimously of the Senate.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent of the Senate to interpose to the bill now before the Senate an amendment varying somewhat the terms of the amendment heretofore offered by him.

Mr. BROWN. To withdraw the one I offered the other day and substitute in its place what I now present and ask to have printed.

The PRESIDENT *pro tempore*. The Chair hears no objection to the request made by the Senator from Missouri, and the amendment which he now presents will be received and ordered to be printed.

Mr. TRUMBULL. Mr. President, I did not say that the Senate desired to go on with the other bill. I said the Senator from Indiana refused to allow the Senate to determine what business it would proceed with. We had been proceeding with the other bill, and it is the first time within my knowledge as a member here where any Senator has insisted upon a right to claim the floor over from a previous day without allowing the Senate to determine what business it would go on with. The Senator had a right to do it. I have no controversy with him. If the Senate had not thought proper to go on with the bill to which I have called attention I should have had no objection to going on with that upon which he has spoken, but I thought it proper and my duty, having charge of that bill, to ask the Senate to continue it. The Senator thought proper, having a right to the floor, to deny the opportunity to me and to the Senate to pass upon it. It was his right; I do not complain of him. I now move that we proceed with the bill which we had under consideration at the expiration of the morning hour.

Mr. COWAN. I hope not, Mr. President. At the opening of the session this morning I had no objection whatever to proceeding with the bill of the honorable Senator from Illinois, but he having urged that and having failed, the Senate having taken up the bill now before them, I desire to express my opinions upon it, and I should very much prefer to go on this afternoon. I hope, therefore, that the Senate will continue the consideration of the bill they now have in hand. I am not aware that there is any other business before the Senate which requires immediate action. If I am properly informed, and I presume I am, that business which it is intended shall supersede this bill can as well be attended to to-morrow as to-day. I hope, therefore, that the Senate will proceed with the consideration of the Nebraska bill to-day.

Mr. WADE. I barely wish to say, having charge of the Nebraska bill, that the reason why I have not insisted with more pertinacity upon continuing the debate on it to-day is that I understand the Senators from New Jersey propose at two o'clock to announce the death of our late associate, Senator WRIGHT. That announcement will of course adjourn the Senate pretty early, and I did not suppose we could make much progress with the bill to-day; hence I did not feel like pressing it as I otherwise would. I believe that when gentlemen wish to make announcements of that kind it is not usual to insist on pressing other business, and hence I yielded.

Mr. COWAN. Why not let them take Thursday?

Mr. WADE. They propose to do it now.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois.

Mr. COWAN. If the consideration of this bill is to be postponed I would ask that it be postponed until after the holidays, after the adjournment which I understand has been voted by both Houses. If we are to discuss this bill and determine it now, we I think had better talk upon it while we are at it, and allow the

honorable Senator from New Jersey to take up the funeral obsequies of Senator WRIGHT on Thursday. If it is to go over at all, let it go over until after the holidays. I have no objection to that; but if it is to be discussed and determined now, I would be glad that the discussion should be continued until we arrive at a vote, if that vote can be attained to-morrow, and I think it can. I do not see any objection to this course. I cannot see any objection on the part of anybody. The honorable Senator from Ohio who has this bill in charge is exceedingly anxious that it should be disposed of, as I understand him.

Mr. WADE. I am.

Mr. COWAN. The honorable Senators from New Jersey of course wish to do the honors to their departed colleague. That is all meritorious and proper. I feel that as strongly as anybody, but that is one of those things which is to be considered *ab extra*. It is not in the natural business of the Senate and may as well be postponed until Thursday as to be inaugurated to-day. I suppose that these eulogies will not spoil by putting them over two or three days longer. I should think not. Those things are usually prepared, cut and dried, written, elaborated; and I should very much prefer anything that I have to say upon the admission of Nebraska should be said to-day. I therefore hope the motion to postpone will not prevail.

Mr. JOHNSON. Mr. President, if it had not been stated to the Senate by the honorable member from Ohio [Mr. WADE] that it was the purpose of the successor of the late Mr. WRIGHT to announce his death to-day, I should have interposed no objection to the postponing of that purpose to some future day, but when that announcement has been made it appears to me to be but respectful to the memory of the deceased and respectful to his colleagues, that the announcement should be made as they intended when they came into the Chamber. It can cost us but little time, and that little may be considered as well spent when it is devoted to doing some honor to the memory of a man with whom we associated so long and whom we regarded personally so well. I hope, therefore, that the honorable members from New Jersey will not delay the design which they had, as I understand, when they came into the Chamber, but will make the announcement at the very hour they intended to make it when they came into the Chamber.

Mr. WADE. I wish to give notice that to-morrow early I shall move to rescind that joint resolution of adjournment, and I shall assign my reasons for it. It is exceedingly doubtful, as we have sent an important bill to the President, whether if he should return it during that adjournment, as he would have the right to do, it would not fail if we stood adjourned. I shall call up the matter in the morning and insist upon rescinding the resolution.

Mr. SUMNER. As the Senator from Ohio has raised a question with regard to what the President might do during this recess, I merely wish to remark that there is another way in which that difficulty may be obviated. Let the Secretary of the Senate retain the bill until after the recess, or until such time in the recess that the eleven days allowed to the President will expire after the return of Congress. Then there can be no evil consequence.

Mr. TRUMBULL. We do not want to discuss that now.

Mr. JOHNSON. There is the difficulty mentioned by the member from Ohio, certainly. If the bill which he has in charge is passed to-morrow or the next day the President will have ten days to consider it, and if the ten days expire during the recess perhaps the measure will fail. I do not know that the President will take the ten days; I have no knowledge on the subject. The only certain way of guarding against it would be to postpone the consideration of the measure until after the recess.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois to postpone the present and all prior orders



and proceed to the consideration of the bill which was under consideration by the Senate at the expiration of the morning hour.

The motion was agreed to.

#### POWER OF AMNESTY AND PARDON.

Mr. SAULSBURY. Is the bill to repeal the thirteenth section of the confiscation act now before the Senate?

The PRESIDENT *pro tempore*. It is.

Mr. SAULSBURY. Then I desire to offer the amendment which I attempted before to get in. I have handed it to the Secretary.

The Secretary read the proposed amendment, which was to strike out all after the enacting clause of the bill and insert:

That the act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

I do not propose, Mr. President, to enter into any discussion of the merits of the amendment which I have offered, but shall content myself for the present with asking that the vote upon it, when taken, shall be taken by yeas and nays.

The PRESIDENT *pro tempore*. When the discussion of this bill was interrupted at the expiration of the morning hour, the Senator from Maryland was on the floor, and the consideration of the bill being now resumed he is again entitled to the floor.

Mr. JOHNSON. I rise, sir, not for the purpose of discussing the bill now, but to say that I yield the floor to the Senator from New Jersey.

#### DEATH OF SENATOR WRIGHT.

Mr. FRELINGHUYSEN. Mr. President, I rise to announce the death of Senator WRIGHT, of New Jersey, and to move appropriate action relative thereto by the Senate.

It is, sir, to me a melancholy reflection that the seat to which I am appointed was made vacant by death, and that now the duty devolves on me of announcing the sad event.

Nature certifies to us of God! Through the familiar events of the daily life of its divine Author the sublime truths of Christianity are conveyed. But it is by the providences of our lives, and especially when the bolt of mortality falls upon an associate, that our attention to the great truths of our being is attracted. We need, then, no apology for pausing that we may recognize the event and each for himself apply the lesson of death, for death is the most august of visitants to his victim and the greatest of moralists to the living. Since the recent session and on the 1st of November last, Senator WRIGHT, of New Jersey, died at his residence in Newark. For months, with much suffering, he faced the stern messenger, made minute preparation for his departure, and then in a strength not his own he calmly entered immortality.

That is the event I have risen to announce. It is an event that has occurred to millions on millions, to the child, to the mother "when she felt for the first time her first-born's breath," to the warrior and the patriot column on the field of carnage; and yet since that immortality, indicated by the conjectures of the ancients and almost proven by the toilsome aspirations of man in all ages for a fame that survives the grave, has been clearly revealed, no one can consider the event other than momentous and suggestive. It is proper that I state the fact, and it is becoming that I leave its lessons to those who hear me.

The original ancestor from whom Mr. WRIGHT was the sixth in descent settled in Virginia. Dr. William Wright resided in Rockland county, New York, where in 1790 his son, the subject of these remarks, was born.

The father died while the son was a boy preparing for college. Thus diverted from his studies, he gave his attention for several years to mercantile occupations, and in 1823, in the morning of his manhood, he moved to Newark and engaged extensively in manufacturing pursuits.

His district, the State of New Jersey, now more extensively engaged in manufacturing than any in the Union, as its revenue returns show, in 1842 made Mr. WRIGHT its Representative in Congress. He was reelected in 1844. In 1853 he was elected Senator and served his full term. He was reelected to the Senate in 1863, and having served about half his term the inexorable mandate terminated his career.

His training and habit had been such that when his constituents repeatedly reelected him they did not anticipate that he would take a prominent part in debate on the questions before the country. But there are those here who could bear witness that he, with sound judgment, intelligence, and fidelity, discharged the very many other duties of Senator and Representative. And I can bear witness that he was true to that class of political sentiments which he avowed; and in a Government which is representative and where the will of the people is sovereign, it is a commendation that one is true to the sentiment of the party that elected him. When prostrated by disease, when death held him by the hand, when the fires of ambition had burned out, he was carried to the Capitol that he might give his views in accordance with the views of those who elected him. And he manifested his devotion to the country by consenting that his only son should join its defenders when a few dollars from his ample fortune could have procured a substitute.

His urbanity and gentlemanly bearing and sentiment were marked features of the man, and known to all who ever had intercourse with him. For many years I lived his immediate neighbor and, although differing with him politically, such was his tolerant and generous estimate of the opinions of others that not one word ever disturbed the flow of kind and friendly feeling between us. Socially he was hospitable and took true enjoyment in the offices and delicacies of friendship. His church commends his charity, while others know it was not confined to any sect or class. As a man of business he was diligent, intelligent, and enterprising and obstructions and difficulties gave way to his energy.

He started life with that poverty that early orphanage entailed and was the architect of his own fortune. He did much to promote the internal improvement of the State and to advance the manufacturing interests of the country. His marked success in life illustrates the genius of our free institutions.

But, sir, Mr. WRIGHT, notwithstanding his energy and enterprise, his wealth and civic honors, is gone. The physical mechanism by and with which he lived here has fallen into decay, but the immaterial, as independent of that mechanism as are the motive powers of the earth of the machinery they move, still lives, but not here. And so the representatives of this people who are molding and shaping the destinies of a nation destined to be greater than ever known to history must, when the irreversible sentence goes forth, leave their tenements, taking with them as they go the record here made and leaving to the world the momentous results of their labor.

Sir, New Jersey within the last few years has suffered much from the havoc of death. I speak not, of course, of the noble youths whose patriot graves, in common with those from other States, furrow the land. I refer not to Taylor and Bayard and the intrepid Kearney, who shot through the war like a blazing star through a midnight sky, or to a host of others whose persons rise before me and whose names tremble on my lips, but of men known and valued in the civic walks of the nation.

Speaker Pennington is gone. Long valued at home, he appeared in the national councils at a critical period. The nation was about passing the fearful ordeal. Then Speaker Pennington, more by his cordial integrity than by the rigid enforcement of rules, controlled and calmed the fierce and turbulent spirits of the Representatives of the people. He is gone.

Minister Dayton, worn out by anxiety for

his country at a foreign court, has fallen like a sentry at his post.

Robert F. Stockton, who in former years illustrated the prowess of the Navy, once a Senator here, a descendant from one who signed the immortal paper which declares that "all men are created equal," has recently been gathered to his fathers.

But I forbear; men die but the nation lives. It has been cast into a furnace seven times heated, out of which it has come, as has been eloquently written, like the young Jews of Babylon, with nothing destroyed except the chains that fettered it. May we not carry the figure further and say that our deliverance was because walking with the nation in the furnace was one having the form of the Son of God. Heaven grant that his simile may here terminate, and that they who cast the nation in may not, in their rashness, be consumed by the very fire they enkindled.

I move the following resolutions:

*Resolved*, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM WRIGHT, while a Senator in Congress from the State of New Jersey.

*Resolved*, That as a testimonial of respect for the memory of the deceased, the members of the Senate will wear the usual badge of mourning for thirty days.

*Resolved*, That these proceedings be communicated to the family of the deceased by the Secretary of the Senate.

*Resolved*, That as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

Mr. CATTELL. Mr. President, I am painfully oppressed with the reflection that the first words which it becomes my duty to utter in this Chamber must be words of sadness, such as are befitting the announcement just made by my colleague, that death has again invaded the senatorial circle.

You have listened to the official announcement that Senator WILLIAM WRIGHT, of New Jersey, is no more. He closed a long, active, and honorable life on the 1st day of November last, at his own home, in the city of Newark, where he had lived for nearly half a century surrounded by his family and friends, ministered to in his last hours by those he loved best on earth, and sustained in his passage through "the dark valley" by the consolations of the Christian's faith.

Of his life and character my colleague, who knew him more intimately than I did, has spoken so fully and in such fitting terms that there is little left for me but to express my full accord in all the kindly words which he has said.

It has already been said that Mr. WRIGHT was a business man, a merchant and manufacturer, and I beg to add that he was a worthy type of that large class whose enterprise and energy have done so much to develop the resources and promote the prosperity of our great country. He was a self-made man, the architect of his own fortune, and throughout a long business life, in which he accumulated his large fortune, he exhibited the leading traits of a true merchant, intelligence and integrity, combined with industry and energy.

He was also a man of political distinction. New Jersey, the State of his adoption, honored him with the highest positions within her gift, having twice elected him to a seat in this body, and I can bear testimony to his fidelity to the principles and measures of the political party which invested him with official power. I had not the honor to serve with him in the Senate, but I am sure he brought to the discharge of his duties here a sound and discriminating mind, with a store of valuable information in regard to the trade and commerce and manufactures of the nation which could not be otherwise than useful and important to the Senate and the nation in the position he for some years occupied of chairman of the Senate Committee on Manufactures.

I am aware that during his long senatorial career he never ventured to enter the arena of debate in this Chamber. I am not surprised at this. Mr. WRIGHT was naturally a modest man, a virtue not so common in these

latter days as to be altogether despised. He made no claim to facility in the forms of speech. Merchants and men of business are seldom men of many words. They are usually men of action, of deeds. They write their thoughts in the enduring monuments of great enterprises which mark a nation's progress in her onward march to a higher civilization.

The active, earnest, stirring life of a business man, with its engrossing cares and manifold anxieties, especially in this country where the brain is always run to its maximum capacity, affords no time to cultivate the flowers of rhetoric or the graces of elocution. If you would have facility in the forms of speech, readiness and efficiency in debate, with the power of eloquence and the graces of oratory, "The applause of listening senates to command," you must look for these high attainments in the learned professions to which the scholars and men of culture of our land so naturally gravitate. But if you would originate "enterprises of great pith and moment," if you would open up intercourse with far distant lands, with Ethiopia and the islands of the sea, and widen the boundaries of your Christian civilization, you must then look to the men of action, the men who control your trade and commerce and send their white-winged messengers into every sea under the heavens, carrying the Bible and the missionary to the uttermost parts of the earth.

Nay, more, if you would put a girdle about the earth, along which to send the flashing lightning as the courier of your thoughts and wishes through "the dark unfathomed caves of ocean" from continent to continent in the twinkling of an eye, you must call from the counting-room the indomitable will, the sleepless energy, and the sublime faith of an American merchant to perform the service.

If, then, the fact be admitted that my late colleague hesitated to engage in the discussions of this august body, let it be remembered that his busy life afforded neither time nor opportunity for training in this direction. He studied men rather than books; and I am sure, acknowledging the value even in this Chamber of such knowledge as he possessed, you will appreciate the modesty and approve rather than condemn the motives which impelled him in such a presence as this to remain silent.

That Mr. WRIGHT was a kind-hearted, courteous gentleman, scrupulously careful of all the proprieties of domestic, social, and public life, the Senate and all who knew him will bear testimony. His private character was I believe without a stain. He enjoyed the respect and confidence of the people with whom he lived so long, and occupied a prominent place in the business community in which he moved. He lived to a good old age, having passed the allotted years of threescore and ten, and now "he rests from his labors."

And here, perhaps, having paid my tribute of respect to my departed colleague, I should pause. But the Senate will indulge me in a single reflection. Four times during the current year the angel of death has thrown its shadow over this Hall. Collamer and Foot and Lane and WRIGHT have fallen at their post of duty. And shall we not draw from these lessons following each other in such rapid succession fresh admonitions that we too are mortal; that senatorial robes are as vulnerable to the shafts of death as the tattered garments of the lowliest poverty? And gathering instruction and wisdom from these solemn events—remembering that life is short and duty pressing,

"And our hearts though stout and brave  
Still like muffled drums are beating  
Funeral marches to the grave,"

shall we not draw therefrom fresh motives for renewed activity and zeal in the performance of the grave duties that lie before us, and in view not only of the brevity of human life, but also of the uncertain tenure by which it is held, be led to adopt the invocation of the Psalmist, "So teach us to number our days that we may apply our hearts unto wisdom?"

Mr. JOHNSON. Mr. President, my acquaintance with our deceased colleague began several years before I became with him a member of the Senate. Having then allotted to us adjoining seats, that acquaintance soon ripened into intimacy, which continued unabated to the last day of his attendance in the Chamber. I was thus afforded an opportunity to form an opinion of him as a man and a public servant, and to esteem him highly in both characters. In the first he possessed every quality to inspire confidence and win respect. Beginning life with no resources except such as industry, enterprise, and integrity afford—resources that in our country, if not in every other, never fail when properly used to achieve success—he soon secured the esteem of the community in which he cast his lot, and almost at once earned for himself and family a competency, and years before his death a fortune. This, and a spotless character, an inheritance far more valuable than wealth, he has left behind him, the only solace there can be to the affliction which death under any circumstance ever brings to a surviving wife and children. Nothing can fully supply to them the happiness of their domestic circle caused by the kindness of heart, liberality, and domestic habits of the husband and father. These they can never more enjoy but in memory. In memory, however, they will live, and be a constant source of comfort and happiness. And they will have also this other and higher consolation, that in the world to which he has been translated, and where he is to account for his conduct in this, he is to be judged according to the "integrity" that was in him, and that by such a judgment he can never suffer. Nor was Mr. WRIGHT's excellence in private life limited to his household. As a friend he was sincere and constant, and in supplying the wants of the suffering was, as I am informed, ever most liberal.

Of his public character I know enough to say that it was worthy of praise. His political opinions were of the school of Jefferson and Madison and of the statesmen who came into power in the beginning of the century, the Republicans of that day. He believed, as his teachers did, that a strict as distinguished from what was termed a liberal construction of the Constitution of the United States, and a liberal as distinguished from a strict construction of the rights reserved to the States and the people by that Constitution, was not only conducive to the harmonious operation of both Governments, but absolutely necessary to their continuing existence. With those great men who participated in the framing of the Constitution and in procuring for it the sanction of the people of each State, Mr. WRIGHT was convinced that the preservation inviolate of the rights which the States and the people not only did not delegate, but for greater security by an amendment expressly and in the strongest terms reserved, was vital to the success of the Government. To govern a territory then more extensive than that of almost any other one nation, and certain to be in a comparatively brief future greatly enlarged, he thought, as they thought, could only be done consistently with political liberty through the combined operation of the General and State Governments, the one dealing with subjects that the others were incompetent to manage, and they with those that the first was equally incompetent to manage.

This is not a fit occasion to discuss the correctness of this opinion. Mr. WRIGHT, however—and this it is inadmissible to state—was sincere in holding it and in believing that it was vindicated by the fact which he thought to be well authenticated, that with the doctrine the country for more than half a century had enjoyed almost unbroken peace and prosperity and undisturbed harmony within its limits. He also thought that the prevailing political doctrines of the day served to disturb such peace, arrest such prosperity, and interrupt such harmony, and that the principal cause was to be referred to what he believed to be true, the absorption of the most important of

the rights and powers of the States in those assumed by the General Government.

In the last conversation I had with him he expressed this sentiment in a few words and with evident sincerity, for he knew that death was near at hand. He said in substance that from this cause he feared our country was in imminent peril. I trust that he ceased to have this apprehension before the final hour of his departure from the world. I trust so, for I can imagine that even the pang of leaving loved ones behind, acute as this must always be, must be made the more acute by the fear that countrymen are ever to lose the priceless blessings of a Government founded on principles of liberty, and so framed in its powers, in their limitations, and in the checks calculated to guard against their abuse, as to promise an ever-enduring existence.

May I be excused for saying that, were I to die now and in the possession of my consciousness, that additional pang would not be felt by me; the honorable and patriotic men in whose presence I stand I know will never designedly adopt measures or pursue a policy which they believe will result in so dire a calamity; a calamity which would deprive them and their countrymen of the invaluable inheritance of freedom secured and regulated by law. Clouds and darkness may for a time involve us in gloom, but it cannot be that they will not ere long be dispelled and the country be seen again in all its original brightness, with every one of its lights restored, transfusing equal happiness throughout our wide domain, exciting the wonder and admiration of the world, and proving that we can preserve the admirable institutions, Federal and State, which our fathers successfully labored to establish, and under which we have reached a place in the community of nations of which we have reason to be proud and to which they now render all proper respect.

In joining in this tribute to the memory of our departed brother, I conclude with saying what I said to him on the occasion referred to, let us not despair, let us not bate "a jot of heart and hope, but still bear up and steer right onward," and all will yet be well. And if it be given to departed spirits to know the things of this world, when that is seen his happiness, great as it may now be, will be the greater; for his love of country was so sincere and intense that he will ever rejoice in its continuing safety and prosperity.

Mr. DAVIS. Mr. President, I had no intimation that any commemoration of the death, life, and character of Senator WRIGHT would take place to-day; nor had I until the resolutions now under consideration were moved, any reflections or thoughts connected with such an occasion. But I am impelled by my great respect for the deceased while living, and by my approbation of the honor that is being paid to his memory, and of the sentiments expressed in the resolutions, to give them my avowed support.

I first became acquainted with Senator WRIGHT about twenty-five years ago in the House of Representatives, and served four years with him in that branch of Congress. When we parted in that Hall I never met with him until he had been reelected a Senator the second or third time from New Jersey, and took his seat on this floor to fill a term which had not elapsed when he died.

During our service together, both in the House and in the Senate, it was my privilege and pleasure to have possessed his friendship and confidence. When in the House he was what was denominated a Whig in his politics, and was a devoted personal and political friend of the great statesman of the West; and he being of a frank and genial, though quiet disposition, we formed close relations of friendship and mutual respect.

When Mr. WRIGHT and I met again in the Senate, I learned from him what I had before from the public prints, that he had accepted the name and party position of Democrat; but

as Whig or Democrat he never was an extreme partisan; and in his politics and all the affairs of life he was characterized by signal candor and moderation. With him the partisan was always subordinate to the patriot. There was no ambition or selfishness in his adherence to his party; he was always faithful to it, but that fidelity was won and retained by his conviction that its principles, measures, and policy were the best for the whole country. He was a merchant, intelligent, honest, diligent, and persevering, and affluence rewarded the proper pursuit of his noble profession. He never debated in either House, but no member had a more correct comprehension of every measure and proposition upon which he was called to vote. He examined them all in the broad and distinct light of an intelligent and virtuous citizen, an experienced and enlightened merchant, and a lofty patriotism that was devoted to his whole country and all her interests.

It has been said that Senator WRIGHT was modest; he was preëminently so; but he was equally courageous, public-spirited, charitable, generous, and hospitable, and he covered all those high and attractive attributes with the veil of modesty.

Nature made Senator WRIGHT a gentleman, and the noble qualities of the true gentleman with him were confirmed, polished, and illustrated by his whole life. In the Representative Hall, in the Senate Chamber, in the social circle, I never knew him to be guilty of an impropriety, and he was among the few men I have known that I believed to be incapable of that sort of delinquency.

Mr. WRIGHT never attracted to himself much of the public gaze, yet in his day and generation he was an exalted public-benefactor. He has left, both as a private citizen and a public man, the example of a life active, efficient, unobtrusive, successful, useful, and adorned by every virtue. Would that we had many, yea, millions of Mr. Wrights of the same moral and intellectual stature, and that the destinies of our country were given to them; it would not only be delivered from its present confusion and perils, but it would be borne along peacefully, prosperously, and gloriously to fortunes far above all the past and which no imagination can compass.

Mr. President, I have been more than gratified, not by the strains of panegyric, but the story of simple truth told of him by the Senators from New Jersey and Maryland, and by the opportunity of giving my own humble tribute to so much of departed worth.

The resolutions were unanimously adopted; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, December 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of Friday last was read and approved.

### ORDER OF BUSINESS.

The SPEAKER announced as the first business in order the call of committees for reports to go upon the Calendar, and not to be brought back by a motion to reconsider.

No reports were presented.

The SPEAKER announced as the next business in order the call of States, commencing with Illinois, for the introduction of resolutions.

### MARINE HOSPITAL AT CHICAGO.

Mr. WENTWORTH submitted the following resolution:

*Resolved*, That the Secretary of the Treasury communicate to this House what progress has been made in the erection of the new marine hospital at Chicago provided for in the law authorizing the sale of the old one, and if a site has been purchased to state of whom, where, and the price thereof, with the estimate for the cost of the building.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day. Is there any objection?

There being no objection, the resolution was considered and agreed to.

### IMPROVEMENT OF CHICAGO HARBOR.

Mr. WENTWORTH submitted the following resolution:

*Resolved*, That the Secretary of War inform this House what disposition was made of the money appropriated for the improvement of the harbor at Chicago at the last session, and if still unexpended what arrangements have been made for its expenditure, and the plans therefor.

There being no objection, the resolution was considered and agreed to.

### FRAUDS IN NEW ORLEANS CUSTOM-HOUSE.

Mr. WASHBURN, of Illinois, submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the committee of this House appointed to investigate the riots in New Orleans be directed to investigate into the alleged frauds in the New Orleans custom-house, and the appointment of rebels therein to the exclusion of Union men, and into all matters connected with the administration of the affairs of the custom-house, and report fully to this House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### E. L. BREESE, UNITED STATES NAVY.

Mr. WASHBURN, of Illinois. I ask unanimous consent to introduce a joint resolution for the restoration of Lieutenant Commander S. L. Breese, United States Navy, to the active list from the retired list.

There was no objection; and the joint resolution was received, read a first and second time, and referred to the Committee on Naval Affairs.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had concurred in the resolution of the House providing for the adjournment of the House from the 20th instant to the 3d proximo, with an amendment including the Senate therein, in which he was directed to ask the concurrence of the House.

It further announced that the Senate had passed a joint resolution (S. R. No. 149) to extend aid and facilities to citizens of the United States engaged in the survey of a route of a ship-canal across the Isthmus of Darien, in which he was also directed to ask the concurrence of the House.

It further announced that the Senate requested the return of the deficiency bill for the purpose of correcting an error in the engrossment of an amendment thereto.

### WASHINGTON SPECIAL ELECTION.

Mr. INGERSOLL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia are hereby instructed to inquire into the expediency of providing by law for a special election to be held in the city of Washington for the election of a city treasurer and auditor, with leave to report by bill at any time.

### HIRAM HEDRICK.

Mr. INGERSOLL also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions are hereby directed to inquire into the propriety of increasing the pension of Hiram Hedrick (who is totally blind) from four to twenty-five dollars per month.

### TREASURY DOCUMENTS.

Mr. CULLOM submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the Treasury Department three hundred copies of the estimates of appropriations for 1867-68, and twenty-five hundred copies of the report of the Secretary of the Treasury on the state of the finances, and one hundred and fifty copies of the statement of receipts and expenditures for the year 1864-65.

### FOREIGN INTERVENTION.

Mr. HARDING, of Illinois, submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the House of Representatives of the Congress of the United States will give unfaltering support to the executive department of this Government to vindicate the time-honored policy of this Republic against foreign armed intervention, which tends to the destruction of constitutional liberty on this continent, and especially commends the tone of the national voice in respect to the republic of Mexico.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

### CURRENCY.

Mr. COOK submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Committee on Banking and Currency be instructed to inquire into the expediency of providing by law for the withdrawal of the currency issued by the national banks as fast as the same may be done without injustice to the banks, and of supplying the place of such currency with legal-tender notes issued by the Government of the United States.

The House divided on seconding the demand for the previous question, and there were—ayes 47, noes 37; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. Cook and Mr. BRANDEGEE.

The House again divided; and the tellers reported—ayes 58, noes 38.

So the previous question was seconded.

The main question was ordered.

Mr. BRANDEGEE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 68, not voting 59; as follows:

YEAS—Messrs. Ancona, Anderson, Baker, Bergen, Blow, Boyer, Bromwell, Buckland, Bundy, Campbell, Chanler, Reader W. Clarke, Cobb, Cook, Cooper, Culom, Farquhar, Hale, Aaron Harding, Hart, Hawkins, Hayes, Henderson, Hill, Hise, Edwin N. Hubbard, Hunter, Ingersoll, Julian, Kelley, Kelso, Kuykendall, Latham, Loan, Lynch, Maynard, McClurg, McIndoo, McKee, Moulton, Nicholson, Noell, Orth, Paine, Pike, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Schenck, Sloan, Stevens, Stilwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trowbridge, Robert T. Van Horn, Hamilton Ward, Wentworth, and Whaley—64.

NAYS—Messrs. Alley, Allison, Ames, Arnell, James M. Ashley, Baldwin, Banks, Baxter, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Dawes, DeForest, Delano, Deming, Dixon, Dodge, Driggs, Eckley, Eldridge, Grinnell, Griswold, Holmes, Demas Hubbard, John H. Hubbard, James R. Hubbard, Jencks, Ketcham, Kootz, Laffin, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Marvin, McRuer, Mercut, Moorhead, Morrill, Myers, Niblack, O'Neill, Patterson, Perham, Pomeroy, Price, Raymond, John H. Rice, Sawyer, Scofield, Sitgreaves, Spalding, Starr, Thayer, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—68.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Beaman, Broomall, Sidney Clarke, Conkling, Culver, Darling, Davis, Dawson, Denison, Donnelly, Dumont, Eggleston, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Abner C. Harding, Harris, Higby, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Jones, Kasson, Kerr, Longyear, Marshall, Marston, McCullough, Miller, Morris, Newell, Phelps, Plants, Radford, Alexander H. Rice, Rollins, Rousseau, Shanklin, Shellabarger, Francis Thomas, John L. Thomas, Thornton, Trimble, Andrew H. Ward, Henry D. Washburn, Winfield, Woodbridge, and Wright—59.

So the resolution was rejected.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was rejected; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### RECONSTRUCTION.

Mr. MOULTON offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on Territories be, and they are hereby, instructed to inquire into the expediency of inviting and authorizing the loyal citizens of the United States residing in the districts of country recently in rebellion against the United States, known and designated as the States of Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas, and Virginia, to form constitutional State governments and provide



for the restoration of such States to all the rights, dignities, and privileges of States in the American Union, and that the committee have leave to report by bill or otherwise.

The previous question was seconded and the main question ordered.

Mr. BINGHAM. I rise to a question of order. This resolution under the rule should go to the committee on reconstruction.

Mr. MOULTON. It is all sound.

Mr. BINGHAM. If it is sound let it go in the right direction.

The SPEAKER. The Chair sustains the point of order. By the rule adopted last session and continued at this session, the resolution must go to the joint committee on reconstruction.

#### GOVERNMENT BONDS.

Mr. ROSS offered the following resolution, and demanded the previous question thereon:

*Resolved*, That it is the sense of Congress that no more Government bonds should be issued which are not subject to the same rates of taxation as other property.

Mr. THAYER. I move to lay it on the table.

Mr. LE BLOND and Mr. ROGERS demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. ROGERS demanded tellers.

Tellers were refused.

The motion to lay the resolution on the table was agreed to—yeas 61, noes 38.

#### WITHDRAWAL OF LEGAL TENDERS.

Mr. BAKER offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on Banking and Currency be instructed to report a bill forbidding for some temporary period the further withdrawal of the legal-tender currency.

Mr. BINGHAM. I suggest to the gentleman to amend the resolution by making it read "inquire into the expediency."

Mr. MORRILL. I move to lay the resolution on the table.

Mr. BAKER. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 58, nays 53, not voting, 45; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Baxter, Benjamin, Bergen, Blaine, Boutwell, Boyer, Brandegee, Campbell, Chanler, Conkling, Cooper, Dawes, Deftrees, Deming, Dixon, Dodge, Eldridge, Finck, Garfield, Glossbrenner, Grinnell, Griswold, Aaron Harding, Hawkins, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Hunter, Jenckes, Kerr, Ketcham, Koonz, Laffin, Latham, George V. Lawrence, Le Blond, Leftwich, Marston, Marvin, McRuer, Mercur, Moorhead, Morrill, Myers, Newell, Niblack, Nicholson, O'Neill, Paine, Patterson, Pomeroy, Price, Samuel J. Randall, Raymond, John H. Rice, Ritter, Rogers, Sawyer, Scofield, Shanklin, Sitgreaves, Spalding, Stokes, Strouse, Taber, Nelson Taylor, Upson, Van Aernam, Burt Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Williams, and Windom—58.

NAYS—Messrs. Delos R. Ashley, Baker, Barker, Bingham, Blow, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Hale, Abner C. Harding, Hart, Hayes, Henderson, Hise, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kelley, Kelso, Kuykendall, William Lawrence, Loan, Longyear, Lynch, Marshall, Maynard, McClurg, McIndoe, McKee, Moulton, Orth, Perham, Pike, William H. Randall, Ross, Sloan, Starr, Stevens, Stillwell, Nathaniel G. Taylor, Thayer, Thornton, Trowbridge, Robert T. Van Horre, Whaley, James F. Wilson, and Stephen F. Wilson—58.

NOT VOTING—Messrs. Beaman, Bidwell, Broomall, Culver, Darling, Davis, Dawson, Delano, Denison, Donnelly, Dumont, Eggleston, Eliot, Goodyear, Harris, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Jones, Kasson, McCullough, Miller, Morris, Neill, Phelps, Plants, Radford, Alexander H. Rice, Rollins, Rousseau, Schenck, Shellabarger, Francis Thomas, John L. Thomas, Trimble, Henry D. Washburn, Welker, Winfield, Woodbridge, and Wright—45.

So the resolution was laid on the table.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

#### MESSAGES FROM THE PRESIDENT.

Two messages in writing from the President of the United States were communicated to the House by Mr. ROBERT JOHNSON, his Private Secretary.

#### VENTILATION OF THE HALL.

Mr. BROMWELL submitted the following resolution, upon which he called the previous question:

*Resolved*, That the officer having in charge the Hall of Representatives be instructed to open all the doors of the Hall and galleries and all doors opening to the outside of the Representative Hall of the building and basement and first story, and keep the same open during two hours after the adjournment of the House, and during two hours before each meeting, at such times as will not interfere with warming the building.

Mr. WASHBURNE, of Illinois. I would ask my colleague [Mr. BROMWELL] to allow me to offer an amendment, as follows:

And that the Committee on Public Buildings and Grounds be directed to inquire into the expediency of removing the restaurant from the basement of the building.

Mr. BROMWELL. I will accept the amendment, and call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution, as modified, was agreed to.

#### REVENUE-CUTTER SERVICE.

Mr. WASHBURNE, of Illinois, by unanimous consent, introduced a bill to fix the compensation of the officers of the revenue-cutter service, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURNE, of Illinois, by unanimous consent, also introduced a bill in relation to the revenue-cutter service; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURNE, of Illinois. I move that the bills I have just introduced, with the papers accompanying the same, be printed.

The motion was agreed to.

#### INSPECTION OF PAPERS IN DEPARTMENTS.

Mr. FARNSWORTH introduced a joint resolution to allow members of Congress to inspect papers in the Post Office Department; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It provides that it shall be the duty of the Postmaster General to allow Senators and members of Congress to examine all papers and recommendations for office appertaining to postmasters, post offices, and other postal matters in their several States and congressional districts.

Mr. ASHLEY, of Ohio. I would suggest to the gentleman from Illinois [Mr. FARNSWORTH] to modify his resolution so as to include papers in the Treasury Department.

Mr. FARNSWORTH. I must decline.

Mr. LE BLOND. I move to lay the joint resolution on the table, and on that question I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 31, nays 116, not voting 44; as follows:

YEAS—Messrs. Boyer, Brandegee, Campbell, Cooper, Dawes, Eldridge, Finck, Aaron Harding, Hooper, James R. Hubbell, Kerr, Ketcham, Laffin, George V. Lawrence, Le Blond, Leftwich, Marshall, Niblack, Neill, John H. Rice, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Andrew H. Ward, and Whaley—31.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Bromwell, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Denison, Dixon, Dodge, Driggs, Eckley, Farnsworth, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Hill, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kelley, Kelso, Koonz, Kuykendall, Latham, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, Mercur, Moorhead, Morrill, Moul-

ton, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Perham, Pike, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Sawyer, Schenck, Scofield, Sloan, Spalding, Starr, Stevens, Stokes, Strouse, Nelson Taylor, Thayer, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

NOT VOTING—Messrs. Banks, Barker, Beaman, Blaine, Broomall, Culver, Darling, Davis, Dawson, Deftrees, Deming, Donnelly, Dumont, Eggleston, Eliot, Farquhar, Ferry, Glossbrenner, Goodyear, Griswold, Harris, Higby, Hise, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Jones, Kasson, Marston, McCullough, McRuer, Miller, Morris, Patterson, Phelps, Plants, Radford, Alexander H. Rice, Rollins, Shellabarger, Stillwell, John L. Thomas, Trimble, Robert T. Van Horn, Henry D. Washburn, Winfield, and Wright—44.

So the motion to lay on the table was not agreed to.

The SPEAKER. The morning hour having expired the joint resolution will go over to the next Monday when the House shall be in session.

#### DEFICIENCY APPROPRIATION BILL.

The SPEAKER laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES,  
December 14, 1866.

*Resolved*, That the Secretary be directed to request the House of Representatives to return to the Senate House bill No. 876, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes, for the purpose of correcting an error in the engrossment of the amendments of the Senate to said bill.

Attest: J. W. FORNEY, Secretary.

The SPEAKER. The amendments of the Senate were concurred in by the House, and the motions to reconsider laid upon the table. It will therefore require unanimous consent to comply with the request of the Senate.

No objection was made.

#### ADJOURNMENT OVER THE HOLIDAYS.

On motion of Mr. WASHBURNE, of Illinois, the House proceeded to consider the amendment of the Senate to the concurrent resolution of the House, in relation to the adjournment of Congress over the holidays.

The amendment was to insert the words "Senate and" between the words "the" and "House;" so that the resolution will read, as follows:

*Resolved*, (the Senate concurring,) That when the Senate and House adjourn on Thursday the 20th instant, they adjourn to meet on Thursday the 3d day of January next.

The question was upon concurring in the amendment of the Senate.

Mr. WASHBURNE, of Illinois. I call the previous question.

Mr. STEVENS. I move that the amendment be laid on the table.

The SPEAKER. The effect of the adoption of that motion will be to carry the original resolution with it.

Mr. STEVENS. That is what I want to accomplish.

Mr. ASHLEY, of Ohio. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were not ordered.

The motion to lay on the table was not agreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of the Senate was concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 1) entitled "An act to regulate the elective franchise in the District of Columbia;" whereupon the Speaker signed the same.

#### THE RUSSIAN EMPEROR.

The SPEAKER, by unanimous consent, laid

before the House the following message from the President of the United States:

*To the Senate and House of Representatives:*

I communicate a translation of a letter of the 17th of August last, addressed to me by His Majesty, Alexander, Emperor of Russia, in reply to the joint resolution of Congress, approved on the 16th day of May, 1866, relating to the attempted assassination of the Emperor, a certified copy of which was in compliance with the request of Congress forwarded to His Majesty by the hands of Gustavus V. Fox, late Assistant Secretary of the Navy of the United States.

ANDREW JOHNSON.

WASHINGTON, December 14, 1866.

Mr. MAYNARD: Would it be in order to call for the reading of the translation accompanying this message?

The SPEAKER: It will be read, if any gentleman calls for it.

Mr. MAYNARD: I call for the reading.

The Clerk read as follows:

[Translation.]

*His Majesty the Emperor of Russia to the President of the United States of America:*

PETERHOF, 17th August, 1866.

I have received from the hands of Mr. Fox the resolution of the Congress of the United States of America on the occasion of the providential grace of which I have been the object.

That mark of sympathy has moved me sensibly. It is not alone personal; it attests once more the sentiments that bind the American nation to that of Russia.

The two peoples have no injuries to remember, but only good relations. Under all circumstances new proofs of mutual benevolence are added.

These cordial relations are as conducive to their reciprocal interests as to the good of civilization and humanity, and answer the designs of divine Providence, whose will is peace and concord among all nations.

It gives me a lively pleasure to see these ties constantly strengthened more and more. I have imparted my sentiments to Mr. Fox. I pray you to be my interpreter to Congress, and the American people whom it represents. Tell them how much I appreciate, and with me the whole of Russia, the testimonies of friendship they have given me, and how happy I will be to see the American nation grow in strength and prosperity by the union and constant practice of the civic virtues that distinguish it.

Accept, at the same time, the assurance of the high consideration with which I am your good friend.

ALEXANDER.

The message, with the accompanying document, was laid on the table, and ordered to be printed.

ATCHISON AND PIKE'S PEAK RAILROAD.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a report from the Secretary of the Interior, in answer to a resolution of the House of Representatives of the 10th instant, in relation to the Atchison and Pike's Peak Railroad.

ANDREW JOHNSON.

WASHINGTON, December 15, 1866.

Mr. LOAN. I move that this message, with the accompanying report, be referred to the Committee on the Pacific Railroad, and ordered to be printed.

The motion was agreed to.

NEW MEXICO.

The SPEAKER, by unanimous consent, laid before the House the journal of the Legislature of the Territory of New Mexico for the session of 1865-66; which was referred to the Committee on Territories.

PEACE IN SOUTH AMERICA.

Mr. BINGHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas wars destructive of commerce and injurious and prejudicial to republican institutions have for some time been carried on between Spain and several of the South American States on the Pacific coast, and also between Paraguay and Brazil, Uruguay and the Argentine Republic on the Atlantic coast; Now, therefore,

Resolved, That the Committee on Foreign Affairs inquire and report whether the friendly offices of the United States ought not to be used, if practicable, to promote peace and harmony in South America.

#### PERSONAL EXPLANATION.

Mr. WARD, of New York, (having obtained unanimous consent to make a statement,) said: Mr. Speaker, I observe, on examining the New York papers of last Saturday, that my name is omitted from the list of members who voted upon the bill extending suffrage in the District of Columbia. I voted in favor of that bill.

I desire also to say that, on examining the index of the Globe for the last session, I find that all my acts and doings for that session are attributed to Elijah Ward, who was a distinguished member of the former Congress, but is not a member of this. I do not know that I can remedy this error except by making this statement to go upon the record, so that a very worthy gentleman may not be charged with things which he would not like to father.

#### PUBLIC BUILDINGS AND GROUNDS.

Mr. LATHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Rules be, and the same is hereby, directed to inquire into the propriety of consolidating the committees of the two Houses of Congress on public buildings and grounds into a joint committee.

#### JURIES IN THE DISTRICT OF COLUMBIA.

Mr. WILLIAMS, by unanimous consent, introduced a bill to regulate the selection of juries for the several courts of the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. BIDWELL. Mr. Speaker, when the vote was taken on Friday last on the bill concerning suffrage in the District of Columbia I was absent, not expecting that so important a measure would be passed on private bill day. I move that the rules be suspended so that all those who were then absent may have leave to record their votes on that question.

The motion was agreed to; and leave was granted accordingly.

HENRY MILLER.

Mr. DAWES. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee appointed to investigate the circumstances connected with the murder of certain Union soldiers in South Carolina be instructed also to investigate, under the powers already conferred upon them, and report without delay to this House all the facts connected with the confinement in the jail at Waterboro', South Carolina, of Henry Miller, under sentence of death, for the alleged crime of desertion from the rebel army and acting as a spy for General Sherman during the late war.

There was no objection.

Mr. DAWES. Mr. Speaker, as a reason for offering that resolution I communicate to this House certain information which I received in a letter from a highly respectable citizen of New York. I ask the letter to be read only so far as I have marked it.

The Clerk read as follows:

"Jacob Miller, a German, residing in this town, a man of respectability, with whom I have been acquainted for several years, has a brother by the name of Henry Miller, who resided in South Carolina at the time the rebellion broke out, and as he did not wish to join the rebels he concealed himself to avoid being impressed, but was discovered and forced into their army. When General Sherman passed through, he deserted from them and joined the Union army; he informed General Sherman that in a certain place stores, ammunition, and horses were concealed. General Sherman detailed sixty men who were piloted by Miller to the place and the property was secured. Mr. Miller, together with his wife and children, were then sent forward by General Sherman at the expense of the Government to this town, where they remained until the war was over; his wife then returned to the South (she being a southern woman) to look after their affairs; he soon followed and commenced farming, whereby he earned a few hundred dollars. A short time since he was arrested as a deserter and a spy—he employed two lawyers to defend him, giving them all his money—was tried, convicted, and sentenced to be hung on the 4th of next month, and he now lies in the jail at Waterboro', South Carolina, awaiting his fate. So states the letter his brother received from him to-day, and he asks him to come and see him for the last time before he is executed."

Mr. DAWES. Mr. Speaker, before the question is put I desire to state it is due to the

President of the United States I should say that on the receipt of that letter on Saturday, in the absence of the Secretary of War, I called upon the President, and at my suggestion he telegraphed to General Sickles to investigate the matter and report to him. I have received from the President this moment a telegram from General Sickles, in which he states he is investigating the matter; but I observe the man is indicted under the charge of highway robbery, so it seems this act of his has been transformed, so as to conform to the laws of South Carolina, into a charge of highway robbery. I deem it a matter of so great importance, although the President has caused investigation to be made, as that the committee charged with the investigation of a kindred matter should also investigate this and report to this House. I hope there will be no objection. I have had put into my hand a copy of a letter from Mr. Miller himself to General Sickles, substantially affirming the facts I have communicated to the House.

Mr. HALE. I suggest whether the language of the resolution should not be changed. It specifies that he now lies in jail on the charge of being a spy. It should be amended so as to add, "and on the pretense of highway robbery."

Mr. DAWES. I modify the resolution according to the gentleman's suggestion. I will say that the letter from which an extract was read is dated from Saugerties.

Mr. MAYNARD. If my friend from Massachusetts will allow a suggestion: I do not know that his resolution can be made any more extensive than it is, but I apprehend that this inquiry ought to go beyond this individual case. I am inclined to believe that this is merely a representative of a class of cases; that a great number of men, not only in South Carolina but in other parts of the South, who assisted our cause during the war have, since the termination of hostilities, been held amenable for civil offenses. One instance I will give. It will be recollected by the gentleman from Massachusetts [Mr. DAWES] that I formerly had a colleague on this floor from the first district by the name of Nelson. A son of his, just at the close of the war, went upon a raid into North Carolina along with General Stoneman. While there in the discharge of his duties as a soldier he took the life of some party, for which since the war has ended I understand his person has been demanded by the Governor of North Carolina from the Governor of Tennessee. I see that the Legislature of North Carolina has recently passed a law condoning all such offenses whether committed by Federal or, as they express it, confederate forces. It is time that sort of thing should be stopped; that men who rendered assistance to the Union Army through the South under the orders of our officers should not be annoyed by prosecutions of this kind for civil offenses.

Mr. DAWES. If the gentleman will specify any particular case, I will accept a modification of the resolution by giving the committee jurisdiction over it.

Mr. MAYNARD. Perhaps the gentleman will extend the scope of his resolution so as to authorize the committee to bring in any appropriate legislation.

Mr. DAWES. I suppose that is covered by the original authority. The resolution proposes that they investigate under the powers conferred upon them. I will accept any modification enlarging the scope of the resolution.

Mr. MAYNARD. I suggest that the committee be allowed any legislation that they may deem appropriate.

Mr. DAWES. I will add "with such recommendation as they may deem proper."

Mr. MAYNARD. Very well.

The resolution, as modified, was agreed to.

#### SOUTHERN WAR CLAIMS.

Mr. DELANO, by unanimous consent, introduced a bill to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster

stores and subsistence supplies furnished to the Army of the United States.

Mr. DELANO. Is it in order to put this bill on its passage?

The SPEAKER. It is, under the operation of the previous question.

Mr. DELANO. I then move the previous question.

Mr. LE BLOND. I reserve my right to object.

The bill was read. It enacts that the provisions, chapter 246, of the act of the Thirty-Eighth Congress, first session, approved July 4, 1864, shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authority or troops of the United States, where such claims originated during the war for the suppression of the rebellion in a State declared in insurrection by proclamation of the President of the United States, or in a State which by an ordinance of secession attempted to withdraw from the United States Government, provided that nothing herein contained shall repeal or modify the effect of the joint resolution of Congress passed July 23, 1866, extending the provisions of the said act of July 4, 1864, to the loyal citizens of the State of Tennessee.

Mr. LATHAM. I object to its consideration.

Mr. DELANO. I move to suspend the rules for the purpose of considering the bill.

The motion was agreed to.

The bill was accordingly read a first and second time.

Mr. DELANO. I demand the previous question on the third reading.

Mr. LATHAM. I suggest a modification to include the counties of Berkeley and Jefferson, of West Virginia, which were added to that State by act of Congress at the last session.

Mr. DELANO. I cannot consent.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed; and being engrossed, it was read the third time.

Mr. DELANO. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. LATHAM. I ask for the yeas and nays on the passage of this bill.

Mr. LE BLOND. I would be glad to hear from my colleague [Mr. DELANO] some reason for the passage of this bill at this time.

Mr. WASHBURNE, of Illinois. The bill shows it. I object to any further debate.

The question was upon ordering the yeas and nays; and being taken, upon a division there were—ayes 21, noes 89; not one fifth voting in the affirmative.

Before the result of the vote was announced, Mr. LATHAM called for tellers upon the question of ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question recurred upon the passage of the bill.

Mr. TAYLOR, of Tennessee. I move to lay the bill upon the table, and upon that motion I call for the yeas and nays.

Mr. LATHAM. I call for tellers upon ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The bill was then passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by JOHN W. FORNEY, its Secretary, informed the House that

the Senate had corrected the errors in the engrossment of the amendments of the Senate to House bill No. 876, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes, and now returned the same to the House for its concurrence.

#### PENSION APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole, and made the special order for Friday, the 4th of January next, after the morning hour, and from day to day until disposed of.

Mr. WASHBURNE, of Illinois. I reserve the right to raise points of order on this bill when it shall come up for consideration.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. STEVENS, from the Committee on Appropriations, also reported a bill making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes; which was read a first and second time, ordered to be printed, referred to the Committee of the Whole, and made the special order for Friday, the 4th of January next, after the morning hour, and from day to day until disposed of.

Mr. WASHBURNE, of Illinois. I reserve all points of order on this bill, when it shall come up for consideration.

#### INCREASED COMPENSATION OF CLERKS, ETC.

On motion of Mr. STEVENS, the Committee on Appropriations were discharged from the further consideration of sundry petitions of the clerks and civil employés in the Executive Departments, for an increase of compensation, and the same were referred to the Committee of Ways and Means.

#### AGRICULTURAL COLLEGE SCRIP.

Mr. JULIAN. I move that the rules be suspended in order to enable me to introduce for consideration at this time a joint resolution relative to the issue of agricultural college scrip to the States lately in rebellion.

The joint resolution was read for information. It directs that the further issue of agricultural college scrip to any of the States lately in rebellion shall be prohibited until they shall be fully restored to their rights as States by Congress.

Mr. ELDRIDGE. I call for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 82, not voting, 72; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Brownell, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook Cullom, Dawes, DeFrees, Deming, Dixon, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hawkins, Henderson, Hill, Holmes, Hooper, Ingersoll, Jencks, Julian, Kelley, Koontz, Kaykendall, Laffin, George V. Lawrence, William Lawrence, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercer, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Raymond, John H. Rice, Schenck, Scofield, Sloan, Spaulding, Stevens, Stokes, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—87.

NAYS—Messrs. Ancona, Borton, Boyer, Chanler, Cooper, Denison, Eldridge, Finck, Glossbrenner, Hale, Aaron Harding, Hise, Hogan, Edwin N. Hubbell, Hunter, Kerr, Latham, LeBlond, Leftwich, Marshall, Niblack, Noell, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Thornton, and Andrew H. Ward—32.

NOT VOTING—Messrs. Beaman, Blaine, Broomall, Buckland, Campbell, Culver, Darling, Davis, Dawson, Delano, Dodge, Donnelly, Dumont, Eggleston, Eliot, Goodyear, Griswold, Harris, Hart, Hayes, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hub-

bell, Hulbird, Humphrey, Johnson, Jones, Kasson, Kelso, Ketcham, Loan, Longyear, McCullough, McIndoe, Miller, Morrill, Morris, Nicholson, Phelps, Plants, Radford, Samuel J. Randall, Alexander H. Rice, Rollins, Rousseau, Sawyer, Shellabarger, Starr, Stilwell, Nelson Taylor, John L. Thomas, Trimble, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Whaley, Winfield, Woodbridge, and Wright—72.

So the rules were suspended; and the joint resolution was introduced and read a first and second time.

The question being on ordering the joint resolution to be engrossed and read a third time;

Mr. JULIAN called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution, being engrossed, was read the third time and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### PROTECTION OF LOYAL CITIZENS.

Mr. McKEE, by unanimous consent, introduced a bill to protect loyal persons in the States lately in rebellion, including the States of Maryland, Missouri, and Kentucky; which was read a first and second time, and referred to the Committee on the Judiciary.

#### PROTECTION OF FREEDMEN.

Mr. SCHENCK, by unanimous consent, submitted the following resolution:

Whereas the following, purporting to be an official advertisement, appeared in the public prints of the day as copied from one of the newspapers of Maryland:

"Public Sale.—The undersigned will sell at the court-house door in the city of Annapolis at 12 o'clock m. on Saturday, 8th December, 1866, a negro man named Richard Harris, for six months, convicted at the October term, 1866, of the Anne Arundel circuit court for larceny, and sentenced by the court to be sold as a slave. Terms of sale, cash."

"WM. BRYAN,  
"Sheriff Anne Arundel county."

"DECEMBER 3, 1866."  
Therefore, resolved, That the Committee on the Judiciary be instructed to inquire whether such conviction and order of sale occurred as stated in said advertisement; and if so, whether such proceeding is not in direct conflict with the Constitution of the United States and with the act "to protect all persons in the United States in their civil rights and furnish the means of their vindication;" and that if in their opinion the Constitution and the act referred to have been violated, the committee further inquire whether any steps have been taken by the President of the United States to enforce the law and prevent such outrages; and that said committee have power to send for persons and papers and to report to the House at any time what action they may deem necessary and proper for Congress to take on the subject.

Mr. STEVENS. Mr. Speaker, I desire to make a single suggestion before the vote be taken on this resolution. I wish simply to suggest whether the inquiry proposed should not be enlarged. It will be recollected that in the constitutional amendment abolishing slavery, it was provided, perhaps unfortunately, that there should be no slavery "except in punishment for crime of which the party should be duly convicted." Now, sir, Maryland is not the only State of the South that under the exception I have mentioned has taken occasion to pass laws providing for selling freedmen into slavery. It is not many weeks since two persons—a very respectable gentleman and his wife—called at my room to say that they had just come from Florida, the gentleman having been engaged in the revenue service there until it became too warm for them and they came away. They informed me that the day before they left they saw seven negroes sold into slavery at public auction, some of them for seven years; and that they saw several others whipped with stripes upon the naked back at the whipping-post under the discriminating laws of Florida.

Now, sir, there are laws all over the South which provide for taking up these people on charges of vagrancy and other things of that kind and selling them into bondage as actual as any that ever existed there, though not perhaps to the same extent. I think that while



we are inquiring we had better enlarge the scope of the inquiry so as to extend it to all the southern States, all the former slave States. While on this subject I may say that Maryland, although near to the free States in geographical position, is more bitterly imbued with the old virus of slavery than any of the southern States that have been conquered.

A MEMBER. Except Kentucky.

Mr. STEVENS. No, I think that Maryland is worse even than Kentucky. Sir, in the State of Maryland one hundred thousand white men, in that portion of the State where the slave population formerly abounded, exercise equal political power with six hundred thousand in the free portion of the State. This being the case, there is in my judgment no such thing as a republican form of government there; and I hope that some gentleman from that State or some other member of this House will, before this Congress shall adjourn, present some proposition which will give to Maryland a republican form of government, apportion her representation upon the basis of population, and modify her laws so that men shall not be sold into slavery almost within sight of this Capitol. I have thought proper to make these remarks because I know how extensive this evil is.

Mr. SCHENCK. Mr. Speaker, this resolution as I at first drew it had a wider scope and directed inquiry into all cases similar to that described in it; but on reflection it occurred to me that an investigation into this particular instance might be made by the Committee on the Judiciary without interfering with the performance of its other duties; while I was apprehensive that an attempt to impose on that committee or a select committee the duty of investigating such cases in all parts of the country might result in our having no report for a long time to come.

However, I am not by any means unfriendly to any such general investigation, and I think every one must have concluded in the present temper of the chief Executive of the United States we have no right to expect he will lend us any of the aid of that power vested in him to carry out the laws of the United States, to prevent inequality and oppression in relation to any particular class of citizens in those States lately in rebellion.

The gentleman from Pennsylvania has given you one or two other instances in illustration. I happen to be in possession of the facts in another case which I will take occasion to present as showing little is to be hoped from that quarter. An old negro man, I think between seventy and eighty, a much-respected preacher of the Gospel, living in Georgia, was employed by a benevolent association at Philadelphia, as I believe, to act as superintendent of an asylum, home, or school in that State for colored people. He received a small pittance of salary amounting, I think, to \$35 a month, which was much for him and quite sufficient for all his needs.

In order to wreak their vengeance upon northern philanthropy and to manifest their contempt and hatred for northern people and their benevolent movements, this old man was arrested on the charge of vagrancy, and it has been decided in a court in Georgia, and upon appeal, I think, to a superior court the decision affirmed, one receiving compensation of that kind from northern benevolence, though in the shape of fixed salary, yet for a negro, was a vagrant under their laws, a person without any visible means of support; and he has been condemned to the chain-gang for, I think, a term of twelve months, and is now working out that punishment. The matter has been sent to the Judge Advocate General of the United States, where I had the opportunity of knowing the official papers proving all these facts. Yet we seem to be powerless to enforce the civil rights bill so as to protect a man under these circumstances.

Mr. GRINNELL. Are you in favor of admitting Georgia at this time?

Mr. SCHENCK. Whenever Congress is ready, and she has complied with all proper

conditions, I will admit her. I see her in no such condition now.

Mr. FINCK. I object to debate.

Mr. SCHENCK. I move to suspend the rule so that the resolution may be considered.

Mr. ELDRIDGE. Has not the resolution, being debated, gone over under the rules?

Mr. SPEAKER. It has not.

The motion was agreed to; and the rules were suspended.

Mr. SCHENCK. I have nothing further to add, and call for the previous question on the adoption of the resolution. At the same time if any gentleman will present a modification of the resolution making it broader in its scope, and that is thought advisable, I will withdraw the previous question for the moving of such an amendment.

Mr. LAWRENCE, of Ohio. I move the following amendment:

And said committee is also directed to report what legislation, if any, is necessary to protect loyal citizens in the enjoyment of life, liberty, and property in that portion of the States declared to be in rebellion.

In support of that I ask the Clerk to read an extract from the Loyal Georgian, of December 8, 1866, a paper published at Augusta, Georgia. Then I call for the previous question.

The Clerk read as follows:

"We have from week to week given accounts of the murder of freedmen, and have stated that in no instance have the murderers been punished. If white men are murdered by freedmen the murderers are sure to be punished. This is right. We hope that every colored man who is guilty of murder will be punished. The following is the account of the execution of a colored man:

"Execution.—Henry Cheatham, a negro, was executed at Anderson on Friday last in the presence of an immense crowd of whites and blacks.

"It will be remembered that Cheatham, in conjunction with Dan Johnson, brutally murdered a white youth, named Geer, near Anderson, last January. He confessed his guilt."—Columbia South Carolinian.

"At the late equal rights convention, held in Macon, the delegates representing some fifty counties, reported one hundred and fifty murders within the last twelve months, and in no instance did the civil authorities attempt to bring the murderers to justice.

"One woman was found with her throat cut from ear to ear, and her little child, less than a year old, eating the clotted blood from the wound. Another woman, in a delicate condition, was beat to death and the child beat out of her.

"We know that these murders are committed by villains, white villains, but they are no better than colored murderers. The latter are punished, the former are not."

Mr. BINGHAM. I appeal to my colleague to make an exception in that amendment, for the reason, as I understood the reading of it, that it includes an organized State now represented on this floor.

Mr. LAWRENCE, of Ohio. I will modify it by excepting the State of Tennessee.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. LAWRENCE was agreed to.

The original resolution, as amended, was then agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### OFFICIAL CRIMES AND MISDEMEANORS.

Mr. ASHLEY, of Ohio, offered the following resolution:

Resolved, That a select committee to consist of seven members of this House be appointed by the Speaker whose duty it shall be to inquire whether any acts have been done by any officer of the Government of the United States which in contemplation of the Constitution are high crimes or misdemeanors, and whether said acts were designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department thereof, and that said committee have power to send for persons and papers and to administer the customary oath to witnesses, and that they have leave to report by bill or otherwise.

Mr. ASHLEY, of Ohio. I demand the previous question.

Mr. RANDALL. I object.

Mr. ASHLEY, of Ohio. I move to suspend the rules.

Mr. BINGHAM. I would ask my colleague

whether it is not usual in resolutions of this sort, giving such extraordinary powers, to name the specific thing, or at least something that justifies the action of the House. The resolution as it stands embraces every civil officer in the United States, and I suggest whether it is altogether wise in a resolution of this kind to notify the world that there is a grand inquest about to be held on all the officers of the United States.

Mr. ELDRIDGE. I rise to a question of order. There is no subject before the House for debate.

The SPEAKER. The Chair sustains the point of order. The question is, "Shall the rules be suspended?"

Mr. FINCK. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on suspending the rules, it was decided in the negative—yeas 88, nays 49, not voting 54; as follows:

YEAS.—Messrs. Alley, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Dixon, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Hill, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Ingersoll, Julian, Kelley, Kelso, Kootz, Kuykendall, Ladin, William Lawrence, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, Mercur, Mercer, Merrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Schenck, Scofield, Sloan, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, and Windom—88.

NAYS.—Messrs. Ames, Ancona, Bergen, Boyer, Campbell, Chandler, Cooper, Dawes, DeForest, Deming, Denison, Dodge, Eldridge, Finck, Glossbrenner, Hale, Aaron Harding, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbell, Hunter, Jenckes, Kerr, Latham, Le Blond, Leftwich, Marshall, Maynard, Niblack, Nicholson, Noell, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Spaulding, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Andrew H. Ward, Warner, and Whaley—49.

NOT VOTING.—Messrs. Beaman, Blaine, Broomall, Cook, Culver, Darling, Davis, Dawson, Delano, Donnelly, Dumont, Eggleston, Eliot, Goodyear, Griswold, Harris, Higby, Hooper, Asahel W. Hubbard, James R. Hubbell, Hulburd, Humphrey, Johnson, Jones, Kasson, Ketcham, George V. Lawrence, Loan, McCullough, Miller, Moorhead, Morris, Newell, Phelps, Plants, Radford, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Shellabarger, Starr, Stilwell, John L. Thomas, Trimble, Hamilton Ward, Henry D. Washburn, William B. Washburn, Stephen F. Wilson, Winfield, Woodbridge, and Wright—54.

So two thirds not having voted in the affirmative the rules were not suspended.

During the roll-call,

Mr. GLOSSBRENNER stated that his colleague, Mr. DAWSON, had paired with Mr. BROOMALL.

#### MURDER OF UNION SOLDIERS.

Mr. PIKE, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the select committee appointed on the 6th instant to investigate the murder of Union soldiers, &c., be authorized at their discretion to proceed to South Carolina to make the investigation directed by the House, and that they have authority to employ a stenographer as clerk, and that the Sergeant-at-Arms be directed to pay the expenses of the investigation out of the contingent fund of the House.

#### REMOVALS FROM OFFICE.

Mr. BENJAMIN. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of House bill No. 664, for the regulation of appointments to and removals from office. When the bill was last under consideration it was ordered to be printed with the pending amendments.

Mr. WILSON, of Iowa. There is an amendment to the bill offered by myself and now pending. I desire to withdraw that amendment as the action of the House in striking out that portion of the bill relating to the heads of Departments renders it unnecessary.

The amendment was accordingly withdrawn.

Mr. PAINE. I ask the gentleman from Missouri [Mr. BENJAMIN] to withdraw his call

for the regular order to enable me to offer a resolution for consideration at this time.

Mr. BENJAMIN. I withdraw the call.

#### DIRECT TAXES IN REBEL STATES.

Mr. PAINE. I move to suspend the rules in order that I may introduce a resolution for the appointment of a select committee, and I will state to the House that it will be impossible for me to serve in any capacity upon the committee should it be ordered. The resolution I desire to offer is as follows:

*Resolved*, That a select committee of five be appointed, whose duty it shall be to inquire whether the laws of Congress enacted since the commencement of the late rebellion, providing for the assessment and collection of direct taxes in the late rebel States and for the seizure and sale of forfeited and abandoned lands and other property therein, have been faithfully executed, and to report to this House the results of their investigation, with the evidence taken thereon; that said committee have power to send for persons and papers and to employ a stenographer as clerk; to hold their sessions at Washington and such other places as shall in their judgment be most convenient for the performance of their duties; that one of the assistants of the Sergeant-at-Arms of this House be ordered to accompany said committee; and that the expenses of said committee be defrayed out of the contingent funds of this House.

Mr. BOYER. I ask for the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 28, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brandegee, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Culom, Delano, Deming, Dixon, Dodge, Driggs, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hart, Henderson, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Ketcham, Koonz, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, Maynard, McClure, McIndoe, McKee, McNair, Mercur, Moorhead, Morrill, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Raymond, John H. Rice, Sawyer, Schenck, Scofield, Sloan, Spaulding, Stevens, Stokes, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Elihu B. Washburne, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Denison, Eldridge, Finch, Glossbrenner, Aaron Harding, Hogan, Edwin N. Hubbell, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noel, Samuel J. Randall, Ritter, Rogers, Shanklin, Stigraeves, Strouse, Taber, Thornton, and Andrew H. Ward—28.

NOT VOTING—Messrs. Alley, Anderson, Beaman, Blaine, Broomall, Bundy, Chanler, Culver, Darling, Davis, Dawes, Dawson, Deffrees, Donnelly, Dumont, Eekley, Eggleston, Eliot, Goodyear, Griswold, Harris, Hawkins, Hayes, Higby, Hise, Asahel W. Hubbard, Hubard, Humphrey, Hunter, Johnson, Jones, Kasson, Kelso, Lynch, McCullough, Miller, Morris, Myers, Newell, Phelps, Plants, Radford, Alexander H. Rice, Rollins, Ross, Rousseau, Shellabarger, Starr, Stilwell, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Trimble, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Winfield, and Wright—59.

So two thirds having voted in the affirmative the rules were suspended.

Mr. PAINE. I now offer the resolution I have read, and upon it I call the previous question.

Mr. HALE. Does the resolution provide for the appointment of a stenographer and a clerk?

Mr. PAINE. No sir; of a stenographer as clerk.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. PAINE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PEACE IN SOUTH AMERICA.

Mr. BANKS, by unanimous consent, from the Committee on Foreign Affairs, reported the following preamble and resolution; which were read, considered, and agreed to:

Whereas wars destructive of commerce and injurious and prejudicial to republican institutions have for some time been carried on between Spain

and several of the South American States on the Pacific coast, and also between Paraguay and Brazil, Uruguay and the Argentine Republic, on the Atlantic coast: Now, therefore,

*Resolved*, That it be, and is hereby, recommended to the executive department of the Government that the friendly offices of this Government, if practicable, be offered for the promotion of peace and harmony in South America.

#### REVOLUTION IN CANDIA.

Mr. BANKS, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to this House, if deemed compatible with the public interest, a copy of any official correspondence which may have taken place relative to the revolution now in progress in the island of Candia, a possession of the Ottoman Porte.

#### REPRESENTATION OF GEORGIA.

Mr. ROGERS presented the credentials of E. G. Cabannis, claiming a seat as a Representative from the fourth district of Georgia; which were referred under the rule to the joint committee on reconstruction.

#### DAMAGES FROM MORGAN'S RAID.

Mr. HILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to inform this House whether any claims have been presented to the quartermaster of the United States by citizens of the State of Indiana, for horses or other property seized or received by the Government of the United States during the raid of John Morgan through said State in the month of July, 1863, for the purpose of suppressing said raid and for the pursuit and capture of said Morgan; what number of horses were there seized, and what amount in value of other property for which such claims have been made; whether such claims have been paid, and if not, why not.

#### A. P. FAUST.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Revolutionary Pensions be requested to inquire into the expediency of granting to A. P. Faust the pension claimed by him as per his memorial and papers on file in the Clerk's office.

#### PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Illinois, moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. HISE was entitled to the floor.

Mr. HISE. Mr. Chairman, I propose to discuss that portion of the President's message which has relation to the question of depriving ten States that passed ordinances of secession of their right to representation in this House and in the Senate of the United States. I propose, in the first place, to treat the subject as a constitutional question. I propose, next, to discuss the question as one of expediency; and in the last place, I desire to make an appeal to the justice and generosity of the House.

This question necessarily involves a consideration of the nature and the powers of the Government created by the Constitution of the United States. That the Government of the United States has no valid authority or existence except by virtue of the Constitution of the United States as ratified by the respective States is a proposition in reference to which, I believe, there is no difference of opinion. The Government in its legislative and every other department acts solely under the authority of the Constitution, deriving from that instrument all the power which it can rightfully exercise. On this question, I imagine, there is no division of sentiment among the members of this House.

The next inquiry, then, which arises is with reference to the nature of the Government thus constituted and the extent of its powers. Upon

this question there have been from the very origin of the Government two political schools, one taking the ground that the Constitution was ordained by the people of the United States in their collective capacity as one sovereign political community; that thus was created a national Government with paramount and supreme authority in all cases in which it may assume jurisdiction, and that the States are mere subordinate sub-divisions of one sovereign nation and have individually no attribute of sovereignty. The other school, to which I belong and have ever belonged, holds that the Union created by the Constitution is merely a commonwealth of independent sovereign States; that the Constitution is an emanation of State authority, having been ordained by sovereign and independent States; each acting in its separate, sovereign capacity; that all governmental power resided with the original thirteen States as independent sovereignties; that when the dominion of the British Crown had been thrown off each State became invested with the powers of an independent nation; that each State separately became endowed, in the language of the Declaration of Independence, with "full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

Those thirteen States had all the characteristics of independent States. Each State was perfectly independent in its political organization. Each had its Governor, its Legislature, its judges, among whom were distributed all the necessary functions and powers of government. Between the period of the Declaration of Independence and the adoption of the Articles of Confederation, an interval of two years, each State was not only sovereign and independent, but perfect in its distinct political organization and unrestricted in the exercise of governmental power.

Those States were, even as colonies, independent each of the others. Each had its separate charter and exercised its separate jurisdiction. The acts of each of the colonial governments were limited in force and validity to the respective boundaries of each colony. I now remember no binding connection of any sort existing between those Colonies prior to the adoption of the Articles of Confederation, except that previous to the Declaration of Independence they were under a common executive head, the Crown of Great Britain.

The thirteen original States, as independent sovereign communities, entered into that treaty embodied in the Articles of Confederation, which, by its own language was denominated "a firm league of friendship with each other for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever." It was not the purpose of that compact or alliance to consolidate those States under one common government. Nor did the States in adopting those Articles of Confederation surrender any portion of their sovereignty or independence. It was expressly declared that "each State retains its sovereignty, freedom, and independence."

The war of the Revolution closed, and the States, the independent, sovereign States, upon the advice of wise and able men still continued their connection for the same grand purpose of protection and defense against foreign aggression; and they did adopt and make binding for all time to come the Constitution of the United States as it now appears, with some amendments adopted since.

And the ground I now plant myself upon impenetrably is that the Constitution creates merely a commonwealth of States which previously to that time were sovereign and independent to all intents and purposes. It is likewise manifestly true from an examination of the document itself, as well as from contemporaneous political history, that all these States

consented by that Constitution, if you call it such, or, in other words by a compact between sovereignties, consented to part with a number of the powers of government, to grant them with all the functionaries, legislative, executive, and judicial, provided for in the Constitution of the United States. Now, in order to maintain the independence they had achieved, in order to provide for the common defense in the event of foreign aggression, in order that they should declare war and make peace as well as maintain peace in the States, they parted with certain powers for that protection and defense. They retained, of course, the balance. They became the grantors of certain powers to the Government, and they surrendered none others.

The very nature of the powers granted, as well as the very nature of the powers of government inhibited to the Government, shows the grand objects and purposes of the Constitution. One of these was to protect these States in their foreign affairs, as shown by the power to declare war and to make peace, and as shown by the power contained in that Constitution to regulate foreign commerce and commerce between the States. Another object was to preserve peace between the States, and hence the jurisdiction of the United States was extended to all suits pending between two or more of the States.

It was therefore a commonwealth of States, every State retaining by express provision, though such express provision was not necessary for the purpose, all powers of government they did not grant away. Here, then, is the charter. They were sovereign and independent, with powers of government without limit except as limited by their own constitutions. Hence the Constitution of the United States is a charter; it is a grant in which the States were grantors, and the functions of government not provided for in that charter were reserved to themselves. When you look to understand the powers granted and the powers reserved you must consider and understand that the Government of the United States is a State creation and its functionaries occupy the position of grantees; that they receive all the power they possess, all the jurisdiction they have by charter and grant in the Constitution of the United States, accorded to them by the agreement of the thirteen original States.

That being the case, we must look into the Constitution to see the nature and character of these grants, and the character of the Government created by them. I pronounce it to be a commonwealth of States. Now, without any provision in the Constitution of the United States itself that all the powers not granted or necessary to those granted are reserved to the States and people respectively, that would have necessarily followed without any provision in the Constitution from the fact that the States created the Government, that the States granted all the powers which it possesses, and that necessarily all the other powers of government are reserved. In other words, I look upon the Constitution of the United States as a treaty between independent States by which every State became a contractor with all the other States that all the enumerated powers should be surrendered up to a Government to be constituted as provided for in that charter.

Now, sir, if that is the view, and the reasonable view, fortified by examination of the document itself and fortified by the political history of the country, then it is necessarily a Government representative in its form. The functionaries created by that Government are legislative, executive, and judicial, according to that charter from these States. They are to be appointed in a given mode prescribed in that Constitution, and they cannot be appointed in any other. The legislative department is to be made up of two representatives from each State to the United States Senate, and of a certain number of Representatives fixed in the Constitution from each one of the thirteen States ratifying the Constitution. It also provides how the number shall afterward be fixed,

and that no State shall ever have less than one Representative.

This Government can be wielded and controlled, laws can be made by it for the purpose of carrying into execution the powers granted to the legislative branch only by and through the instrumentalities provided in the Constitution. Each State agreed that every other State should be represented in the lower branch of Congress in the manner prescribed by the Constitution, by a given number, until an apportionment should take place according to a census of the population, and after that by a given ratio. This is a Government of States, to be conducted in its executive, legislative, and judicial branches in a given mode, and no State can be controlled or governed legitimately under the Constitution that has not its due representation upon the floor of this House and its equal representation upon the floor of the Senate of the United States.

Mr. MYERS. I would like to ask the gentleman a question. In view of the statement just expressed by the gentleman from Kentucky, I ask him whether, in his opinion, our legislation during the rebellion, while the southern States were unrepresented in Congress, was illegal and is void.

Mr. HISE. If the gentleman will hear me through I will come to that. Do not be impatient, if you please.

Mr. MYERS. I hope I shall have a reply.

Mr. HISE. I will answer the gentleman's question. It is provided in the Constitution of the United States that a majority of all the Representatives is required for the transaction of business. A majority of all the Representatives means a majority of all the Representatives from every State of the Union, whether in a state of war or of peace.

But the point to which I wish to direct the attention of the House at this period of my remarks is this: that there is no provision in the Constitution for the government of a Territory. There is no authority in the Constitution for the Congress of the United States by and through its agencies, legislative, executive, or judicial, to govern any community or body of people except they be States. States adopted the Constitution, States furnished the Representatives, States provided for and appointed agencies, and the extent of the authority of those agencies is what the States have made it.

I well remember that President Lincoln in one of his messages or inaugurals—I do not at this moment remember which—boldly assumed the ground that there never were States out of the Union existing on this continent; that the Government of the United States was paramount and supreme to all intents and purposes, only by restraint where majorities could not be maintained. In other words, that it was a popular Government, a Government of the majority, and that only majorities in the legislative branch had a right to pass laws of any description to which the minority of the people or of the States were bound to submit. The clear implication of that message or inaugural was that there never had existed sovereign and independent States outside of the Union.

Now, I will acknowledge that before the Articles of Confederation there were several attempts among the Colonies to protect themselves against war with the Indian tribes by an aggregation of their powers. A portion of the country was colonized by the Dutch and there were attempts at alliance between the Colonies, but they never succeeded in establishing any connection between them of a governmental character.

You cannot govern Territories. If you do you usurp power without constitutional authority. There is no authority in the Constitution to govern Territories. This is a Government of States in which all the States are represented. The States choose the legislative and the President, and the President appoints judicial officers, and yet you exclude, and it is proposed to keep out, ten of the States from repre-

sentation in Congress right in the teeth of a positive injunction in the Constitution itself that every State of the Union shall be represented according to a certain ratio of inhabitants, and that it shall have equal representation in the United States Senate.

Mr. KELLEY. Will the gentleman permit a question?

Mr. HISE. Yes, sir.

Mr. KELLEY. I would like to ask the gentleman whether the territorial governments established under the administration of Washington were constitutional or not?

Mr. HISE. I will come to that. I admit that from the very origin of the Government up to the present period Congress has assumed, in my opinion usurped originally, the authority to establish political institutions and governments for people living outside of the States of this Union, for people who did not live within any of the States; for people who, it may be very true, settled upon the public domain, upon the land belonging to the Government of the United States.

Now, I hold that this Government is essentially and necessarily a representative Government. The Constitution is its charter; in it are set forth the powers which are to be exercised by the appointees of the States and by the States alone. Those governmental powers, legislative, executive, and judicial, must be exercised by State authority and by State agents under the charter that limits the powers and defines the extent of the authority. Now, I admit that in progress of time, by repeated precedents, this thing of instituting political governments and institutions for people who have settled on the public domain has become unquestioned. No public man now questions it much, whatever may be his opinion in regard to the power under the Constitution of the United States to do so. The power has been usurped, and successive usurpations have grown into precedents, so that now there is an acquiescence upon the part of the people of the United States, and perhaps also on the part of the people who are living on the public domain. But acquiescence does not create the power or justify its exercise. The Constitution gives no authority for any government of person or persons, community or communities, outside of the States that compose the Commonwealth of this nation.

I know that as authority for the exercise of this power over Territories we have been frequently referred to that clause of the Constitution which provides that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Now, I hold that if the members of the Convention which framed the Constitution, or any of the conventions of the States which ratified it, had believed for a moment that that clause included the power of instituting political governments over people outside of the States, people who are not citizens of the States, they would have provided for the representation of those Territories upon this floor. This Government can be carried on only through the instrumentality of representation. It was because there was an attempt on the part of Great Britain to govern the original Colonies by enactments of Parliament in which they had no representation that led to the struggle which resulted in the establishment of our independence and the creation of our representative form of government.

It is most astonishing that the time should ever arrive when the functionaries of these State governments on this floor should set up by usurpation, as I deem it, their own authority and power to govern those States which are not allowed a voice upon this floor; ten States which have been excluded by your enactments from any representation here, and that, too, in violation of the very principle of government existing in all our fundamental charters of government, State and Federal, of the very principle upon which the Colonies with but three million people hazarded a war with Great Brit-



ain. It is astonishing that by any lapse of time these old revolutionary recollections and the devotion and love of the people for representative government, should be forgotten, and the time should arrive when party domination, actuated and impelled by party malevolence and fierceness or party rapacity, should attempt to set aside all the principles of government and to govern these people in all respects by measures and institutions which appear to me—I speak it with all due deference to the majority on this floor—to be malevolent and malignant in the last degree.

As I have already said, I admit that territorial governments have been imposed upon people living upon the public domain, and many public men have attempted to derive the authority for establishing those governments from the clause of the Constitution authorizing Congress to do no more than preserve or dispose of the public property; "to make all needful rules and regulations respecting the territory or other property belonging to the United States." That is a provision giving power to Congress to dispose of or preserve the public property; nothing more.

Why, sir, several of the States of this Union ceded large tracts of territory to the Government of the United States before the adoption of the Constitution. People flocked upon that territory and occupied those lands. The Congress of the United States assumed, no doubt under this clause of the Constitution, the authority to institute political governments for such territory. But, sir, I say that if there had been any intention upon the part of the framers of the Constitution to authorize by this clause the institution of territorial governments by the Congress of the United States, the Constitution, which evinces in every part the devotion of its framers to the principles of republican government, would have provided that the Territories thus constituted should be represented in the Legislature of the Union. The absence of such a provision indicates clearly to my mind that the exercise of this congressional control over the Territories was never contemplated by the men who constructed the great charter of our political government.

Mr. KELLEY. Will the gentleman permit me to ask him a brief question?

Mr. HISE. Yes, sir.

Mr. KELLEY. I wish to inquire of the gentleman whether the Congress by which those first territorial governments were instituted was not to a large extent composed of gentlemen who had participated in the action of the Convention that framed the Constitution; and whether Thomas Jefferson, the founder and the head of the States' Rights Democratic party, did not, instead of opposing the congressional government of the Territories as unconstitutional, submit the most important amendment perhaps that ever was made to any of those territorial acts, the provision excluding slavery from the territory northwest of the river Ohio, thereby indorsing those territorial governments as, in his judgment, constitutional?

Mr. HISE. Mr. Speaker, I do not wish to be drawn off at present into a discussion of the subject of slavery. I will say, however, that I cannot at present remember (for it is years since I examined the record, if I ever examined it) how the yeas and nays were made up upon the first proposition to institute under the authority of Congress political governments for the Territories.

Mr. FINCK. I would suggest to my friend from Kentucky, in answer to the gentleman from Pennsylvania [Mr. KELLEY] that the amendment proposed by Mr. Jefferson was prior to the adoption of the Constitution of the United States.

Mr. KELLEY. The gentleman is correct as to that particular proposition; but that does not affect the other portion of my question touching the establishment of territorial governments by Congress.

Mr. HISE. The compact between the Congress of the United States and the State of Virginia in relation to the cession of the territory

northwest of the river Ohio—I speak from my present recollection and I have not examined the subject for some years—provided, not that Congress should organize Territories and institute territorial governments with no representation of those communities in Congress, but that the territory ceded should be formed into "not less than three, nor more than five States," which should be admitted into the Union "on an equal footing with the original States in all respects whatsoever." I do not recollect that that ordinance of 1787 contained any provision for the institution of territorial governments by Congress over the people who might go upon those lands and inhabit them. I acknowledge that the Congress of the United States had authority, under that clause of the Constitution to which I have referred, to provide for surveying those lands and bringing them into market and to specify the terms upon which they might be occupied and settled. All this may have been done; but the exercise of governmental power over people unrepresented is a thing foreign to our whole system of government, Federal and State.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. HISE. If I yield, I hope the House will indulge me by setting aside the hour rule so as to enable me to conclude my remarks.

Mr. WENTWORTH and others. Certainly, we will do that.

Mr. HISE. Then I yield to the gentleman with great pleasure.

Mr. MAYNARD. I do not wish to interrupt the gentleman without his cordial consent. The question I was about to propose was, whether the gentleman from Kentucky assimilates the condition of the ten States now unrepresented in Congress to that of territory belonging to the Government that has never been organized into States.

Mr. HISE. I will consider that point when I come more directly to the question of representation.

Mr. MAYNARD. Very well, sir. I was going to make that the foundation of another question, but I will not press it.

Mr. HISE. Mr. Speaker, in the course of policy indicated by all the atrocious and monstrous measures which have been brought forward here, the dominant majority in this body have indicated a deep-seated consciousness that there can be no State in the Union without its representatives in Congress; that there can be no State unless that State has its proportionate share of representation on this floor. Hence, while the majority in this Congress exclude from representation ten States, comprising a population of twelve or fifteen millions, they at the same time propose to institute over those States a most oppressive government, to justify which they must maintain, as they do, that those States are out of the Union, that they are not States of the Union.

If they are not States in the Union, then I do not think you can govern them at all. You have no right to do it. If they are kept out of the Union by any means whatever, then I deny the authority of the States in the Union under this Constitution of Government to govern them at all. They would have the same ground now, at least of remonstrance, protest, and resistance, that we had when we declared our independence at the risk of a bloody struggle with the enormous power of the Government of Great Britain. You deny them now representation upon this floor, which was then denied to our fathers by the British Government. Did it justify our forefathers, the people who inhabited these thirteen British colonies, in shaking off British domination, coming from under the British yoke, and making that war with Great Britain—you may call it revolution, then it was—did it justify them upon the ground of right and principle? Where now is the American citizen who will not say the Declaration of Independence was not justified, that the union of the colonists to establish that independence was not justified and rightful in itself?

These gentlemen are mighty sticklers for the Declaration of Independence and the principles therein contained; and that Declaration contains the principle in substance that the people have the right to alter, remodel, and abolish their institutions of government at discretion, and that whenever in the progress of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, but a decent respect for the opinion of mankind would seem to require they should make a declaration of the causes that led them to that point. So we did in reference to Great Britain. We made a declaration of the causes which led to the Revolution, and one of the main causes was that these Colonies had been denied all representation.

It is true that Government was oppressive. It is true our people were taken abroad and tried in British courts. It is true American commerce was taxed by acts of the British Parliament. They rose up against the oppressive government that was attempted to be riveted upon them by the British Government. Oppressive government, misrule, and revolution will follow every people who are denied representation in the body that attempts to govern them. Witness what we are doing, witness what we have done, and then see whether or not the principle of representation being abandoned or surrendered or taken away the rule still held over the people unrepresented will not result in unjust, sectional, oppressive, and arbitrary governments.

Mr. MAYNARD. The gentleman has substantially answered the question I propounded a few moments ago, and which was preliminary to another, namely, whether, in case any State becomes deprived of all State government, all civil government, it can have any representation in Congress until that civil government is restored and reestablished? In other words, is not the existence of a valid State government the foundation of all right of representation in this body?

Mr. HISE. I will come to that, sir, directly. Suppose it to be yielded and conceded for argument's sake that the Congress of the United States, this Government of States, can adopt and impose political institutions and governments over people not being a State and community, over a people who never have been received or admitted as States into the Union; suppose it to be conceded although it is in violation of the grand doctrine at the very foundation of our system of government, to wit, representation, it does not follow you can adopt political government and institutions for people who have never lived upon your territory, who never occupied any portion of your public domain; a right of government that cannot be inferred from that provision of the Constitution that Congress shall make all needful rules and regulations respecting the territory and other property of the United States. Instead of holding any portion of lands within the borders of the Colonies at the publication of the Articles of Confederation which preceded and produced the Union of these States, the United States Government had not a foot of land I know of in North America. Cessions were afterward made. When the Constitution was adopted there were lands ceded by some of the States. The States not only granted the great charter of your Government, not only created the Constitution, but some of them gave you their lands. The States were the grantors of lands as well as the grantors of powers. Virginia, North Carolina, South Carolina, and Georgia made cessions of large tracts of unappropriated or unsettled domain to the Government of the United States, which lands have been used and enjoyed, have been disposed of and used for public emolument and benefit in every way, and now you deny representation on this floor to these very States. Virginia by her Barber and Madison; South Carolina by her Pinckney, Butler, and Rutledge; Georgia by her Few and Baldwin; some of the ablest and most illus-

trious men of the age in which they lived, minds that have not been excelled since, if they have been equaled, were the authors and projectors of your great charter, the Constitution of the United States; and now after those States have given you their lands you thrust them outside the Union and attempt to govern them as territories, and in order that your oppressive rule may be maintained over them without opposition or hindrance you deny them representation in Congress. What monstrous injustice; what gross violation of all the doctrines and principles which pertain to free government in any country!

Mr. MAYNARD. The gentleman having answered that question, if he will allow me, I will propound a third.

Mr. HISE. I do not wish to be drawn off by answering the gentleman's questions. Suppose you can govern people on the public domain. All the public domain that was ceded to the Government of the United States by Virginia, North Carolina, South Carolina, and Georgia has been peopled and received into the Union of the States under the authority of the provisions of the Constitution. Their land has been taken up, occupied, and formed into communities and those communities have been received into the Union; and now before the Government is ninety years old, you turn around and deny these people, who through their Representatives in the Federal Convention were the authors of the Constitution itself, their just representation, and at the same time you are continually discriminating against them and in favor of the North in all your legislation. Is it just? Is it constitutional?

You never owned the territory out of which those States were formed—I mean Virginia, the Carolinas, and Georgia. It is true the lands northwest of the Ohio formerly owned by Virginia were ceded to you by that State, and five States have since been formed out of it and admitted into the Union, and these very States have here a representation which, in connection with the rest of the northern States, are denying to their mother—"the mother of States as well as of statesmen"—her just representation upon this floor, and are controlling her by the most oppressive legislation.

Sir, you have no foundation upon which to rest in instituting territorial governments over these people. You never had title to these lands. You had title to the lands out of which certain other States were formed. Florida was ceded to the United States by Spain. Louisiana was ceded to the United States by France. You governed them as Territories before they were admitted into the Union as States. You instituted governments, it is true, for other Territories, but never in a case where you did not own the land can you rightfully institute territorial governments over the people. Where is the authority to convert these States into Territories? Because that is your purpose, and in carrying out that purpose you betray the consciousness that as States they should be represented.

You say they are not States of the Union. I say they are. It is an axiomatic truth. It can easily be denied, and it is difficult to prove it. It is proven by the very statement of the case. I say that they are States, and to deny them representation as such in the Senate and House of Representatives is to deprive them of their constitutional rights. And in doing so the House and Senate are continually amenable to the charge of grossly violating the Constitution of the United States.

Mr. DRIGGS. Will the gentleman permit me to ask him a question?

Mr. HISE. Certainly.

Mr. DRIGGS. Does the gentleman hold that they were States three years ago?

Mr. HISE. Yes, sir, I do. I hold that "once a State always a State." And here I do not mean to be misunderstood. I have always and under all circumstances been opposed to any attempt upon the part of any portion of the States to sever their connection with the other States. I have always insisted

that such an attempt was wrong in theory and most inexpedient and injudicious in practice. Instead of ever favoring the severance of the States I have been, from the very earliest period of my political existence, ever since I had any knowledge of the character and framework of our institutions and Government, opposed to any severance of the States. I have looked forward hopefully to the period when this Government, qualified and limited as it is, with all its guarantees and rights, should be extended over the whole continent of North America, from the Gulf of Mexico to the Arctic ocean, from the Atlantic to the Pacific; when the whole continent, divided into States, would be members of our Confederacy and all united together.

Mr. HILL. Will the gentleman allow me to ask him a single question?

Mr. HISE. Certainly.

Mr. HILL. I would ask the gentleman if he thinks that during the rebellion, say at the time of the battle of Stone River, Virginia, for instance, was entitled to representation here?

Mr. HISE. I will tell the gentleman what I think of the right of representation of States that were in insurrection or rebellion. Or rather not the States, because the idea of a State rebelling, a State committing treason or being guilty of an offense and subject to indictment, prosecution, trial, and punishment, is an absurdity. You cannot look upon the condition of things that existed in this country during the war in any other light than that there were bodies of armed men in those States which for the time being controlled them. But they did not destroy the existence of the States; they did not destroy their political governmental organizations as States; but for the time being the interposition of force prevented the extension of the authority of the Government over them, and their power of availing themselves of their right to be represented in Congress.

[Here the hammer fell.]

Mr. THAYER obtained the floor.

Mr. WENTWORTH. I hope the gentleman from Pennsylvania [Mr. THAYER] will yield to allow me to move that the time of the gentleman from Kentucky [Mr. HISE] be extended?

Mr. THAYER. Certainly.

Mr. WENTWORTH. I then make that motion, and I hope there will be no objection to it.

No objection was made.

Mr. HISE. I thank the committee for the courtesy it has extended to me. I have no experience as a legislator; I have never served in Congress before; I have been sent here very much against my own inclination. While absent from my district I was presented to the people as a candidate to succeed Hon. Mr. Grider, my predecessor, and much against my desire I was elected. Being therefore a new member, although an old man, I ask the indulgence of the committee to go on—not now—and conclude my remarks. I do not expect ever to be here again, therefore I want to be heard, and I know that I shall have no other opportunity except in Committee of the Whole.

Mr. KELLEY. If the gentleman will yield, I will move that the committee rise, and the gentleman can have the floor when the committee shall sit again.

Mr. HISE. I am obliged to the gentleman, and will yield for that purpose.

Mr. KELLEY. I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union having had under consideration the President's annual message had come to no resolution thereon.

#### LEAVE OF ABSENCE.

Mr. McRUER asked and obtained leave of absence for his colleague, Mr. HIGBY, for the remainder of this week.

Mr. BERGEN asked and obtained leave of absence for his colleague, Mr. GOODYEAR, until the 15th of January next.

#### NEW ORLEANS RIOTS.

The SPEAKER. The Chair has received a telegram from Mr. McCULLOUGH, appointed to fill a vacancy upon the select committee to investigate the riots in New Orleans, stating that he will be unable to go. If no objection be made he will be considered as excused, and the Chair will appoint to fill the vacancy Mr. CHARLES DENISON, of Pennsylvania.

No objection was made.

And then, on motion of Mr. HENDERSON, (at four o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Charles H. Foster, of North Carolina, praying the disbandment of the North Carolina militia.

Also, a petition of the people of Louisiana, praying for national aid to repair and reconstruct the State levees.

By Mr. ALLISON: The petition of D. G. Eldridge, and 349 others, citizens of Iowa, for impeachment of the President.

By Mr. BIDWELL: The petition of the "California Volunteers' Union," asking for relief.

By Mr. BINGHAM: The petition of Major General Hancock, and others, officers of the United States Army, asking increased pay.

By Mr. COBB: A petition of citizens of Crawford county, Wisconsin, for improvement of water communications between the Mississippi river and the Atlantic sea-board.

By Mr. CONKLING: The petition of Troy and Boston Railroad Company, asking a reduction of duty on imported railroad iron.

By Mr. DRIGGS: The petition of G. D. Philbrick, and 82 others, of Tuscola county, Michigan, asking Congress to impeach the President on account of fourteen reasons and charges made in said petition.

Also, the petition of A. Beckert, and others, of Alabama, praying Congress to impeach Andrew Johnson.

By Mr. HALE: Petitions of General John C. Robinson and others, and of General W. W. Burns and others, officers of the United States Army, praying for increase of pay.

Also, petitions of General Henry S. Burton and others, of General Henry Brewerton and others, of Lieutenant A. S. B. Keyes and others, and of Lieutenant B. K. Roberts and others, officers of the United States Army, praying for restoration of commutation value of ration to fifty cents.

Also, petitions of Captain T. G. Baylor and others, and of Major H. R. Putnam and others, officers of the United States Army, to same effect.

Also, the petition of Levi M. Roberts, a disabled soldier of the war of 1812, praying for increase of pension.

Also, a memorial on behalf of the town of Queensbury, Warren county, New York, praying for reimbursement for United States Treasury notes lost at sea by sinking of steamer Melville.

By Mr. HARDING, of Illinois: A memorial from citizens of Port Byron, Illinois, relative to a post office at that place.

Also, a memorial from cigar-makers of fourth district, Illinois, for the repeal of laws requiring permits, &c.

By Mr. HART: The petition of D. R. Barton, and 121 others, citizens of Rochester, New York, praying that pensions be paid to the surviving soldiers of the war of 1812.

By Mr. LAFLIN: The petition of Oliver Lumphry, for the passage of an act providing that his mustor date from the date of the reception of his commission.

By Mr. McCLURG: A petition for the relief of Sarah Murphy, of St. Francois county, Missouri.

By Mr. MOORHEAD: A petition of clerks in the Internal Revenue Bureau, Treasury Department, for additional compensation.

Also, a petition signed by A. W. Foster, Esq., of Pittsburg, Pennsylvania, asking that the law relative to the election of members of Congress be changed.

By Mr. RANDALL, of Kentucky: The petition of Patrick O. Hawes, of Kentucky, for compensation for horses lost in the service of the United States.

By Mr. RICE, of Maine: The petition of the board of aldermen and common council of the city of Washington, and other citizens, for an appropriation of money to build an arch across the branch from Pennsylvania avenue to New Jersey avenue.

By Mr. SCHENCK: The petition of J. Winters, late Captain United States volunteers, for relief.

Also, the petition of 8 officers of the United States Army, for an increase of pay.

By Mr. WOODBRIDGE: The petition of Friend A. Brainard, of Vermont, for the return of commutation money, with accompanying papers.

#### NOTICES OF BILLS.

The following notices for leave to introduce bills were given under the rule:

By Mr. SPALDING: A bill to exempt ship-timber and fire-wood imported from the British Provinces from tariffs duties under certain circumstances.

Also, a bill to abolish tonnage consular fees in certain cases.

## IN SENATE.

TUESDAY, December 18, 1866.

Prayer by Rev. THOMAS O. LINCOLN, of Williamsport, Pennsylvania.

The Journal of yesterday was read and approved.

## COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. BUCKALEW to fill the vacancy in the Committee on Claims occasioned by the vote of the Senate excusing Mr. SHERMAN from further service upon that committee.

## CREDENTIALS.

Mr. JOHNSON. I beg leave to present the credentials of Mr. JOHN T. JONES, elected a Senator of the United States from the State of Arkansas to fill the vacancy in the Senate from that State in the term commencing on the 4th of March, 1865. I move that they lie on the table.

The motion was agreed to.

## PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer a paper in the nature of a petition from the Union League of Norfolk, in Virginia, prepared in grand council. In this paper they solemnly protest against the "my policy" of the accidental President of the United States, the evils of which they say are too numerous and cannot be longer endured by the supporters of the Government. They protest against universal amnesty in exchange for universal suffrage, and against the enfranchisement of any but loyal Union voters. They conclude as follows:

"We earnestly pray Congress to ignore the present State and municipal governments of Virginia, and establish instead a territorial government, and we respectfully recommend Hon. Judge J. C. Underwood as Governor for your consideration."

This is signed by the officers of the Union League, the president, vice president, secretary, &c. I move that the paper be referred to the joint committee on reconstruction.

The motion was agreed to.

Mr. WILSON presented a petition of officers of the United States Army, praying for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. SAULSBURY. I am requested to present a petition from Louis Schade, Joseph Shillington, and about forty others, naturalized citizens or persons who have declared their intention to become citizens of the United States, who, after reciting the fact of the recent passage of the bill relating to suffrage in the District of Columbia, state that "the Caucasian immigrant, whose intellect, industry, and wealth have contributed so much to the unparalleled progress of this country, is just as good, enlightened, and deserving of political privileges as the African just emerged from a state of slavery;" and also that "the Caucasian immigrant, though white, is a man, possessed of manhood, and consequently entitled to manhood suffrage." They pray that the act referred to may be amended in such manner as to put all whites of the Caucasian race who are either citizens or have declared their intention to become citizens of the United States on an equal footing with the negroes, and extend to them the same rights and privileges enjoyed by the latter. I move the reference of the petition to the Committee on the District of Columbia.

The motion was agreed to.

Mr. CRAGIN. I present the petition of Charity Harlow, of Cornish, New Hampshire, the widow of a revolutionary soldier, a pensioner, praying that her pension of \$44 22 may be increased to \$96 per annum. She represents that she is ninety-eight years of age, entirely destitute of property, and unless this increase be made she must go to the almshouse. I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. MORGAN presented the petition of Charles O'Connor, William M. Everts, and others, members of the New York bar, praying for an increase of the salary of the United States

judge for the southern district of New York; which was referred to the Committee on the Judiciary.

Mr. NESMITH presented the memorial of Major General Winfield S. Hancock and thirty-six other officers of the United States Army, praying for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for an appropriation for a ship-canal around Niagara falls, and for the improvement of the Fox and Wisconsin rivers; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented the petition of clerks, messengers, and laborers in the Department of State, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. WADE presented the petition of William Jones, praying for compensation for the capture and destruction of his vessel and cargo at Mobile, Alabama, in March, 1861, and for extra services as pilot at the southwest pass in Louisiana from 1862 to 1865; which was referred to the Committee on Naval Affairs.

Mr. WILSON. I present a protest signed by Mrs. U. S. Grant, Mrs. Captain C. V. Morris, Mrs. General O. O. Howard, Mrs. Secretary Welles, and several other ladies, directors and managers of the Soldiers' and Sailors' Orphans' Home, protesting against the bill that passed the House of Representatives a day or two ago establishing a new board of directors for that institution. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

## GOVERNMENT OF LOUISIANA.

Mr. TRUMBULL. I have received from M. A. Southworth, Boyd Robinson, A. F. Miller, John Devonshire, Simon Jones, and Jacob Hawkins, a committee appointed by the influential loyal voters of Louisiana for that purpose, a memorial, which is accompanied by a letter signed by Jacob Hawkins, the chairman of a meeting held by loyal citizens of Louisiana, and charged with the duty of stating the history and objects of the memorial. With the leave of the Senate, I will read a portion of this letter of Mr. Hawkins. He states:

"About seventy copies, in possession of as many gentlemen, have been scattered over the State for signatures, and the names thus obtained have all been attached to this document. It has been presented to nearly all of our more influential loyal citizens and about one third of them have signed it, the others being deterred from doing so by regard for their personal interests or personal safety. The memorial has not been presented to our colored citizens for their signatures, as it was deemed best that it should be signed mainly by representative men. I respectfully state that it is the strong conviction of your memorialists that, in order that the action prayed for may be peaceably and effectually consummated, Congress should act immediately in this matter."

This petition is signed by J. Madison Wells, the Governor of the State of Louisiana, W. B. Hyman, Chief Justice of the Supreme Court of Louisiana, R. K. Howell, Associate Justice, and very many others, embracing, as is stated in the letter of Mr. Hawkins, about one third of the more influential and representative men who are loyal in the State of Louisiana. The petition sets out that the present political organizations in Louisiana are not republican, because a majority of the citizens of that State are disfranchised and because they do not give adequate and equal protection to all the citizens; and the petitioners allege that these organizations are not loyal, "because they are controlled by those who were engaged in and now sympathize with the rebellion against the Government."

"We respectfully represent (say the petitioners) that a large majority of the voters of the State regret the failure of the late rebellion, and now openly approve and advocate the principles and feelings that produced it; that the principles and persons of those who remained loyal are as odious to them now as during the war, and that those who assisted the General Government in its victorious contest are now in the condition of a vanquished party; that the murders and persecutions of loyal men are increasing in frequency and turpitude, and that the lives, liberty,

and property of the freedmen are mainly dependent upon the interests and caprices of the disloyal; and that neither we nor they can obtain justice in the civil courts or adequate military protection."

They further say:

"We therefore respectfully, but most earnestly, petition your honorable bodies to take such action as will supersede the present political organizations in our State by such as will be loyal to the General Government, and secure to the loyal people of Louisiana protection in their lives, liberty, and property."

The source from which this memorial emanates, the important questions which it treats, and the high character of the gentlemen who have signed it, will excuse me, I trust, for occupying the attention of the Senate for a few moments before I shall move its reference to a committee. If it be true, as alleged in this memorial, that the loyal men of the State of Louisiana are in the condition of a vanquished party; if their lives and liberty and property are not safe under the political organizations that exist, and which are in the hands of disloyal men, (and that these allegations are true, the gentlemen who make them have the best means of knowing,) it seems to me it is our duty to take some action in regard to the existing state of things in the State of Louisiana. I know we have proposed a constitutional amendment for the ratification of the States in the Union, and if it should be held that the ratification of that amendment by three fourths of the governing States made it valid, that would not remedy the existing evils in the State of Louisiana, or any other of the rebellious States where a similar condition of things exists. Something more would be necessary. It would be necessary to enter those States and hurl from power the disloyal element which controls and governs them. Need we wait for the ratification of the constitutional amendment to do that? In my judgment we need not. I think Congress has complete control over the whole subject. Under the Constitution it is incumbent on Congress to see that there is guaranteed to each State in the Union a republican form of government. This duty devolves upon us and nobody else. The Constitution says:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

What power is vested in the Government of the United States? Another clause of this instrument says:

"The United States shall guaranty to every State in this Union a republican form of government."

What department of this Government is charged with the duty of carrying that power into effect? By the terms of the instrument it is the Congress of the United States and none other. And even if the power were vested in the Executive, which it is not, it would be the duty then of Congress to pass the necessary laws for his carrying it into effect. But, sir, it is not simply under this clause of the Constitution that the Congress has complete jurisdiction over this whole subject; there are other clauses. The Constitution declares that the Congress of the United States shall have power "to declare war" and "make rules concerning captures on land and water," "to define and punish offenses against the law of nations." And what was this rebellion but an offense against the law of nations? "To raise and support armies and make rules for their government and regulation;" and also by force of arms to put down insurrection under these war powers, vested by express terms of the Constitution itself in the Congress of the United States. Congress has complete jurisdiction over this whole subject, and the rebellious States and the people of those States are in the condition of any other people who have wickedly and causelessly undertaken to rebel against a good and just Government and failed in the undertaking.

What, sir, is the condition of the people in these rebellious States? How came they in the condition they are in? They undertook, not as individuals but as States, through their State organizations, to disrupt this Government and



set up a government independent of the Government of the United States and in hostility to it. They overthrew the State governments which were in existence, which constituted the only link between them as States and the Federal Government. There is no other way by which a State, as such, has any connection with the Federal Government, except through a State organization; and the Federal Government has no connection with a State, either in its representation or in any other way, except through a State organization in harmony with the Federal Government. These rebellious States, Louisiana among them, succeeded in destroying those State organizations; they thereby broke the link which bound them as States to this Union. They were no longer States of the Union, having the rights and the privileges of States of the Union. They were still communities and States, if you please, within the jurisdiction of the Union. The laws of the Union operated over the people of the rebellious States just as completely during the rebellion as before or since. Every law of a general character extended over the people of the rebellious States just as much as over those of the loyal States.

It is true that for a time the Federal Government did not have means of enforcing its laws; but every citizen in those States was amenable to the law. It is true in every case where any citizen violates the law that the Government has not the means of preventing its violation; if it had no crime would ever be committed? The law forbids murder and theft and robbery and arson; but thefts and robberies and burnings take place in violation of the law. Sir, the law forbade this rebellion; it was not powerful enough to prevent it, and the Government of the United States for a time was not able to enforce its laws within the limits of the rebellious States; but every citizen of those States was amenable to the law whenever the Government was in a position to enforce its authority.

This, sir, in my judgment, was the condition of these rebellious States. The people of those States succeeded in destroying their loyal State organizations, they set up State organizations in hostility to the Government of the United States. The Government of the United States, as was its duty, overturned and extinguished these disloyal State organizations. What then was the condition of the rebel States? Were the old State governments revived? By no means. There was not, and had not been for years, a single officer under those old State governments, neither Governor nor judges nor Legislatures nor executive officers of any description; there was not an officer in one of those States holding his office under the State governments which the rebels overthrew. We ourselves, by the power of the Government and the bravery of our troops, overthrew and extinguished the rebellious State governments. There then existed no link by which those States as States were connected with the Federal Government. In order to renew that connection it was necessary that State governments should be set up. This was admitted by everybody, and the President of the United States, acting under this admitted fact, undertook to organize State governments. In my judgment he had no authority to enter upon that work. The Constitution of the United States confers upon the President no implied powers; he has only express powers. The implied powers are all conferred upon Congress, and Congress is to pass the necessary laws to carry out the powers vested in the President or in any other department of the Government. He cannot frame the laws by which to carry into effect any of the powers conferred upon him.

But, sir, he undertook through provisional governors, whom he appointed to organize State governments in order to restore the connection between the rebellious States and the Union, which had been broken for five years. Now, had the President's plan succeeded, had he succeeded in organizing State governments that were loyal to the Union, that were under

the control of loyal men, that protected loyal citizens and secured freedom to all the inhabitants in those States, Congress might and doubtless would have overlooked the manner of their organization and recognized them as restored to their former relations, because Congress is as anxious and the people of this country are as anxious as the President himself ever was or can be for the complete restoration of the States of the Union to their former relations upon equitable, fair, and honorable terms. But, sir, the people of this country are not willing that the rebellious States shall continue to be ruled over by rebels and Union men be persecuted for their loyalty.

This memorial shows that the State organizations in Louisiana, or the political organizations as they are called, are not republican; and it states, moreover, that the loyal men who assisted the Government to put down the rebellion are in the condition of a vanquished party; that murders and persecutions of loyal men are increasing in frequency and turpitude, and that they cannot obtain justice in the civil courts or adequate military protection.

I am also informed by a gentleman from Alabama, who has placed in my hands an official report made by the treasurer of the State of Alabama, that taxes have been imposed by the political organization in that State, and money collected and appropriations of that money made to pay the salaries of the rebel officers who ruled that State during the rebellion. To Governor Watts thousands of dollars have been paid within the last year out of money collected by taxation off the loyal people of the State.

Mr. HOWARD. If my friend from Illinois will allow me I will refer him to the authority, if there be any authority for that mode of levying taxes. He will find it in the circular letter which the Secretary of State addressed to the various provisional governors in the rebel States some time in the month of June, 1865, directly giving it as his opinion that the provisional governor had authority to levy taxes for the purpose of paying his own expenses and the expenses of the Legislature that was about to be called together.

Mr. TRUMBULL. Mr. President, the case I am stating goes back of that. Money has been collected within the last year, as I understand, in the State of Alabama and paid, not to the provisional governor appointed by the President, not for the expenses of the Legislature he convened, but to pay the salary of the rebel governor while the war raged; and I am told by an officer who served in the Union Army, and who previously fled from his home in Alabama to avoid conscription into the rebel ranks, that the officer by whose orders he was pursued, his home destroyed, and his family turned homeless upon the world, has been paid within the last year his salary as an officer for doing these very things; and he gives me this official document, the treasurer's report, showing the payment of the money.

Now, sir, how long is this condition of things to last? How long is the Congress of the United States to sit here and allow its loyal citizens, men who fought to sustain the Government, to be persecuted for their loyalty, to be taxed to pay the salaries of the men who persecuted them?

And, sir, I am told by delegations from North Carolina and Alabama and Louisiana and Texas, intelligent gentlemen, that the Union men of those States must leave them unless something is done for their protection, that they can get no justice in the courts, and that they have no protection for life, liberty, or property.

I know the President claims that these States are already restored to their former position in the Union, that he has done it. I have already commented upon the want of power in the President to do any such thing. But he constantly refers in his arguments upon this question to the fact that the postal and the revenue and the judicial systems are extended over these rebellious States, and he seems to suppose he extended them there. Why, sir,

the President has had nothing to do with extending the postal and revenue laws and the judicial system over the rebellious States. They extended there all the time of the rebellion. Every general law of Congress extended over the rebellious States as much as over the loyal States, but that did not restore their connection with the Union. Their connection was broken by the destruction of their State organizations, without which it could not exist. The citizens of those States are amenable to our laws and were all the time of the war. The law itself extended over them all the time, and there has been no extension of it by the President. It was not in his power to extend the laws of Congress beyond the limit where the laws themselves go.

These political organizations which he has been instrumental in organizing are merely auxiliary to the military power, and he has treated them so himself all the time whenever they have done an act interfering as he thought unjustly or improperly with the military control of the country. This shows exactly what they are; they are political organizations subordinate to the military power, and in my judgment entirely within the control of Congress. We can control the military power there; and the President of the United States, although he is by the Constitution Commander-in-Chief of the Army and the Navy, must command the Army and the Navy according to the rules and regulations which the law prescribes for his government. He can carry his powers into execution only in accordance with such laws as Congress thinks proper to enact.

The duty of Congress, in my judgment, is, if this state of facts be true as alleged, to interfere at once and set aside these political organizations which are oppressing loyal men and are managing the affairs of these States in the interest of the very men who sought to overturn and destroy this Government. The people of Louisiana—that is the particular case—must accept the fate that awaits all people who unjustly and wickedly engage in war and are defeated. They are at the mercy of the Federal Government of the United States of America; and the Congress of the United States is vested with authority to pass all laws necessary to carry into execution all powers intrusted to this Government. Then, sir, I think it should exercise this power and pass the necessary laws to secure to Union men and loyal citizens their rights in these rebellious States, the necessary laws to place them in authority and control so that they may have protection, and secure to all republican liberty.

And now, sir, commending this memorial to the serious and early attention of the joint committee on reconstruction, I move that it be referred to that committee.

Mr. DAVIS. I have but a word to say to the honorable Senator from Illinois. He certainly has taken a very extraordinary occasion to deliver his speech in exposition of the merits of the petition which he has presented. I presume that the honorable Senator, though he has addressed his speech to the Senate, intends it to reach to the Legislature of Illinois, and to influence a certain election that is shortly to come off there. If that be his object, I hope the honorable Senator will succeed in it. I have read the names of the competitors of the honorable Senator from his own party for his succession, and I religiously believe that he is a much abler and a much better man than any of them or all of them together, if they could all be made into one man. [Laughter.] I therefore hope that when that election comes off the honorable Senator will be reelected. I am satisfied that he will bring more ability to the seat which he is to vacate on the 3d of March than any one who has been named, and I am equally satisfied that, although the modicum of disinterested and unselfish patriotism which he will bring will not be very large, it will still be immensely greater than that which any of the others will bring.

In relation to the memorial which the honorable Senator has presented, and the matters

of complaint embodied in it, I have only to say that in my judgment it amounts simply to this: there are in the States to which he refers an insignificant number of Radicals—I do not speak of their respectability, but of their numbers. They are too insignificant to grasp the governments of those States, and they just petition Congress to put those States into commission, establish a government to be managed by commissioners, and in effect pray to be made those commissioners themselves. That is about the sum and substance of the whole thing.

In the remarks which I have made I intend no discourtesy to the honorable Senator from Illinois. I feel great personal respect for him. I appreciate his ability as a Senator, as a lawyer; I believe he is a much better man than most of the men with whom he is associated, and who act in connection with him in the country; and therefore I greatly desire, when his successor is to be elected, that he shall be his own successor.

Mr. TRUMBULL. Mr. President, I regret that the Senator from Kentucky cannot rise above personal considerations in the discussion of questions in this body. I thank him for his personal kindness to me, and hope to be on terms of personal friendship with him while we occupy seats here; but I have never been guilty of indulging in a reflection upon the motives of Senators in their discharge of public duty here, and I am sorry that the Senator from Kentucky is cast in such a mold that he supposes that when a brother Senator takes a particular course here it is done in reference to his personal standing. I think, sir, if I know myself, that I have been governed in my action in this body by a sense of public duty, and that there is nothing in my course to warrant the Senator from Kentucky in casting upon me any such imputation as that of making a speech for the purpose of securing a reelection to the Senate. Sir, he may be cast in such a mold that he would do it; I am not. If my public course here is not such as to meet with the approbation of my constituents, I must take the consequences. I have not shaped it in reference to securing the personal approbation of my constituents further than a faithful discharge of public duty may be regarded as having that tendency; and the imputation of the Senator from Kentucky is wholly unwarranted.

Mr. DAVIS. One solitary word—

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. DAVIS. I will just say a word in explanation to the honorable Senator from Illinois by the indulgence of the Senate, not detaining them a minute. The honorable Senator best knows and he is the best judge whether, if he be animated by a desire to secure his reelection, he is animated by a dishonorable motive. I leave the decision of that question with him: I have nothing more to say.

#### UNFINISHED BUSINESS.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is House bill No. 828.

Mr. SHERMAN. A number of Senators have reports, &c., regular morning business, to make, and as the morning hour was consumed in debate I trust that a few minutes will be allowed for the disposition of that business. I therefore move, with the consent of the Senate, that ten or fifteen minutes be allowed for the disposition of regular morning business in its order.

The PRESIDENT *pro tempore*. The Chair will be governed by the intimation of the Senator from Ohio, unless objection be made, and receive reports, bills, &c., as though the morning hour had not expired.

Mr. WADE. I shall feel bound to object if there is anything that leads to argument.

Mr. SHERMAN. I mean simply the regular morning business.

Mr. WADE. Very well.

Mr. DOOLITTLE. In relation to the motion to refer the petition presented by the Senator

from Illinois, I did not understand that it was disposed of, but the discussion on that was interrupted by the calling up of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. It was so.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. LANE, it was

Ordered, That the memorial of John J. Anderson and John W. White, praying for compensation for cotton used for fortification purposes in the city of Nashville in 1862, be withdrawn from the files of the Senate and referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 475) to prevent and punish false and fraudulent representations to induce emigration to a foreign country, reported it without amendment.

Mr. SUMNER. I am also directed by the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. No. 148) presenting the thanks of Congress to Cyrus W. Field, to report it back without amendment, and with a recommendation that it pass. I desire to state that, with the indulgence of the Senate, I should like to call up this resolution to-morrow morning in the morning hour, and put it on its passage.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the petition of the Board of Trade of Detroit, Michigan, praying for an appropriation to defray expenses of transportation of articles from this country intended for exhibition at the Paris Exposition, asked to be discharged from its further consideration, the subject-matter having been already disposed of; which was agreed to.

He also, from the same committee, to whom was referred the petition of William Schmoele, praying for the suspension or repeal of the homestead act and the passage of a law by which the price of our public lands may be graduated, and the minimum price fixed at five or six dollars per acre, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred a petition of citizens of Lynchburg, Virginia, praying that the Southern Institution for the Amelioration of the condition of the Deaf, Dumb, and Blind Negroes be exempted from taxation, as well as all articles manufactured therein, asked to be discharged from its further consideration, the matter having been provided for in the internal revenue bill of last session; which was agreed to.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred a petition of female employes of the Treasury Department, praying for an increase of compensation, asked to be discharged from the further consideration of the subject, the subject having been disposed of at the last session; which was agreed to.

He also, from the same committee, to whom was referred the petition of Mrs. Mary O'Connor, praying for the restitution of property in the town of Beaufort sold by the tax commissioners, or indemnity for the same, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. CATTELL, from the Committee on Finance, to whom was referred the petition of the Numismatic and Antiquarian Society of Philadelphia, praying for the promotion of numismatic science and antiquarian research, asked to be discharged from the further consideration of the subject; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Pennsylvania, praying for an appropriation to build two new piers and repair the old wharves at Marcus Hook, on the Delaware river, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

#### BILLS INTRODUCED.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes; which was read twice by its title and referred to the Committee on the District of Columbia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 480) to equalize the distribution of the currency of the national banks in the several States and Territories; which was read twice by its title.

Mr. POMEROY. This bill proposes to equalize the distribution of the currency of the national banks among the several States and Territories. When the first bill on this subject was originally passed, it provided that the currency should be distributed among the several States upon a certain proportion, but a subsequent bill gave precedence to State banks, and in the State which I have the honor in part to represent we got almost none of the currency, because it was taken up by the State banks in the old States. This is a bill to equalize the distribution of the currency, and also to make an addition to the currency. I move that it be printed, and referred to the Committee on Finance.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House concurred in the amendment of the Senate to the concurrent resolution of the House providing for an adjournment from the 20th of December to the 3d of January.

The message further announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States;" and

A joint resolution (H. R. No. 218) relative to the issue of agricultural college scrip to the States lately in rebellion.

#### PERSONAL EXPLANATION.

Mr. CRAGIN. I rise to a question of privilege. I was necessarily absent last week when the District suffrage bill was passed. Had I been present I should have voted for the passage of the bill. I wish to ask the unanimous consent of the Senate that my vote may be so recorded, if it is not inconsistent with the practice and rules of the Senate.

The PRESIDENT *pro tempore*. That question has often been made in the Senate, and under the rule of the Senate the Chair believes it has been uniformly decided that leave cannot be given. The Chair, however, will be corrected by the Senate if such is not the uniform rule.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," was read twice by its title and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 218) relative to the issue of Agricultural College scrip to the States lately in rebellion, was read twice by its title.

The PRESIDENT *pro tempore*. This joint resolution will be referred to the Committee on Public Lands, if there be no objection.

Mr. POMEROY. I should like to have the resolution laid on the table and not referred to a committee at this moment. I think we can pass it without a reference.

The PRESIDENT *pro tempore*. The joint resolution will lie on the table for the present.

## ADMISSION OF NEBRASKA.

Mr. WADE. I move that the Senate now proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. No motion is necessary. It was only laid aside by unanimous consent. The unfinished business of yesterday is now before the Senate, being the bill (H. R. No. 828) to repeal section thirteen of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862.

Mr. WADE. That is not the bill that we supposed was in order as the unfinished business. I move, therefore, to postpone that bill and all other orders, and proceed to the consideration of the bill for the admission of the State of Nebraska.

The PRESIDENT *pro tempore*. This bill is before the Senate, and the Senator from Maryland [Mr. JOHNSON] is entitled to the floor upon it.

Mr. MORRILL. The Senator from Maryland was a moment since called into the Supreme Court room, and he desired me to say, if this bill came up, that he wished to participate in the debate upon it, but did not expect the Senate to interrupt the order of business on his account, and he would participate in it perhaps at some other time.

Mr. WADE. We supposed the bill for the admission of Nebraska was the unfinished business. If it is not, I move that all other business be laid aside and that we proceed to the consideration of that bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union; the pending question being on the amendment proposed by Mr. BROWN, to insert at the end of the second section the following proviso:

*Provided, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other rights, to any person by reason of race or color, and upon the further condition that this fundamental condition shall be submitted to the voters of the Territory of Nebraska at an election to be held on the first Tuesday of — next. And at such election said voters shall declare their assent to or dissent from the condition aforesaid in such form as shall be prescribed by the Governor of said Territory. And all votes given at such election shall be returned to such Governor within — days from the day of the election, who shall forthwith canvass the same. And if a majority of such votes shall be for this condition the Governor shall certify that fact to the President of the United States, who shall by proclamation announce the fact; whereupon, without further proceedings on the part of Congress, this act shall take effect.*

Mr. WADE. This amendment contains a principle which I have been as earnest in advocating as any other member on this floor. I wish that principle prevailed over every State in this Union, and where it does not now prevail I trust it very shortly will. But still I have objections to it in this connection and as an amendment to this bill, for reasons that I do not now intend to consider at very great length, because most of what I wish to say on this subject I said on a former occasion when it was before the Senate.

It was argued by the Senator from Missouri and perhaps one or two other Senators, that there was a precedent for annexing such an amendment to a bill for the admission of a State, or an amendment limiting the power of the State when it should come into the Union; that there was such a precedent by what was called the Missouri compromise. Mr. Clay, I believe, on that occasion offered the provision which is cited as a precedent. That is my recollection of it, though I have not looked at it very lately. It was adopted; but I know that almost every eminent lawyer, jurist, and legislator, from that period to this, has supposed that that limitation was totally void, and void upon this reason, that all the States that have not committed treason must stand upon

the same footing with regard to their relation to the General Government and their powers as States.

Mr. COWAN. I should like to ask the Senator how a State can commit treason.

Mr. WADE. That question has been sprung many a time and has no significance. A State in one sense is a certain territory, but really the people are the State; all the rest is bare territory, land and water. The people within the limits of what we call the territory are the State. But I do not turn aside for any such quibble as that. The people representing each State or constituting each State must, as has always been supposed, stand upon the same platform of equality with regard to all their powers and all their relations to the General Government. This doctrine has been asserted on this floor during the period of the Government, and I do not know that anybody has ever controverted it.

Another kindred doctrine has been as universal and as unquestioned; and that is that the General Government has no power to fix the qualifications of voters in the several States. I mean all the time, those States that have been loyal and have never forfeited their rights. This amendment is not offered to alter the condition, as it is said, of a State in this Union, because Nebraska is a Territory seeking to be admitted into the Union as a State. That is very true; but, sir, does not the same doctrine apply to it that would if it were already a State? Will you do a vain and idle thing? For the moment you have attached that amendment and permitted the State to come in on that condition, if I am right in my reasoning, the next day she may alter her constitution and throw your amendment to the winds and fix the status of her own voters in her own way.

Mr. BROWN. Will the Senator from Ohio permit me to ask him whether, if that doctrine be true, he were to impose a restriction of this sort upon the States readmitted, that have heretofore been in rebellion, they could not do the same thing also; and how he distinguishes the power of the State thereafter in one case, and the power of the State thereafter in the other case?

Mr. WADE. That is a very pertinent question; and I propose to come to that without having my attention particularly drawn to it. I have been speaking of States that have never forfeited any of their rights; loyal States. The doctrine that I have asserted applies to them. I do not know that the Senator from Missouri will question these principles as applied to the States that have never been in rebellion or in any way forfeited their rights. I do not suppose at this time of day we can do it. I know of no leader of political parties, I know of no jurist from the Chief Justice of the Supreme Court down to the judges of the county courts in the several States, that has ever asserted any other doctrine than that to which I have alluded.

The Senator from Missouri on a former occasion undertook, as did the Senator from Massachusetts [Mr. SUMNER] also, to show that I was inconsistent with myself; that I was asking the Senate to do an act inconsistent with what they had done on a former occasion, when we all voted to fix the elective franchise in this District. Why, sir, there is no analogy between the two cases at all. Our power of legislation over the District of Columbia is plenary and supreme. There is no doubt on that question whatever. It is given us by the Constitution of the United States. The distinction that I make between that and this measure is barely this: that with regard to Congress passing a law to fix the qualifications of voters in a State that has not been in rebellion, we have no power whatever to do it; whereas our power to fix that status in this District is full, plenary, and supreme; there is nobody to question it. There is, therefore, no analogy between the two cases whatever.

Mr. SUMNER. Will my friend allow me to call his attention to a point right there?

Mr. WADE. Yes, sir.

Mr. SUMNER. I will ask my friend whether or not, in his opinion, Congress may not in its discretion refuse to admit a State into the Union at a particular time? Is not that discretion in Congress? If so, I would ask, when would there be a better occasion for its exercise than at this moment with regard to Nebraska, when it comes here with a constitution in defiance of the principles of the Declaration of Independence?

Mr. WADE. Mr. President, the first part of the Senator's question is a very simple one; and I hardly supposed that he would put it. The very fact that we stand here, deliberating upon the question whether we shall admit a State or not, presupposes that we have the power either to admit or reject her, as shall appear best to the majority on this floor. There is no question about that. Our power to reject a State making application here is as full and perfect as our power to admit her if we think she ought to be admitted. As to the expediency of it, I endeavored on a former occasion to give the Senate at some length the reasons that induced me to believe that it was highly proper, expedient, and necessary that these Territories should be admitted now. I may be compelled to allude to some of those reasons again; but I am not in the habit of repeating myself on this floor. When I have stated the reasons once, I always think it is a little impertinent to go over them again, and I do not know that I could make the case appear any stronger on a second running than over than I did before. But I have no embarrassment upon that subject, and I shall answer the question before I get through.

When we admitted the State of Tennessee at the last session no such question was raised on this floor that I remember. It was not then suggested that we should refuse to admit her until she agreed to let us fix the status of her voters. Of course we looked to the effect upon her in that respect of the constitutional amendment when it should be adopted; and as it was, as the constitutional amendment had not then become a part and parcel of the Constitution of the United States, we indeed admitted that State without putting any condition at all upon the qualification of electors. Now, I will ask the Senator, is it not well for us to deal as leniently with a most patriotic State who sends Representatives here the best qualified that you can find, gentlemen some of whom have participated in the war, who have run all the hardships and the hazard of that great controversy for the maintenance of this Union—ought we not to deal as leniently with such a Territory knocking at our doors to come in as a State, as though she had been in rebellion and two thirds of her people had been endeavoring night and day to overturn your Government and to erect an accursed slave government upon its ruins? I will not submit, if I can help it, to any such discrimination as that.

Now, sir, I want to remind gentlemen how some of us voted on that question, because this amendment offered by the Senator from Missouri is not one of first impressions, it is not a new principle upon this floor, it is understood by us all.

Mr. BROWN. It was adopted in 1820.

Mr. WADE. Yes, sir. It was sought to be applied again, not in exactly the words in which the Senator has embodied his amendment, but the principle was precisely the same, as an amendment to the joint resolution for the admission of the State of Tennessee. I wish Senators to attend to the action that was had then, because they will not suppose that I am the advocate here now of any new doctrine. I wonder that when this question was so emphatically settled as it was then it should be made a question here now. When that resolution admitting Tennessee—if you please to call it admitting—or restoring her relations with this Government, as the resolution asserted, was before the Senate, the Senator from Massachusetts sought to attach this amendment to it:

"*Provided, That this shall not take effect except*



upon the fundamental condition that within the State there shall be no denial of the electoral franchise or of any other rights on account of color or race, but all persons shall be equal before the law, and the Legislature of the State by a solemn public act shall declare the assent of the State to this fundamental condition and shall transmit to the President of the United States an authentic copy of such assent whenever the same shall be adopted, upon the prompt receipt whereof, he shall, by proclamation, announce the fact, whereupon, without any further proceedings on the part of Congress, this joint resolution shall take effect."

Now, sir, there was an endeavor to give the right to the colored people to vote in the State of Tennessee and to make that a condition on which she should be restored to her relations to the Union. I desire the attention of Senators who may not recollect how this important resolution was voted upon, to the names of those who voted for and against it. I trust that gentlemen are not about to change their front now. There is nothing in my judgment which ought to lead to any such change, for this is a much stronger case in the direction I argue it than the one that was up here last year. The yeas and nays were taken on this proposition, and resulted—yeas 4, nays 84; as follows:

"Those who voted in the affirmative are Messrs. Brown, Pomeroy, Sumner, and Wade—4."

I voted for it myself last year. I voted for just such an amendment as you have got here.

Mr. SUMNER. I hope you will vote for it always.

Mr. WADE. Well, sir, that would be giving great weight to my judgment to overrule thirty-four Senators by it. But let us now see what the weight of authority was against me on that occasion.

"Those who voted in the negative are Messrs. Anthony, Buckalew, Chandler, Clark, Cowan, Cresswell, Davis, Doolittle, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Nesmith, Norton, Poland, Ramsey, Kiddle, Sherman, Sprague, Trumbull, Van Winkle, Willey, Williams, and Wilson—84."

There you had almost the whole Senate against such a qualification to the admission of the State of Tennessee, a rebel State that came here, not complying even with the requisitions of your constitutional amendment. This Territory has not adopted, but I pledge my word and my honor that she stands ready, just as soon as you shall admit her into this Union, the very next day, if her Legislature is in session, to adopt your constitutional amendment. There is no doubt about it. Everybody from that quarter says so. The respectable, truthful gentlemen who have been sent here to represent that Territory as Senators on this floor, their Delegate in the other House, the letters I have received from all the officers of the State everywhere, announce the fact that this Territory is up to high-water mark on the subject of human rights. I want them here because I want this body strengthened immensely by the reinforcement that these gentlemen will bring to bear upon every question you can get up; and you stand here cavilling over a mere technicality. There is nothing else about it. They also inform me that all their influence as men, strengthened and enforced by the elevation into the magistracy, if you will give them a chance, shall be exerted to see that this ghost of an objection shall be removed. And do you doubt that it will be? Not at all. It was not so with the State of Tennessee. You had no such assurances from that quarter. Nobody stood up on this floor giving you assurance that they would adopt your constitutional amendment and then give enfranchisement to all the colored population in the State. No such announcement as that was made; and yet thirty-four of you voted against requiring such an assurance. I failed to do it, because at that time I had not so fully investigated the principle upon which the Government moves, as I have since—the equality of the States, the impossibility of forcing these conditions upon a State which had not forfeited her rights, acting in accordance with the action of this Government from the earliest time. I went against it and gave that vote, prompted to do so by

my zeal for fixing that qualification everywhere that we can.

Mr. BROWN. Do I understand the Senator to say that if he had that vote to give over again now, from further investigation he would not give it?

Mr. WADE. It might be that I would give it with regard to that State, a slave State when she came here. I surely would not give it as a condition to fix upon a free Territory when she comes here. It may be that I was right when I applied my doctrine to a slave State guilty of treason, and that had no rights except such as of grace we saw fit to bestow upon her. In that view of it, my vote was exactly right, and if I differed with my brethren here I still think that my vote was right. But when you come to apply the doctrine to another State having no more relation to that than light has to darkness, then, sir, I tell you frankly my vote would not be the same. I shall not vote to affix this qualification or this restriction upon the constitution of this State, because I know it is a mere technicality. I know the great principle for which we have so long contended will be infinitely further advanced by rejecting the amendment than by permitting it to defeat the admission of this most patriotic State. The Senator wanted to know how I could find any distinction between a State that had not forfeited her rights and one that had. If these southern States had never been in rebellion—

Mr. BROWN. I beg the Senator's pardon. I do not wish to be understood as occupying any such ground. I can make a very clear distinction between States that have and States that have not been in rebellion; but where I desired the Senator to point out the discrimination was between States that have forfeited their rights and those that are not States at all, but in a territorial condition.

Mr. WADE. Very well; that is no harder than the other. I knew that the sagacity of the gentleman, shrewd lawyer as he is, would find no difficulty in making the very discrimination that he asked me to make on this floor. Why, sir, nothing is more unlike than a State that has forfeited all her rights and one that stands with her head up, patriotic, influential, living up to your Constitution everywhere, and never having violated her faith with the General Government or with her own citizens. I am astonished that I should be asked to point out the difference. One, in my judgment, lies prostrate under the arm of the conqueror, who has the right by the public law, as announced by your Supreme Court, to impose just such conditions upon her as he pleases, always having reference to the humanities and civilizations of the present day, and living as near to the most liberal principles of government as you can and govern her; but the power to treat conquered territory is at the will of the conqueror always. Does it make any difference, in the great war in which we have been through, in favor of these rebellious States, that they were not a foreign nation with which we was at war, alien enemies, but domestic enemies converting themselves into aliens by their acts of rebellion and treason? All the publicists say that when an insurrection has risen to the proportions of a civil war, so as to create a *de facto* government which can control the whole population within the rebellious borders and set them against the original Government, there is no difference between the belligerent rights of contestants in such a war and in a foreign war. They proceed upon exactly the same principles. The power of the conqueror is precisely the same. All there is about their case is that in addition to being alien enemies they have added the accursed guilt of treason; that is all. And shall they be more leniently dealt with because they raised their arm against the most beneficent Government in the world and proved traitors, than if they had been a foreign enemy that had fallen into some misunderstanding with us that resulted in war? I tell you no.

I am not the advocate for proceeding against

these rebel, criminal States with any greater rigor than is necessary to procure entire security for ourselves—indemnity for the past, if you please, and security for the future. I, for one, will exact nothing more; I will be content with nothing less. We have made a proposition to the rebellious States that has elicited the admiration of the world on account of its moderation, on account of every principle of revenge being withdrawn from it. We have put forth a principle of justice to them and justice to ourselves without any acrimony, without any attempt at punishment. When terms like those have been defiantly rejected by these men, murdering, scalping, destroying, construing every act of conciliation into cowardice, and raising their terms in exact proportion as you offer them lenity, I shall be for strong measures. Many of these States have rejected those most beneficent terms. They have not only rejected them but, as the Senator from Illinois has read to you this morning from the most authentic sources, they are now defying your law and murdering our friends in that country, whom we are bound by every principle that should actuate men to protect. Those who have been our friends in the southern States and have stood up for the old Government in the face of perils and hardships almost unequalled in the history of the world, have a right to call upon us to defend them; and, sir, they shall never want defense so far as I have it in my power to extend it. As these rebellious States have defied us and received all our attempts at lenity with mockery and defiance, I am for strong measures when these are rejected. They have been rejected now, I believe, by more than half of those States. I wish they could have complied with the most lenient and beneficent terms that we offered them. I told you on a former occasion I would receive them if they would take those terms, which were not as severe as I believed were necessary. I feared when proposed that they were not stringent enough to curb the proud, haughty recklessness of those men; but they have refused to comply with those terms, and have thereby shown themselves even more incorrigible and depraved than any of us supposed.

Mr. SUMNER. I should like to ask my friend just whether, in his opinion, those governments down there are valid so that they can bind their States or become parties to a constitutional amendment?

Mr. WADE. I have thought of that. Nobody knows better than the Senator how strenuously, to the utmost of my ability, I contended against the constitutionality of these organizations even under Mr. Lincoln himself. Everybody who was here, cognizant of the doings of this Senate, will bear me witness how I endeavored to anathematize this attempt by the executive arm alone, with only military power, to set up governments there without consulting Congress. The Senator knows what my opinions were then, and I assure him they have not changed since. The fact that these principles have been carried still further, and with more effrontery have been attempted to be forced upon Congress by Andrew Johnson, has not made them any more palatable to me.

Mr. SUMNER. Then if this is—

Mr. WADE. I have not answered your whole question yet. I have only attempted to show you that the question is not new, that my advocacy of the principle that the Executive cannot set up such a power is not a new principle for me. I wondered that every man who wished to preserve the true balances of our Constitution did not rise up then and anathematize the act, come from what quarter it would. I stand to-day where I stood then, only with greater experience on the subject, and when I see a despotism attempted to be erected on these principles, more stubbornly opposed to it if possible than I was then. But these governments not being constitutional, how can you ingraft these principles upon them? Why, sir, it is in the power of this Congress, who have

the full power of reconstruction. This is the body that can do it, and no other has under the Constitution any right whatever over it. You ask me the question: if these are disorganized States in their inception; the fruits of usurpation of the Executive power, how can you make them active? Why, sir, this Congress can breathe the breath of life into these dead carcasses. They did so by the constitutional amendment. They had their all-prevailing power of Congress to revivify and give life to that which without it is dead. That is how I answer you. Have you as a lawyer anything against that doctrine that these institutions, being set up in usurpation, were void; but is it not in the power of Congress, who has entire jurisdiction over the whole subject, to make them good by a constitutional amendment such as you ought to propose to them? That is what you said to them: "preserve these institutions as they are, and give us action under them, and we will sanction what you have done as legal and right." Without our action they are void and of no account whatever. That is the way I answer you.

Mr. President, I am anxious for a vote on this subject and do not intend to prolong the argument; but I am asked as to the expediency of this measure. I cannot repeat with any more force than my colleague did, and as I attempted to do on a former occasion, that we did promise these Territories that on certain conditions which we prescribed being complied with, they might knock at our doors with a constitution republican in form, and we would admit them. That is the sense of what we did. These doctrines that you now advocate were not thought of then. They have sprung into life since. You made your promise and agreement without prescribing at the time the rule that you now seek to enforce upon them. If you had, I have no doubt they would have complied with it, for I have no question that they are as anti-slavery, as much imbued with the sense of human rights, and wish as devotedly that all their population should have the elective franchise as you or I do. I have no question about that. But there they are in the winter time with the snows mid-leg deep, drifted all over their prairies, their rivers frozen up and unnavigable, their roads blocked up, intercommunication between them almost impossible, and now you propose to impose the expense of an election on those poor people scattered all over those immense territories. You wish now to send this Constitution back and put them to the trouble and expense of doing that which you did not ask them to do at the time. Having complied with all the conditions that you did prescribe, you now wish to send it back and compel these poor people to go through all this expense, all this terrible exercise, before you will let them in here. Sir, I do not think you have any right to do it. I do not see how States which stand on the same footing, having the word "white" in their constitutions, can without a blush demand of others that which they do not do themselves. I cannot do it for Ohio. I have told you that as a citizen of Ohio, which has a constitution just like that of Nebraska in this respect, I want it altered. I think it a defect just as much as you do. I have no doubt it will be done, and done quicker than though you should commence war upon her to compel her to do it.

They have all the population that is necessary; they have all the elements of a great and prosperous State; they are going on with all those enterprises that have made the American people so great; and a more enterprising race (for I have been among them) is not to be found in this most enterprising nation anywhere. Why distrust them? Be generous to them as you have been to everybody else. When you come to a State that has forfeited her rights, so that I have a right to ingraft my principles upon her, I will go hand in hand with you everywhere; but I cannot agree with you in exacting of these people over your own agreement and your own promises, that they

shall ingraft upon their constitution a provision that is not in your own, and one that never was exacted yet of any State by Congress. You did not ask them to do any more than they have done. I say again they have all the elements of a State; and all those principles that have been adjudged in the past sufficient to justify the admission of a new State into the Union apply in this case. Now, why should they not be admitted? Can anybody tell me? Can any Republican tell me why he should shut out the influence that is justly and legally derivable from this source? Why should he shut out the reinforcement he will get by doing justice to this Territory? The dictates of justice, the dictates of policy, the strength of the great cause of human rights for which we contend, will all be subserved by her admission; and as you rejected in the case of Tennessee just such a provision as it is now sought to ingraft on this Territory, I ask gentlemen to pause.

I suppose I need not have argued this matter so earnestly, because you have passed upon it once. It is not many months ago since this same question was before you, and you passed a bill for the admission of Nebraska by an overwhelming majority. What has transpired since to make it necessary that we should get up here and reargue the question? Why not do now what your sense of justice prompted you to do then?

I trust, sir, that any further appeals from me are entirely unnecessary. I have no idea that any Senator upon this floor will change his vote because of anything that has transpired between that day and this, though the fact is that further light has dawned upon us with regard to this Territory, and all of it going to show its immense resources and its immense gain in population from the time we had its application under consideration before. Why not deal with it as you have dealt with every other Territory applying for admission? There is no legal objection, there is no moral objection, but everything should prompt us to overlook these little technicalities for the great good that we seek to ingraft upon our constitutions.

I do not think, Mr. President, of anything more that I ought to say. I want a vote upon this bill to-day if it is possible to do it.

Mr. COWAN. Mr. President, this is a question upon which I feel a very great degree of interest, and that feeling has been heightened and increased by the speech which has just been made by the honorable Senator from Ohio and the views which he has given upon the nature of the work in which we are engaged. Now, sir, what is it? The proposition before the Senate is to create a State; to make out of the people of Nebraska and the Territory of Nebraska, its snow-covered prairies and its ice-bound rivers, a State. Then, Mr. President, what is a State? Something or nothing. If something, it behooves us, the representatives of the people here, and the representatives I might say of States, and of States claimed to be sovereign States, that we should know well what we do. I ask again what is a State? If we have power to create a State at all; if we have authority and jurisdiction to make it, then that State must be a body-corporate, not a thing existing as an actual, substantial entity, but a legal artificial person existing only in contemplation of law, and which for certain purposes enumerated in the law and designated by the law is to be taken to be a person. Then, in that sense, the people of the Territory of Nebraska may be taken to be corporators; the State of Nebraska is the corporation, the legal person created by this bill and who is to have perpetual existence, to sue and be sued, and to perform all other functions which are usually performed in law by a natural person. I do not know that I follow strictly the legal definition of a corporation, but I apprehend that lawyers at least will comprehend what I mean.

In the creation of a corporate body of this

kind, it becomes of the utmost importance that we should inquire what powers it may have. As a usual rule, they extend only to the boundaries of the charter which creates the corporation, or in other words they have no power to do that which the law of their creation does not allow them to do. So far I am willing to go. I am willing to join in the creation of a State limited in its powers in this way; but if a corporation is to be created with powers extending beyond the limits of that instrument which creates it, and to be invested with larger and wider powers, then I object; and it is to this point that I desire to call the attention of the honorable Senator from Ohio particularly.

I put the question to him whether a State could commit treason. I shall not undertake to give his answer, simply because I cannot; there was nothing about it of which my memory took hold; and, of course, to avoid any disposition to misrepresent him I will leave that to those who shall read the Globe to-morrow morning. I certainly understood the honorable Senator however to say that a State could commit treason.

Mr. WADE. No; I did not say any such thing.

Mr. COWAN. Does the honorable Senator say now that it cannot?

Mr. WADE. It is perfectly evident to me that many gentlemen have found that States may commit treason and sympathize with traitors; but the State itself being incorporeal, as Lord Coke says, having no soul—(Mr. COWAN. Nor body)—can neither go to heaven nor commit treason, nor go the other way that I know of. I said no such thing, however.

Mr. COWAN. I have always been delighted to agree with my ancient friend; and knowing him to be a most learned and astute lawyer, I have always felt myself strengthened when that agreement took place; and I was really somewhat shocked when I found or supposed I had found him advocating a different theory. But I propose to go a little further; it may be that he is hardly out of the woods yet.

If a State cannot commit treason, if it has no soul to be damned and no body to be kicked, I should like to ask further whether it can commit any other crime. I should like to know from the honorable Senator as a lawyer whether this corporation, this incorporeal thing as he admits it to be, has any power or can do anything other than that which the charter of its incorporation allows it to do, because that is a most important and pertinent inquiry here; a most ponderous inquiry, an inquiry which to-day rives this nation from foundation-stone to turret, which shakes it from the steeple to the cellar, can a State commit a crime? Can a State rebel? I say, Mr. President, I want to know this, and I want to know it for a most potent reason, for one that is all-important. I in my State am in a minority; in my State I am at the mercy of the State authorities, who believe differently from me, who are of a different opinion, who hold to different views of policy, and I desire here now at this time and in this place to know how far I am bound by those State authorities.

I understand that the Governor of Pennsylvania, a most respectable gentleman, whom I see upon this floor now, is limited in his power and in his authority by the Constitution and the laws; that the Legislature of Pennsylvania are so limited; that the judges are so hedged round about by the law; so that they have no right to do that as Governor, as Legislature, as judicial officers, as corporate officers, if you please—representatives of this incorporeal thing about to be created here—that they have no authority as such officers to do that which is not warranted in and by the Constitution and the laws.

Mr. President, I want to know if that is true in these United States of America; I want to know if that is a fundamental principle; because if it is not all our rights are in jeopardy. If these corporate officers can in their own persons transcend their corporate powers, step outside

of their limits, do unlawful things, and involve me in the consequences, I want to know it, I want to know, and I want to know it from the honorable Senator from Ohio, whether if his excellency the Governor of Pennsylvania, the Legislature of Pennsylvania, and the judiciary of Pennsylvania were to declare that the State of Pennsylvania was out of the Union and inaugurate a war to maintain that theory, I who maintained that she was not out of the Union, and who persisted in my loyalty and my direct allegiance to the United States all the way through; could possibly be involved. That is the plain question, there is no blinking it, there is no getting around it. If the State can commit treason, then the State may involve me in the consequences of treason; then, the State may affect me because she has in her corporeal, not in her incorporeal, but in her corporeal, actual state and entity committed a crime; and I, forsooth, an humble member of the minority, must submit to it and must bear the penalty consequent upon it.

I have said that this was the question which now shook this nation to its center. I have said that this was the question of this age and this day. Is it true or is it not true? Of whom are we followers here? Are we the followers of John C. Calhoun; are we the advocates of nullification; are we the advocates of secession; or are we the followers of Daniel Webster and that school which declared that this Constitution of ours was not a compact or agreement, but an ordinance which created a Government? In what way is the citizen of Nebraska to be bound to the General Government of these United States? Is he to be bound to that Government by direct, immediate, personal allegiance, or is he to be bound, as was contended by the secessionists, through his State? They contended that he was not tied, that there was no *ligamen*, allegiance in lawful English, holding him directly to the General Government, and that he was bound to it only through his State. If that were true, and his State did something which cut off that *ligamen*, which cut off that bond of connection, the inhabitants of the State would be cut off, too. But if the tie was direct, immediate, and personal the action of the State would and could have no effect whatever on the status of the individual as to the General Government.

Hence it is, Mr. President, that I say this is the important question of the hour; this the test question of the day. It is upon the determination of this question that the existence of this Union hangs to-day trembling in the scale. I agree with what the honorable Senator from Ohio has said about the right of suffrage; I agree with the main part of his speech; but I do not agree with his notion, as I understand him, that a State may commit treason, that a State in rebellion may forfeit the rights of innocent people. And I put it to his sense of justice, I put it to his sense of humanity, I put it to that sense of right which I know exists in him toward the loyal people of this country, to know whether their States by any unlawful act of theirs can deprive their innocent people of their rights?

Mr. WADE. I have no wish to interrupt the Senator, but I desire to suggest to him that it seems to me that all he is saying now has no reference whatever to the question before the Senate. He is talking about a State and what is a State and what a State may do. I am not so particular as to what a State may or may not do; but I say, here is a State erected, with a complete organization, with all its officers, everything necessary to a State government, and which all the other States have, and it asks to come into this Union. But the Senator is speculating on the question whether a State can commit suicide or commit crime, or what it may or may not do. Sir, I suppose that this State, once admitted into the Union, can do exactly what the other States in the Union can do—no more, and no less.

Mr. COWAN. I agree that my honorable friend as a good lawyer has a right to object to the testimony on the ground of irrelevancy;

but my experience in the Senate of the United States has taught me that irrelevancy in argument is at least not out of order. I think if it were we should have much less speaking here than we have been obliged heretofore to listen to. But is this relevant, or is it not relevant? My honorable friend from Missouri [Mr. Brown] has undertaken to offer an amendment to this bill, in which he attempts to limit and to restrain the power of this incorporeal person which we are about to create; and when he offers that amendment, which is perfectly legitimate, perfectly germane to the subject, I have a right to speak as to other things which this corporation may, according to the theories of Senators upon this floor, do or which it may not do. My honorable friend from Missouri makes a point which I do not make because, being a free man as he is and being a free man as I am, we each entertain our own opinions upon that.

The honorable Senator from Missouri proposes an amendment in which he says that this State shall at no time have authority to debar anybody from the right of suffrage on account of race or color. I respect his convictions on that subject, although I do not entertain them. I have no sneers or jibes for him; far from it; but I desire to hear him calmly, dispassionately, and carefully, and if his argument convinces my reason I shall vote with him.

On the other hand, I want to know, and I want to know as an essential, particular thing in this debate, whether this being which we are about to create shall have the power to take the whole of the people of Nebraska out of this Union. I want to know whether the Governor and the Legislature and the judiciary of Nebraska or a majority of the people of Nebraska, acting through a convention regularly called, if you please, according to law, can take the whole people of Nebraska out of the Union; whether they can cut the tie of allegiance which binds them to the Union; whether they can absolve all that people from punishment for crimes done to the Union; whether they can make all the citizens in that State *quasi* foreigners and alien enemies?

Now, Mr. President, I have always understood that it was utterly impossible for a corporation to commit a crime. I never heard of a railway company committing larceny. I never heard of a turnpike company committing burglary.

Mr. HOWARD. Nor trespass?

Mr. COWAN. No, sir, nor trespass. I beg the honorable Senator's pardon. If they commit a trespass they commit it in pursuance of the provisions of their charter; that is, in transcending the powers of their charter they may commit a trespass; but they cannot commit a crime. I should like to hear my honorable friend from Massachusetts demonstrate how it is possible for a corporation to commit suicide. I can very well understand how a man may commit suicide; I can understand how the corporeal entities, beings, who are the support of the trust and who are intrusted with the administration of it can commit a crime, how they can incur penalties, how forfeitures might be declared with regard to them; but how the corporation itself, this thing which exists in contemplation like the dagger in the drama, can commit a crime, and how any act of those who represent it can involve innocent people in the consequences, passes my comprehension.

I understand that the theory of my honorable friend from Massachusetts is that because the corporate authorities of the rebellious States were guilty of certain offenses therefore the States themselves committed suicide. I understand the doctrine of my honorable friend from Ohio to be that because the States went into rebellion—or rather not the States, for the States had no authority to go, but because their Governors, their Legislatures, and their judges went into rebellion—therefore the States incurred forfeitures. What forfeitures? Not the forfeitures which the law imposed upon individuals, but forfeitures which it is pre-

tended we can impose on a State, on a whole people. If that be the doctrine, it becomes of the most intense importance; negro suffrage pales beside it; female suffrage sinks into insignificance before the magnitude of the question so far as it regards us.

I beg Senators to ponder on this question. If it be true, as I said before, that the corporate authorities of my State can by violating the provisions or the charter of that State, can by violating the laws of the Union and the Constitution of the Union involve me in any way in crime, I want to know it; and I want to know whether, if it can be so, it is upon any other principle under heaven, upon earth, or among men, except that these States are sovereign. If my State is a sovereign State, and if I am covered up in her vessel, inclosed in her basket, only attached to the Union by a ligament which attached her—if that is so, and I am to be involved in the consequences of her corporate wrongs; her corporate faithlessness; her infidelity to her vows, I want to know it. And I say, Mr. President, again, that this is the most important question which has ever been presented to any people. Here we have a central Government, a Government of the Union. I owe it allegiance. How? When? Where? How far? Is it absolute, or is it qualified? Is it immediate, or is it through somebody else?

If we leave this question as we have it now, what is a man to do? Here is a double Government, a double sovereignty, a double allegiance. I owe allegiance to the United States of America, and I owe allegiance to the State of Pennsylvania. I am told by honorable gentlemen that I owe allegiance to the General Government within its constitutional sphere, and I am told that I owe allegiance to the State of Pennsylvania within its reserved sphere. Who is to draw the line, pray? When am I to stop obeying the United States Government and to begin to obey the State of Pennsylvania? When am I to stop obeying Pennsylvania and to begin to obey the United States Government?

Mr. President, I wish to direct the attention of Senators to this fact in the Constitution of our Government, that it is an anomaly. There is no other Government on the earth situated as this is; there is no other double Government, no other double sovereignty, no other double allegiance; and when you undertake to talk about people being rebels and traitors, and guilty of the highest crimes known among men, it were well that we have the lines fixed so that you and I may not stumble and incur these imputations.

Now, I ask again, is the allegiance of the people of Nebraska Territory, when they are admitted as a State into the Union, to be a personal, direct, and immediate allegiance to the Government of the United States? If it is, then I understand it; then, if I were a citizen of that State, I should understand it when it becomes a State. But if you leave it as it is now, I am free to confess that I do not understand it. I understand gentlemen upon this floor to be astride a dilemma. I understand them one moment to say that a man who follows his State into rebellion and into war is a rebel and a traitor; and I understand them in the next breath to turn around and say that he is a conquered victim, to hang over him not the penalties of treason, not the penalties of the municipal law, but to say to him "*væ victis*," "at the mercy of the conqueror." Which of these is your theory to-day? Which is it, I ask you? I ask it of Conservatives and I ask it of Radicals. Are you ready to answer it? You must take one or the other. If this allegiance to the United States is direct and immediate, by what right can you declare that States commit suicide, and that States go out of the Union, and that the whole people of a State, innocent and guilty, men, women, and children, irrespective of the part they took in the war, are criminal and to be held at your mercy? If on the other hand the tie is through the State, if it is not direct between the person



and the Government, and if the person is not immediately responsible to the Government, then by what warrant do you consider a whole population as guilty of treason, as guilty of crime; and by what warrant do you undertake to impose municipal penalties and talk about punishment for treason? If hereafter the people of Nebraska should rebel, how are they to be treated? I have a right here to inquire what may be the fate of Nebraska. This is not the only point of time that we are to consider; this is not the only rebellion of which we are to take cognizance. The wise man will not confine himself to this particular point; he will not create precedents or hamper himself with laws which in the end may come back to torment the inventor.

I have, then, a right to see how this is to affect the people of Nebraska. The people of the southern States, who went into rebellion, want to know to-day how this question is to be settled. "What are we? Are we in the Union or are we out? Are we held by a direct allegiance, to it or are we held by an indirect, intermediate allegiance? Are we *quasi* foreigners and conquered people, or are we rebellious and traitorous citizens, having engaged in a useless and lawless war against our Government?" That is the question which troubles every hearth-stone at the South to-day. That is the question upon which the Union hangs, and it is upon the determination of that question whether the Union shall live or whether the Union shall die, whether the Union is buried beyond the power of the hand of resurrection to give it life, to breathe breath into its body again, or whether we are now filling up its grave with that hollow-sounding voice which indicates farewell, a last farewell upon the earth to those we love.

That, Mr. President, I say again, is the great question. I have an opinion upon that question. I have always held it. I have always supposed it was orthodox. I have always believed that the Constitution of the United States was not a compact between States, that it was not an agreement between States, but that it was an ordinance of the people, through their States, by which they created a Government; that it did not bind sovereignties to do or not to do certain things; that it did not leave to sovereignties to determine whether the compact was kept or whether it was broken, but that it was an instrument which established a Government with the right to command and the power to compel obedience, and to which the citizen owed direct and personal allegiance, and that if the citizen was guilty of an offense against it in the shape of levying war, he could be indicted and convicted of treason. I have always considered it to be a Government which had its hand upon the head of the citizen, a Government which levied taxes upon him without the intervention of his State, which sent its tax-gatherer into every nook and corner of the country; he visited every household, he made his requisitions there as though there had been no State government at all. As to the Post Office Department in the several States, it was immediately and directly in contact with the people. As to the bankrupt laws in the several States it was immediately and directly in contact with them. It was in contact with them because it was the organ of peace and war. It was the organ through which their relations with foreign countries were made, held, and maintained. It was, in short, Mr. President, a Government distinct and independent from the States, and able to exist without the States except as to this body.

Mr. SAULSBURY. Will my honorable friend from Pennsylvania allow me to ask him a question?

Mr. COWAN. Certainly.

Mr. SAULSBURY. I propose to ask a question of the honorable Senator, because I intend to discuss this question at some future day myself, and I wish to be enlightened by his superior wisdom. I ask the honorable Senator this question: when one of the southern States seceded from the Union and estab-

lished an independent government, professedly independent and having the power to protect its citizens against the consequences of disobedience to the Federal Government, and the Federal Government not having the power to afford them protection, or failing to do so, did a citizen of one of those States, yielding obedience to the commands of his State under those circumstances, thereby incur the penalties of the crime of treason against the Federal Government?

Mr. COWAN. Certainly not, Mr. President, no more than he would have incurred those penalties if he had been a citizen of a foreign State, no more than a citizen of Canada would have incurred them.

Mr. HOWARD. Who, then, did commit treason in a State?

Mr. COWAN. Those who could have been protected, only those; and I beg the country to note it, and I beg the country to observe that there is where they must come sooner or later.

Mr. HOWARD. Suppose they defied all protection, and did not ask for it at all, who then committed treason?

Mr. COWAN. They committed treason who defied protection, of course. But why should the honorable Senator ask me that? Why should he attempt to traverse my answer in that way? I say to the honorable Senator that they who committed treason against the United States Government in levying war against it were those who made war against it, who conspired to make war against it, when they were not under the exclusive authority of a State government which had the power to compel their obedience, and when they were not acting under her commands, and when, at the time, the United States Government was upon the ground, and ready, able, and willing to protect them.

Mr. HOWE. How is it with prisoners of war who were taken by the rebels, reduced to their sole control and authority; would they be justified in changing their flag and enlisting in the rebel forces?

Mr. COWAN. If they were compelled. I believe at one time in his life the honorable Senator from Wisconsin was a judge, and I have no doubt a very good one; at least I am perfectly free to say that I should like to have tried cases before him. Now, let me suppose the honorable Senator presiding as a judge upon the trial of one of our soldiers taken prisoner by the rebels and compelled to bear arms against his country, would he allow him to be convicted of treason? To simply state the question is to answer it.

Mr. HOWE. I am so much of a judge yet that I think I can answer that question on the spot if it is submitted to me now.

Mr. COWAN. I have no doubt about it.

Mr. HOWE. I would never hold any man guilty of treason for doing anything that he was compelled to do; but while that answers the question of the gentleman, I think it is fair to say that I hold it to be the duty of every citizen of the United States to die before he takes arms against his country.

Mr. COWAN. Mr. President, I bow in humble submission before the superior courage, patriotism, and magnanimity of the honorable Senator from Wisconsin—

"To die, and go we know not where;

To lie in cold obstruction, and to rot!"—

—the gentleman has not thought of death!

Mr. HOWE. If the Senator will allow me, I wish to say that I imposed that duty only upon those honest citizens of the United States, all of whom know where they are to go when they die, not upon those who do not know where they are to go. [Laughter.]

Mr. COWAN. Then the honorable Senator has news from that—

"Undiscovered country, from whose bourne  
No traveler returns."

Mr. HOWE rose.

Mr. COWAN. Oh, no! I beg pardon now. There is such a thing as "too much of a good thing," you know. If the honorable Senator

has reduced it to a certainty, I congratulate him, and I congratulate all the citizens to whom he addresses himself. All those who are elected and who are confirmed in the faith of course know where they are going exactly.

Mr. WADE. I wish you would not forget Nebraska. [Laughter.]

Mr. COWAN. Well, I will come back to Nebraska directly.

Now, Mr. President, one word in regard to the law on this subject. It is certainly within the reach of any honorable Senator here to ascertain exactly what that is. There cannot be a doubt about it, because it is not only the law, but it is the common reason of man without which (unless we belong to such a perfect class of beings as my honorable friend from Wisconsin and those whom he apostrophizes, who would die in their tracks rather than falter) it would be impossible to get on. Until we come to that stage, I can say to the honorable Senator that the law is that where a man does owe direct, immediate allegiance, and where he acknowledges that he owes it, he has a right, a corresponding and reciprocal right, to demand from his Government to whom he owes it that it shall protect him, and that it shall not leave him to be overridden by any organization whatever; that it shall not leave him to be overridden by a State organization, by a county organization, by an organization of Knights of the Golden Circle, by an organization of precipitators, by an organization of minute-men, or any other kind of men, but that that Government is bound and it is the main object of its creation to be there ready to protect him if he refuses to obey that usurped power which attempts to command him.

Why not? What is the object of the creation of Government? What is it for? For what is it that I along with the rest of us agreed to establish a central Government, to pay taxes, and to clothe men with authority over us? It is that they may stand sentinel over our rights; that there is a fixed, permanent organization to which the citizens are pledged and agreed; and that the moment any other and adverse organization, no matter where it comes from, no matter by whom originated, makes its appearance, the Government which we have instituted for our protection, knowing that we as single men cannot contend against organizations, is bound to put it down and to protect us. But who ever heard of a man who was compelled to obey a usurping organization, compelled because that organization might have hanged him had he resisted its decree, being subjected to punishment for that enforced obedience when the legitimate power came into possession of the scepter? To assert such a thing in a court of justice is to assert an absurdity and to make a man ridiculous, not only in the eye of the law, but in the eye of the jury.

Then, in answer to the question who committed treason in the late war, I say they committed treason who, when they were not commanded by a State and when they were in a position where a State could not compel them to obey, made war upon the United States at a time when the United States could afford them protection. They were the persons who committed treason, and not those who acted in other circumstances; that is according to my theory, according to the northern theory, according to the Websterian theory as against the Calhoun theory, according to the theory of the sovereignty of the Union, not according to the State sovereignty theory. If you adopt the State sovereignty theory, as I think my Radical friends have adopted it everywhere, then no inhabitant of a State can commit treason after the State herself determines to dissolve the connection between herself and the General Government.

I have contended on this floor uniformly that the tie of allegiance was direct between the General Government and the citizen, and that while the citizen owed allegiance to the General Government the General Government owed him protection; that if the citizen was charged with a crime he was entitled to pro-

tection. What is that protection? The protection of the citizen is that when he is charged with a crime he has a right to be tried by due process of law. I have been taught from infancy—I never heard it disputed—that in that consisted American liberty. What is it that makes Great Britain to-day proud, resplendent, and free above all the nations of the earth? It is the same thing which gave to the Roman citizen in the time of Paul the right of what?—protection in return for his allegiance. Who dares scourge an Englishman? Who dares or ought to dare to-day touch an American citizen except in pursuance of the judgment of the law? I say to Senators that whenever they admit away and give up this great fundamental principle of their Government, they are recreant to their country; recreant to the sires that gave them being, recreant to their history, recreant to their traditions, and recreant to everything that ought to ennoble and give us a place among the nations.

Then, I say that wherever direct allegiance is owing, the person owing it is directly responsible. If the allegiance between citizens of the rebellious States and this General Government was direct and immediate, you have no right, you can have no right, to impose any penalties upon them except in pursuance of law; and all your talk about States committing suicide or forfeiting their rights is Calhounism, is nullificationism, is secessionism, is State sovereignty in its very worst ismistic form. It cannot be. If I owe direct allegiance to a Government and I am charged with a crime, the very first question is am I guilty; and whether I am guilty or not, if I owe allegiance to the Government, the Government is bound to protect me in the trial of that issue. Now, I ask my honorable friend from Wisconsin whether that is not good law; whether that is not part of the protection which is the reciprocal *quid pro quo* for the allegiance? Have I not a right to come up to my Government face to face and say, "You allege that I have committed a crime; now I demand of you if I owe you allegiance that you shall give me protection." What protection? Protection until the issue of fact is tried. If it is not that, what is it? If it does not mean that, what does it mean? If it does not mean that, where is liberty, where is security? If any Senator on this floor is charged with an offense by the United States Government, has he not a right because of his allegiance to say to that Government, "I cannot be put upon trial until I am first indicted by a grand jury, and no penalty can be imposed upon me until a petit jury under the instruction of a judge learned in the law finds me guilty; and even then no penalty can be imposed beyond that which you yourself affixed to this offense before the offense was committed."

Mr. HOWE. The Senator addressed a question to me just now which I should answer if I felt at liberty to engage in the debate with him, but I cannot consent to be catechized and then be stopped in the answer. If the Senator wants me to answer specific questions he must allow me to do so.

Mr. COWAN. Now, Mr. President, I will come to Nebraska. This Union is composed now, I believe, of thirty-six States according to one theory and twenty-six according to another. It is utterly and totally immaterial to me for the present argument which of these two hypotheses is adopted. The reasons which I shall offer I think are potent to show that the people of the Territory of Nebraska are not a State now and have no good reason to present why they should become a State, while there are a great many very good ones to show why they should not be so.

Mr. President, when the Union was first formed it was composed of great States and small States; but it being a matter of great importance that it should be formed, a matter of paramount importance, indeed, remarkable concessions were made to the small States, made to the State which you, sir, [Mr. ANTHONY in the chair,] so ably and honorably

represent here, one of the smallest in the Union—made to the State which my honorable friend on the other side [Mr. SAULSBURY] so eloquently and forcibly represents here at times—great concessions made to Rhode Island and made to Delaware. Although small States, weighing nothing in the great scale compared with Pennsylvania, Virginia, New York, and others, yet it was conceded to them that upon this floor they should have an equal status with the greatest, or in other words, that they should have an equal representation in the Senate with the great States. That was a concession to procure the formation of the Union; but it imposed no obligation upon the States of the Union afterward to admit insignificant members upon the same terms. Nobody will pretend that if Nova Scotia, or a part of Nova Scotia, or a part of Canada fifty miles square with one hundred thousand inhabitants had come forward and proposed to ask admission into the Union the States would have been bound to admit her. Because we made that concession to your State, Mr. President, because we gave it to other small States, it is by no means a *sequitur* that we shall give it to every insignificant fraction of people who come here in these troubled times to seek for power so momentous as this is.

Then I say we are perfectly free; we are not bound by precedent; we are not bound by any obligation to admit the people of Nebraska to the privileges of a State at this time. It is wholly a question of policy, and another question to which I call the attention of some of my Radical friends, a question of fairness. I believe that they plant themselves now entirely and totally upon the ground of fairness. The Constitution is to be overridden where it is in the way, laws are to be set aside, everything is to be made to yield to the question of fairness. Well, I propose, first, to look at it upon the question of fairness.

What is there fair in it? Is it fair that eighty-eight thousand people—and for the sake of making it better and so that I may not misrepresent my honorable friend from Ohio, I will say one hundred thousand all the way through—is it fair that one hundred thousand people should have the same right upon the floor of this Senate that three million people have or that four million people have? I ask is it right? Can any man say that that is fair? It is so far from fair that it is absolutely preposterous; it is presuming.

And, Mr. President, let me say to you another thing. The questions which interest and which agitate the great States are not felt in the smaller and particularly in the far western States. It is utterly and totally immaterial to Nebraska how she may vote on some great questions involving the very safety of the Union; whereas it is matter of most momentous issue to Pennsylvania, to Maryland, to Virginia. Take if you please the question of negro suffrage, which now agitates the country from one end to the other; what do the people of Nebraska care about negro suffrage in their Territory? Is that the Territory where there was only one negro to agitate this matter, and since that he has died? I do not know whether that is the Territory or not, but we have heard of such a Territory about which there was a great ado that the negro ought to vote, and it turned out that there was only one negro in it; and before the question was decided here in the Senate he had died, and that settled it. [Laughter.] I say what possible degree of interest could the people of Nebraska take in the question whether negroes voted or not? Even in Boston they had not enough the other day, when they turned over with the Democrats, to give them a majority as I understand. Even in Boston, where the negro is such a favorite that he is taken and cooked and caudled, and tried to be whitewashed and made into somebody, and where he is elected to the Legislature and all that—even in that attractive spot where one would suppose every hungry, thirsty Ethiopian, who was "stretching out his hands to God," would go—even there they have not

enough to give the Democrats a majority when they vote with them.

But Nebraska! Why, Mr. President, the question whether the negro should vote in Nebraska is of no moment whatever. I question whether there are a dozen men in the Territory that would snap their fingers for the difference whether they did or did not vote, because whether they did or no the effect produced would be inappreciable. But when the question comes to the District of Columbia, when it comes to the State of Maryland, when it comes to the State of Virginia and the southern States, then it does become a question, and one of great import—a very different question from that which it is supposed to be here. Gentlemen upon this floor voted the other day to give the negro suffrage in the District of Columbia because they said he was entitled to his share in the Government. It is not a share, it is a question whether he or the whites shall rule. It is not a question whether they shall rule jointly; it not a question whether one shall rule in part and the other in part; but it is a question which of the two races shall rule. Does any man believe that in this District or in any of the southern States, or where negroes are very abundant, where there is any chance of competing with the whites, but where if they had the majority they would rule; and does any man doubt but that where they have not the majority the whites will rule? To say otherwise is to ignore the whole history of affairs. Do you suppose that the negro would not deprive the white man of a vote in the District of Columbia if he had the chance? Why not? I only compliment his good sense when I ask why not? Certainly he should, because he knows, even the instincts of a semi-barbarian will teach him, that this is a question not of sharing dominion, but it is a question as to which shall have dominion.

Then I say as to the other States of this Union these are important questions, most important, vital, lying at the very base and foundation not only of their society, but of the organization of that society and the happiness of the people. Who shall decide them? People who are not interested or people who are; people who are in sympathy with those in contact with the evil or people who have never felt the evil and who know nothing of it, and who are moved merely by political theory and political hypothesis and party bias.

Wherever these questions arise it becomes of the utmost importance to the older States, and I say to New England look well to your borders; you may be cooking a kettle of fish that you will not be willing to eat yourselves, by creating corporations of this kind. How many of these people are there? A hundred thousand people I have agreed to set them down. Suppose there are a hundred thousand American citizens in Nebraska, you ask have they not a right to be represented. I say, certainly, under certain circumstances. But look to the State of New York which has four million people; two million of those people have no representatives on this floor. Your system does not provide for the representation of minorities. Who represents the minority of New England on this floor? Are the hundred thousand people in Nebraska to-day better than the one million of people in New England who are not represented here? Have they rights higher, holier, more sacred? And yet who represents those minorities? Who represents the minority in New York, I ask again? Who represents it in Rhode Island? Who represents it in New Jersey now? Who represents it in Ohio? Who represents it in Illinois? Who represents it in Missouri? You talk about representation and you talk about fairness; but if you come to count the millions that are unrepresented here, your claim for Nebraska will sink infinitesimally into the distance; it will be invisible; it will be what mathematicians call a vanishing point; you will see no more of it.

Now, I ask, when there are millions of people of intense beliefs, of the same rights in

this country, upon whom the same burdens are imposed, who have to bear your arms in the field of battle, who have to pay your taxes, and who have to obey the laws you make, and who are yet totally unrepresented here, with what face can a man come on this floor and ask for power here to be given to eighty-eight or one hundred thousand people in Nebraska? That is not the worst of it. It is not a hundred thousand people in Nebraska, but it is fifty thousand plus one hundred out of that one hundred thousand. Pennsylvania as well as New England is very much interested upon the question of a protective tariff. I believe the State of Ohio wants a protective tariff. Now, what would you think, sir, if the whole system of protection and non-protection, of free-trade or the American system, were to be put into the balances and the protective system should kick the beam because the Senators from Nebraska were thrown in? What would you think of it when you came to ask why they did it? Perhaps they would say, "We do not know; we cannot give any particular reason except that we have a great Territory there and not very many roads; we want to build railroads and get iron as cheap as possible and therefore we go for free trade."

What would Pennsylvania say to that? What would Ohio say to that? What would all the protective States say to that? And yet that may be. It is very well known here that many gentlemen from the western States—I do not quarrel with them, I do not think hard of them—are free-traders. They are opposed to protection because they conceive it to be a hardship upon them as they are agricultural States, and they will resist it. Will Nebraska be with them, or will it be with the Atlantic States? I might apply to my honorable friend from Rhode Island, not in the chair, [Mr. SPRAGUE,] who talks "tariff" very often, whether he had not better have an eye to this and see about it. It is not a question of to-day. My honorable friend from Ohio says that the men who come here to represent Nebraska to-day are clever fellows. I have no doubt of that; and there are clever fellows enough in the country to make up a thousand such Senates as this if that were a qualification. I can find clever fellows everywhere. I have no doubt these are clever gentlemen. And he says some of them have fought for the country during the war. There is nobody willing to pay to them a higher compliment than I would be for that. But what has all that to do with the question? Just nothing at all. The question is whether there is any fairness in this demand, in the first place, and in the second place whether there is any danger in it to the older States; whether there is any danger in it to large unrepresented minorities in the country; whether there is any danger in it to great interests in the country of whom these Representatives may not have charge.

I was exceedingly anxious to hear my honorable friend from Ohio tell us why it was that the people of this Territory should be constituted into a State, what was the necessity for it, what grievance they labored under. Have they no executive? Have they no Legislature? Have they not a Legislature of their own election? Have they no courts? Have they complained that the laws are not equal, that they are not just? Have they complained that the laws are not administered, or not administered properly? Not at all. There has not been a word uttered here, not a word from the beginning to the end of this debate, which bore upon the question as to whether a State government was necessary there or not. Nobody has pretended that the people in the Territory of Nebraska are not living as happily, and in the enjoyment of their rights, with the laws administered just as well as they are in any State in the Union. Nobody has said so. But the honorable Senator from Ohio, fair, just man, always desirous to have something at least plausible to throw into the scale in order to show the necessity for a State government there, has given us what he calls a reason. Now I

beg Senators to listen. What is the reason that there must be a State government in Nebraska, and why can they not get along just as well under a territorial government as heretofore, particularly in this disturbed state of the country when balances of power are beginning to be of the utmost importance everywhere, and since it is avowed almost on this floor that these men are to be admitted here in order to strengthen still more the great excess of power now in the hands of the dominant party? My honorable friend says at the outstart of his speech:

"Now, Mr. President, one reason"—

And it is the only reason he gives; whether there are any others I do not know—

"Now, Mr. President, one reason why the Territory of Nebraska should be very soon admitted as a State is that the land there is being taken up by your college scrip, by your railroad grants, &c. In various ways the land is being all absorbed, so that if we leave it a little while longer exposed in this way, we shall not have the power to give to the State for school purposes and for various other purposes those grants which we have uniformly made to new States on their admission into the Union."

That is the reason why the Congress of the United States should create this corporation equal in power here on the floor of the Senate to New York, Pennsylvania, Ohio, Illinois, at the beck and bidding of fifty thousand people plus one hundred out of one hundred thousand. Had the honorable Senator no better reason? Is that the reason why Nebraska should be a State? Is that the pressing necessity which induces the people to divide the crown and scepter with this handful of men? I am not the chairman of the Committee on Territories nor the chairman of any other committee; but I think that if I was I could have devised a mode by which the people of Nebraska could have been well protected against this impending evil. Was it out of the reach of my honorable friend's legal acumen and stretch and sagacity to give them a remedy? I should think not. I believe he was a Republican as I was, and we held that Congress had supreme authority over the Territories to fix their status while they were Territories. That was our doctrine. I think we could have saved their lands, we could have protected their people so far as the interest of the school and the church, or any other that we chose to subserve might be involved; we could have saved all that without this extraordinary stretch of power on our part.

Mr. President, I do not know that anything I can say is to have any weight here upon the determination of this question; but I have felt it my duty to my own State and to the unrepresented minorities of other States to invoke on the part of the Senate a calm, careful examination of questions of this character. If it became necessary to insure the liberty, the freedom of the people, and the proper administration of the law in Nebraska that these one hundred thousand people should be endowed with the corporate powers of a State, I should not object to trying it; but, Mr. President, there is another thing to be considered, and it is a thing upon which we cannot turn our backs here. Why is it that the people of Nebraska want a State? Does any sane man suppose that it is because they cannot get school lands and college lands, and that somebody will appropriate them with scrip here and scrip there? Not at all. We know that in all these Territories there are politicians, and we know that these politicians are exceedingly anxious to have a State. Why? Because, in that triumphal and sovereign car of the State ride Senators and members of Congress, ride power and dominion; rides, in other words, a State; rides New York, rides Pennsylvania, rides Ohio, and as well ride Nebraska and Colorado. Think of it! These are high stakes to be played for, and here is the sweat-cloth in which they are won, in this Senate.

Now, Mr. President, so far as compliment is concerned, so far as gratifying a laudable ambition is concerned, so far as doing anything to accommodate a clever fellow is concerned, I think I have always been willing and am willing now to go as far as anybody else; but

I ask the Senate not to admit Nebraska upon this showing, not to think of it, not to think of the eloquent blandishments with which those who come here to electioneer for her admission assail you, but to think of the duty we owe to the Union and the rest of the States, to our own States, and to ourselves.

Mr. President, in some of its aspects I cannot conceive how anybody in the present circumstances of the nation, in the situation in which we find ourselves, can with any kind of face come here and ask us to bestow this boon upon that little knot of people who reside in Nebraska for no reason in the world, no reason pertinent to their welfare, no reason pertinent to the existence of the Union, but every reason calling us to act the other way. It has not the poor apology of being needed to give the dominant party a preponderating majority in this body; it is not needed in the other body. I could understand why partisans, why ambitious politicians should desire to possess a two-thirds majority here which would override a President's veto. I can understand why people would want to have that; but why want more than that at such a cost and at such hazard to such important interests I cannot conceive. If my Radical friends had not that two thirds already well assured, three to one, indeed, then I could understand why they should desire to add a compeer or two in order to aid them to supplement their weakness. But what is it for here? Surely they cannot be moved by considerations of that kind.

Mr. President, I do not know whether it is in order to amend the amendment of the honorable Senator from Missouri, but I believe it is.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It is in order.

Mr. COWAN. Then I propose to amend it; and I propose to amend it in a point vital as we have supposed—I do not know whether it is or not—to this Union; vital to its very existence. I propose to settle the question of the right to secede on the part of a State. Admit Nebraska to-morrow on the bill as it stands and you leave the question open. If you are to stipulate at all with her, now is the time to stipulate. Therefore, Mr. President, I shall move the following amendment to be added to the amendment of the Senator from Missouri:

*Provided, and it is hereby distinctly understood, That the people of the Territory of Nebraska when admitted as a State into the Union shall owe direct and personal allegiance, each one of them, to the Government of the United States; and that the said State of Nebraska shall not hereafter claim to have power or authority to convert the citizens of said State into foreigners or alien enemies, so that they may as a consequence of crime be held and considered as such.*

We have heard a great deal about settling the question of secession and the right to secede and all that kind of thing. If this is made a condition on the admission of Nebraska, and it is expressly understood and provided so here, then there is an end of it; then on no pretext whatever can this State hereafter set up any claim or right to secede or right to control her citizens outside of the Union or to relieve them from their allegiance to the Union. I therefore offer the amendment.

Mr. DOOLITTLE. Mr. President, I do not propose to discuss the constitutional amendment which has been submitted by Congress to the several States; nor do I propose to discuss at the present time the policy of the Government toward the States of the South. My purpose is in a very few words to give my opinions upon the precise questions which are pending before the Senate.

The Senator from Missouri proposes as an amendment to the bill for the admission of Nebraska, a fundamental condition to be accepted by the people of Nebraska which shall forever prevent the State of Nebraska from disfranchising any person on account of color, and shall secure that all shall be permitted to exercise the elective franchise. And he cites as a precedent the case of Missouri. Now, Mr. President, in my judgment, and with all due respect to my honorable friend, that case is no



precedent at all, and for this simple reason: the constitution of Missouri when it asked admission contained a clause directly in hostility to the Constitution of the United States, and therefore the Congress of the United States insisted that that clause in the constitution of the State of Missouri which was in hostility to the Constitution of the United States should be forever declared null and void and the State should never undertake to enforce it. But, sir, what he now proposes to attach to the bill for the admission of Nebraska is a very different thing! He does not propose to strike from the constitution of Nebraska a section which is in hostility to the Constitution of the United States. It is a section which the Constitution of the United States expressly permits. That is the difference. What Congress forbade to Missouri was something in violation of the Constitution of the United States. What he seeks to forbid to Nebraska is that which the Constitution of the United States expressly permits, because the Constitution of the United States as it is certainly allows the several States to define the qualification of electors, and all of the States in the exercise of that power have imposed qualifications, sometimes of property and sometimes of race and color.

And, Mr. President, not only is the proposition of my friend from Missouri to attach a fundamental condition which is in hostility to the Constitution of the United States as it is, but is in hostility, also, to the Constitution of the United States as it is proposed to be amended by the very amendment which is now pending before the Legislatures of the several States. This constitutional amendment, which was submitted by Congress last summer, in the second section in express words implies this power in the several States, because the second section expressly says:

"When the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State being twenty-one years of age and a citizen of the United States, or in any way abridged except for participation in rebellion or other crime"—then the basis of representation shall be changed. That second-section of the constitutional amendment, which was submitted by Congress last summer, which is now pending before the States, and which, for aught we now know, may be adopted by a sufficient number of States to make it a part of the Constitution of the United States, gives to each State the very power which this amendment to this bill denies. Can we do it? Can we do it under the Constitution as it is? When the Constitution as it is gives to each State the power to define the qualification of its electors can we, the Congress of the United States, set up some fundamental article which shall override the Constitution? Can we enter into a compact with one of the States which will deny to the State a power which the Constitution gives to the State? Is Congress above the Constitution, or is the Constitution above Congress? Such a provision, in my judgment, will be perfectly null and void.

Besides, I have one further objection to my honorable friend's amendment, and it has nothing to do with the negro question at all. There are hardly enough negroes in Nebraska to count. There are probably more than there were in Montana when we had that question up. There was but one negro in that Territory and he had died really before the question was raised in the Senate. The objection which I am about to present may grow out of the fact that I have been connected more or less with Indian affairs, and hence it is that I think of the Indian sometimes when he seems to be entirely forgotten by all the other members of this body. This proposition of my honorable friend would confer the right of suffrage on every Indian in Nebraska. There are Omahas and Otoes and Sioux and Cheyennes and Arapahoes in Nebraska, and in an excited election had in this new State the Indian agent or somebody else might bring up the whole

Indian tribes of that Territory under this amendment and vote them all at an election. That is a question that does not concern the negro, and upon which we are not yet so much and so deeply interested but that we can actually see what the result would be. Now, look at the proposition: he imposes as a fundamental article of the constitution of Nebraska forever that they shall admit every Indian in that Territory to the exercise of the right of franchise, for it covers the Indian just as much as it does the negro; it covers all persons; it forbids the denial of the right of suffrage to any person on account of race or color.

Mr. President, that is all I desire to say as to the present pending amendment of the Senator from Missouri. I desire to say a single word in relation to the bill itself. I gave notice of an intention to introduce an amendment which has no effect upon the constitution, but is to have effect simply upon the question of the admission of the State into the Union, to wit, that the constitution shall first be submitted to the people of the Territory of Nebraska, and if they vote in favor of its admission and in favor of the constitution, then, without any further proceeding on the part of Congress, by proclamation of the President, they may be declared admitted into the Union as one of the States. A similar provision was adopted in the case of Wisconsin. In one of the acts passed by Congress for the admission of Wisconsin it was provided that the constitution should be submitted to the people, and if ratified by them, then, upon the proclamation of the President, the State should be admitted without further action by Congress.

My difficulty in relation to Nebraska is twofold. I certainly desire as a representative of one of the new States to welcome into this Union all the new States, and indeed I am willing to welcome the old States into the Union also, North or South, whenever they are properly prepared to enter. My difficulty with Nebraska is twofold; first, we have no legal evidence before us that the people of Nebraska desire admission; and secondly, we have no such evidence before us as to satisfy us that Nebraska has yet a sufficient population to entitle her to admission. What evidence have we that the people of Nebraska desire admission? It is true that Congress in 1864 passed an enabling act authorizing the people of that Territory to elect delegates to form a constitution, to submit it to the people, and if adopted by the people they were to be admitted into the Union as one of the States. But, sir, instead of their forming a constitution under this provision of the act of Congress, they held an election and chose a convention, and the convention adopted no constitution and submitted no constitution to the people at all, because it was found when the convention was chosen and the delegates came together that a majority of the delegates were elected opposed to any constitution at all, and therefore they did not act. Certainly they refused to submit any constitution to the people; the convention did not form any constitution.

Mr. WADE. The first meeting did not form a constitution; but that was not the reason, as I understood.

Mr. DOOLITTLE. I understood that to be the reason; at all events they did not form a constitution; they did not submit one to the people; and therefore the people did not vote under the law of Congress in favor of a State constitution. I understood that the reason why the convention did not form a constitution was that when they were elected a majority were elected against any constitution. Why did they not form a constitution if they were elected to form one and were in favor of it? What was to hinder? They did not form a constitution because they did not desire to do so, because the men who elected them did not desire that they should do so, and therefore the whole thing failed and the enabling act of Congress expired.

My friend from Ohio, [Mr. SHERMAN,] in his argument the other day, said they proceeded

under the act of Congress. Not at all. They proceeded under the act of Congress in choosing a convention; there they stopped. The convention submitted no constitution; the people voted on no constitution under the act of Congress; but subsequently the Legislature of the Territory, having no authority from Congress to do so, formed a constitution and submitted it to the people, and it is said that a majority of the people voted in favor of that constitution. How do we know that? How do we know that there is a majority of the people? It is true they went through the form of an election, but that election had no legal validity. No man voting at that election could have been punished either for bribery or fraud or stuffing the ballot-box with illegal votes. If in any election district a single person had put in a hundred votes he could not have been punished. Why? Because it was all without legal authority; it had no more legal and binding force than a caucus that is called in the Territory for the purpose of nominating men to office. There was no legal, valid, binding obligation upon the people in the election, and no man for swearing in his vote, whether entitled to vote or not, could be made guilty of perjury. There is no lawyer anywhere who will stand up and say that a man could be convicted of any crime committed at that election. Therefore when they come here with a statement that upon an election thus held, entirely without the authority of law, there was a bare majority of one hundred votes, I say that I have no sufficient evidence to satisfy me that a majority of that people desired to adopt a constitution or to be admitted as a State into the Union.

In addition to this, and what has thrown in my judgment some still further doubt upon this point, is the statements which were made at the last session of Congress by gentlemen who said—and one of the officers was here to make the statement—that at Fort Kearney, in the Territory of Nebraska, there were two companies of troops belonging to the State of Iowa who voted at this very election thus informally submitted to the people of Nebraska. You could not punish the troops for voting illegally. There was no sanction of law about it that could be enforced against them. These facts being stated, together with other things which have been generally charged, that at the election there were frauds committed, and where there was no law to punish them they have thrown over this question a doubt, and a serious doubt in my mind, whether we have any such kind of evidence as to satisfy us that the people of Nebraska desire admission into the Union, and to assume the burdens of a State government.

Mr. President, a word further in relation to the population of the Territory. I admit that some circumstances have occurred tending to increase the population since the last session of Congress. There has been in process of construction a railroad two or three hundred miles in this Territory of Nebraska. Undoubtedly that has carried a considerable population into the Territory of Nebraska; and doubtless there are ten or twelve or fifteen thousand inhabitants more in the Territory now than there were when this question was before us at the last session; but when it was before us at the last session, taking all the evidence we had upon the subject, we could not reasonably conclude that there were over forty-five thousand inhabitants in the Territory of Nebraska, judging from the number of votes which were given at the several elections; and if you take the number of votes which were given at this election, which I think was about ten thousand—

Mr. JOHNSON. Nine thousand.

Mr. DOOLITTLE. Nine thousand. How much population does a vote of nine thousand show to exist in a State or Territory? If you go into the eastern States, where the voting population is not so large in proportion to the non-voting population as it is in the western States, I suppose it would be fair to say that there is about one voter in seven of the population. If you go to the States further west,

the middle States, perhaps it would be just to say there was one in six, and if you go to the Territories, still further west, it would be just to say that there was one in five, perhaps one in four. How much population would you expect to find where there were nine thousand voters? In New England you would say you would find sixty-three thousand. In Ohio you would say fifty-four thousand. Go still further west, into Iowa, where the country is newer and less settled, where there would be about one voter in five of population, and you will say that there would be forty-five thousand. Go into the Territories still further west, where there are but few women and children, where the voting population is much larger in proportion to the whole number, and where it would probably be one in four, and you might reasonably say thirty-six thousand population in Nebraska.

I think upon the best evidence we have before us the population of Nebraska this day does not exceed fifty thousand, not counting the Indians. If you count the Indians you would add twenty thousand more.

These, Mr. President, are my reasons, very briefly given, without any reference whatever to the exciting questions which have been thrown into this debate, and having reference only to such questions as bear directly upon the pending question before the Senate, why I shall feel constrained to vote, first, against the amendment offered by my friend from Missouri, and then against the bill. At all events, I shall not give my consent to the passage of the bill unless it shall be provided that the constitution shall be submitted to the people of Nebraska that we may know that the people of Nebraska desire to assume the burdens of a State government and are in favor of the constitution.

Mr. HOWARD. I desire to say a few words on the bill now before the Senate.

Mr. FESSENDEN. I suppose it is apparent that this bill cannot be disposed of to-night; and as it is somewhat important to have an executive session, I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield to the Senator from Maine?

Mr. HOWARD. Yes, sir, for the purpose of allowing an executive session to be held.

Mr. WADE. I barely wish to give notice that to-morrow I shall feel it my duty to urge this matter to a final decision, if I can possibly. I shall insist upon a final vote on the bill then.

The motion of Mr. FESSENDEN was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 18, 1886.

The House met at twelve o'clock *m.* Prayer by Rev. A. WRIGHT, Chaplain at Fort Laramie. The Journal of yesterday was read.

### CORRECTION OF THE JOURNAL.

Mr. BAKER. I rise to a privileged question. I desire to correct the Journal. The proceedings of yesterday, as just read by the Clerk, contain a palpable error. I am represented as making the motion to lay on the table the resolution offered by the gentleman from Illinois [Mr. ROSS] relative to the taxation of Government bonds. I made no such motion. I see that according to the report in the Globe the gentleman from Pennsylvania [Mr. THAYER] made that motion.

Mr. THAYER. The Globe is correct; I made the motion.

The SPEAKER. The Journal will be corrected.

Mr. JULIAN. I desire also to make a correction of the Journal. I yesterday, after the passage of the joint resolution relative to agricultural college scrip, moved to reconsider and to lay the motion to reconsider on the table.

That motion does not appear on the Journal as read.

The SPEAKER. The Chair is informed by the Clerk that the motion referred to is entered on the Journal although it was not read.

### EVACUATION OF MEXICO.

Mr. ORTH, by unanimous consent, submitted the following resolution:

*Resolved*, That the President of the United States be requested, if not incompatible with the public interest, to communicate to this House copies of all correspondence on the subject of the evacuation of Mexico by the French troops which has not heretofore been officially published.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

### DESTRUCTION OF THE NEW IRONSIDES.

Mr. BRANDEGEE. I ask unanimous consent to submit a resolution, to which I think there can be no objection, as it relates to a matter of great importance to the Navy. The resolution is as follows:

*Resolved*, That the Committee on Naval Affairs be, and they are hereby, instructed to inquire into and report to this House all the facts connected with the destruction by fire of the iron-clad war steamer *New Ironsides*, on the Delaware river, on the night of the 15th December instant, together with such recommendations by bill or otherwise as the facts shall in their judgment demand, with power to send for persons and papers and with leave to report at any time.

Mr. WASHBURNE, of Illinois. I am in favor of the adoption of this resolution; but I should like to hear from the gentleman from Connecticut [Mr. BRANDEGEE] a statement of the facts connected with the destruction of this magnificent iron-clad, one of the best we ever had in the Navy.

Mr. BRANDEGEE. Mr. Speaker, I shall make no statement at the present time. It is very evident to the House that this is a subject of importance to the Navy; a subject upon which the House and the country ought to be informed. I do not think that my friend from Illinois ought to ask me to make—it certainly would be indecorous for me to make—a statement upon *ex parte* testimony such as comes through the newspapers.

There being no objection, the resolution was considered and agreed to.

Mr. BRANDEGEE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### LOANS OF REPUBLIC OF MEXICO.

On motion of Mr. WILSON, of Iowa, by unanimous consent, the Committee on the Judiciary were discharged from the further consideration of the joint resolution (H. R. No. 168) for the protection of citizens of the United States in the matter of public loans of the republic of Mexico, and the same was referred to the Committee on Foreign Affairs.

### JOHN P. GULICK.

On motion of Mr. STEVENS, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of the petition of John P. Gulick for compensation for services rendered to the United States, and the same was referred to the Committee of Claims.

### CALL OF COMMITTEES.

Mr. SPALDING. I call for the regular order.

The SPEAKER announced as the first business in order the call of committees, commencing with the Committee of Elections, for the presentation of reports.

### RAILROAD FROM CALIFORNIA TO NEVADA.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back, with a recommendation that it do not pass, a bill (S. No. 126) granting lands to aid in the construction of a railroad and telegraph line from the city of Placerville, in the State of California, to

the most feasible point of intersection with the Pacific railroad in the State of Nevada.

The bill was laid on the table.

Mr. WENTWORTH moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### OREGON RAILROAD.

Mr. PRICE, from the same committee, reported back House bill No. 439, granting lands to aid in the construction of a railroad and telegraph line from Puget sound or Admiralty inlet, in Washington Territory, to the Columbia river, with the recommendation that it do pass.

The bill provides that B. F. Dennison, F. W. Pettygrove, Arthur Phinney, Cyrus Walker, G. A. Meigs, William B. Sinclair, C. C. Phillips, H. L. Yesler, C. C. Terry, D. Horton, D. Bagley, Frank Clark, E. R. Rogers, J. B. Webber, Charles Prosch, William W. Miller, D. Phillips, E. Lander, J. Cushman, S. S. Ford, J. T. Browning, James Urquhart, A. R. Burbank, Joel Knight, S. W. Brown, H. L. Caples, C. Lancaster, C. C. Stiles, A. S. Abernethy, and all persons who shall or may be associated with them, and their successors, be created and erected into a body corporate and politic, in deed and in law, by the name, style, and title of the Washington and Oregon Railroad Company, and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended in all courts of law and equity in the United States, and may make and have a common seal; and the corporation is authorized and empowered to lay out, locate, construct, furnish, and maintain a railroad and telegraph upon the most eligible route from Puget sound or Admiralty inlet to a point on the Columbia river as near as practicable to and not more than one mile above Vancouver City, in Washington Territory, so as to form a continuous line of travel and communication with the railroad and telegraph authorized to be constructed by the California and Oregon and the Oregon and California Railroad Companies, between Puget sound or Admiralty inlet, in Washington Territory, and the Central Pacific railroad, in California, and upon the same terms, conditions, obligations, and restrictions, and with the same grants, privileges, rights, and benefits, in all respects whatever, as are conferred and imposed by this act upon the California and Oregon companies. The capital stock of the company shall consist of one hundred thousand shares of \$100 each, transferable as provided by the by-laws of incorporation. The first meeting of the incorporators shall be held at Olympia, and be organized by choice of president, secretary, and treasurer, who shall give bond, within ten months after the passage of this act, and after two months' notice, to be given in a newspaper published in Olympia and one published in Vancouver City, and ten of the members shall constitute a quorum, and the meeting shall cause books to be opened at such times and in such places as they shall determine. And when one thousand shares shall have been subscribed and ten per cent. thereon paid into the treasury, the president and secretary shall appoint a time and place for meeting of the subscribers after thirty days' notice in the newspapers of the time and place of meeting, and such subscribers who shall attend the meeting, either in person or by proxy, shall then proceed to elect by ballot not less than ten directors from the company, who shall have power to elect a president, vice president, treasurer, and secretary. The board of directors shall take possession of all the property of the company. No person shall be a director who shall not be the *bona fide* owner of five shares of stock; the directors and officers shall hold their offices for three years. The secretary and treasurer shall give bonds; and the usual rules and regulations for the government of the company and transaction of its business shall be made by the by-laws.

Mr. PRICE. The committee have instructed me to offer certain amendments. In line twenty-two and twenty-three strike out the words "as near as practicable to and not more than one mile above Vancouver City."

Mr. WASHBURNE, of Illinois. I appeal to my friend from Iowa to postpone the consideration of this and all kindred bills till after the holidays. I desire to submit some considerations to the House in regard to railroad grants showing the unheard-of and stupendous amount of public land we have already given away, and to urge the House to stop this thing if possible. I hope the gentleman from Iowa will not press this now upon the House, but will give us time for consideration. I would not ask for it if it would interfere with the gentleman getting up his bill; but as it will not, but will give further time for consideration, I hope the gentleman will not decline my suggestion.

Mr. PRICE. Mr. Speaker, I will give the reasons briefly why I think that ought not to apply to this bill. The House will remember at the last session of Congress a bill granting lands to the Oregon and California railroad was referred to the Committee on the Pacific Railroad, and after having been fully examined was reported to this House with the recommendation that it do pass; but the House thought proper to take it away from the Committee on the Pacific Railroad and refer it to the Committee on Public Lands. After being considered in the Committee on Public Lands it was again reported to the House favorably and the House passed the bill. Now, if gentlemen paid attention to the reading of this bill, they will see it is granting lands upon the same terms and conditions, with the same obligations and restrictions precisely as that which passed this House. This is a continuation of that road, a short piece of road to connect with Puget sound, for which the House made a grant of lands at the last session.

For these reasons it strikes me this bill should be acted upon now as well as at any subsequent period of this session, inasmuch as the parties interested in it are anxious it should be acted on, as it makes no new law, no new grant of land, being merely a continuation of what the House did at the last session at the recommendation of the Committee on Public Lands and the Committee on the Pacific Railroad. For these reasons, sir, I am opposed to the postponement. There is no good to be gained by it. It is so plain a case that I hope I shall be permitted to perfect the bill now. Gentlemen cannot tell what it is until then.

Mr. WARD. I desire to inquire of the gentleman from Iowa the amount of land it will take to answer the purposes of this bill.

Mr. PRICE. My recollection is twenty sections on each side of the road.

Mr. WARD. About how much does that make in all?

Mr. PRICE. I could answer it in a short time; it is a question of multiplication. I do not know the length of the road exactly, but I think it is about one hundred miles. Gentlemen will observe it may strike Admiralty inlet at two points.

Mr. WARD. Answer the question in general terms.

Mr. PRICE. The same amount of land per mile, with the same obligations and restrictions, as was recommended by the Committee on Public Lands and the Committee on the Pacific Railroad to the road of which this is a continuation.

Mr. WASHBURNE, of Illinois. What was that amount of land?

Mr. PRICE. That would, I suggest, have been a more pertinent question at the last session when a bill was passed granting land for a railroad four hundred miles long than now, when a proposition is made for a road only one quarter of the length.

Mr. WASHBURNE, of Illinois. The gentleman will bear me testimony I have resisted to the extent of my feeble ability all these squandering grants of land. I intend to resist

this and every other grant; and if the gentleman will give me time and opportunity to make a statement to the House of the amount of grants which Congress has already made to railroads, if it does not astound the country and the world then I will not oppose the efforts of my friend in this matter. And further—

Mr. PRICE. Mr. Speaker, I want to perfect this bill if the gentleman will allow me. There are a few members in this House who take the floor whenever they please. [Laughter.]

Mr. WASHBURNE, of Illinois. I will not take the floor from my friend unless he consents. [Laughter.]

Mr. PRICE. I do not think you will. [Laughter.]

Mr. BAKER. Will the gentleman not yield for a single question?

Mr. PRICE. I certainly will, but I prefer first to perfect the bill.

Mr. BAKER. The question I wish to ask is this: is the gentleman able to recur to a single precedent for the chartering by Congress of a railroad running through a State other than for military or postal purposes? I would like to have an answer to that question.

Mr. PRICE. I have already answered that by saying that this grant is upon the same terms and conditions precisely as those upon which this House gave lands for a road four times the length of this at the last session, and this is a continuation of the same road. If that is not a precedent then I do not understand what a precedent is. If gentlemen will only read the bill they will find that this contains precisely the same restrictions that were applied to the bill already passed at the last session.

I now propose further to amend the bill by inserting in line twenty-four, after the word "Territory," the words "and thence;" also in the same line after the word "of" by inserting "railroad;" also by striking out in lines twenty-four and twenty-five the words "travel and communication" and inserting the words "to and connecting with;" also in line twenty-six and twenty-seven by striking out the words "said;" also in line twenty-six, after the word "Oregon," to insert "railroad company;" also in line twenty-seven by making the word "companies" read "company;" also in line thirty-three to strike out the words "by this act."

The amendments were agreed to.

Mr. HALE. I ask to have the bill reported as amended.

The amended portion of the bill was read, as follows:

And the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, and maintain a railroad and telegraph upon the most eligible route from Puget sound or Admiralty inlet to a point on the Columbia river, in Washington Territory, and thence so as to form a continuous line of railroad to and connecting with the railroad and telegraph authorized to be constructed by the California and Oregon Railroad Company and the Oregon and California Railroad Company between Puget sound or Admiralty inlet, in Washington Territory, and the Central Pacific railroad, in the State of California, and upon the same terms, conditions, obligations, and restrictions, and with the same grants, privileges, rights, and benefits, in all respects whatever, as are conferred and imposed upon the said California and Oregon companies.

Mr. PRICE. I have nothing further to say in reference to this bill, except to repeat what I have already stated before, that the bill proposes to grant land for the construction of a railroad which connects with a road which was authorized to be constructed in California. It proposes to grant lands under the same restrictions and conditions precisely that were applied to that company. It is nothing more nor less than a continuation of the Oregon and California railroad until it strikes Admiralty inlet. It is about one fourth the distance, if I am correctly informed, of the road that was authorized to be constructed and for which a grant of land was given at the last session. It contains the same grant of lands. If it was right to pass the bill at the last session after being considered very fully, then this bill cannot be wrong. If that bill was wrong, then this bill had better not pass. My opinion is that the

aid given to this company for the construction of this railroad will be amply returned to the Government by the opening of the country and the facilities afforded to commerce and navigation.

Mr. WASHBURNE, of Illinois. Does the gentleman demand the previous question?

Mr. PRICE. I would like to have the bill acted upon.

Mr. WASHBURNE, of Illinois. It must be acted upon before it gets out of the way.

The SPEAKER. The gentleman from Iowa is still on the floor, and will state whether he surrenders it or makes any motion.

Mr. PRICE. I will yield the floor.

Mr. WASHBURNE, of Illinois. I now move to postpone the consideration of the bill until the second Tuesday in January for the reasons I have given, and other reasons which I am ready to give.

Mr. ECKLEY. Will my friend give way to me to make a motion to refer the bill to the Committee on Public Lands?

Mr. WASHBURNE, of Illinois. I will do that.

Mr. ECKLEY. I will say to my friend from Iowa [Mr. PRICE] that so far as I am concerned I have never been, as a member of that committee, opposed to such bills as this.

Mr. WASHBURNE, of Illinois. My main object is to get further information, further time in which to examine this bill. The House will recollect that at the last session we passed a resolution calling upon the Secretary of the Interior, or the Commissioner of the Land Office, for some information in regard to the amount of land we have already appropriated for railroad purposes. That information we have not yet received, at least I have not seen it if it is contained in any of the public documents. I think it is important that we should know exactly where we now stand before we go any further in this matter. I hope, therefore, the gentleman from Iowa [Mr. PRICE] will consent either to my proposition, without any further debate, for a postponement until the second Tuesday in January, or that it should be referred to the Committee on Public Lands.

Mr. PRICE. Well, if the gentleman from Illinois [Mr. WASHBURNE] proposes to postpone it to a day certain—

Mr. WASHBURNE, of Illinois. That is what I propose; and I do not propose a postponement for the purpose of killing this bill by indirection or delay, but I desire some further time to examine into matters which I think the House should understand in regard to this and other railroad grants. I propose to postpone the bill till the second Tuesday in January next.

Mr. PRICE. And that it be made the special order for that day.

Mr. WASHBURNE, of Illinois. Very well; I will not object to that.

Mr. PRICE. And I hope the bill will be printed as it is an old bill and about out of print.

Mr. HENDERSON. Mr. Speaker, I think it would be very proper for the House to hear a few words from the friends of this bill, from those immediately interested in it, before the question is taken upon its postponement. This action of postponement is equivalent in a great many instances to killing a bill off at once. We very well know what the result will be when business is crowding upon this House at the close of a short session; the railroad bills will be thrown out of consideration entirely, and this important and grand improvement be delayed and thrown back for years, if not defeated altogether.

It occurs to me, Mr. Speaker, that it comes with rather an ill grace from gentlemen living in old States which have already received thousands and millions of acres of the richest and most productive lands the sun ever shone upon for railroad purposes, which railroads they have now in successful operation, to object to our having a few thousand acres of mountain lands to assist in building this short railroad of one hundred and fifty miles to connect the waters of Puget sound with the Columbia



river. Those of us who have traveled over that country and know the nature of that land are fully aware of the necessity of the improvement contemplated by this bill. And I will say to gentlemen upon this floor who are alarmed at the idea of the immense amount of land which is to be donated to this road that they need have no fear upon that score. The building of this road will assuredly make the remaining half of the land worth incomparably more than the whole of it is worth now. There is not a man in America acquainted with that country who will doubt the statement I have made—that the building of this road will increase the value of the alternate sections incomparably more than the whole of the land is now worth. A great amount of it is worth very little now; and a great deal of it will probably always be worth very little. But much of that land will be very much increased in value by the construction of that road. Without such a road that land will perhaps lie idle for six thousand more years; at least a great deal of it.

Now, let gentlemen remember that this road is to connect Puget sound, the grandest and most beautiful inland sea in America, the most extensive and commodious harbor upon the Pacific coast, with the Columbia river, the second largest river in our country. And it is to be a continuation of the road that connects the Columbia river with the bay of San Francisco; I might say that it is a continuation of a road connecting Puget sound with the bay of San Francisco. Let gentlemen consider the magnitude of such a measure.

Now, the only trouble that appears to exist in regard to this bill is that it calls for a grant of the public lands. Now, I ask of what value are these public lands without the means of transportation to and over them. I do hope that gentlemen living on the east side of the Rocky mountains, who now have their railroads, who have had their share of the public lands, will suffer those of us who live upon the west side to judge of these little matters pertaining to our particular interests. We have as much interest in the proper disposition of that land as my respected friend from Illinois [Mr. WASHBURN] can have. We do not want that land wasted or put out of the way of settlement and use; far from it. We are more anxious to have the public lands settled there than he can be, or than any other man who lives so far away can be.

Why gentlemen should endeavor to retard or embarrass great national improvements on the Pacific coast is a matter of profound astonishment to me; but gentlemen say they are not opposed to improvements, it is simply the manner in which we propose to accomplish them. They only wish to shape and fashion legislation on the various subjects in which we of that coast are interested. Now, Mr. Speaker, that certainly is very kind in them; but we are disposed to decline their courtesy on the ground that we feel ourselves abundantly capable of shaping these little matters for ourselves; and furthermore, we imagine that we are not only as capable of judging what ought to be done as those gentlemen who wish to do everything for us, but we think ourselves equally honest and patriotic, and really as much disposed to protect the public interest though we make much less noise about it.

Now, I hope this bill will be put upon its passage and passed at once, and grant this small favor to the country that needs it so much.

Mr. McRUER. Mr. Speaker, I have no particular objection to postponing the consideration of this bill, but I think that we might as well meet the issue at this time. There is a disposition—open and avowed—on the part of some members of this House to defeat every one of these grants to aid in the construction of railroads; and as an argument in behalf of this effort it is set forth that these grants of land are donations or gifts. Sir, I repudiate that whole idea. The fact is substantially this: a company come forward and propose to construct a railroad or canal, thereby doubling,

trebling, or quadrupling the value of the public domain—for what? In consideration of the grant of a certain portion of that land. Of course they are acting in their own interest; but, sir, I contend that it is for the interest of the whole country that these important public works should be promoted by grants of land. Now, I ask gentlemen whether they propose to overturn the whole system which has prevailed in this country of granting the public lands? Sir, we not only make these grants to corporations, but it is the policy of this Government to give away its public lands to every person who will occupy and improve them.

Now, sir, in regard to the road which this bill proposes to aid, I will say that the road goes through a country that is not permeated by any rivers. Timber grows in that country only to decay; and this always will be the case until some artificial means shall be provided for bringing it to market and making it valuable. The grant of land, as proposed in this bill, will not subtract one dime from the wealth of the nation. This company do not propose to take this land out of the country. One would suppose, from the manner in which measures of this sort are denounced, that our public domain is to be diminished; that we are not going to have land enough left to raise whatever may be necessary to sustain life. Every one of these grants to railroads going through unpopulated country, through land which in its present condition is not worth a cent, does not impoverish, but must necessarily enrich the country. These grants stimulate industry; they invite population. If on the line of this road there is any land worth cultivation and fitted in its present condition to invite population such land has already been taken up and occupied, and none of such land can be granted. All the land that this company can obtain under this grant is land which never has been cultivated, and never will be until there shall be provided some means of transportation by which cultivators may carry their produce to a market.

Now, sir, we might as well meet here upon the threshold the question presented by this bill as to postpone it. I hope that this House in its good sense will see that this is no time to subvert the settled policy of this Government, which has been to grant lands to railroad corporations, thereby increasing fifty or one hundred per cent. or more the value of the land which the Government retains. I hope that this bill will receive the favorable consideration of the House at this time. Between Columbia river and Puget sound there is no navigable river to bear the products of that country to a market. That region bears a rich growth of timber which may be made valuable if any means be afforded for bringing it to a market. At the present time, as I have said, that timber grows only to decay.

There is no inducement to a State or a corporation to build at its own expense and without any consideration a railroad through the public domain to enrich the Government. The bargain proposed in this case is substantially similar to that in a case which I will suppose. You have a farm, unproductive and worthless, but which might be made productive if there were a stream of water flowing through it. I propose to carry through your land a rich stream of water, which shall irrigate and fructify it if you will give me a certain portion of the land; and by accepting my offer you double or perhaps quadruple the value of your possessions. That is substantially the case here. By making the proposed grant of land to this company the Government does not give away one dollar, but puts money into its Treasury and increases the wealth of the country.

Sir, I hope that the motion to postpone this bill will not prevail. The conditions attached to the bill are precisely similar to those attached to a grant which has already been made to a railroad from California to Oregon. This road is a continuation of that same route; and although I and my constituents are not directly interested in this measure still we on the Pacific coast are indirectly interested in every

railroad grant that may serve to develop the public wealth.

Mr. BIDWELL. I think, Mr. Speaker, that opposition to this bill comes with very little grace from the gentleman from Illinois, [Mr. WASHBURN.] His State is gridironed with railroads, many if not most of which have been constructed through Government aid by grants of land. And I am told that that State not only has the benefit of the development of her resources by the railroads constructed through the public lands, but that it also derives a revenue almost sufficient to sustain the State government by reserving a percentage on the sales of the lands granted by the Government for railroad purposes.

And now the gentleman from Illinois threatens to bring forward the sum total of the grants made for internal improvements in those States and to parade those enormous figures before the House in order to defeat a road as necessary as any road within the public domain of this country, and to lay it to the charge of the railroad which is now asked to be aided by the Government in the Territory of Washington.

I repeat, as it has been said here, we might as well meet the issue now. This country is vast; its resources are immeasurable; its development is in a state of progression, and unless the Representatives of the country can entertain a comprehensive view of the public interest and extend equal and impartial aid to all portions of it some parts must lack, suffer, even retrograde. It is absolutely necessary in order to develop the regions west of the Rocky mountains to encourage the opening up of channels of communication. It is necessary to the agricultural development of the country, necessary to the mineral development, necessary to the stability and prosperity of this country upon its western borders.

During the last session this Congress granted aid in order to construct a road connecting California with Oregon. I think no man has been able to find a single solid objection to the grant then made. No one will be so bold as to say that it will not largely aid in the development of that country, that it is not absolutely necessary as a military measure, as a postal measure, and as a measure of general prosperity upon the western border of our country. Now, sir, this road to which it is proposed to grant aid is merely a continuation of that road to connect it with one of the finest harbors in the world.

Mr. Speaker, I am aware there are other bills pending before Congress asking aid in the way of donations of land for the purpose of effecting their construction. If we stop here, after having granted aid to every State upon the eastern slope of the Rocky mountains and deprive of these same measures the Pacific, what is going to be the effect? The people on that slope are engaged in establishing an empire which is to form a very important part of this Republic. You may cripple it while we are endeavoring to develop it. You can, if you see proper, withhold the same measure of aid to us that you have given to others on this side, and thereby to the extent of your power endeavor to alienate us; but I can tell gentlemen if they comprehend the real wants of this country they must mete out to us the same measure of justice they have asked for themselves.

One thing is, they never can alienate the patriotism of the people of the Pacific. While we are engaged in throwing into your markets the very gold which sustains your credit, and without which you would be on the verge of financial bankruptcy, and endeavoring at the same time to develop the resources which will make us a great and prosperous people, you endeavor to deprive us of the very same means which you have already received at the hands of this Government. I ask, I appeal to the House, is it just? is it right? If you are going to deny this measure you ought to be consistent and repeal every bill you passed at the last session of Congress.

I will not occupy any more of the time of

the House. Of course I will yield for explanation. I am desirous to have a vote on the bill to-day.

Mr. WASHBURNE, of Illinois. The gentleman from Iowa charged with the care of this bill has consented to its postponement till the second Tuesday of January next.

Mr. BIDWELL. I do not know that.

Mr. WASHBURNE, of Illinois. Certainly he did. I trust the House will agree to its postponement. I wish to address the House on this question and I do not intend to take up time with a buncombe speech. It is a matter of importance.

Mr. BIDWELL. I wish to ask the gentleman from Illinois to sum up the total number of sections of land granted to the railroads heretofore, and bring it up as an argument against this bill.

Mr. WASHBURNE, of Illinois. That may be one of the arguments.

Mr. BIDWELL. I would like to know how that can be made a charge against this bill long after the grants have been made.

Mr. THAYER. I rise to a point of order. I think the limit of debate which a motion of this kind admits is about exhausted.

The SPEAKER. The Chair sustains the point of order. The Digest states that a motion to postpone admits of very limited debate. The Chair therefore rules that the debate must be restricted to a very narrow limit.

Mr. PRICE. Will the gentleman from California yield for a moment?

Mr. BIDWELL. I will.

Mr. PRICE. I have been asked what part of this road was to be located in a State. I was not then able to answer the question. I now have the information. This road to the extent of six or seven miles is in Oregon; the balance of it is in Washington Territory.

Mr. INGERSOLL. Will the gentleman from California yield to me?

Mr. BIDWELL. I will.

Mr. INGERSOLL. As my colleague has moved to postpone this bill, and uses as an argument against it the great quantity of public land granted by the Government to railroads heretofore, I suggest to my friend from California to admit for the sake of the argument that two thousand million acres have already been granted, or two hundred thousand million if you please; no matter how much, the more the better.

Mr. BIDWELL. More than there is on the globe.

Mr. DAVES. I raise the point of order that this debate is not allowable under the rule.

The SPEAKER. The Chair sustains the point of order.

Mr. BIDWELL. The motion is to postpone. Well, sir, let us have the sense of the House upon it. If it decides to postpone, it will be almost tantamount to referring it to another committee. If it is only for the purpose of getting more information, I certainly would have no objection to a postponement, because I do not desire to have the House act blindly.

Mr. HENDERSON. I wish to say in answer to the question what part of this road runs through a State—

The SPEAKER. That is not in order.

Mr. HENDERSON. I want merely to say that none of it is in my State.

Mr. WASHBURNE, of Illinois. I desire to correct an impression which the gentleman from California [Mr. BIDWELL] seems to have got in regard to my motive in moving to postpone this bill and make it a special order. He must have misunderstood what I said. I said I desired to throw no obstacle in the way of its fair consideration. The only question is, shall we vote upon it blindly, or shall we postpone it and when it comes up again consider it fairly?

Mr. BIDWELL. The gentleman from Illinois constantly repeats that he does not intend to throw any obstacle in the way, and at the same time he is always doing it. I am willing to admit what he will state about the quantity of public land granted heretofore. He may

have it printed as a part of his argument, if necessary, as against this bill: but I do want to take the sense of the House on this matter, and I therefore demand the previous question on the motion to postpone.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to postpone and make the bill the special order for the second Tuesday in January was agreed to—ayes 74, noes 41.

Mr. WENTWORTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### CORRECTION OF THE JOURNAL.

Mr. LOAN. I see by the Globe that I am recorded as not voting upon the motion to suspend the rules for the purpose of considering the resolution introduced by the gentleman from Ohio [Mr. ASHLEY] to raise a special committee of seven to investigate the conduct of Government officers. I voted in the affirmative to suspend the rules.

The SPEAKER. The Journal will be corrected accordingly.

#### NATIONAL BANK ACT.

Mr. HOOPER, of Massachusetts, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That an additional number of copies of bill No. 771, to amend the national bank act, be printed for the use of the House.

#### MRS. AMELIA FEASTER.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back Senate bill No. 434, for the relief of Mrs. Amelia Feaster, of Columbia, South Carolina, with a recommendation that the same do not pass; and the bill was laid upon the table.

Mr. WASHBURNE, of Illinois moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### HENRY WILLARD.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, also made an adverse report upon the claim of Henry Willard for services as wagon-master in the Army; which was laid upon the table.

#### PATRICK BARRATT.

Mr. WASHBURN, of Massachusetts, from the same committee, also made an adverse report upon the claim of Patrick Barratt for ninety dollars; which was laid upon the table.

#### SARAH BONNINGTON.

Mr. WASHBURN, of Massachusetts, from the same committee, also made an adverse report upon the petition of Sarah Bonnington for a pension; which was laid on the table.

#### B. E. HARRISON.

Mr. WASHBURN, of Massachusetts, from the same committee, also made an adverse report upon the petition of B. E. Harrison, of La Grange, Prince William county, Virginia, asking that the United States taxes paid by him be refunded; which was laid upon the table.

Mr. WASHBURN, of Massachusetts. I move that the petitioners in these various cases have leave to withdraw their papers.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts. I also move to reconsider the votes by which these various petitions have been laid upon the table; and I also move to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON CROSLAND.

Mr. SLOAN, from the Committee of Claims, reported back Senate bill No. 431, for the relief of Washington Crosland; and the bill was laid upon the table.

#### E. E. SHED.

Mr. DELANO, from the Committee of Claims, made an adverse report upon the peti-

tion of E. E. Shed, of Eastport, Maine, for bonds in place of bonds burned; which was laid upon the table.

#### REUBEN GRINOLE.

Mr. DELANO, from the same committee, also made an adverse report upon the petition of Reuben Grinole, for bonds to replace those destroyed by fire; which was laid upon the table.

#### JOHN MUNN.

Mr. DELANO, from the same committee, also reported back House bill No. 529, for the relief of John Munn, with a recommendation that the same do not pass; and the bill was laid upon the table.

#### HENRY CLEWS AND COMPANY.

Mr. DELANO, from the same committee, also made an adverse report upon the petition of Henry Clews & Co., for the issue of a new bond in place of one lost; which was laid on the table.

#### MARY STREET.

Mr. DELANO, from the same committee, also made an adverse report upon the petition of Mary Street, for compensation for property taken for the use of the United States Army; which was laid on the table.

#### LIEUTENANT COLONEL FREDERICK A. SAWYER.

Mr. DELANO, from the same committee, also made an adverse report upon the petition of Brevet Lieutenant Colonel Frederick A. Sawyer, asking pay for military services; which was laid on the table.

#### OREGON LAND GRANT.

Mr. McRUER, from the Committee on Public Lands, reported back Senate bill No. 82, to amend an act entitled "An act granting land to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," with a recommendation that the same do pass.

The question was upon ordering the bill to be read a third time.

The bill was read at length. It appropriates such odd sections or part of odd sections not reserved or otherwise legally appropriated within six miles on each side of said road, to be selected by the surveyor general of the State of Oregon, as shall be sufficient to supply any deficiency in the quantity of the former grant of land which for any reason was not subject to land grants within the limits designated in the former act.

Mr. McRUER. I can explain this bill in a few words.

Mr. WASHBURNE, of Illinois. I would inquire if the bill has been printed.

Mr. McRUER. It is a Senate bill. I do not know that it has been printed for the use of the House.

Mr. Speaker, it is always customary in bills granting land to aid in the construction of railroads to provide that if the designated quantity of land is not found within the prescribed limits they may go a certain distance beyond those limits to make up the deficiency. The act of which this is an amendment was passed by a former Congress, and contained a grant of land of three sections per mile to aid in the construction of a wagon-road through the wilderness in Oregon. But it did not provide that if any portion of those three sections had been preempted or otherwise appropriated the company might go beyond the distance of three miles from the road for the purpose of obtaining the designated quantity of land. Now, the object of this bill is to grant to the company the privilege of obtaining their designated quantity of land within six miles of the line of the road if it cannot be obtained within a less distance. That is the whole purpose of the bill. It grants no additional land, not an acre.

I call the previous question on the passage of the bill.

Mr. WASHBURNE, of Illinois. I hope the gentleman will not call the previous question on this bill. This is very curious legislation we are having here.

Mr. McRUER. I will yield the floor for a few moments to the gentleman from Oregon, [Mr. HENDERSON.]

Mr. HENDERSON. Mr. Speaker, I wish to make a very short statement in regard to this road. One terminus of it is at the town where I reside, and I am familiar with the history of the road. The citizens of that place and the vicinity felt such an interest in the construction of the road that they subscribed \$100,000 to assist in its completion in addition to the aid furnished by the Government grant of land. But the money thus subscribed and the land which can at present be realized by the company will be insufficient for the completion of the road, and it is necessary that the company be allowed to locate their land beyond the limit of three miles from the line of the road in order to make up the quantity originally intended to be granted to them. The first one hundred and fifty miles of land is all occupied within the designated limit, and in the region of the Cascade mountains, through which the road passes, the land is worthless. The company only ask that they may be allowed a range of six miles instead of three in order to make up the deficiency under which they now suffer. This road, when constructed, will be of immense value not only to that section of country but to persons traveling from the Atlantic States to the Pacific coast, as it shortens the route perhaps one hundred and fifty miles.

Mr. McRUER. I now yield to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. I ask my friend from California [Mr. McRUER] to consent to a postponement of this bill so that we may consider all these questions together. This is a question of granting lands, to use a technical term of the Land Office, "in place;" and I think that the views of the Commissioner of the General Land Office in relation to the very question raised in this bill are such as should commend themselves to the judgment of the members of this House.

I move that the further consideration of this bill be postponed until the second Wednesday of January, so that it will come up immediately after the other bill of a similar nature, which has been postponed till the second Tuesday of that month.

Mr. McRUER. I do not yield for any such motion. This is a very simple question—

Mr. WASHBURN, of Illinois. The gentleman from California may think this is a very simple question, and he may arraign me and others for undertaking to resist these efforts to appropriate the public lands for the benefit of private corporations; but, sir, I shall endeavor to discharge my duty to my constituents and to the country by opposing all bills which seem to me improper.

Now, sir, I desire to call attention to the views of the Commissioner of the General Land Office, as expressed in his report of last year, in reference to the very question raised by this bill. And, sir, it is a very important question whether the Government shall under such circumstances establish this precedent of allowing these companies to go outside of the original limits in cases where the quantity of land granted, or supposed to be granted, does not amount to so much as is claimed by the company.

The Commissioner of the General Land Office says:

"The question has been agitated as to the propriety of a change of policy in making grants in aid of the construction of railroads by floats or scrip in lieu of land indemnity in place when the full complement is not found within the usual limits. In this connection, the result of such departure from the well-established policy of the Government is an important consideration in view of the interests of homestead and preemption settlers. In reference to any such suggested general change of policy"

The SPEAKER. The morning hour has expired, and this bill goes over until to-morrow morning.

#### EMPLOYÉS IN COAST SURVEY, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from

the Secretary of the Treasury, transmitting, in accordance with the act of March 3, 1853, a statement of the names of persons employed in the Coast Survey, together with a statement of expenditures in said office; which was laid on the table, and ordered to be printed.

#### SUPERINTENDENT OF PUBLIC PRINTING.

The SPEAKER also, by unanimous consent, laid before the House the fourteenth annual report of the Superintendent of Public Printing; which was referred to the Committee on Printing, and ordered to be printed.

#### ORDNANCE AND ORDNANCE STORES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy transmitting, in compliance with a resolution of the House of the 6th instant, a statement of all ordnance and ordnance stores on hand; which was laid on the table, and ordered to be printed.

#### DIRECT TAXES, ETC.

The SPEAKER announced the following members as the select committee on direct taxes and forfeited lands created yesterday: Mr. CONKLING of New York, Mr. DONNELLY of Minnesota, Mr. DAWES of Massachusetts, Mr. SCOFIELD of Pennsylvania, and Mr. HARDING of Kentucky.

#### FOX AND WISCONSIN RIVERS.

Mr. SLOAN, by unanimous consent, introduced a joint resolution extending the time for the completion of the improvement of the Fox and Wisconsin rivers; which was read a first and second time, and referred to the Committee on Public Lands.

#### CALIFORNIA CANAL.

Mr. BIDWELL, by unanimous consent, introduced an act granting land to aid in the construction of a canal in the State of California; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### DEATH OF SENATOR WRIGHT.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House of the passage by that body of the following resolutions:

*Resolved*, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM WRIGHT, while a Senator in Congress from the State of New Jersey.

*Resolved*, That as a testimonial of respect for the memory of the deceased members of the Senate will wear the usual badge of mourning for thirty days.

*Resolved*, That these proceedings be communicated to the family of the deceased by the Secretary of the Senate.

*Resolved*, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

Mr. STEVENS. I do not know whether anybody desires the House should proceed to the consideration of those resolutions now.

The SPEAKER. The Chair understands they will be called up at three o'clock. For the present they will be laid upon the table.

#### AMENDMENT TO THE CONSTITUTION.

Mr. STOKES. I ask unanimous consent to introduce a petition for an amendment to the Constitution.

Mr. ANCONA. I object. It can be referred under the rules.

#### DISTRICT OF COLUMBIA.

Mr. MAYNARD, by unanimous consent, introduced a bill to amend the laws of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### MARY FITZPATRICK.

Mr. WARNER, by unanimous consent, introduced a joint resolution granting a pension to Mary Fitzpatrick; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ELECTION OF SENATORS.

Mr. HENDERSON, by unanimous consent, introduced a bill to amend an act regulating

the time and manner of holding elections for Senators in Congress, approved July 25, 1866; which was read a first and second time, and referred to the Committee on the Judiciary.

#### PUBLIC LANDS.

Mr. FERRY. I present the following:

*To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

At a meeting of the Grand Rapids Labor and Land Reform Union Association, held on the 7th instant in the city of Grand Rapids, in the fourth congressional district of the State of Michigan, the following preamble and resolution were unanimously adopted: Whereas there is now before Congress a proposition to make a large grant of the people's lands for the ostensible purpose of aiding in the construction of a railroad from San Francisco to Humboldt; and whereas we, the members of the Labor and Land Reform Union of the city of Grand Rapids—and we believe the whole laboring community—firmly believe that the disposing of the public lands to speculators is detrimental to the financial, educational, civil, social, and moral prosperity of the whole people, and especially of the pioneer agriculturalist; and whereas the granting of these lands to railroad companies is but an aggravated form of the same stupendous evil: Therefore,

*Resolved*, That we most solemnly protest against Congress granting any land for a railroad from San Francisco to Humboldt, or any other railroad, or to dispose of the public lands in any manner whatsoever, except for homesteads to homestead seekers; but if Congress shall deem it advisable to encourage that or any other improvement, it shall be done by giving the proceeds of the lands, and not the fee of the soil, thus keeping the people's lands intact for the actual settler only.

The paper was referred to the Committee on Public Lands.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Pennsylvania, in the chair,) and proceeded to the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The first reading of the bill for information was dispensed with.

The Clerk read as follows:

For Congressional Globe, \$35,532.

Mr. LAFLIN. I move to amend by striking out \$35,532 and inserting \$206,059, and to add thereafter the following items to be found in a subsequent part of the bill:

For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate of the first regular session of the Fortieth Congress, and one hundred copies of the same for the House Library, \$35,532, or so much thereof as may be necessary.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, \$15,000.

For one complete set of the Congressional Globe and Appendix for each Representative in the Fortieth Congress and each Delegate who has not received the same heretofore, \$37,500.

For reporting and publishing proceedings in the Daily Globe, \$28,000.

For the usual additional compensation to the reporters of the House for the Congressional Globe for reporting the proceedings of the House for the first regular session of the Fortieth Congress, \$800 each, \$1,800.

And then to add, "the above items making up the aggregate of \$206,059 above named."

I do this for the purpose of bringing into an aggregate sum the amount paid for the Congressional Globe so that we may see at a glance what the total expense is. This amendment does not propose in the slightest manner to change the amount paid to the Globe, but simply consolidates them. I presume that the chairman of the Committee on Appropriations will not object to this proposition.

Mr. MAYNARD. I would inquire of the chairman of the Committee on Printing what is the annual aggregate amount that the Congressional Globe costs the Government.

Mr. LAFLIN. That it is the purpose of my amendment to exhibit. It is \$206,059 in this appropriation bill. Whether this covers



the entire amount paid for the Globe I am unable to answer. This is the sum of the different amounts scattered through this appropriation bill.

Mr. MAYNARD. I was desirous of knowing whether as chairman of the Committee on Printing the gentleman knew how much the annual expenses under this head were.

Mr. LAFLIN. I am unable to answer the gentleman, the question never having been referred to the Committee on Printing. It costs that much at least.

Mr. MAYNARD. Mr. Chairman, this subject of reporting our debates and of publishing the Globe is one that has attracted the attention of a great many gentlemen who have been in Congress in former years. Many have been of the opinion that the publication of our debates ought to be performed as part of the general printing, that is to say, by the Government, in the same way as other Government printing. In other words, that this Globe newspaper as a separate establishment is a fungus upon the Government which ought to be removed. I trust, therefore, that the amendment which has been proposed will be adopted, so that legislators can see how much the expense to the Government of this course is. Because as it has been the practice hitherto to divide up the amount into a great number of distinct items, one here and another there, unless a member has more time and opportunity than he usually has, he can have no conception of the amount of money that for many years has gone annually in that direction.

I have long been of the opinion that the publication of our debates ought to be made under our own immediate direction and by our own printing establishment, and since we now have one which does the other printing for us, any action looking to that change will meet my approval, and I hope it will also meet the approval of the Committee on Printing.

Mr. STEVENS. I do not know that there is anything very materially objectionable in the amendment. It does not alter the amount appropriated in the bill. But the mode of putting in these items that has prevailed heretofore I believe to be the most convenient, namely, to keep the expenses of each House distinct from the other. We are now making appropriations for the expenses of the Senate; further along we have appropriations for the expenses of the House of Representatives. We keep them separate, and I am not quite satisfied that the chairman of the Committee on Printing is likely to gain anything by this motion. If we mingle the different items of the two Houses, I do not see well how we are to separate them afterward. I rather think until further advised we had better keep the items as they are. If an arrangement can be made differently, I think it had better be made in some other bill and in some way so that the Comptroller and other officers of the Treasury can understand it.

Mr. LAFLIN. The Committee on Printing have no object to secure by proposing this amendment independent of the object that I suppose is common to all the members of this House. We desire by this amendment to interfere in no manner with the terms in which this bill is couched, but simply, while we retain all the particular items that are now in the bill, to so arrange them that the aggregate can be easily ascertained. Therefore, inasmuch as the different items now contained in the bill are to be continued, I do not see how any embarrassment can possibly arise of the character suggested by the honorable chairman of the Committee on Appropriations. This amendment states that we are to pay for the Congressional Globe the sum of two hundred and odd thousand dollars; describing just as this bill now describes the parties in whose interest and for whose benefit these different sums making up the aggregate are to be appropriated and expended.

It does seem to me that the chairman of the Committee on Appropriations must acknowledge that my amendment will greatly simplify the bill. As it now stands these items are scat-

tered over a number of pages, and should any one desire to ascertain the facts so as to enable him to give a proper answer to the question propounded to me by the gentleman from Tennessee [Mr. MAYNARD] a few moments since, he would be obliged to run through the entire appropriation bill, dig out item after item, and add them up for himself in order to determine what is the aggregate sum.

I think if the chairman of the Committee on Appropriations will reconsider this matter he will see that my amendment will result simply in the convenience of members, and in no way operate against the interest or convenience of any party concerned. I hope the amendment will be adopted.

Mr. HALE. I wish to call the attention of my colleague [Mr. LAFLIN] to a fact which seems to have escaped his notice; that is, that the amendment which he proposes makes this bill entirely inconsistent with its provisions; and to reach the end which he considers important it will be necessary to remodel the bill very materially. The portion which he proposes to amend is embraced under the general head of "contingent expenses of the Senate." Now, he proposes to have incorporated under that general head items which properly belong under the general head of "contingent expenses of the House of Representatives." My colleague will therefore see that his amendment, if adopted, will lead to confusion.

I suppose the gentleman has attained the end he had in view; simply to call the attention of the House to the large amount appropriated for the Globe. And having attained that object, I hope, in view of the inconsistency I have pointed out, he will withdraw his amendment.

Mr. LAFLIN. If the Committee of the Whole will reserve to me the right, and if the chairman of the Committee on Appropriations will consent to it, to consolidate in one item the appropriations for the Globe for each House we will then have but two items, instead of a half a dozen items; and perhaps secure the object at which I aim.

Mr. STEVENS. I will consent to waive the immediate call for the previous question when this bill shall be reported to the House, and in the mean time the gentleman can prepare an amendment to meet his views.

Mr. LAFLIN. With that understanding I withdraw my amendment.

The Clerk resumed the reading of the bill, and read as follows:

For reporting and printing the proceedings in the Daily Globe for the first session of the Fortieth Congress, \$21,250.

Mr. MAYNARD. I would inquire of the chairman of the Committee on Appropriations [Mr. STEVENS] what are the data upon which he has reported the item just read by the Clerk?

Mr. STEVENS. We take it from the estimates, which are to be found in the "Book of Estimates," which every member has a copy of I suppose.

Mr. MAYNARD. Does that item form a part of the contingent expenses of the Senate?

Mr. STEVENS. It is one of the items which are always put in the appropriation bill from year to year.

Mr. MAYNARD. The point is this: is this one of the items for the contingent expenses of the Senate?

Mr. STEVENS. It is always so inserted.

Mr. MAYNARD. Then I understand that one of the items of the contingent expenses of the Senate is "for reporting and printing the proceedings in the Daily Globe for the first session of the Fortieth Congress, \$21,250." Now, I do not find under the head of "contingent expenses of the House of Representatives" any appropriation for reporting and printing the proceedings for the use of the House.

Mr. STEVENS. I have not looked at that.

Mr. MAYNARD. Now, sir, I do not understand the bill as the chairman of the Committee on Appropriations understands it. I do not understand that this is one of the items of the contingent expenses of the Senate. Here

are four different items in succession all relating to the publication of the Globe; but portions of them manifestly do not relate specially to the Senate. The appropriation "for reporting and printing the proceedings in the Daily Globe" seems to be introduced here without specially belonging in this place.

Mr. STEVENS. I think that this has been the form of this bill ever since the Globe has been published under the authority of Congress. I believe gentlemen will find on looking back that this is the form in which the bills have always been passed. The gentleman will find at the bottom of page 8 of this bill the appropriations for the House.

Mr. MAYNARD. Nothing is said there, I believe, about the Daily Globe.

Mr. STEVENS. The gentleman will find at lines one hundred and seventy-nine and one hundred and eighty of page 8 this item:

For reporting and publishing proceedings in the Daily Globe, \$23,000.

That corresponds in form with the appropriation for the Senate in the portion of the bill we are now considering.

Mr. MAYNARD. I would like the chairman of the Committee on Appropriations to state why it is that only \$23,000 are necessary to pay for reporting and printing the proceedings of this House while \$21,250, almost as much, are appropriated for the Senate, a body embracing some sixty odd members, while here we have nearly two hundred. Why is it that the Daily Globe for the House costs so much less in proportion than it does for the Senate?

Mr. STEVENS. It always has been so. The expenses of the Senate have always been very much larger, in proportion to the number of members, than the expenses of the House. The contingent expenses for stationery, &c., are with the Senate much larger, in proportion to the number of members, than the contingent expenses of the House. But we do not presume to interfere with that matter. That branch always fixes its own allowance for compensation, for contingent expenses, &c., and this branch acquiesces.

Mr. MAYNARD. Well, Mr. Chairman, I confess that I do not understand this item. This may be owing to a want of comprehension on my part, but still this is one of various items for which we have never had any reason given except the one that has been given to-day—"it has always been so"—a prescription beyond which the memory of no man now living runneth to the contrary.

Now, the Daily Globe is a newspaper published during the session of Congress in the city of Washington, for which a subscription price is charged just as for any other newspaper. It derives its interest and importance from the fact that it publishes the proceedings of Congress. One copy of this paper is placed daily upon the desk of each member and Senator. I am perfectly willing that the subscription price should be paid if gentlemen desire this paper, and perhaps it is well enough to have it, though I presume that generally more gentlemen receive it than read it. The number of copies, however, furnished to Members and Senators would not require an appropriation of one half, hardly one tenth of that here provided for. We know that the congressional matter published in the Daily Globe is the same that goes into the Congressional Globe, for which we pay, as will be seen by this bill, a very liberal sum *in solido* for the whole. Then we pay the reporters. Then we pay, according to the number of copies taken, one cent for every five pages exceeding three thousand. Thus for the matter contained in the Daily Globe and the Congressional Globe we pay three or four times over. It seems to me that we would pay enough if we paid only for the newspaper as any other subscriber does.

This whole subject ought to be overhauled, ought to be reexamined. A proposition was made at the commencement of this Congress to do this; but it was put off; it received the go-by for the time, the supposition being that

it would be brought up again at some convenient season; but I recollect telling a gentleman here at that time that the convenient season would never arrive. This system has been going on for a very long time. It has been the *fugientem Italiam* of legislation for a number of years. It is time that the matter should be overhauled. Though I may not be able in dealing with this many-headed power to strike at more than one head at a time, I will strike at one at least by moving that lines fifty-eight, fifty-nine, and sixty be stricken out. If it is desired to pay for the subscription to this newspaper we can bring it in some other way. My amendment is to strike out the following:

For reporting and printing the proceedings in the Daily Globe for the first session of the Fortieth Congress, \$21,250.

Mr. STEVENS. Mr. Chairman, this only carries out the arrangement which we made with the late proprietor of this paper during his lifetime. It has always been continued from time to time and about the same amount that it is now.

The amount of Congressional Globes it will be seen further on, is twenty-four copies for each member of the Senate and House of Representatives. There is an error in the printed bill, and instead of the Thirty-Ninth Congress it should be the Fortieth Congress.

This bill appropriates first for reporting the ordinary amount, the same that has always been allowed ever since the arrangement with the Globe under Mr. Rives. Then we have the twenty-four copies for each member. It has been the number ordered and paid for ever since I have been a member of Congress. There is nothing, unless the House desires to inaugurate a new system, at all involved in this bill which it is for the House to consider. It now only carries out the arrangement with the Globe, but if the House desires to establish a new system that is another question and ought to come in another form. As it stands between the proprietors and the House it is now and has been the custom for I do not know how many years to make these appropriations. I do not see how we can avoid in an appropriation bill making the appropriations, when they are to be made in advance just as they are in this bill.

I hope, therefore, we shall have no general discussion in regard to the general question at this time, but that the matter will be left to be fully investigated hereafter.

Mr. LAFLIN. Mr. Chairman, I concur entirely with the chairman of the Committee on Appropriations in his view of the case, and I may concur to some extent with the views of the gentleman from Tennessee, but at this time, with the limited knowledge I have upon the subject and with the knowledge that there is existing with the publishers of the Globe a contract, if not written, implied, which would authorize this expenditure by the Government—

Mr. MAYNARD. Will the gentleman let me ask him what evidence he has of that contract? I have heard a good deal of that contract, but I have never seen it and never saw any man who has ever seen it.

Mr. WASHBURNE, of Illinois. Call for it, and let it be ordered to be printed.

Mr. LAFLIN. If the gentleman had noticed my language he would have seen I said it is a written or implied contract, but for the purpose of relieving the House—

Mr. MAYNARD. I heard the gentleman's statement. I want to know whether it is written or implied. If it is written has he seen it, and if implied from what is it implied?

Mr. LAFLIN. I was going on to say that at a joint meeting of the Committee on Public Printing this very morning, owing to a disagreement which existed between the Superintendent of Public Printing and the Public Printing Office and the publishers of the Globe as to who should bear the expense of what is known in the printing trade "of folding and gathering," it became necessary for us to look up and

examine into this contract. And, sir, proper measures have already been taken to unearth this contract, if such a contract exists. With the limited knowledge I now possess I am disposed to agree with the gentleman from Tennessee that no such written contract does exist. But there was a certain act passed just at the close of one of our sessions, at what date I am unable now to say, which gave them a certain right, under which at least they are exercising the right to publish the Globe.

I wish to say here that, without attempting in any measure whatever to prejudice the interests of the publishers of the Globe, it is the intention of the Committee on Printing to thoroughly examine into the nature of this contract, to examine into the expenditures which have been made in virtue of this contract either written or implied, and if in their judgment it shall seem proper any change shall be made either in the terms of that contract or any change made in the manner in which these debates are to be published, this committee will at the proper time make due recommendations.

As I said before, I concur with the chairman of the Committee on Appropriations, that we are not in a proper situation to take the course suggested by the gentleman from Tennessee, and I hope, therefore, his amendment will not be adopted.

Mr. MAYNARD. I wish the gentleman before he takes his seat would address himself to a point which he seems to have omitted in the remarks he has made. The objection that I made to this item was that it is a large appropriation for the reporting and printing in the Daily Globe. We already provide for publishing the Congressional Globe; we make large and sufficient appropriations for that. Now, what is the Daily Globe? It is nothing more nor less than the Congressional Globe so far as our proceedings are concerned. In addition to those proceedings the Daily Globe publishes various other kinds of matter, advertisements, &c., as other newspapers do.

A fact was brought to my recollection which had escaped me when I was up before, that this one copy of the Daily Globe which is placed on our table every day is one of the twenty-four copies that we get as members. So I have been informed by a gentleman who professes to know better than I do about the matter, and when he stated it to me it accorded with my recollection on the subject. Now if that be true it is another additional reason why this should be stricken out. In any event we pay for the Congressional Globe a large amount. We pay for the reporting, and now here is another charge by which we are made to pay twice over for precisely the same thing; because the Daily Globe is nothing more nor less than the Congressional Globe in an unfledged or embryo state. The debates are first published in the Daily and then made up into the size of the Congressional Globe and published as we get them there.

Mr. HALE. If the gentleman from Tennessee will allow me, I will explain very briefly what I understand about the effect of this Globe contract. I had occasion a year ago or more to examine this subject and then made myself somewhat familiar with it. The details of it are now gone from my recollection, but I know the substance. There is something in the nature of a contract, to say the least of it. By a resolution of the two Houses—a joint resolution I think—and by the filing of a bond given by John C. Rives, the former proprietor of the Globe, an arrangement has been made between Congress and the proprietors of the Globe for the reporting and publishing of the debates at a certain rate of compensation by the column in the Daily Globe, for the daily publication; and in addition to that the proprietors of the Globe engage to furnish to each member of the House and Senate a certain number of copies of the Congressional Globe at a stipulated price; the payment for the reporting by the column and for the volumes as delivered being both parts of the same contract and going

to make up the compensation of the proprietors of the Globe.

Now, I do not come here to vindicate the propriety of this arrangement or the desirability of its continuance, but so long as it stands, and until it is terminated pursuant to the provisions of the contract itself, or the resolution whatever it was under which this understanding was arrived at, and which provided that it might be terminated by giving notice—until that is done, it seems to me we are bound in good faith to pursue the terms of the contract on our part. And I suggest to the consideration of the Committee on Printing and of the members of the House that when it shall be found advisable to depart from this contract or terminate it and pursue some different method of reporting and publishing the debates, according to my humble judgment, an improvement will not be found in transferring this work to the Public Printers, for I believe there it will cost much more than it costs now, but rather in abandoning the whole matter of publishing the debates of this House to private competition and leaving it free to everybody and anybody to publish the reports so far as they see fit and get their pay in the ordinary way; thus getting rid of the cost of supplying copies of the Globe to members of the House, washing our own hands of the whole thing, and leaving it a direct personal matter between publisher and purchaser.

Mr. BIDWELL. Will it be in order to move to postpone this bill until the chairman of the Committee on Printing shall be able to make a thorough investigation into this subject?

The CHAIRMAN. That motion would not be in order.

Mr. STEVENS. All I have to say in regard to this matter is, that there is nothing new or strange in this. It is in precisely the language which we have used for twenty years past. It may be for the convenience of some members to break up the Globe and destroy it. I shall not object to that more than many others will. We have already made the appropriation for the expenses to be incurred this session. But if gentlemen find they can dispense with the Globe and break it up, I shall not complain more than some others will.

Mr. MAYNARD. We are now fixing it for the next Congress; fastening it upon us for two years longer.

Mr. STEVENS. Unless we can proceed faster than we have been doing, I must move that the committee rise, to enable me to submit a motion to limit the debate upon this bill in Committee of the Whole by the five-minute rule.

Mr. WASHBURNE, of Illinois. I think we can do that by unanimous consent.

Mr. STEVENS. If that can be done, I will not submit the motion.

No objection was made.

Mr. COOK. At the last session of Congress the Committee on the Judiciary were instructed by the House to inquire whether any contract, and if so what, existed between the Government and the publishers of the Daily Globe. That committee have had the matter before them, and have made some examination of it. It appears from that examination that on the 1st of March, 1847, the House of Representatives passed a resolution authorizing each member to subscribe for twelve copies of the Congressional Globe and Appendix. On the 4th of February, 1850, the House passed a resolution authorizing each member to subscribe for twelve additional copies of the Congressional Globe and Appendix. Under these two resolutions, which were without limit as to time, each member of the House has continued to be supplied with twenty-four copies of the Congressional Globe and Appendix. The resolution of February 4, 1850, also provided that the publishers of the Globe should continue the daily publication of the proceedings of the House.

The appropriations for the Congressional Globe and Appendix have been made at each Congress since the passage of the foregoing resolutions. At the last session of the Thirty-

Fourth Congress appropriations were made for reporting the debates of the Thirty-Fifth Congress. Similar appropriations were made by the Thirty-Fifth, Thirty-Sixth, Thirty-Seventh, and Thirty-Eighth Congresses to pay for reporting the proceedings of the next Congresses. The appropriations made by the Thirty-Eighth Congress were upon the condition that thereafter the proceedings of Congress should be published in the *Daily Globe* of the day subsequent to the day such proceedings were had, and delivered to both Houses at the time of their meeting; which provision was to take effect at the then next session of Congress. The whole legislation of Congress seems to have proceeded upon the theory of a continuing agreement under the resolutions of March 1, 1847, and February 4, 1850.

Mr. MAYNARD. How was the *Globe* published before that time? It extends back to 1835 or 1836, I believe.

Mr. COOK. I cannot say.

Mr. STEVENS. If the gentleman from Illinois [Mr. Cook] will permit me, I will endeavor to answer the question of the gentleman from Tennessee, [Mr. MAYNARD.]: The *Annals of Congress* were reported by one of the editors and proprietors of the *National Intelligencer* for a great many years and published by him, and Congress purchased the volumes of him. I suppose all the members of Congress who were here at that time have that work in their own libraries, except, perhaps, some who have sold their copies, which I am told was done in some instances. The *Annals of Congress* were got up by the senior editor of the *National Intelligencer*, one of the ablest reporters of that day. The *Congressional Globe* and *Appendix* have taken the place of that work.

Mr. COOK. By the provisions of chapter 250 of the laws of the United States, approved July 4, 1864, section one, the Secretary of the Senate and the Clerk of the House of Representatives are directed to purchase from the publishers of the *Congressional Globe* and *Appendix*, for each Senator, Representative, and Delegate in that and each succeeding Congress, one complete set of the *Congressional Globe* and *Appendix* from the beginning.

The second section provides that there shall be paid to the publishers of the *Congressional Globe* and *Appendix* one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including indexes and the laws of the United States for that and each future Congress.

The fourth section provides that the above provisions are upon the express condition that they may be abrogated by either Congress or the publishers of the *Congressional Globe* and *Appendix* by giving two years' notice.

It seems, therefore, that there is a contract with the publishers of the *Congressional Globe* and *Appendix*, which contract cannot be terminated except by giving them two years' notice. That seems to be the substance of the legislation hitherto upon this subject.

Mr. MAYNARD. Mr. Chairman, as I understand, the only thing in the shape of a contract that was brought to the attention of the committee was a resolution of this House adopted in 1847 authorizing members to subscribe for twelve copies of the *Congressional Globe*, and a subsequent resolution authorizing subscriptions for twelve additional copies. There was also, I believe, some subsequent legislation in the Thirty-Eighth Congress, which it is claimed goes to create a contract. I was not a member of that Congress, and my attention was not called to that legislation; but I was in Congress before the war when this question came up, and we were assured over and over again, as we are assured now, that there was a contract obligatory upon us all. It would seem that this contract when it comes to be examined rests upon nothing more than a resolution authorizing members to subscribe for twelve copies of the *Globe*, and a subsequent resolution authorizing subscriptions for twelve additional copies. It is time that this thing should be stopped, if we have any power to do it; and

I trust that the Committee on Printing will report some measure that will at least get this thing into our own hands; for as I have already said these appropriations for the *Globe* have been a fungus upon the Treasury ever since I have known anything about the proceedings of Congress, and the system bids fair, according to the present mode of legislation, to go on indefinitely through this and succeeding generations.

Mr. BANKS. Mr. Chairman, I do not believe that the printers of the *Globe* have any contract with this House that binds us. Our arrangement with them is certainly plainly written in the history of our legislation, and it ought to be regarded by us; but it is an arrangement to subscribe for the *Globe*; and inasmuch as they print the proceedings at great length, we pay something toward the reporting. It is precisely such an arrangement as a man makes with any newspaper by subscribing for it and by paying occasionally for the insertion of matter which is of peculiar interest to himself. We ought not to be held bound to continue this arrangement in consequence of any such understanding as that.

Now, I do not complain of the expense of this publication, as the gentleman from Tennessee does; nor of the manner in which the reporting or publication has been performed; but in my opinion it is of the highest possible importance that the reporters and the publication of the reports should be under the exclusive control of the House; and whether it cost more or less, the House, in the exercise of one of its highest and most important privileges, should take into its own hands the direction of this matter. I hope that the suggestion of the chairman of the Committee on Printing, which looks to this end, will be carried out.

The question being taken on the amendment of Mr. MAYNARD, it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For one complete set of the *Congressional Globe* and *Appendix* for each Senator in the Thirty-Ninth Congress who has not already received them: *Provided, however, That any Senator who has already, as a member of the House of Representatives, received a portion of a set of the Congressional Globe shall only be entitled to receive as such Senator, the additional volumes required to complete one full set, \$9.375.*

Mr. STEVENS. I move to amend by striking out in the sixty-sixth line, before the word "Congress," the words "Thirty-Ninth," and inserting in lieu thereof the word "Fortieth." This amendment is to correct a misprint.

The amendment was agreed to.

Mr. FARNSWORTH. I move to amend by adding at the end of the paragraph just read the following:

*Provided, That no further appropriations shall be made for supplying complete sets of the Congressional Globe and Appendix to members of any succeeding Congress.*

I understand that under the requirement of two years' notice we cannot refuse this appropriation to furnish these volumes to the new members of the Fortieth Congress, but we can declare by law that we will make no further appropriation for providing members of succeeding Congresses with sets of the *Congressional Globe*.

I remember very well that two years ago when the Committee on Printing presented the proposition for the purchase of these volumes, the House in the first instance negated it; but afterward it somehow went through. The law as then passed provided for supplying to every new member of Congress a complete set of the *Congressional Globe* and *Appendix* from the beginning of the publication to the time of his taking his seat. Gentlemen can see how this system, if continued, will grow in proportions from year to year. We all know that there are very few new members elected to the next Congress; yet it requires an appropriation of nearly \$50,000 to furnish these volumes to new Members and Senators of the Fortieth Congress. It is obvious that if the system be continued we shall before many years find it necessary to appropriate half a

million dollars, then a million; and thus as time goes on the expense will constantly increase.

If the furnishing of these volumes be intended as a sort of subsidy to members of Congress I can only say that it seems to me we are already receiving pay enough. If it is intended as a benefit to the publishers of the *Congressional Globe*, and so I suppose it was originally, if it is a gift to them, I do not know the Government is under any obligation, to keep it up.

We provide that there shall be deposited one hundred copies of the *Globe* in the Library of Congress. A hundred copies is enough for the members of Congress. But then in addition we give members twenty-four copies each. It seems to me high time that we should stop it. These leaks are growing in proportion every year. These amounts are constantly increasing, and there is no telling to what sum they will reach if we do not stop them. It is easy to ingraft them on the Government, but it is almost impossible afterward to get rid of them. I propose by my amendment to give the two years' notice that we will not, for the Fortieth Congress, provide members with complete sets of the *Globe*.

Mr. SPALDING. I think the member from Illinois is right. When some two years ago we attempted to distribute these copies of the entire *Globe* among members we did it as a favor to the publishers of the *Globe*. I understood they had this number of surplus copies on hand and that Congress would favor them by buying them and sending them around the country, and we supposed it was as good a mode as any to let each member of Congress take one. I did not believe we were to establish a rule to inure for all time to come. I did not suppose this *Globe* was to be repeated year after year and the Government was to be subjected perpetually to the expense of furnishing each member of Congress with a copy. I am willing to retrace my steps if I was mistaken and go with the gentleman from Illinois in putting on this limitation by way of proviso, that for the Fortieth Congress this practice shall be stopped so far as we have anything to do with it.

Mr. MAYNARD. Under the old law giving members eight dollars a day, the compensation was clearly and manifestly inadequate, but Congress, disliking to incur the odium of directly raising their salary, had by indirection been voting themselves a large amount of books, the *Annals of Congress*, the *Register of Debates*, the *Congressional Globe*, and various other books, estimated in the laws passed from time to time at so much a volume, and which amounted to from twelve to fifteen dollars to each member. This was an indirect mode of doing what ought to have been done directly, that is to give members an adequate compensation.

As a matter of fact, instead of taking these books the members were in the habit of compounding with the Clerk, or going through the formality of receiving the books and then selling them back to him, pocketing something like one thousand dollars each. I see a gentleman who was a member of Congress under that régime, and perhaps recollects something about what I have stated. I do not say he participated in it. Perhaps he did not.

The Thirty-Fourth Congress passed a law changing the mode of compensation from a per diem to an annual salary, giving each member \$3,000 a year, with the provision if thereafter Congress should vote books to individual members, the members who received those books should have them charged up against their salary and they should be accounted for. We heard no more of books after that until the last Congress. The last Congress passed this legislation which has been referred to voting to members this supply of books—I believe the *Congressional Globe* and *Appendix* from the commencement, a full series. Whether the value of the books has been compounded with the Clerk I do not know, and perhaps it is not necessary to inquire, but after having our salaries increased from \$3,000 to \$5,000 it seems to me this further indirect compensa-



tion in the shape of additional books ought to be suspended. I think it ought to be suspended and that the paragraph should be stricken out.

Mr. HALE. I trust this paragraph will not be stricken out, and I think I can present to members of the House a single consideration that ought to weigh with them.

The CHAIRMAN. The motion is to add a proviso and not to strike out the paragraph. The amendment was again read.

Mr. HALE. I understood the gentleman from Tennessee, before taking his seat, to move as a substitute for that amendment to strike out the paragraph.

Mr. MAYNARD. No, sir; I said it ought to be stricken out.

Mr. HALE. I have only to say this: the large majority of members of this House, it seems to me, have no occasion to interfere with this question. They are reflected to their positions here, they have no successors to provide for, and I submit whether, with proper deference and regard to the feelings of those few on this side of the House or on the other, who have wrung from our constituents a reluctant consent that we be permitted to stay at home for the next Congress, we ought not to be allowed to do the handsome thing for our successors. [Laughter.]

Mr. DAWES. I suggest to the gentleman whether, as a lawyer, he supposes a provision inserted here would be an obstacle in the way of any future appropriation.

Mr. HALE. I answer that I have not inserted any provision, and it has not occurred to me that anything has been proposed on the subject that would be of the slightest effect.

The question being taken on the amendment of Mr. FARNSWORTH, no quorum voted.

Tellers were ordered; and the Chair appointed Messrs. FARNSWORTH and HALE.

The committee divided; and the tellers reported—ayes 53, noes 45.

So the amendment was agreed to.

Mr. STEVENS. I move to strike out "five" in line one hundred and five and insert "six;" also to strike out "\$4,380" and insert "\$5,256;" so that the item will read thus:

Six firemen at \$2 40 each per day, \$5,256.

There is another boiler added to the works which requires an additional fireman, making six.

The amendment was agreed to.

The Clerk read as follows:

For one complete set of the Congressional Globe and Appendix for each Representative in the Fortieth Congress, and each Delegate who has not received the same heretofore, \$37,500.

Mr. COOK. I move to add to the foregoing the following:

Provided, That notice is hereby given that at the close of the Fortieth Congress the United States will terminate the purchase of one complete set of the Congressional Globe and Appendix for each Senator, Representative, and Delegate provided for by the act approved July 4, 1864.

The question being taken on the amendment, no quorum voted.

Tellers were ordered; and the Chair appointed Messrs. COOK and FARNSWORTH.

Mr. HALE. I rise to a point of order. This amendment is not in order.

The CHAIRMAN. The point comes too late. The committee divided; and the tellers reported—ayes 52, noes 46.

So the amendment was agreed to.

The Clerk read as follows:

For compensation of Librarian, five assistant librarians, messenger, and laborers, \$13,680.

For twenty per cent. additional on the above, \$2,736.

Mr. HARDING. I raise the point of order that there is no law authorizing the last appropriation of twenty per cent.

The CHAIRMAN. The Chair is informed that there is a law and therefore overrules the point of order.

Mr. MAYNARD. Will the chairman of the committee tell us what is the basis of this appropriation of twenty per cent. additional; whether this is the mode of increasing the sal-

aries of these functionaries or whether it has been already allowed by law?

Mr. STEVENS. It is allowed by law.

Mr. MAYNARD. How many years back?

Mr. STEVENS. It began, I think, since the war commenced.

Mr. MAYNARD. While the war was going on these things, I suppose, did not attract attention and went through the House without inquiry. I want to know if this is incorporated here for the first time.

Mr. STEVENS. Oh, no.

Mr. MAYNARD. What is the amount of pay of these officers?

Mr. STEVENS. You will see it above—"For compensation of Librarian, five assistant librarians, messenger, and laborers, \$13,680."

Mr. MAYNARD. I suppose they are now paid that sum.

Mr. SLOAN. I would like to know why the Chair overruled the point of order raised by the gentleman from Illinois, [Mr. HARDING.]

The CHAIRMAN. The appropriation is in accordance with a law passed last session on the 28th of July.

Mr. SLOAN. I am informed that that law applied to last year only.

The CHAIRMAN. The Chair is informed that the law is a continuing one.

Mr. MAYNARD. I ask these questions in order to ascertain beforehand whether or not I will move an amendment. About ten years ago the compensation of the officers of this House was raised twenty per cent. I am not aware whether the salaries of the Librarian and his assistants were raised at that time or not. I will ask the gentleman from Pennsylvania [Mr. STEVENS] if he can state whether at the time the salaries of the officers of this House were increased twenty per cent. in the Thirty-Fourth Congress, the salaries of the Librarian and his assistants were increased?

Mr. STEVENS. I do not think they were at that time.

Mr. MAYNARD. Then this ought to be left in the bill.

Mr. HARDING, of Illinois. I move to strike out the following item under the heading "Library of Congress:"

For twenty per cent. additional on the above, \$2,736.

The amendment was not agreed to.

The Clerk resumed the reading of the bill.

Mr. MAYNARD. I move to strike out the following, being lines two hundred and twenty-four, two hundred and twenty-five, and two hundred and twenty-six of the printed bill:

For twenty per cent. additional allowance on the above, \$1,229 16.

I make this motion for the purpose of saying that I have now before me the act of the last session, concerning which I inquired some time since. Section eighteen of that act provides—

"That there be allowed and paid to the officers, clerks, committee clerks, messengers, and all other employes of the Senate and House of Representatives, and to the Globe and official reporters of each House, and the stenographer of the House, and to the Capitol police, and the three superintendents of the public gardens, their clerks and assistants, and to the Librarian, assistant librarians, messengers, and other employes of the Congressional Library, an addition of twenty per cent. on their present pay, to commence with the present Congress."

That is the law that was approved on the 28th of July, 1866, and this item of course appears in this appropriation bill for the first time. I am satisfied upon reference to this law, as I was not before, that this item is proper and should be left in the bill. I withdraw my amendment.

The Clerk resumed the reading of the bill.

Mr. WASHBURNE, of Illinois. I move to amend the clause which reads:

For payments of judgments which may be rendered by the Court of Claims in favor of claimants, \$1,000,000.

By adding to it the following:

Provided, That no part of the money hereby appropriated shall be paid until the judgments of said court shall be confirmed by Congress.

Mr. STEVENS. I rise to a point of order. By the law as it now stands the amount of

these judgments are to be paid upon the rendition of the judgments and the presentation of the certificates to the Treasury Department. This proviso proposes to repeal a portion of that law; it is entirely new legislation in an appropriation bill, and therefore out of order.

The CHAIRMAN, (Mr. LAWRENCE, of Pennsylvania.) The Chair overrules the point of order.

The question was upon the amendment of Mr. WASHBURNE, of Illinois.

Mr. BINGHAM. It is my impression just at this moment that no more unwise legislation than the amendment proposed by the gentleman from Illinois [Mr. WASHBURNE] could be introduced into Congress touching these matters. I believe that the records of Congress for the five years preceding the organization of this Court of Claims, as compared with the records of the court of the appropriations of money to discharge claims against the Government of the United States, will show that no wiser legislation in the way of economy has taken place in the Congress of the United States, than that which provided for the establishment of this court. I beg leave to say to gentlemen here that I have no doubt that, comparing the amount charged against the Treasury of the United States by the action of the last Congress, the Thirty-Eighth Congress, upon claims against the Government of the United States, with the amount under the legislation of any Congress upon similar subjects, preceding the establishment of this Court of Claims, the amount in the former case will not be as one dollar to ten in the latter case, and I challenge gentlemen to the investigation.

Yet it is now proposed by this amendment to bring all these questions back into Congress, and to have again all manner of log-rolling here upon claims of from five hundred to five million dollars. I ask how can a body of two hundred men understand the merits of a case depending upon a large amount of conflicting testimony? I undertake to say that there is not one case in a hundred decided in the Congress of the United States, resting upon the testimony of conflicting witnesses, in regard to which one member in fifty—and I say it with all respect to members—could give an intelligible account of the testimony upon which the case was decided.

The law was originally passed to transfer these claims to the Court of Claims for consideration, in order that the country might be protected against unjust and unfair demands; that the country might be protected as well against hasty legislation as against legislation giving away the money of the country to clamorous claimants, where there was no tolerable excuse for the demand at all. For myself, I feel constrained to say that I must oppose this amendment of the gentleman from Illinois, although in the main I feel inclined to support the motions which he makes touching the appropriation of money. If he ever in his life made a mistake, in my judgment he has made a mistake in this amendment. It simply amounts to a repeal of the Court of Claims; for it says that the decisions of all cases shall rest at last with Congress, ninety-nine in each hundred of whose members will not understand the merits of the cases to be decided by them.

Mr. WASHBURNE, of Illinois. I think the gentleman from Ohio does not meet my point. This amendment does not imply any hostility to the Court of Claims. It proposes simply to require that court to send to us its judgments. We do not propose to take from the court, as the gentleman's argument would imply, the jurisdiction of an investigation.

Mr. BINGHAM. Certainly, if the amendment be adopted it contemplates that Congress shall affirm or disaffirm the judgments of the court.

Mr. WASHBURNE, of Illinois. I understand that; but it will not take from the court the right to examine judicially into these claims. The court at present under our legislation has not only this right, but its award in any case, unless reversed on appeal to the Supreme

Court, gives the party a claim upon the Treasury. Now, I do not believe that we have any right to confer upon the Court of Claims such jurisdiction without reserving to Congress, as the representative of the people and the guardian of the Treasury, the power to disaffirm the judgments of the court if we see fit.

Mr. MAYNARD. Will my friend from Illinois allow me to ask him a question?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. MAYNARD. Of what possible use is the Court of Claims if its judgments are to be referred to us that we may reconsider the cases and pass upon them?

Mr. WASHBURNE, of Illinois. Does the gentleman from Tennessee know that this giving the Court of Claims complete and final jurisdiction in all these matters is an entirely new system; that until a very recent period we required that court to send all these cases here for us to act upon them? But by a law of very late date we have provided that this court may make up its judgments, and that the parties may obtain payment of their claims without ever coming to Congress at all.

Mr. MAYNARD. Certainly, I know that; and if the gentleman will allow me, I will ask him whether he does not know that for the very reason that the judgments of the court were required to be submitted to us for our action, Congress became satisfied that the court under such a system was absolutely useless; that either it ought to be abolished altogether or its decisions should be made final, unless taken on appeal to the Supreme Court of the United States. Was it not because of that very feature which the gentleman advocates and seeks to revive, that a change was made and the present system established?

Mr. WASHBURNE, of Illinois. Mr. Chairman, I do not know what reasons controlled the action of other members; but the consideration referred to did not influence me. I always protested against abdicating to any inferior court the proper jurisdiction of Congress, the highest court in the nation. I have always contended that we should retain the control of all these matters; that we should not put the whole Treasury of this nation into the hands of five men sitting as judges of the Court of Claims.

Mr. STEVENS. Members of the House cannot have forgotten that for a number of years we tried the experiment of the system which the gentleman from Illinois now proposes to revive. Under that system the Court of Claims was really reduced to a committee of investigation, reporting to Congress their judgments, which had no force until confirmed by us. The result was that claimants were embarrassed. It was difficult to obtain action here upon claims however meritorious; and generally those claimants who had the most money succeeded best. We became satisfied that one of two things must be done: either the court must be abolished or we must provide that its judgments, after having gone through all the forms (an appeal to the Supreme Court being allowed) should, like the judgments of all courts of competent jurisdiction, have the force of law and entitle the successful claimant to the amount awarded to him. We therefore repealed the provision which required the judgments of that court to be submitted to Congress, and declared that those judgments, unless reversed on appeal to the Supreme Court, should be final, and should be paid without any reexamination and confirmation by Congress. I think it would be extremely unwise for us now to restore the old system and require the judgments of this court to be submitted to Congress.

I did not understand clearly the decision of the Chair upon the point of order which I submitted. I made the point of order that, inasmuch as this amendment proposes to repeal a provision of existing law, it is not in order on an appropriation bill. I suppose the Chair is aware that there is a law, providing that the awards of this court shall be paid upon the certificate being presented to the proper officer. If there is any question as to the existence of

such a law, I will ask the Clerk to turn to it. I make the point of order that you cannot in an appropriation bill repeal an existing law for the organization of that court.

Mr. WASHBURNE, of Illinois. It is too late; the point of order has been once overruled.

The CHAIRMAN. The Chair has already decided that it is competent for the House to direct the manner in which the money shall be expended.

Mr. STEVENS. Am I at liberty to appeal from that decision?

The CHAIRMAN. Certainly.

Mr. STEVENS. Then I take an appeal from the decision of the Chair.

The committee divided; and there were—ayes 52, noes 35.

So the decision of the Chair was sustained.

Mr. SLOAN. I hope the amendment of the gentleman from Illinois will prevail. In my judgment the change which has been made in the law, so that instead of the judgments of the Court of Claims being returned to us for final action they are allowed on appeal to be taken to the Supreme Court of the United States, is not a judicious one. It is well known the business before the Supreme Court is already very large, and that the number of claims presented to the Court of Claims has increased enormously, so that it will be almost impossible to any extent under that law for the Supreme Court of the United States to investigate and determine these causes.

Now, the Court of Claims, although their judgments were referred to this House for final action, was by no means a useless institution. We had the advantage of a judicial investigation. We had the advantage of the testimony being taken before that court and carefully analyzed and examined into. I trust the system in operation until the last Congress, of having the judgments of the Court of Claims referred to this House, will be continued.

Mr. SCOTFIELD. I believe my friend from Illinois is wrong for the first time.

Mr. WASHBURNE, of Illinois. I am obliged to the gentleman for his good opinion.

Mr. SCOTFIELD. He is a great economist and saves the Government a large amount of money, but I believe he is on the wrong track this time. I believe a bad claim stands a better chance of success in any other department of the Government than in the Court of Claims. It is hard to kill a bad claim anywhere, and it is easy to defeat a good one, and they are almost always defeated while bad ones almost always get through. But this Court of Claims is an open court like all others. Counsel are employed to examine evidence and witnesses and to argue the case adversely. Every one who chooses can come in and hear the discussion of the case. It is all open. It is no room in one of the Departments where you slip into a clerk and tell him "these are clever fellows and the claim ought to go through." It is no committee-room in this House where you hear them alone, not improperly, but still alone, because the opponents of the measure are not there. It is an open thing, and if there is any one department of the Government which can be trusted with claims it is that court. Therefore I shall vote against my friend's motion with some reluctance because he makes it.

Mr. BINGHAM. Will my friend allow me a portion of his time to make a statement?

Mr. SCOTFIELD. Certainly.

Mr. BINGHAM. I desire to say, with all respect to my friend from Wisconsin, that he labors under a very great and total misapprehension about the condition of the legislation of the country in regard to this tribunal for the last three years. Now, what I undertake to say is, that the change in the legislation touching this court made in the last Congress had no relation whatever to the question raised by the gentleman from Wisconsin, the power of Congress to review the decisions of that court. It was a change in the existing legislation of Congress to remove the objection raised by the Supreme Court of the United States, to their

obligation to review upon an appeal as hitherto provided by law, the decisions of the Court of Claims. The Congress of the United States did not intend the Supreme Court should by any objection of that sort, taken on a mere verbal expression of an existing statute, evade the obligations which properly belong to their office; and therefore, what is known as the fourteenth section of the statute in reference to the Court of Claims, upon which they predicated their denial to review the decisions of the Court of Claims, was repealed and rightfully repealed.

But, sir, with the indulgence of my friend from Pennsylvania, I beg leave to repeat what I said before, that during the last three years of the existence of this court of exchequer, as it may be rightfully called, there have been millions—I do not stop with thousands, but I say millions—saved to the Treasury of the United States directly by its judgments, as compared with the action of any preceding Congress in the last ten years. And I challenge an investigation of the fact.

Therefore it is I object to the proposition of my friend from Illinois, [Mr. WASHBURNE,] and I beg leave to reiterate that I am surprised that he did not fully comprehend, that the effect of this proposition is simply to make this House again a log-rolling machine in the interest of these men who come to claim, not simply a few hundred thousand dollars, but a few million under some treaty stipulation, and who button-hole every member of the House, to the utter disgust of the country and the disgrace of this body. It makes it altogether nugatory. As my friend from Pennsylvania [Mr. STEVENS] says, it converts the tribunal into a mere set of arbitrators or commissioners in chancery to make a report to the House.

My friend from Wisconsin [Mr. SLOAN] thinks that of course the House would understand the testimony and arguments of counsel and conflicts arising in the law. My experience is this: more than ten years since when I first came into this House, the very condition of things which my friend proposes to reenact today by this amendment did exist. You had your Court of Claims, but they were simply auditors to audit the accounts, take testimony and report it to the House, and the result was the House determined finally whether the claim ought to be paid out of the Treasury or whether it should be rejected. And I think my venerable friend very well states what was the record of Congress at the time, that the larger the claim rejected by the Court of Claims as arbitrators the surer it was to pass Congress.

I repeat, then, if we want to restore the old order of things and paralyze this court we will adopt the gentleman's amendment. If, on the other hand, we intend that these claims shall be established according to the rules of law and equity in a court which has proved itself above suspicion, subject to review or appeal in all cases in the Supreme Court of the United States, where the amount exceeds \$3,000, we will reject the gentleman's proposition. If we cannot trust this tribunal of justice, whom can we trust?

Mr. WASHBURNE, of Illinois. Mr. Chairman, in view of the message received from the Senate containing the announcement of the death of a Senator, I move that the committee do now rise.

Mr. STEVENS. Oh, take a vote on this.

Mr. BINGHAM. Yes, take a vote.

The question being taken on the amendment of Mr. WASHBURNE, of Illinois, no quorum voted.

Tellers were ordered; and the Chair appointed Messrs. WASHBURNE, of Illinois, and BINGHAM.

The committee divided; and the tellers reported—ayes 13, noes 36.

So the amendment was disagreed to.

Mr. STEVENS. I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, of Pennsylvania, reported that the Committee of the Whole on the state of the Union, having

had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1868, had made sundry amendments thereto.

#### IMPROVEMENT OF CONNECTICUT RIVER.

Mr. DEMING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of an appropriation by the United States for improving the navigation of the Connecticut river.

#### FEMALE CLERKS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of authorizing and requiring the appointment of female clerks in the executive department of the Government with definite instructions as to numbers and qualification, and in every case giving precedence to the wives, daughters, mothers, and sisters of soldiers who fought to preserve the Union during the late rebellion.

#### SAMUEL C. SHEPPARD.

Mr. TAYLOR, of New York, asked and obtained leave to withdraw from the files of the House the petition and papers in the case of Samuel C. Sheppard.

#### NEW ORLEANS RIOTS.

The SPEAKER. The Chair will ask the indulgence of the House to state that the gentleman from Pennsylvania, Mr. DENISON, appointed to fill a vacancy in the select committee to investigate the riots at New Orleans, is now suffering from an attack of illness, and his physician has forbidden him to leave the city. He asks to be excused from serving on the committee. If there be no objection, he will be considered as excused, and the Chair will appoint to fill the vacancy, Mr. BENJAMIN M. BOYER, of Pennsylvania.

No objection was made.

#### DEATH OF SENATOR WRIGHT.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
December 17, 1868.

*Resolved*, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM WRIGHT, while a Senator in Congress from the State of New Jersey.

*Resolved*, That as a testimonial of respect for the memory of the deceased, the members of the Senate will wear the usual badge of mourning for thirty days.

*Resolved*, That these proceedings be communicated to the family of the deceased by the Secretary of the Senate.

*Resolved*, That as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

*Ordered*, That the Secretary communicate these resolutions to the House of Representatives.

Attest: J. W. FORNEY,  
Secretary.

Mr. NEWELL. Mr. Speaker, I did not move a consideration of the resolutions of the Senate announcing the death of Senator WRIGHT when received this morning on account of the absence of my colleague from the fifth district, [Mr. WRIGHT,] who was his immediate Representative, and to whom properly belongs the mournful privilege, but as he is still absent and may not be present during the day and further delay be construed into disrespect to the deceased, I move we proceed to the consideration of the resolutions, and I will say in vindication of the apparent neglect of my friend, [General WRIGHT,] that the death was inadvertently announced in the Senate without consultation with the members of the House, and no arrangement was made for any order in the notice of the death. Indeed I learned accidentally that the announcement was transpiring in the Senate on yesterday, and have to regret the lack of proper opportunity to prepare a more suitable obituary of the deceased.

Mr. Speaker, in conformity with an appropriate and impressive usage the Representatives of a great nation pause in the midst of

their deliberations to consecrate a day to the memory of a deceased associate and friend, and I crave the indulgence of the House while I occupy a brief period of the time allotted the mournful ceremonies of this occasion to offer my tribute of homage and respect to the memory of one who was an honored citizen and Senator of the State which it is my privilege in part to represent.

Again and again has death invaded these Halls. In the providence of God these frequent visitations come to warn us that we may not hope exemption from the inexorable decree that "in the midst of life we are in death," and that "be ye also ready" is the solemn admonition announced to us from childhood to the grave, in tones not to be misunderstood, by the great and the lowly, as they successively descend into the dark valley of death. The higher the position, the more eminent the character of him we may be called upon to mourn, the more impressive is the lesson designed to be taught and the greater heed should we give to the admonition.

WILLIAM WRIGHT, late Senator from the State of New Jersey, died at his residence in the city of Newark on the 1st day of November last in his seventy-seventh year, after a protracted and distressing illness, in the midst of his own devoted and affectionate household, in the full exercise of his mental faculties, with an abiding and unshaken faith in the Christian religion, and the cherished hope of a blissful immortality.

His father, a physician of great learning and reputation, designed him for one of the professions, and had placed him at a classical school preparatory to a college course, when, suddenly departing this life, the son was thrown upon his own resources, and his necessities compelled him to seek a mechanical occupation which promised earlier and more remunerative returns for his labor.

In 1822 he became a resident of New Jersey, and for many years devoted his entire energies assiduously to business, and rapidly assumed the leading position in trade and commercial circles. He subsequently established branches of his house in all the prominent cities of the South, and became widely known throughout the country as a wealthy and eminently successful manufacturer and merchant.

Upon retiring from active participation in the business of his firm he entered public life, was repeatedly made mayor of his city, was twice elected a Representative in Congress from a district remarkable for the enterprise and intelligence of its citizens, was a candidate for the office of Governor, and twice appointed by the Legislature of his State to a seat in the Senate of the United States. Few men indeed can boast of such a succession of honorable positions. Examples like his will shine out in the pages of our history as beacons to guide American youth to honorable fame. He was the architect of his own fortune. He cleared, by the force of his own strong will and determined hand, the rugged pathway of his early life, and attained an exalted place and high distinction among his fellow-men, with none of the advantages which attach to birth and education, but by application and industry, by an honest and honorable course he formed his own character and distinction, and has left them as a rich inheritance to his descendants, and as an example worthy of imitation.

As a legislator Mr. WRIGHT was diffident and cautious of speech and seldom thrust himself upon the notice of the Senate or House, and indeed rarely rose to speak; but among those who could truly appreciate such qualities his sterling good sense, his practical wisdom, his unerring judgment and tact, did not fail to stamp him as a man who, in many of the qualities that go furthest to constitute worth for the practical duties of legislation, had few equals. His public duties were faithfully performed, and he was ever true to the principles he sought to represent. While he knew no fear or hesitation in the expression of his own political views,

he extended the largest tolerance and charity to all who held different sentiments. Indeed his was true charity, striving to do good as he had opportunity and to speak evil of none.

He was possessed of great urbanity of manner and dignity of deportment, and never violated the characteristics of a gentleman in his intercourse with the world; while in all those more intimate and tender relations which bound him to his friends and his kindred he was all that friendship could ask, or affection claim, or humanity or kindness demand, and in that higher and more solemn relation which he bore to the Author of us all he sought to be exact in the duties enjoined by the sacred behests of religion, and in the closing scenes of life's flickering, final hour he leaned with humble trust upon the merits of his Saviour. Calmly he confronted the grim messenger and with Christian dignity resigned him to his fate.

I knew him well, Mr. Speaker, and find a mournful pleasure in paying this just tribute to his memory and his virtues. He has passed through the vicissitudes of a long and eventful life. He has met and manfully fulfilled the duties allotted to him on earth, and left us to follow a little longer the shadows which he has exchanged for unutterable realities. Death came to him in the ripeness of his years, and no stain rests upon his honored name. His life was full of moral beauty, and with mingled feelings of respect we commemorate his virtues and lament his death.

I beg leave to offer for adoption the following resolutions:

*Resolved*, That the House of Representatives has received with deep sensibility the intelligence of the death of Hon. WILLIAM WRIGHT, late a Senator in Congress from the State of New Jersey.

*Resolved*, That as a mark of respect for the memory of the deceased, the members and officers of this House will go into mourning by wearing crape on the left arm for thirty days.

*Resolved*, That as a further mark of respect for the memory of the deceased the House do now adjourn.

Mr. SITGREAVES. Mr. Speaker, no event in a land of Christianity and civilization is more solemn or makes a deeper impress on the human mind than death; the song, the jest, the voice, are hushed when we stand around the bed of a fellow-mortal gasping in his last agonies, when the silver cord is being loosed and the golden bowl broken, for it teaches us what we so often forget, that we are mortal, that we too must pass away. It is a sermon from the dead to the living, and impresses us with the truth of the declaration recorded in that Book which bears in itself internal evidence that it was compiled by the Spirit of the Almighty and has its every leaf impressed with His own high and eternal heraldry, that there is, "after death, the judgment."

Sir, the death of every mortal is a sermon to the living, whether that mortal is the infant in the cradle, the young men in the strength of his early manhood, or the old man who has passed his threescore years and ten; whether he dies by disease or pours out his heart's blood on the battle-field, or is stricken down by the assassin; all preach a sermon and teach a lesson to the living. Our young men who fell in battle for the Union by tens of thousands have taught our people and will teach generations yet unborn fidelity to the Union and devotion to the "old flag," the symbol of that Union. The assassination of President Lincoln has taught the nation and the world detestation for the murderer.

The death of WILLIAM WRIGHT, United States Senator from New Jersey, teaches a useful lesson to the young men of the nation. It teaches them to reverence institutions on whose broad platform the son of the poorest day-laborer may stand a peer side by side with the son of the proudest and wealthiest of the land. It teaches them to reverence laws which know no distinction between the poor and the rich, under whose aegis wealth and honor are alike accessible to all. It teaches probity in business transactions. No man ever impeached the integrity of WILLIAM WRIGHT in his business transactions, carried on for more than half a



century. It not only teaches that "honesty is the best policy," but it teaches industry and temperance, which were the foundations of his ample fortune. He was not only honest in his private dealings, but his political opponents will concede that he was honest in the maintenance of his political opinions. WILLIAM WRIGHT the Senator, WILLIAM WRIGHT the mechanic, has gone. We remember him as a gentleman who possessed the "*suaviter in modo, fortiter in re.*" The scenes of time have closed on his vision as they will on ours. Peace to his ashes. The Judge of all the earth doeth right.

The resolutions submitted by Mr. NEWELL were unanimously adopted.

And thereupon (at fifteen minutes before four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BOYER: The petition of William Beale, of Pennsylvania.

By Mr. DAVES: The petition of Hall J. Kelley, of Massachusetts, for a land grant.

By Mr. DONNELLY: The petition of C. C. Webster, S. Wheeler, and others, citizens of Red Wing, Minnesota, asking for an amendment to the Constitution of the United States to the end that no inequality may exist in the laws of any of the States by reason of the birthplace, race, or color of any citizens therein.

By Mr. GLOSSBRENNER: A memorial signed by Louis Shade, J. Shillington, Charles Kroman, P. Emrich, J. C. Marks, Charles Schuster, and numerous others, residents of the District of Columbia, naturalized citizens of the United States and immigrants who have declared their intention to become citizens, setting forth that inasmuch as Congress has passed a bill granting to the African race the right of suffrage in the District of Columbia, and venturing to believe that the Caucasian immigrant, whose intellect, industry, and wealth have contributed so much to the progress of the country, is just as good, enlightened, and deserving of political privileges as the African just emerged from a state of slavery, and that "the Caucasian immigrant, though white, is a man, possessed of manhood and entitled to manhood suffrage," the memorialists petition Congress to put all white men who are either citizens or have declared their intentions to become citizens on an equal footing with the negroes.

By Mr. KELLEY: A petition of citizens of Lancaster, Pennsylvania, praying for the passage of a law to prevent the contraction of the legal-tender currency, and protesting against the withdrawal of national bank notes from the northern States.

By Mr. PERHAM: The petition of Mrs. Mary M. Polley, widow of J. H. Polley, for pension.

By Mr. PHELPS: The petition of Rev. J. R. Nichols, and others, members of the Methodist Protestant Church of Baltimore, praying an abatement of tax upon annuity.

By Mr. SCHENCK: The petition of John Stamp, and 162 others, citizens of German Township, Montgomery county, Ohio, for a change in the revenue laws relative to inspectors of distilled spirits.

Also, a petition of 5 officers of the United States Army, for an increase of pay.

Also, a resolution of the board of managers of the National Asylum for Disabled Volunteer Soldiers, requesting an amendment to the act which created that institution.

#### IN SENATE.

WEDNESDAY, December 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and will take this opportunity of laying before the Senate the petition of Gary Davies, of Marietta, Cobb county, Georgia, in which he sets forth that he is sixty-seven years old, has always lived in the Union, has never lifted his hand against the Government or given any aid to this awful rebellion, but on the contrary did all in his power to arrest it until taken violently from his house and confined in prison like a thief and kept there until the Federals came to Atlanta, when he was let out. Then he says the residue of his property was taken by the Federal Army, and he is now stripped of all the comforts of life, and asks Congress for relief. The petition will be received, if there be no objection, and referred to the Committee on Claims.

Mr. MORGAN presented the petition of R. W. Griffith, on behalf of himself and other owners, praying for a change of the registry of

the bark R. W. Griffith; which was referred to the Committee on Commerce.

Mr. LANE presented the petition of John Carter, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FOGG presented the petition of one hundred and eighty-nine citizens of the town of Dover, New Hampshire, praying for an amendment to the Constitution of the United States abolishing all distinctions in privileges on account of birth, race, or color; which was referred to the Committee on the Judiciary.

Mr. CATTELL presented a petition of manufacturers of silk cloths, ribbons, bindings, braids, and trimming goods, silk throwsters, dyers, and dealers, praying for a specific duty on thrown silk and silk cloths of every description, or an increase of the present rate of *ad valorem* duty; which was referred to the Committee on Finance.

Mr. FESSENDEN presented the memorial of railroad companies, praying for a reduction of the import duty on iron rails used for railroads to one half of a cent per pound in gold; on steel rails for railroads to one cent per pound in gold; on iron tires and axles to one half of a cent per pound in gold; on steel tires and axles to one cent per pound in gold; and on all frogs, crossings, and plates made of steel and used exclusively for railroads to one cent per pound in gold; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, praying for the enactment of a law to prevent the contraction of the legal-tender currency and also to prohibit the withdrawal of national bank notes from the North to be given to the South; which was referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes, reported it with an amendment.

Mr. TRUMBULL. The same committee, to whom was referred the bill (S. No. 69) to provide for the payment of pensions, which was returned from the House of Representatives with an amendment, have instructed me to report it back to the Senate with an amendment to the House amendment. It is desirable to have action on the bill now, if there be no objection.

The PRESIDENT *pro tempore*. Reports from committees are still in order.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 880) to fix the times for the regular meetings of Congress, reported it with an amendment.

Mr. MORGAN, from the Committee on Finance, to whom was referred the petition of the marine underwriters in the city of New York, praying for an appropriation of money sufficient to remove the iron steamship *Scotland* wrecked on the bar outside of Sandy Hook, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom was referred the petition of weighers of the customs in the port and district of New York, praying for an increase of compensation, asked to be discharged from its further consideration, the subject having been acted upon during the last session of Congress; which was agreed to.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred the memorial of the Chamber of Commerce of the State of New York, praying that the contents of documents formerly existing in the office of the clerk of the United States court for the southern district of Mississippi and which have been lost or destroyed by fire, may be proved by parol proof or by a copy thereof when offered in evidence, asked to be discharged from its further consideration; which was agreed to.

Mr. POLAND. The same committee have had under consideration in connection with this memorial the bill (S. No. 464) in relation to the records and other papers in the office of the clerk of the United States court for the southern district of Mississippi which have been lost or destroyed, and have instructed me to report that the same ought not to pass. In the judgment of the committee, the passage of this bill would make no difference in the law. The committee are of the opinion that parol proof is admissible now to establish the existence and contents of such documents, and therefore no legislation is necessary.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 470) to authorize the change of a name, reported it without amendment.

#### PRINTING OF FINANCE REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five thousand additional copies of the annual report of the Secretary of the Treasury, have instructed me to report it back without amendment and recommend its passage; and I ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That five thousand additional copies of the annual report of the Secretary of the Treasury on the state of the finances be printed for the use of the Senate.

#### PRINTING OF LAND OFFICE MAPS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand copies of the maps accompanying the report of the Commissioner of the General Land Office and a resolution to print additional copies of the report itself, have instructed me to report them back with a verbal statement. These resolutions came from the Committee on Public Lands, who have recommended them, and I do not know why the matter was referred to us afterward unless to ascertain the cost of the printing. We are not a supervising committee over the Committee on Public Lands, and I think the matter ought to have passed under the consideration of the Committee on Foreign Relations, as have all other matters connected with the Paris Exposition. The cost of the proposed printing will be about thirty-six thousand dollars, supposing the translations to be furnished to the printer.

Mr. RAMSEY. What do you report?

Mr. ANTHONY. We report the resolutions back with this statement. They have been recommended by the Committee on Public Lands, and I suppose the Senate will be disposed to act on the recommendation of that committee. The Committee on Printing are not advised as to the desirableness of this publication. The Committee on Public Lands and the Committee on Foreign Relations ought to be.

Mr. STEWART. What action do the Committee on Printing recommend?

Mr. ANTHONY. We report the matter back without any recommendation, leaving it to stand on the recommendation of the Committee on Public Lands. If the printing is to be done, it is rather desirable that the resolutions should be acted on before the holidays, because the type of the Commissioner's report is now standing, although that is a very small part of the expense. The great expense is the maps.

Mr. STEWART. The Committee on Public Lands were unanimously of the opinion that it was desirable to make this publication if the expense was not too enormous, and we supposed the Committee on Printing might give us some information on that point.

Mr. ANTHONY. That is just what we have done. We have had an estimate made of the expense. It will cost about thirty-six thousand dollars to print the maps and about two thousand dollars to print the report.

Mr. GRIMES. I will inquire if the proposition does not provide that this report shall be published in various languages?

Mr. ANTHONY. It does.

Mr. GRIMES. Has the Joint Committee on Printing made any calculation as to the expense of translating it into the languages specified?

Mr. ANTHONY. We understand that the translations will be made in the office of the Commissioner of the General Land Office; that he has some clerks capable of making the translations.

Mr. GRIMES. Does the \$36,000 include the expense of printing the report in the various languages? The type will all have to be reset, I suppose.

Mr. ANTHONY. Thirty-six thousand dollars is the cost of the maps. Those will be printed in only one language, I presume. The cost of printing the reading matter will be about two thousand dollars, printing ten thousand copies.

Mr. GRIMES. In each language?

Mr. ANTHONY. No, it would cost \$2,000 to print ten thousand copies in one language. I suppose to set it up twice might cost four or five hundred dollars additional. The great expense is in paper and press work. Five hundred dollars would probably cover all the additional expense of this being printed in additional languages, an equal number of copies, the translations being furnished to the printer.

Mr. RAMSEY. What is the objection to proceeding with the consideration of the resolution now?

Mr. ANTHONY. I have none.

Mr. RAMSEY. I move, then, that the Senate proceed to the consideration of the resolution.

Mr. ANTHONY. There are two resolutions. The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolutions at this time. They will be read for information.

The Secretary read the resolutions, as follows:

*Resolved*, That ten thousand copies of the maps accompanying the late report of the Commissioner of the General Land Office be printed for the use of the Senate.

*Resolved*, That ten thousand additional copies of the report of the Commissioner of the General Land Office be printed for the use of the Senate.

Mr. RAMSEY. I thought there was a resolution specifying that the report should be printed in the German, French, and other languages.

Mr. ANTHONY. These are the only resolutions that came to us.

Mr. RAMSEY. Then we had better let this matter pass over informally.

Mr. STEWART. I think so, until the report of the Committee on Public Lands on that point is found. The chairman of that committee made a report.

Mr. ANTHONY. That report is here.

Mr. RAMSEY and Mr. STEWART. Let that report be read.

The Secretary read the following report which had been submitted by Mr. POMEROY:

"The Committee on Public Lands to whom were referred the orders and resolutions of the Senate referring to the printing of the report of the Commissioner of the General Land Office, have had the same under consideration, and believing that the publication of said report in the leading languages of Europe and the distribution of the same at the Paris Universal Exposition would promote immigration and the development of the public lands of the United States, would respectfully recommend that they be printed in the following ratio: five thousand copies in the German language, five thousand in the French language, five thousand in the Swedish language, and five thousand for the use of the Senate."

Mr. ANTHONY. I must confess that I have made this report very carelessly. There were two resolutions in the report, and I based the remarks that I made upon an edition of ten thousand copies which would cost \$36,000 with the maps, twenty thousand would cost almost double that; and so to print five thousand copies in four languages with the maps will cost about eighty thousand dollars.

Mr. STEWART. How much without the maps?

Mr. ANTHONY. About eight thousand dollars and the cost of translating, whatever that may be. The maps are very expensive. They have to be got up by hand, a great many of them.

Mr. STEWART. The maps are very desirable.

Mr. HOWE. I believe I drew those resolutions myself, and I beg to say that in the resolution proposing the printing of the report for distribution in foreign countries, I did not contemplate the printing of those maps which accompany the report of the Commissioner of the General Land Office. I did think it desirable that those maps should be printed for circulation in this country, for I believe they are very important; but I do not think they are as peculiarly important for distribution abroad. The report itself seems to me to contain a great deal of information which we ought to send abroad, which would be very useful in securing immigration to this country; and as the expense of translating it I understood would be nothing to the Government and the expense of printing would be trivial, I thought it proper to offer the resolution; but in drawing that resolution I did not contemplate the printing of the maps for foreign distribution, and I do not think the language of the resolution covers that, but I may be mistaken about that.

Mr. SUMNER. I should like to know what provision is made for the distribution of these copies. It is proposed to print this report in foreign languages; but how are copies to be circulated? Through what agency?

Mr. STEWART. The Committee on Public Lands proposed to circulate them through our agency at Paris at the Paris Exposition.

Mr. SUMNER. The resolution does not seem to make any such direct provision.

Mr. STEWART. The report provides for that. There is no resolution to meet the exact condition of things; but the report made by the chairman of the Committee on Public Lands provides for that.

Mr. RAMSEY. I think the Land Office will take upon themselves to make the distribution in the manner suggested. There is no objection, I imagine, to giving directions in the resolution.

Mr. SUMNER. I was going to remark that it seems to me if we are going to make this expenditure, we ought to see the end of it; in other words, we ought to see what good it is going to do and the agency by which this distribution is to be accomplished. The Senator from Minnesota suggests that we refer it to the Land Office. I doubt whether that would be the most direct way. We might refer it to the Department of State which is in communication with foreign countries. We might refer it directly to the Commissioner of the United States at the Paris Exposition, empowering him, in his discretion, to distribute it among the representatives of foreign countries and the visitors of foreign countries that he may meet at Paris. I merely throw this out by way of suggestion.

Mr. RAMSEY. I suggest to the Senator from Massachusetts that many of the western States have agents in Europe to stimulate immigration, and I have no doubt that they would assist the Land Office in the proper distribution of these documents. I imagine there would be no difficulty in distributing them properly and in an unexpensive way.

Mr. ANTHONY. I suggest, as there seems to be some confusion about this matter, that the Senators who have it particularly in charge, the Senator from Nevada and the Senator from Minnesota, draw up a resolution stating precisely what they want, how many with maps, how many in each language, and then it can be introduced and we can discuss it and there will be no necessity for its reference; and with that resolution before me I can give the Senate what information they desire in regard to the expense of printing.

Mr. RAMSEY. Very well; let this matter pass over, then, for the present.

The PRESIDENT *pro tempore*. The resolutions will be laid over informally.

VOLUNTEER ARMY REGISTER.

Mr. ANTHONY. Now, I should like to

call up the joint resolution which was laid on the table on Monday, reported from the Committee on Military Affairs, to instruct the Superintendent of Public Printing to suspend the publication of the Volunteer Army Register. I should like to have it taken up and recommitment to the Committee on Military Affairs. I will state with regard to it that it was ordered to be printed in eight parts, fifty thousand copies, with the idea of selling it. Four parts have been printed, but as it was stereotyped it was not necessary to print the whole at once, and the Superintendent of Public Printing very wisely printed an edition of only five thousand copies of the first four volumes, and is now only printing one thousand of the last. The sales have amounted to \$200. The proposition in the resolution which was referred to the Committee on Military Affairs was, that the Superintendent of Public Printing should present a plan which would be much cheaper, and that the work should be edited with more accuracy. The publication of this work on the plan of the resolutions under which the Superintendent of Public Printing is now acting and by which he is bound, unless this resolution passes, will cost \$200,000, and when it is finished it will be worth just the price of old paper, six or eight cents a pound. It seems to me it is a terrible waste of public money for a book of that kind published with such imperfections. Not only is there the great legitimate expense of publication, but four out of five of the plates that have been stereotyped have been canceled and reset. I think we had better wait until the War Department can give us a fair copy of the roster, which I think will be a very valuable thing to print then and worth the cost of it, although it ought not to cost anything like this sum. I move, therefore, that the resolution be taken up and recommitment to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to take from the table the joint resolution (S. No. 83) respecting the publication of the volunteer Army Register and to recommit it to the Committee on Military Affairs.

The motion was agreed to.

CHARLES CLARK.

Mr. JOHNSON. I am instructed by the Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine, to report it with an amendment; and I ask for its present consideration.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the resolution on the day it is reported. Is there any objection?

Mr. SUMNER. What is the resolution?

Mr. JOHNSON. I will state that the resolution proposes to authorize the Secretary of the Interior to credit Mr. Clark with the sum of \$3,028 of public funds in his hands as United States marshal for the district of Maine, which were in his office at the custom-house in Portland at the time of the great fire there last summer, and were destroyed. The fact that the money was there and that it was destroyed is very well established by the two witnesses who have testified, and their character is vouched for by the honorable Senator from Maine, [Mr. FESSENDEN.] I suppose, therefore, the Senate will have no objection to considering the resolution at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The amendment reported by the Committee on the Judiciary was to strike out all of the resolution after the enacting clause and to insert in lieu thereof the following:

That the Secretary of the Interior be, and he is hereby, authorized, in the settlement of the accounts of Charles Clark, marshal of the United States for the district of Maine, to allow him credit for such sum of public money as was in his charge as marshal, not to exceed \$3,028, as he may be satisfied was burned.

in said marshal's office in the custom-house building at Portland, Maine, on the 4th day of July last.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### REPORT OF COLUMBIAN INSTITUTION.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred a resolution authorizing the engraving of the drawings accompanying the annual report of the Columbian Institution for the Deaf and Dumb, have directed me to report it back and recommend its passage; and as it is a very short matter, I ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That the Public Printer be, and he is hereby, directed to cause to be engraved the drawings accompanying the annual report of the Columbian Institution for the Deaf and Dumb; and he is also directed to print for the use of the institution one thousand additional copies of said report, inserting therein, as well as in the copies already printed, impressions of the drawings above ordered.

#### BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce the following bills; which were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (S. No. 481) granting lands to the State of Oregon, to aid in the construction of a military road and telegraph line through the coast mountains from Portland to Astoria; and

A bill (S. No. 482) granting lands to the State of Oregon to aid in the construction of a military and post road through the coast mountains from Astoria to Tillamook.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 483) to equalize the value of the currency of the United States; which was read twice by its title, and referred to the Committee on Finance.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 150) extending the time for the completion of the improvement of the Fox and Wisconsin rivers; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 151) appropriating money to defray the expenses of the joint select committee on retrenchment; which was read twice by its title, and referred to the Committee on Finance.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 152) relating to the government of the States lately in rebellion; which was read twice by its title, and ordered to lie on the table and be printed.

#### INDIAN BUREAU PURCHASES.

Mr. WILSON submitted the following resolution:

*Resolved*, That the Secretary of the Interior be directed to report, for the information of the Senate, what goods have been purchased in open market for the Indian Bureau since the 1st day of August last, said report to specify in detail the number or quantity of articles purchased, the prices paid or agreed to be paid therefor, and the names of the party or parties from whom the same were purchased.

The Senate proceeded to consider the resolution.

Mr. HENDRICKS. I think the Senator perhaps had better carry his inquiry back a little further, say for the past year.

Mr. WILSON. I have no objection to that.

Mr. HENDRICKS. I move, then, to amend the resolution by striking out "1st day of August" and inserting "1st day of January."

The amendment was agreed to.

Mr. WILSON. I will simply say that I have offered this resolution for the purpose of obtaining certain information from the Depart-

ment, and I intend in a day or two to offer a resolution calling upon the Committee on Indian Affairs to make an investigation into purchases made by the Indian Bureau.

The resolution, as amended, was agreed to.

#### PARIS EXPOSITION.

Mr. SUMNER. I offer the following resolution:

*Resolved*, That the Secretary of State is hereby requested to communicate to the Senate such information as he may possess in respect to the progress made in collecting the products, and also the weights and measures and coins of the United States, for exhibition at the Universal Exposition at Paris in April next.

I will remark merely that I have reason to believe this resolution will draw forth some information that will be interesting to the Senate and to the country.

The resolution was considered by unanimous consent, and agreed to.

#### LIBRARIAN'S REPORT.

Mr. CRESWELL submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That the usual number of copies of the report of the Librarian of Congress for the present year be printed for the information of the Senate, and five hundred copies extra for the use of the Library.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

The message further announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 910) granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia river, to Fort Boise, on the Snake river; and

A joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage.

The message further announced that the House had passed the bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State."

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes; and it was signed by the President *pro tempore*.

#### IMMIGRATION OF CHINESE.

Mr. WILLIAMS submitted the following resolution:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire into the expediency of regulating or restricting the immigration and importation of Chinese into the United States.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. WILLIAMS. Mr. President, I offer this resolution at this time with the view of calling the attention of Congress and the country to the subject to which it refers. Since the first discovery of gold in California the Chinese in considerable numbers have immigrated to the Pacific coast. They come there not to be citizens of the country, not to learn to speak our language, to profess our religion, to adopt our customs, manners, and habits, but they come there to be a people unto themselves and to maintain their attachment to the religions and the Government under which they were born.

I do not undertake to say that any particular harm has yet resulted from their presence on the Pacific coast; but new facilities for their

immigration have recently been created, and no doubt will be increased, and some great inducement may arise which will pour clouds of Chinese from the millions who inhabit the country where they now live upon the Pacific coast like locusts upon the land of Egypt. I think that it is not safe to despise "the day of small things" in reference to this matter, and it is much easier now to deal with the subject than it will be when it assumes more formidable proportions. I hope, therefore, that the committee will give the subject that attention which its importance seems to demand.

The resolution was agreed to.

#### HYDRATION OF AIR.

Mr. BUCKALEW submitted the following resolution:

*Resolved*, That the Sergeant-at-Arms be authorized to take such immediate steps for the hydration of the air of the Senate Chamber as can be conveniently secured under the existing arrangements for the introduction of air.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. BUCKALEW. This is to enable our appropriate officer to take the steps contemplated for the hydration of the air of the Senate Chamber. Last session when the general subject of ventilation was before the Senate it was contemplated that what is now proposed should be done in the recess; but the measure which was then proposed by the committee on that subject failed in the committee of conference between the two Houses and the subject has not been attended to. I suppose we can mitigate the material defect during the coming holiday recess; I mean in the particular contemplated by the resolution.

I hold in my hand a volume, a book the cover of which exhibits the existing character of the air in our Chamber at this moment, its extreme aridity. The relative humidity of the air of this Chamber at the present is probably about twenty-five or thirty degrees, whereas it ought to be some sixty or seventy degrees. We take the air with the external temperature pretty nearly at the freezing point, when it is almost entirely destitute of moisture: we convey it through a closed passage and heat it up to a temperature of seventy or seventy-five degrees, when it demands between three and four times the amount of moisture which it contained when we commenced the proceeding upon it: we have never had any means of imparting that. I suppose, sir, our Sergeant-at-Arms at all events can mitigate the existing difficulty by turning on the steam, a moderate amount and at a moderate velocity. At all events I propose that he shall try some experiments to reduce in this one particular the existing defects in our ventilation.

The resolution was agreed to.

#### HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 910) granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia river, to Fort Boise on the Snake river—to the Committee on Public Lands.

A joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage—to the Committee on Post Offices and Post Roads.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON its Clerk, announced that the House had passed a bill (H. R. No. 553) to amend section two of an act entitled "An act to authorize the Legislatures of the States of Illinois and Tennessee to sell the lands heretofore appropriated for the use of schools in those States," in which it requested the concurrence of the Senate.

#### MILWAUKEE AND ROCK RIVER CANAL.

Mr. HOWE. I move to take up the joint resolution (S. R. No. 102) construing and



giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864.

The motion was agreed to.

The PRESIDENT *pro tempore*. The pending question is on a motion to reconsider the vote passing this joint resolution.

Mr. GRIMES. Let it be read that we may know what it is.

The Secretary read the resolution, as follows:

*Resolved*, That the resolution entitled "A resolution for the relief of the State of Wisconsin," dated July 1st, 1864, be so construed as to entitle the Milwaukee and Rock River Canal Company to reimbursement, out of the canal land fund therein mentioned, for the amounts which are proved to have been paid out by it for interest in carrying on the work mentioned in said former resolution in the same manner as for others by it expended. Also for the amount which is proved to have been expended by it in necessary repairs and management of the canal after the date of said resolution but before the date of the settlement made thereunder: *Provided only*, That said company shall not receive more than the amount of the residue of the trust fund arising from the sale of the canal lands charged against said State in said settlement and not heretofore paid over to said company; and the Secretary of the Department of the Interior shall complete the settlement by making said further allowances to said company up to the amount of said residue of said canal lands fund, and the same shall be paid to said company out of any moneys in the Treasury not otherwise appropriated.

Mr. TRUMBULL. I entered the motion to reconsider the passage of this resolution. It came from the Judiciary Committee and was reported favorably by a majority of that committee. There was a difference of opinion in the committee, and I was of the minority opposed to the passage of the joint resolution. I thought it ought not to pass. It is a private claim which takes \$25,000 out of the Treasury of the United States, and, as I thought, without the shadow of a claim on the part of this canal company. The reason for entering the motion to reconsider was that the joint resolution passed without consideration in the Senate. I was not present at the time and I thought the attention of the Senate ought to be called to the facts of the case; and if it be possible to get its attention for a few minutes, I will try to state the case as I understand it, and then if the Senate think proper not to reconsider it of course the bill will stand as passed.

The facts of the case, the precise particulars of them, are not in my mind at this moment, but I can state generally what they are. Some years ago—the dates I shall not now be enabled to give, but they are immaterial—the United States made a grant of land to the then Territory of Wisconsin for the purpose of making an improvement in that Territory. The Territory of Wisconsin turned the lands over to a company organized in that Territory. That company undertook to make the improvement. As is often the case, they failed; they did not make the improvement, but used up the lands and got into a controversy with the State of Wisconsin in regard to the accounts between this company and the State of Wisconsin, with which the Government of the United States had nothing to do any more than she had granted the lands to make the improvement on the condition that this improvement was to be made. Some few years ago the Government of the United States was applied to to settle this matter between this company and the State of Wisconsin; and against my opinion at the time the United States was brought in to make the settlement. The State of Wisconsin was to be charged for these lands at a sum not exceeding \$1 25 an acre, I think.

Mr. HOWE. What we got for them.

Mr. TRUMBULL. What you got for them, provided it, should not be less than that; for if I recollect the State was charged \$1 25 an acre, and the matter was to be settled by some officer of the Government, the Commissioner of the General Land Office, I think. The State was charged the \$1 25 an acre, and there was to be allowed to this company the money that they had actually expended in making the improvement; and the Commissioner went on to make up the account, allowing to the company what they had actually expended. In making up that account he refused to allow

the company interest. The company in going on with the work, which they failed to complete, had borrowed money at extravagant rates of interest, and they claimed that the United States should allow them those extravagant rates of interest that they had paid to get money to go on with the work.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. TRUMBULL. I have only a few words to say on this joint resolution. I have no wish to take up time further than is necessary to enable the Senate to understand the case. I think I shall get through in five minutes.

Mr. WADE. Some one will want to reply.

Mr. TRUMBULL. I shall not persist.

Mr. WADE. Let us go on with the regular business.

#### ADMISSION OF NEBRASKA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union, the pending question being on the amendment proposed by Mr. COWAN to the amendment submitted by Mr. BROWN.

Mr. HOWARD. Mr. President, as the honorable chairman of the Committee on Territories announced to us yesterday his purpose to bring the Senate to a final vote upon this bill to-day if practicable, I shall endeavor to condense the remarks I have to make into as small a compass as possible. I hope, sir, we shall be able to take a final vote to-day. Time is not only flying but precious. We have a great number of bills of the highest importance now pending before the Senate which, in my judgment, ought to be acted upon at the present session, not to speak of those bills which are likely to be introduced.

Mr. President, in April, 1864, now well on toward three years ago, Congress passed an act to enable the people of the Territory of Nebraska to form a constitution and State government and for the admission of that Territory with that people into the Union as a State of the Union. At the same session Congress also passed an act authorizing the people of the Territory of Colorado to form a State government, promising them also admittance into the Union. It seems that the people of neither of these Territories complied in point of time with the requisitions of the respective acts.

But it is not alleged, and I believe it cannot be truthfully alleged, that the people of either have deviated from the requirements of the respective acts in any other respect, and I do not understand from the objections that come from any quarter in the Senate that the deviation in respect to time is insisted upon. Congress knew quite well at the time they passed those two acts, what was the number of the population in each. The very fact that they passed those acts is a conclusive answer to the objection that the population of the Territories was not sufficiently numerous. We took that question into consideration nearly three years ago; we received full and satisfactory information upon that point, and we deliberately enacted that the population in each of those Territories was at that time sufficient to justify us in imparting to them the faculty of forming a State government and for them to act upon that permission. There is no complaint here that the people of those Territories have not complied substantially with those acts.

At the last session of Congress the President of the United States sent to us the constitution which had been formed by the people of Colorado, not in strict accordance with the enabling act, but deviating from the requirements of that act only in respect to time.

The President laid the constitution of Colorado before Congress; and he asked for it the consideration of Congress. It is very true that he did not recommend the acceptance of that constitution by Congress, but he went so far as to submit it to our consideration; and there

arose a very fair implication that, in doing thus, he pledged himself that if Congress should be satisfied with this constitution and with the proceedings that led to it he would approve the act of admission; for he certainly could not have been guilty of attempting to play upon Congress the practical joke of passing upon the constitution of Colorado, while at the same time he was satisfied in his own mind it ought not to receive their sanction. I cannot believe that even the present *locum tenens* of the presidential office would have done an act in its nature so idle, so trifling; yet he returned to us the bill admitting Colorado into the Union with his objections, and strange to say, although he had submitted this instrument to our consideration asking us to legislate upon it, he included among his objections to that constitution and to the admission of Colorado, the alleged fact that the population of the Territory was not sufficient in numbers, and that the proceedings which led to the formation of its constitution were irregular and not in accordance with the act of 1864.

At the last session of Congress we also passed a bill admitting Nebraska into the Union as a State and under the same constitution which is now before us, the result of similar proceedings in that Territory. Unfortunately, however, for the bill and the people of Nebraska, it was not presented to the President in season to make it necessary for him to return it to the Senate before the final adjournment of that body; he pocketed the bill. He applied to it what used to be known in old whig times as "the pocket veto." He did not return it at all to that body in which it originated; on account of the nearness of the adjournment of Congress.

Congress have thus with great unanimity already passed upon the objections which have been raised to this present bill. They have said that Colorado is fit to be admitted into the Union under the constitution she has framed. They have also said that Nebraska is equally entitled to be admitted under the constitution her people have framed. I consider that the objections on the ground of irregularity in the proceedings and upon the ground of the alleged insufficiency of the population are foreclosed. We are practically estopped from insisting upon these objections. We have passed upon them. It seems to me that it is not exactly in the spirit of good faith for us now to insist upon objections which we have heretofore overruled. The main conditions imposed by Congress upon these Territories are the following:

"The constitution when formed shall be republican and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence." \* \* \*

"That said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State:

"1. That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes whereof the party shall have been duly convicted.

"2. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship."

Then follows the usual clause contained in the acts of Congress for the admission of new States, prohibiting them from interfering with the primary disposition of the public lands lying within their limits by Congress.

All these conditions are fully and fairly met and performed by the terms of the ordinance they have passed.

Now, sir, is this State constitution presented to us by the people of Nebraska in accordance with the Declaration of Independence? My honorable friend from Massachusetts, my honorable friend from Missouri object that this constitution is not in accordance with the principles of that Declaration. I deem it hardly worth while to enter into a discussion of that question, but I will venture to say a few words upon it.

It is insisted by these gentlemen that in order to bring this constitution within the terms of the condition here prescribed, and to make it accord with the principles of the Declaration

of Independence, it ought to contain a provision allowing all persons, without distinction of color, to exercise the right of voting; and the honorable Senator from Missouri has presented to us an amendment which is based upon that idea. With great respect for the opinions of my learned friend from Massachusetts and for those of my friend from Missouri, I must be allowed to take issue with them. I assert that there is nothing in the Declaration of Independence or in the principles of that Declaration which, when properly understood, require any State or any Territory to permit all persons without distinction of color to vote. There is not in that Declaration one word upon that subject nor any intimation that such is the proper construction of any of its provisions or any of its language. It is said that the Declaration declares that "all men are created equal," and hence it is sought to draw the inference that if one man of a white complexion is permitted to vote, it is equally the right of the colored man to do the same thing, because he, like the white man, has been created by our common Creator and is the equal of the white man in respect to rights.

I deny the correctness of the inference. I deny that the right to vote is one of those rights referred to by Mr. Jefferson, who penned the Declaration. The elective franchise is a privilege granted by the community to such of its members as a majority shall see fit. It is not one of the rights given us by nature. It is not the same as the right to breathe the air, without which we must instantly perish. It is not the same as the right to drink the water that falls from the sky, or that runs down the limpid stream, without which we should also perish. It is not in any sense, according to my judgment, a natural, inalienable right. It is not the right of liberty even; not one of those inalienable rights referred to in the Declaration, conferred upon all men in virtue of their creation, but a conventional right, to be granted or withheld as society may deem best; one which has always been treated as such; one which cannot and does not exist without law, without a law founded on the will of the people in a republican government; that is, of the majority of the people; for the will of the majority of the people is the very foundation, the essence of republican government.

The people of Nebraska have not seen fit to incorporate in their constitution a provision allowing colored persons to vote; and I do not think, for the reasons I have given, that they have in this respect violated this condition prescribed in the enabling act. They have done exactly what other Territories have done thus far. There is no case in which, when passing from a territorial condition into that of a State, the people of a Territory have incorporated in their constitution a provision granting to colored people or Indians the right to vote. So far as respects our previous history and our previous legislation this principle is a complete anomaly, and I for one do not feel that we ought at this critical moment, when public interests of the greatest magnitude are pressing upon us, to delay the admission of these two Territories into the Union as States on account of any such abstraction as here stares us in the face.

These Territories have fairly and substantially complied with all the conditions imposed upon them. We have not imposed upon them the condition which is now insisted upon. We have omitted it; we have waived it by the enabling act and by the passage of the bills during the last session; and it strikes me as being a departure from that *uberrima fides* which should govern the action of Congress in its relations with the Territories of the United States and their people now to insist upon this new condition. We are bound, as I have said, by good faith, by the legislation which we have passed, upon the compliance of these people with the terms we have prescribed, to permit them to enter the Union.

The Senator from Missouri has resorted to a principle in his amendment which to my mind

is rather a dangerous one. He makes the admission of the colored man to the elective franchise a fundamental condition to the admission of the Territory of Nebraska as a State, and irrevocable. There is no mistaking the language of his amendment. It says—

"That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise or of any other right to any person by reason of race or color, and upon the further condition that this fundamental condition shall be submitted to the voters of the Territory at an election to be held on the 1st day of \_\_\_\_\_ next."

I shall not deny that under the clause of the Constitution which authorizes Congress to admit new States, it is competent for them to prescribe conditions for their admission. The power is given to us in the broadest terms. We may admit upon condition, or we may admit absolutely without condition. I can entertain no doubt about the power to prescribe conditions for the admission of a new State; but it must be understood at the same time that the only conditions which it is possible in the nature of things for Congress to prescribe are conditions precedent, to be performed not after the people have become a State of the Union but before they have become such. They are mere obstacles thrown in the way of the enjoyment of the full and complete rights of the State.

The thing which Congress is authorized to do, the great object to be attained, is single and indivisible, and that is the admission of the State into the Union. It cannot escape the attention of the Senator from Missouri or the Senator from Massachusetts, that after the compliance of the people of a Territory with a condition precedent, such as this present amendment is in legal effect, it is entirely competent for the people of the State, after they have become such, to annul and set aside this condition or rather the thing which has been accomplished by the performance of the condition precedent. In other words, no one will deny that after the Territory has come into the Union and been vested with all the powers, privileges, and franchises belonging to a State of the Union under the Constitution, it is entirely competent for the people of that State to undo what they did as the people of the Territory; and in the present instance, if they saw fit to do so—I have no apprehension that they would—it would be perfectly competent I say for them to call together a convention and declare that none but white persons shall be allowed to exercise the elective franchise. The people of Nebraska in twenty-four hours after they shall have been admitted under this constitution, with this amendment attached to it, might assemble in convention and repeal that clause of their constitution which gave to the colored man the right to vote. Can anybody doubt it? The right to regulate the franchise is a political right which has ever belonged to the States as corporations. It is indubitably one of the reserved rights of the States, and thus far Congress has not attempted to interfere with it. Every State, from the old thirteen inclusive down to the last new State admitted into the Union, has ever exercised this right, and there are now not less than ten free States of this Union whose constitutions or laws exclude the colored man from the exercise of the precious privilege. I refer to this fact, not in justification of the exclusion of colored men from this great right, but as a fact showing what has been up to this moment, undoubtedly and indisputably, one of the reserved rights of the States.

Well, sir, is the State of Michigan less respectable at this day than she would have been if her constitution had not contained just such a restrictive clause as this? Is Ohio less so? Is Pennsylvania, New Jersey, Indiana, Illinois, Wisconsin, Minnesota, and all the other States whose constitutions contain this restrictive clause, to incur the interference of Congress and the denunciation of those respected Senators? The right to regulate the franchise is with the States. I hope to live to see the day—

and I expect to reach that age, and then not be a very old gentleman—when every State in this Union by its own free consent will allow the same privilege of voting to the black man as is now enjoyed by the white man. I think it will be a great step forward; and in reference to the state of things in the rebel States, I confess I see no other permanent and effectual remedy for the disorders of the times brought about by the rebellion. I think we shall never have complete peace and quietude until this great end is attained. At the same time, after the most mature consideration of the subject which I have been able to bestow, I have shrunk, as did the joint committee of fifteen during the last session, from attempting to incorporate into the amendment of the Constitution of the United States a clause giving this right in terms to the colored man.

Mr. BROWN: Will the Senator allow me to ask a question?

Mr. HOWARD: Certainly.

Mr. BROWN: I desire to ask the Senator, for the purpose of getting at his opinion, because I wish to deal fairly in this discussion, whether in affirming that the States have an exclusive control over the whole question of the right of franchise, I understand him to take the position that if any State in the Union, by its limitation upon the franchise, shall destroy the republican form of the Government, the United States have not got the right to interpose and guarantee and protect that republican form to that State.

Mr. HOWARD: Well, sir, "sufficient unto the day is the evil thereof." When such a state of things shall present itself for our consideration it will be quite time, in my judgment, to act upon it.

Mr. BROWN: I do not think that is a fair answer to the question. The Senator is professing to discuss a constitutional question, a constitutional power, and here is an illustration under one of those constitutional clauses which gives to the Government of the United States a protectorate over the States in certain instances. He claims that the States have the right to govern this whole question of suffrage. Now, I ask him if the States in controlling suffrage impair the republican form of the Government, has not the United States got a constitutional power to come in and interpose?

Mr. HOWARD: Mr. President, the Constitution of the United States declares that Congress shall guaranty to every State in this Union a republican form of government. That is the power, I suppose, to which the Senator from Missouri alludes. When it shall be made manifest to me as a member of this body that there is in any State in this Union a form of government which is not republican, I shall be ready to apply the remedy which is guaranteed by that instrument; but I must at the same time say to the Senator from Missouri that I do not believe that that clause of the Constitution authorizes Congress to pass a law, in reference to any State in this Union giving to the black people or any other class of people of that State the right to vote. In other words, I do not hold that the exclusion of the black race from the right of voting is such a departure from the principles or forms of a republican government as would authorize Congress to interfere. Sir, the whole history of the Government from the time of its formation down to the present moment is a standing, unmistakable contradiction of this assumption of the gentleman from Missouri. That is all the reply which at the present time I have to make to the query of the honorable Senator.

I hold that this constitution of Nebraska is republican in form, that it embodies republican principles, and that in this respect it is a complete compliance with the enabling act of 1864.

In the course of the debate upon the present bill a remark fell from the Senator from Ohio [Mr. SHERMAN] upon a collateral subject and a subject of very great importance. I understood that honorable Senator to declare that Congress at the last session "proposed" to

the rebel States, that if they would ratify the amendment of the Constitution proposed by Congress at the last session, they should be respectively readmitted into the Union, and permitted to participate in legislation in the two Houses of Congress. Doubtless, Mr. President, the honorable Senator said what he really believed to be the truth, for I should be very reluctant to have it inferred that I impute to him the slightest insincerity upon a question so grave and so momentous as this.

That statement has often been made, not very frequently, I believe, in Congress, but very frequently during the congressional canvass and in the various journals of the country. I take this occasion, so far as I am concerned, to contradict it. Congress have never proposed to the insurgent States that if they would adopt the present amendment of the Constitution they should be readmitted as States of the Union to a full participation in the legislation of Congress. At the last session, after the most mature deliberation, we saw fit to propose an additional article to the Constitution, which upon being ratified by three fourths of the States—of course I mean three fourths of the States in the Union and not out of the Union—it should become a part of the Constitution of the country. But neither the committee of fifteen nor either House of Congress, so far as my memory serves, has ever made such a proposition as that the rebel States shall be readmitted upon their ratification of this amendment.

Mr. NORTON. I should like to inquire of the Senator from Michigan if he did not in the city of St. Paul last fall urge and argue to the people there that, upon the adoption of the amendment proposed at the last session, the rebel States would obtain representation, and that that would be a settlement of the question of reconstruction.

Mr. HOWARD. Mr. President, I understand the question of the honorable Senator from Minnesota. I know not what report of my speech he may have seen, but I am ready to say now that I did not make any such statement. If I was so understood, I was greatly misunderstood.

Mr. NORTON. I will state to the honorable Senator, with his permission, that he was so reported and that the authority of the Senator was cited in opposition to a claim that I made that Congress was not committed by the amendment. The Senator from Michigan was cited in opposition to the claim that I made on that subject.

Mr. HOWARD. Of course, I am entirely ignorant of the report which may have been made of my speech and also of the sense in which it may have been understood. I know very well what my ideas were and what the substance of my language was. I never made any such statement, and I shall never agree, let me say, to any such thing. I will not agree that the State of South Carolina on adopting that amendment shall *eo instanti* be readmitted into Congress; nor will I agree that Alabama or Mississippi or Georgia or Texas shall be admitted to seats in Congress on going through with what might in their case be the mere farce of ratifying that amendment of the Constitution. We have not been so blind as to offer such a proposition to the rebel States. We have not agreed that they may come back here and resume their seats when they ratify that amendment, leaving the question undecided and uncertain as to the final ratification of that amendment by the other States. What the committee on reconstruction did propose at the last session was this, and very likely it has had the effect to mislead some gentlemen on that subject. While the matter referred to them was before them, that committee reported an article of amendment to the Constitution, the third section of which read as follows:

"Until the 4th day of July in the year 1870, all persons who voluntarily adhered to the late insurrection giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States."

The committee submitted to the Senate and

to the House of Representatives a bill entitled "A bill to provide for restoring the States lately in insurrection to their full political rights," the first section of which enacts as follows:

"That whenever the above-recited amendment [the whole amendment being recited in the bill] shall have become a part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified may, after having taken the required oath of office, be admitted into Congress as such."

That is the proposition which the committee made to the two Houses of Congress. The bill, I believe, never passed the Senate. I think it was taken up in the House of Representatives and laid on the table. But observe how carefully even that bill is drawn. It is predicated upon this, that the amendment of the Constitution thus proposed shall have been preliminarily ratified by a sufficient number of States of the Union to make it a part of the Constitution itself, and that it shall be especially ratified by each one of the insurgent States for itself before such rebel State shall be readmitted. That is what was proposed, and the only thing proposed, to the rebel States as such.

Mr. WADE. As the Senator seems to address himself to me, I want to know if he understood me to lay down any different rule from that.

Mr. HOWARD. Certainly not. I understood the honorable Senator from Ohio to say before he closed his speech that it was to this bill and this clause that he referred. Certainly I do not mean to place him in a false position on a subject of so much importance.

We proposed that the Constitution should be so amended as to provide that for a time all persons who had participated in the rebellion should be ostracized and excluded from the right of voting for Representatives in the Congress of the United States.

Mr. FESSENDEN. I ask the honorable Senator if he does not remember that that particular clause was struck out by an amendment made by the Senate.

Mr. HOWARD. Yes, sir.

Mr. FESSENDEN. And we substituted another provision for it?

Mr. HOWARD. Yes, sir; we substituted another provision for it, and then the article of amendment finally submitted to the States as the fourteenth article was adopted by the two Houses on the report of the reconstruction committee.

Mr. President, it has been reproachfully alleged by some gentlemen upon this floor that one great object had in view by the friends of this bill is to increase the political strength of the dominant party in the two Houses of Congress, and we have been told, sneeringly, that if the measure was not likely to have that effect we should not press it; in short, that we have in view party objects and party interests in the passage of the bill now before us; that we are not actuated by patriotic motives, but rather by partisan feelings and interests.

I have to say in reply, that although I believe both these Territories contain sufficient population to justify us in admitting them as States, and that they ought for that and for various other reasons connected with their own local interest so to be admitted, I am still actuated by another motive, which with me is a very strong motive. I have no hesitation in saying plainly to the opponents of this bill that I do desire the admission of Colorado and Nebraska because their Senators here and their Representatives in the other House would greatly increase the Republican loyal strength in Congress. The interests of the country itself require this additional strength. I feel that I am actuated by the most patriotic motives when I say that in my judgment the interests of the United States of America, the interests of the whole loyal people who have borne the burden of this war, and especially the true interests of the insurgent population at the South, require this increase of strength in Congress.

Sir, what, during the last eighteen months,

have we witnessed? We have witnessed one of the most dangerous and gigantic strides of executive ambition and executive power that has ever been exhibited in this country or in any other free country on the globe. We have seen a President of the United States, a *locum tenens*, rather, of that high office, assume to himself upon the close of a bloody war of four years, in which, according to his own admissions and confessions, all civil governments were obliterated in the rebel States, leaving them in a state of complete anarchy, without law, without order, without government; assuming, in utter disregard of the will of Congress, without even calling Congress together to consult them upon so grave an occasion, assuming to himself what he calls the constitutional power of appointing provisional governors for the conquered States of the rebellion, instituting, by his executive edicts from time to time, eleven so-called provisional governments in the insurgent States; a power which I, for one, utterly deny to him. I look upon his whole proceedings, from the date of his circular letter to the so-called Governor Holden, of North Carolina, down to the present time, as being wholly without constitutional warrant, and as plain a usurpation of the power of Congress to suppress the rebellion as it is possible to conceive.

I will not, however, go further into this subject at the present time than to say that this same Executive, professing to be actuated, of course, by pure and patriotic motives, took upon himself to denounce the Thirty-Ninth Congress as a body of usurpers "hanging on the verge of the Government," without constitutional power to act as a legislative body. We have seen him, after having "swung around the circle" from the city of Philadelphia to St. Louis, accusing Congress, at almost every stopping-place, of usurping power that did not belong to them, of being tyrants, of being a "body of men hanging on the verge of the Government," and of course not constituting properly any part of the Government; denouncing Congress as a band of conspirators in whose bosom was hatched the atrocious massacre at New Orleans, of which, if they are guilty they deserve nothing short of the halter; denouncing even by name members of this body and of the other House as being worthy of being hanged as traitors, and calling upon the noisy mobs whom he addressed and asking them why they did not hang A, B, C, and D? and finally, after having promised the offices of the Government to those people who would come, as he called it, to the ballot-box and vote for his policy, thus practically, if not legally, holding out bribes to the electors; arriving at St. Louis, where he put forth as the result of his meditations and patriotic reflections, the following declaration:

"Well, let me say to you if you will stand by me in this action, if you will stand by me in trying to give the people a fair chance, soldiers and citizens, to participate in these affairs."

I presume it should have been "offices"—"God being willing I will kick them [the office-holders] out just as fast as I can. Let me say to you in conclusion"—

Here is the deliberate result of all his harangues made while performing this pilgrimage to St. Louis, the result of his discussions, of his reflections, and ruminations—

"Let me say to you in conclusion what I have said, and I intended to say but little but was provoked into this more than otherwise. I care not for the names, the taunts, and jeers. I care not for the threats. I do not intend to be bullied by my enemies nor overawed by my friends, but God willing, with your help, I will veto their measures whenever they come to me."

Now, sir, if Mr. Johnson was sincere in making that declaration of a purpose to veto all the legislation of Congress, or that portion of it which was disagreeable to him, then I ask you, sir, I ask all my friends here, whether it is not high time that Congress, the Thirty-Ninth Congress, should fortify themselves and so add to their numerical strength in these Halls that the interests of the country shall not suffer by this threatened promiscuous and wanton use of the veto power by him. He threatens to



veto all our legislation. It was if properly reported—of course I shall not hold him responsible for such a declaration if it shall appear that he was not correctly reported—if this shall be his purpose, if it be his determination to treat this Congress as a usurping body, as an unconstitutional body, not to be trusted with the business of legislation for the reason that they have not yet seen fit to adopt his policy for the readmission of the rebel States, then it is perfectly evident that no legislation can be got through Congress unless we can carry it over his veto and by a vote of two thirds of each body.

This, sir, is a very serious matter; but for one I do not fear or hesitate to say that with such a threat held out to me, with such dangers as seem to be clustering around me, it is my duty to take every step and to do every act authorized by the Constitution to increase the effective legislative strength of the Thirty-Ninth and the Fortieth Congress to counteract in this way the anarchical schemes, the schemes of absolutism and usurpation which are cherished in the executive branch of this Government. I have no hesitation about it. The question has come at last and is presented to the country in plain terms. There is an issue between the President and the legislative body. The Secretary of State has told us on more than one occasion that in such a controversy as this the executive arm will triumph; and his organ at home has gone so far as to declare that in case the votes of the rebel States at the next presidential election shall not be counted, and if those votes together with the votes of the opposition party at the North shall be sufficient to elect a President in 1868, Mr. Johnson then being in command of the military forces, we may expect a violent and bloody struggle.

Now, sir, it is our duty to look into the future and to resort to all means which are placed in our hands by the Constitution to counteract this plan of usurpation, absolutism, and violence, beneath which the free Government of the United States, the freedom of our Constitution and all the privileges secured under it, are likely to be crushed and extinguished forever.

Sir, let us meet the issue thus forced upon us like men, and with the same spirit with which our soldiers and sailors during the war met the enemy. For one, sir, I am not to be intimidated by the threats of President Johnson nor by the prophecies of the Secretary of State.

Mr. JOHNSON. Mr. President, the question immediately before the Senate, I believe, arises on the amendment to the bill upon the table, offered by the honorable Senator from Missouri, [Mr. Brown;] but in the discussion in which I am about to engage I shall consider myself at liberty to follow the course which has been adopted by the friends of this measure, to discuss the merits of the proposition itself contained in the bill, and I shall do it with all the brevity that I can command, and with all the perspicuity that I am able to use.

The honorable member who offers the amendment, if I understand him aright, places the power to insert such a provision as the amendment contemplates upon one of two grounds; first, because new States may be admitted into the Union; and second, because the United States may guaranty a republican form of government to each State. Irrespective of the political issues of the day, which may be very short-lived—for no one can tell how long they will continue to agitate the country—there are, in my judgment, considerations which should influence the judgment of Senators looking far beyond such issues.

During the deliberations of the Convention which led to the formation of the Constitution, it was at one time thought that the body was almost at the point of dissolution because of the proposed inequality of the representation in the other House and in this of the States represented in that Convention or thereafter to be introduced into the Union of the States, if the Constitution which the Convention should form should be legally ratified. First, it was doubted

whether it was proper or republican in form to give to each of the States an equal representation in this body. Secondly, it was doubted whether it was not important to the interests of the States represented in that Convention to guard against being overborne by the representation of States which might thereafter be admitted into the Union, unless there was some limitation upon the representation to which they would in the absence of limitation be entitled. Delaware and Rhode Island, to speak of none of the other States, which are now small comparatively with these which have since been introduced into the Union; all the maritime States whose interest at that time it was thought would be found safer in their own hands and actually imperiled if they were not secured such a representation as would enable them at all times thereafter to protect them, believed that it was dangerous in the extreme, looking to the future, and a future soon to come, to admit new States into the Union under the clause which the Constitution was to contain, and which it does contain, without limiting their right of representation.

The representatives from the eastern States, and especially from that State which at that time contained the territory that now constitutes the State of Maine, which is so well represented on this floor, were exceedingly solicitous upon this subject, and sought to avoid the apprehended calamity, by proposing to provide that at no time should the States thereafter to be admitted into the Union have a representation exceeding in number the representation of the maritime States. The reason for that solicitude was very manifest. We may see it now exhibited in the opinions which are said to prevail in the western States.

At that time the idea of the eastern States engaging in manufactures was not contemplated. It was supposed, judging by their colonial history and judging by their locality, that their principal interest would be found to consist in objects of enterprise, maritime in their nature as contradistinguished from other objects of enterprise; in other words, that they would become the maritime States of the United States, the carriers of the States away from the Atlantic, and continue to be the carriers of all the States away from the Atlantic that thereafter might be admitted into the Union. When the clause which gives to Congress the power to admit new States was before the Convention, the subject was brought to the attention of that body by the representatives from the eastern States, and especially as the representatives from the State of Massachusetts, speaking upon this subject among others, through Gouverneur Morris, in a debate which the Senate will find reported in the second volume of Mr. Madison's Papers containing the debates in that Convention. I will read a sentence or two from the speech made on that occasion by Mr. Gouverneur Morris:

"The rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the national councils. The new States will know less of the public interests than these, will have an interest in many respects different, in particular will be little scrupulous of involving the community in wars the burden and operations of which would fall chiefly on the maritime States. Provision ought, therefore, to be made to prevent the maritime States from being outvoted by them. He thought this might be easily done by irrevocably fixing the number of Representatives which the Atlantic States should respectively have and the number which each new State will have."

The representatives from the southern States, and especially from the State of Virginia, and more especially in that representation, Mr. Madison, insisted upon it (and they prevailed) that a provision of that sort could not be made consistently with the principles upon which the Union was to be formed, that it was designed and could only be made with safety a Union of equal States, equal in everything, equal in representation in the Senate, equal in representation in the House; and as with representation in the eastern States must from its nature be regulated by numbers, to limit the representation of the States thereafter to come into the Union by an irrevocable rule which

should limit that representation at all times in the future, would be to place these States in a condition comparatively with the other States of the Union of inequality; and it was voted down. But the danger was still apparent, and that danger is now upon us.

The eastern States have been forced, by no fault of their own, in a great measure to drop the business in which they were then engaged, and which they supposed would constitute their principal business in all times to come, and to engage in the business of manufacturing. They have grown rich by their enterprise and their industry. They have millions and millions of money invested in these establishments, and they employ thousands and hundreds of thousands of men of the best skill in the country. While they enrich themselves individually they enrich all. They enrich those who start poor; they increase the wealth of those who start rich; and, what is chiefly to be admired, they immeasurably increase the wealth and the power of the nation. But how has that been accomplished? During the war of 1812 the system commenced, and found its inducement, its protection, in the effects of the war. Soon the war was over. England, the manufacturer almost of the world, found herself in a condition in which she could by a comparatively insignificant sacrifice flood the United States with every variety of manufactures in which the eastern States were then engaged, and by doing so involve them in bankruptcy. The United States, as I think wisely, determined to prevent such a dreadful calamity by protecting as against foreign competition the manufacturing industry of the United States, and that protection has been continued from that time to this; and the fruits of it are what we now see throughout the East, what we have seen still more strikingly exhibited during the last five years through which the country has passed—a trial to which no country in the world was ever before subjected—everything was supplied that human industry could furnish; every species of manufacture entering into the necessities of an army in the field was near at hand, fashioned by the skillful industry of the workmen of the United States—a skill that had become what it was under the protection of the laws to which I have adverted.

Now, it is not to be denied that to a certain extent at least if not to the very extent apprehended and asserted by those who have heretofore assailed and are now assailing that system, it increases in time of peace the cost to the consumer of everything which he is obliged to get from the manufacturer. How much of that protective tax falls upon the consumer and how much falls upon the manufacturer or producer it is difficult to ascertain. Political economists themselves are at variance on that subject; but all unite in saying that to a certain extent, at least, the finality is that the consumer pays the amount of the tax, either wholly or partially. The western States which we have already admitted, are, if we can judge from the signs of the times, under that impression; and just as you increase them will that impression be increased, and just as you increase them will it be in their power to strike at the system to which you in your States are so much indebted for the property which you now enjoy.

Mr. President, it is not to be inferred from what I have thus far said that I am hostile to the admission of any citizens of the United States into this Union as States; but I mention it merely for the purpose of saying that they ought not to be admitted until the necessity looking to themselves is apparent. To give to the Territory which you propose now to admit two Senators and at least one Representative, it having a population certainly not exceeding fifty thousand, and to give as you can only give to the State of New York and to the State of Pennsylvania each two Senators, with a population respectively of between three and four millions, would seem from the statement of the fact not to be altogether politically right.

I have said that the population of Nebraska

does not exceed, I think, 50,000; and I suppose so by what I understand to be universally true, even in the older States where families have grown up, and there is a very little comparative difference between the numbers of the male and the female sex, that the proportion of voters is about one to five. If the Senate will look at the last vote cast in Pennsylvania, they will find that it was 600,000, and her population was about 3,000,000, which shows that in that State the voters are in proportion to the whole number of the population as one to five, and there is no reason to suppose that the proportion is as great in Nebraska, or in any of these new Territories, or that it will be as great for years to come. But if you put it even at one to five there would be a population of but 45,000; and we are now called upon to admit into the Union as a State equal in all respects, as far as this Chamber is concerned, a Territory containing but 45,000 inhabitants, with the State of New York which contains nearly 4,000,000, or Pennsylvania which contains about 3,000,000, to say nothing of the large States in the West.

May not this be carried to a dangerous extent? Nullification is at an end; thank God for that; secession is equally dead; and any attempt by force upon the part of the southern States to sunder their connection with the Union is never again to be made; but in the future—and statesmen should look not to the exigencies, political or party, of the hour, but to what the future in all probability may produce—who can tell how long the great West, sure in time to outnumber the rest of the Union, sure numerically to cast into shade at least the eastern States, will consent that measures which they think to be conducive to their own interest, which they think may be promotive of the public interest, shall be placed in the hands of States having numerically little or no comparative population? I think now we have reason to say that they are getting exceedingly dissatisfied with the protective system of the country. I do not stop to inquire whether their grounds for that dissatisfaction are correct or not. The fact is they are getting dissatisfied with it, and would if they could now terminate it. How long will they consent peaceably to submit to a Government which places their destinies in the hands of a few as compared with themselves? How long before it will be said by some political reformer, wiser than the men who framed the Constitution, "There is to be found in that disparity an anti-republican principle," and if there be any States in the Union who with the powers now belonging to them are capable of exerting that principle, how long before we shall have it said here and throughout the country that those States are not truly republican in form, and a demand made to limit their representation in the Senate?

What protection is there in the Constitution? The men who framed it supposed that the equal representation of the States in the Senate was protected by the provision that the Constitution is not to be amended so as to defeat that equal representation; but how could that stand if a general convention were called? Literally it would stand; but there would be nothing in that provision which would prevent a majority of the States—and the West will have a majority of the States—from saying, "If you insist upon retaining that equal representation in the Senate, you and we part; we will not live under a Government which is founded upon such an anti-republican theory." And when that time comes what is to become of Maine?

Mr. MORRILL. She will have to take care of herself.

Mr. JOHNSON. But how? Better in the Union than out of it. If you were not safely in the Union you could not have so well protected yourself and your domestic industry by any power belonging to you as a State.

I submit, therefore, upon the general question, that unless it is necessary for the protection of the rights of the citizens constituting the population of Nebraska that they should

have a State government, and not a territorial government, having a population certainly not exceeding fifty thousand, you should leave them under the latter. And will it be said, particularly by my friend who spoke last and by the honorable member from Massachusetts, that the rights, individual and political, of citizens of the United States are not safe under a territorial government? Why, sir, they propose to put ten States under such governments, and they propose it for the very purpose of protection of the citizens in the rights which the Constitution secures. If, then, it be true that the rights, political and social and individual, of the citizens may be just as effectually protected under a territorial government as under a State government, what necessity is there for abolishing the one and establishing the other, unless it be—and with all my respect, real and professional, for the honorable member who spoke last, I think that is no ground upon which to place it—unless it be a desire to protect a party?

The honorable member has thought it proper in the consideration of this bill to animadvert upon the conduct of the President of the United States. That is a matter of taste. No one can question the good taste of the honorable member; but I am so dull as not to be able to see that the opinions of the President, past or present, have anything to do with the question whether Nebraska should be received into the Union or not. That is to stand or to fall on its own merits. "Party!" How long will "the party" endure? Are there no elements now which threaten, sooner or later, disruption? Do you all accord in the principles which the party are supposed to adopt? Why, what have we heard upon this floor? The honorable member from Ohio, the particular friend of this bill, and his colleague have both told us, and as I think told us properly, that those members of the Senate who voted for the constitutional amendment now before the States for adoption have pledged their faith that when adopted all the States adopting it are to be received into the Union. The honorable member from Michigan who has just closed his speech has told us, if I understand him, that there is no such obligation. My friend from Missouri, who offered the particular amendment now before the Senate has told us the same thing; and I may be permitted, without committing any breach of parliamentary decorum, to say that the same doctrine has been maintained by many leading members of the House of Representatives. Now, suppose it to be adopted, what then? One half of you, and I hope more, will say, "This is all that can be done; the Senators from these States must be admitted." The other half say "no." They say "no," possibly because then again would hazard be brought to the continuing existence of the party. Then they may say "I was no party to that pledge; I voted for that amendment, not for the purpose of bringing in the States, but for the purpose of keeping them out; I voted for it because I believed the States would not adopt it, and I was willing therefore to go with those who were in favor of receiving the States if it should be adopted, not because I concurred with them, but because I was fully impressed with the conviction that it would not be adopted, and that not being adopted they would concur with me in keeping them out."

There is ground of separation at once; but there are other grounds. My friend from Michigan—I think he is right—tells the honorable member who offered this amendment and tells the Senate that practically it is of no importance. It professes to be a condition upon which the State of Nebraska will be permitted to come into the Union; but when she does come into the Union, if she comes at all, she can disregard the condition. As the condition relates to the franchise, he says, and says properly, that the moment the State is in she may get clear of the condition by the exercise of what he says is her admitted power of regulating the franchise for herself. Who concurs

with him? All of his party? We know they do not. The mover of the proposition insists that it is not only to be made a condition precedent to the admission of Nebraska into the Union, but a condition to follow the State, at all times thereafter to be inviolate, and out of the power of the State to escape from.

I agree with the honorable member from Michigan that that cannot be so, first, because, as I have stated, the Union is a Union of equal States; secondly, because as will be seen by those who consult the proceedings of the Convention, and consult those masterly essays which were written by Madison and Jay and Hamilton, recommending the Constitution to the adoption of the American people, it was assumed to be true, (and without that assumption the Constitution never could have been adopted,) that the subject of franchise was to remain with the States just as it remained before the Constitution was adopted, they then living under the Articles of Confederation. Is it to be supposed now, this amendment not being proposed as a constitutional amendment and to operate upon all the States of the Union, but proposed only as applicable to the particular State which asks to be received into the Union; is it to be supposed for a moment that when that State escapes from her infancy, ripens into maturity, contains a population not of forty-five or fifty thousand but of millions, she will consent to live under the domination of a badge to which even the State of Delaware or the State of Rhode Island is not subjected?

Suppose she refuses it, she calls a convention and they regulate by their constitution the franchise without regard to this limitation; they admit some to its exercise and exclude others; they admit the white and exclude the black; they require a property qualification or fail to require it; they adopt a constitution according to the opinion which they may entertain upon these particular points. The State is organized, the Governor elected, the members are here representing the State as she was originally created; and are you going to get rid of them, and how? Is there any legal process known to the law by which it can be accomplished, and is there any power which by force of arms or in any other way this body, or the President of the United States, or all Congress, could attain that end—expel from their seats in this body two Senators elected by Nebraska and whose terms had not expired, because after their admission that State adopted a constitution disregarding the condition which you had affixed to her admission? I say no, you would be helpless, helpless in point of law; and the public judgment would hold that you ought to be helpless, that you had no such power because the exertion of the power would put an end to the equality of the States; that you had no power to impose a condition on Nebraska that was not common to all the States in the Union, and as you had no power to change the constitutions of the other States so as to take from them the rights which belonged to them, because you cannot change by legislation the constitutions of those States, you had no power to make this particular constitution an exception to the general rule.

Mr. President, the honorable member the author of this amendment is not to be told that the authority of Congress to affix conditions to the admission of a State is not now for the first time called into question. It presented itself in the case of Missouri, and the agitation to which it led threatened at that moment almost the disruption of the Union. It was avoided by a compromise which at the time and almost ever since that time has been attributed to Mr. Clay. He never claimed it for himself, and he was not the author of it. It was avoided by establishing a line on one side of which slavery was expressly prohibited, leaving it to the people of the Territories on the other side to establish it or not as they thought proper. The condition there proposed to be inserted was that slavery should not exist in the State of Missouri.

The affirmative of the question as to the power to impose such a condition was argued with very great ability in the House of Representatives by Mr. Sergeant, a Representative from Pennsylvania; and others, and by Mr. King, then a distinguished member of this body from the State of New York, and whose whole career served to add to the reputation of his country both at home and abroad. But in all the debates that have since occurred it has been received as a political maxim growing out of the very nature of our institutions, that these States must be in all respects equal. And in that debate—I speak what I think I recollect distinctly—it was not pretended that Congress possessed any authority to impose any other condition than that which had its seat in a high moral and religious principle, because in their judgment slavery itself was a crime, and it could not be that the Congress of the United States would be forced to admit into the Union a State and give it, or without guarding against it, the power to perpetuate a crime—a crime in the eye of humanity, a crime in that Higher Eye, a crime in the judgment of one above who sways the harmonious mysteries of the world. But so far as related to any mere political condition, looking to mere measures of policy alone, looking above all others to the question of franchise, there was not a man who engaged in the debate in favor of affixing to the admission of that State into the Union the condition that slavery should not exist, who pretended to maintain the right of affixing any mere political condition which would place the State to be admitted in a condition of inequality with regard to her sisters.

Now, let me test the opposite doctrine for a moment and see to what it will lead. As I have stated, and in that I am sure I cannot be contradicted, the States before the Constitution was adopted were all equal; I mean in political rights. When the Constitution was adopted that equality was preserved and all their powers remained just as they were before, and equal with reference to each other as they were before, except so far as they had been delegated to the Government of the United States expressly or by fair implication. They have a great many rights, important rights to them as people and as States. No taxes or imposts can be imposed that are not equal everywhere. Every citizen of every State has the same right to resort to the judiciary of the United States as any citizen of any other State. The citizens of every State have the same right and the States have the same right to be heard in the Electoral College upon an equal footing with the other States. They have the same right to be represented in the House of Representatives; they have the same right to be represented in this Chamber; and upon the contingency of there being no popular election of a President and the matter is referred, as the Constitution provides, to the House of Representatives to determine, in such a contingency each State votes, and votes equally with all other States. Now, which of these rights can you take away? Can you take away the right of being heard in the Electoral College? Nobody will pretend that that can be done by making it a condition of the admission of a State into the Union? Can you provide that they shall not be entitled to the benefit of the equality which the Constitution says shall be preserved in the exercise of the taxing power? Nobody will pretend that. Can you take from them the right to go into the courts of the United States, to be represented in the House of Representatives, to be heard, if the contingency happens which renders it necessary, in the House of Representatives in determining who shall be the President of the United States, there being a failure to decide that question by the popular vote?

Mr. BROWN. We can take away from them the right to do wrong.

Mr. JOHNSON. What is the right to do wrong? Let me tell the honorable member it is wrong, in one sense, for the State of Rhode Island to have two Senators here and for the

State of New York to have but two. Why is it not wrong? Is it right in the abstract, not in the particular? If the honorable member cannot say that it is right, then he admits that it is wrong. What is the wrong? The wrong here is said to be the exclusion from the franchise of certain of her citizens. Is it wrong to exclude the female, who is not included in this amendment? Is it wrong to exclude because of age or because the parties have reached a certain age? That is not pretended by this amendment. Is it wrong to enforce a property qualification? That is not pretended by this amendment. Is it wrong to require any specific residence for the voter or for the party to be voted for? That is not included in this amendment. And yet in each of such provisions the man who is under twenty-one may, in one sense, be said to suffer a wrong because he is denied a right; the woman under or over twenty-one may be said to suffer a wrong; and the honorable member from Missouri is evidently of that opinion, and he ought to include them in this amendment; because, if I recollect aright, the other day he voted to admit the female to the right of suffrage upon the ground that that was right. If it was right to admit them to exercise the suffrage here in the District of Columbia it is right to admit them to exercise the suffrage in the contemplated State of Nebraska; and being right the failure to give it, if the honorable member has the authority to give it—and he says he has—is a wrong; and yet he does not propose to redress that wrong. Upon that point, then, I conclude with saying that in my judgment there is nothing in the power which we have to admit new States which justifies our incorporating into the constitutions which they present any such condition as is contained in the amendment offered by my friend from Missouri.

I now proceed, Mr. President, with the indulgence of the Senate and yourself, to say a word upon the other ground on which I understand the power to adopt an amendment of this description is placed, upon that part of the Constitution of the United States which has been termed very correctly the guarantee section or the guarantee clause. If it can be maintained under that clause, it can only be because a constitution which denies to any of the citizens the right to vote is not republican. That would lead to very perilous consequences. What State is there in the Union that admits everybody to vote who has the age and the residence which their laws require, even supposing they have a right to prescribe age and residence? Not one, as far as I am advised. Which of the States represented in the Convention of 1787, and which afterward adopted through their people the Constitution framed by that Convention, admitted all to vote who had the prescribed age and residence? Not one. Most of them required a property qualification, more odious than anything else, as the people afterward were taught to believe; whether correctly or not, I do not stop to inquire. Were they, and are those States where it does now exist, republican States? Is the want of the universal right of voting a want which makes the constitution of the State where it exists other than republican? Or, to use the language of the clause, does it cease to be of a republican form? If it is not of a republican form now, it was not then. Now, let us see where that will lead us; into what, I was about to say, absurdity that necessarily conducts us.

The clause, it is said, by which the United States guaranty to every State in this Union a republican form of government embraces forms of government existing in the States then or thereafter which did not admit to an equal right of suffrage all the citizens. Do you think that was the view of the Convention? In the first place, how were they selected? Selected by the people of the States, or the Legislatures of the States then in existence. They represented, therefore, their respective States. Their object was, not to destroy, not to change the forms of government which their States had adopted, but to preserve and to protect them—

nothing else. The inefficiency of the Articles of Confederation had been demonstrated. Life, liberty, and happiness, which the Declaration of Independence proclaimed to be inalienable, were, it was supposed, in imminent jeopardy because of the demonstrated inefficiency of the Government of the Confederation; and the Convention therefore met to accomplish what, as they declared in the preamble to the Constitution, they thought they had accomplished, provisions for the organization of a Government which would form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for themselves and their posterity, of course, forever. Did they propose to accomplish that, and did they think they had accomplished it by framing a Constitution which was to annul it in a particular which every man in every State claimed to be an invaluable right, the authority of the State to regulate suffrage for itself? The result would be that a Government intended to be composed of States, under a Constitution which said that the United States was to guaranty to every State a republican form of government in its very birth, not only communicated a power to the United States, but made it the duty of the United States to assail every State constitution. A power to guard against domestic violence, a power to bring about a more perfect Union, a power to establish justice, and to secure the blessings of liberty to themselves and their posterity forever, is supposed to have been intended for the purpose of vesting in the Government created for the very purpose of accomplishing these ends the power to destroy the governments who were thus to be more absolutely united together! That cannot be so.

But is there a doubt about it? Contemporary construction, to be ascertained by what is not done as well as by what is done, is a familiar rule of interpretation, not only persuasive, but controlling. Was it ever attempted before? Never. Manhood suffrage, as it is termed, a right supposed to exist in the mere fact of manhood, became in many of the States a subject of party contest, and it prevailed. Universal manhood suffrage almost was granted; limited suffrage was destroyed; property was no longer considered as necessary to give the right; it was supposed to be found in the fact that man was man, and had a right to a voice in the Government which was to control or to have authority over his rights as a man. But this question was debated among the States *inter se*. Nobody ever dreamed that the United States had any authority, and the United States not only never attempted to exert it, but as far as I am advised, (and I believe my knowledge upon the subject is accurate,) no member of Congress until the last few years ever suggested it. And even now the committee of fifteen, of which I was a member, in the measures which they thought proper to adopt and recommend, did not undertake to interfere with the right of the States to regulate the suffrage. They forbore to do that; and they forbore to do it upon the ground that it was a right which not only belonged to the States, but which should belong to the States. All that they did was to provide, and that by a constitutional amendment, necessarily therefore conceding that the Constitution as it stands gave no such power, that upon the adoption of that amendment, which would then become a part of the Constitution, the representation of a State that might exclude from the right of suffrage any portion of its citizens should in that proportion be reduced; and that is all. But who was to vote was left to the States just as it was before. It has never been pretended by any one, except by one or two gentlemen who seem to be in advance of the age, and, if I might be permitted to say so, of any age that we shall ever know, that it would be conducive to the interest of the whole that the Government of the United States should have the power to regulate the right of suffrage in the States.

How would it be in California or Nevada or Oregon? What my brother from Oregon [Mr.



WILLIAMS] asks, perhaps, cannot be accomplished. He proposed a resolution this morning to regulate or to prohibit the immigration of the Chinese into the States on the Pacific. Suppose he cannot do it. I doubt very much whether he can. That is a subject, however, on which I must not be understood as giving an opinion. Suppose it cannot be accomplished. They are there now to a large extent and cannot be driven out except for crime. I suppose that will be conceded. One of these days some gentleman who is as fond of party as my friend from Michigan, may find it necessary to the success of a presidential election to have the Chinese vote. How is he to do it? Nevada will not let him vote; Oregon will not permit him to vote; California will not permit him to vote. Oh, but party looms up; "the Chinese will adopt my policy,"—my friend from Michigan has a "policy" as well as President Johnson,—and "my President cannot be elected unless they are authorized to vote." Well, as you in Oregon will not do what is right, as you are blind to the interest of party, you must be made to do what is right; you must be made to do something that will inure to the interests of party; and if I cannot do it in any other way, if I cannot get the Constitution amended, I will invoke the guarantee clause. The constitution of Nevada, that of Oregon, that of California excludes the Chinese who are men—I do not suppose even my friend from Missouri supposes they are women [laughter]—from the right of suffrage. Each of them is not a government republican in form, and our duty is to have it so; and as the honorable member from Michigan said in his speech to-day, the duty being imposed on Congress, and the power with which to perform that duty being given to Congress to guaranty to each State a republican form of government, it can only be done, Congress having no other power, by means of legislation, and we will by legislation provide that my friend's [Mr. WILLIAMS's] voting constituents shall be these Chinese! How long would the people of the Pacific States remain in the Union? They are loyal I know, as loyal as any States in the Union, as wedded to it, as determined not to leave it; but how long would it be before they would lose their love for it if Congress was to undertake to say that they should be subjected even to the votes of the Chinese who are there now, or to that immense mass of Chinese population that is sure to spread itself over these Pacific States, if they are permitted to become immigrants to the United States? I do not think they would stay an hour, unless they have some peaceable remedy—not exercising any right of secession, that is dead, but exercising that inherent right which belongs to every State and every people to war against tyranny.

Now, Mr. President, a word or two upon the actual meaning of that clause. The Senate will see by looking at the clause that it really contains three guarantees. The first is a republican form of government; the second is to protect the States from invasion from without; the third is to protect them against domestic violence. The latter power is not to be exerted unless the government, where the domestic violence arises, calls upon the Executive through the Governor, if the Legislature is not in session, or the Legislature calls upon the Executive here for aid. The other two are absolute—to guaranty a republican form of government—how, when, through what instrumentality the clause does not tell us—to guard each State against invasion. That we can understand, although the clause does not tell us. It can only be by meeting the invader and driving him from the limits of the State. To protect each State against domestic violence when called for in the manner provided for by the clause we can also ascertain; it is to put it down. But what is the "form of government" which is included in the clause? What is the government? If I understand it, it is not to protect the Governor or the executive officers, whoever they may be, or the legislative department of the State from any violence, for that is

included in the provision that the government is to be protected from such violence. What, then, does it mean? It means this and only this: whenever the criminal ambition of those who are in the possession of it induces them to pervert its powers and to assail the people, that the people are to be protected against any change in the form of government that may be brought about by such causes. There is nothing more clear than that, as I think.

Take the State of my friend from Oregon [Mr. WILLIAMS] by way of illustration. I do not select that because it is more likely to happen there than anywhere else. The government does not mean the constitution; that remains; but the government existing by force of the constitution coming into power under its provisions turn traitors to it; they assume the tyrant, violate the rights of the citizen, usurp powers not granted, exert powers prohibited, and establish as among themselves a government wholly discharged from all the guards and protection which belong to the constitution under which they came into power, and that government is not republican in form. It becomes known to the United States; the people complain; they want to be protected; and the contingency then happens, and then happens for the first time, when it becomes the duty of the General Government to stand between the usurped government and the people over whom they are tyrannizing, and reestablish the government which was republican in point of form, by protecting the people against its abuse and the substitution of another which was not republican in point of form.

There must be some mode by which you are to ascertain whether any government is republican in point of form for this very obvious consideration: the United States are to guaranty each State a republican form of government. My friend from Massachusetts says, and my friend who offers this amendment says, that to exclude the black man from voting shows that the government is not republican in point of form. Why? Was he not excluded when the Constitution was adopted in every State in the Union, or almost every State in the Union? Yes. Did not the States that adopted it do it under the impression that they were States republican in point of form? Did not the Convention that inserted in the Constitution this guarantee go upon the assumption that the States were republican in point of form? Why, certainly, unless they intended to break up all the States. That we know they did not intend; and not intending that, can it be supposed that they designed by this clause to place it in the hands of Congress to decide from time to time, as passions might be excited, party spirit prevailed, the exigencies of party success demanded, to interfere with the State governments by bringing into the enjoyment of the elective franchise those whom the States had excluded? Not only that, if the proposition is true it goes a step further than that; if possible, infinitely further. Does it give to the United States the authority to interfere with any of the existing rights belonging to the States at the time they adopted the Constitution? If it did, then everything was thrown afloat; the United States then, by its Congress, is to become a great convention, not only to deliberate for the interest and safety of the people of the United States, but for what they may believe from time to time is to be the interest and the safety of the people of each State in the management of its own domestic concerns.

There is a rule, and it is the only rule, as I think, consistent with what must have been the intention of the Convention and of the people, and that is this: that every government is republican in point of form which corresponds with the governments in existence when the Constitution was adopted. All rights secured by positive constitutional provision, all powers prohibited by positive constitutional prohibition, that were secured or prohibited in the several State constitutions of the States whose representatives framed the Constitution

and whose people adopted the Constitution, are perfectly consistent with our idea and the people's idea of what constitutes a republican form of government. There is no other rule by which you can construe the clause that will not place every State in the power of the United States, exercising that power through the Congress of the United States, which from time to time that body may think actually or professedly will conduce to the interest of the people of each State, and give them what they consider to be a government republican in point of form.

Mr. President, no Constitution can endure even for years, much less for the future when our posterity will be here and we gone, which contains such a power in the General Government. Leave to the States the rights and the powers existing in the States that formed the Constitution, and leave them all in the same condition in relation to the States who have in the past become members of the Union or who may in the future become members of the Union, and the country will endure. Some one State, by the folly of its people, or some sections may seek to leave it and to destroy it, but the last five years show that such an effort will be futile, will inure in nothing but in desolated households, ravaged fields, and the annihilation for the time of all the subjects of enterprise and of industry, which it will take years to revive.

I have no fear, therefore, unless we commit, or those who are to follow us commit, outrages upon the rights of the people which will authorize them, in the exercise of the inherent power of revolution, to rise up in their majesty and establish another form of Government, or rather to insist upon having preserved the Government in the form which our fathers intended—unless that is done, I have no fear but that the political institutions of the United States will endure for ages and I trust forever, extending as they now do from ocean to ocean, distributing their blessings everywhere, and enabling them with perfect assurance to feel no apprehension, and that they never will be called upon to feel any apprehension against any violence from within or any invasion from abroad.

Mr. WILSON. I move to amend the amendment proposed by the Senator from Missouri, by striking out all after the word "color" in the fifth line and inserting the words I send to the Chair.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair understands that there is an amendment to an amendment now pending—the amendment of the Senator from Pennsylvania [Mr. COWAN] to the amendment of the Senator from Missouri, [Mr. BROWN,] and a further amendment is not now in order. It may be read for the information of the Senate, however.

The Secretary read the proposed amendment to the amendment, which was to strike out all after the word "color" in the fifth line and to insert:

And upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act.

Mr. WILSON. I hope that the Senator from Missouri will accept this amendment to his amendment, if permitted to do so, and I trust that the Senator from Ohio, who has the charge of this measure, will concur in it, and that by common consent we shall agree to this amendment, and then pass the bill as amended.

Mr. WADE. I should like to hear it read again. I do not know that I understood it.

The Secretary again read the proposed amendment.

Several SENATORS. Read the pending amendment as it will stand if amended.

The Secretary read as follows:

*Provided*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise or of any other rights to any person by reason of race or color. And upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act.

Mr. WILSON. The Missouri act of 1821 submitted the question, not to the people of Missouri, but to the Legislature, and if that act had any binding force, this is equally binding. If we have the power to submit it to the people, we have the power to submit it to the Legislature, and their decision will be as valid as the decision of the people. It would be inconvenient, especially at this season of the year, to call together the people of that great Territory to pass upon this proviso. The Legislature is already elected, may be called together in a few days and pass upon the subject. The question may be settled, and settled before the 4th of March next, so that the delegation from this new State may take their seats in the Thirty-Ninth Congress.

Now, sir, I desire to say that I have none of that feeling referred to by the Senator from Maryland, as existing at the time of the formation of the Constitution in the eastern States, and I do not think that the people I represent entertain any sort of jealousy toward the people of the West or the new States of the Union. We of the East regard them rather as our children; and we hope they will be wiser and better and more prosperous than we are. I wish to see young Nebraska in the Union as one of our sister States. I am content with her boundaries, with her population, and especially content with the political sentiments and opinions of her people. She has sent to represent her on this floor gentlemen of talent and of character, patriotic and liberty-loving men, and I desire that at the earliest moment they shall become members of this body.

Mr. President, when the question came up at the last session of the admission of Colorado into the Union I felt as strong a repugnance as anybody could feel against this word "white" she had incorporated into her constitution. It came up at a critical time in the history of the country. I saw then very clearly that the President of the United States, and more especially the men who were about him and around him, and to whose beguiling voices he listened, were determined to make a rupture between the Executive and Congress. I felt the importance of these three years of power intrusted to us to settle the great questions before the country, for the complete restoration of the country on the solid basis of the equal rights and privileges of all men. I saw clearly that when the contest should come we should have a contest that would try Congress and stir the country to its profoundest depths. I thought it was the part alike of patriotism and of wisdom to prepare for it, to keep ourselves always right, and if the President chose to put himself in the wrong to keep him in the wrong. That policy was generally pursued. Congress kept itself in the right, the President put himself in the wrong, and the country has pronounced between the Executive and Congress, has rebuked the former and exalted the latter. I saw, too, that in this body the Executive appeared to have too many followers and too much power. It was apparent that the friends of impartial freedom were doomed to defeat if executive power could seduce or intimidate. At any rate it was not the friends of the country who were to have the control of this body and the Government. Although I was strongly opposed to this word "white" I thought it better for the great cause of the country, the cause of liberty, the cause

of the emancipated bondman, that Colorado should be admitted and that her votes should give the friends of freedom and the country the control of the Senate of the United States. Her Senators were tried and true, and their votes would give us the power to override the executive vetoes. Had the Senators from Colorado been admitted the bill giving manhood suffrage, pure and simple, would have passed at the last session. I knew then, as I know now, that we could not have passed the bill giving manhood suffrage in this District without the admission of the Senators from Colorado, and that with their votes sure for that great measure it would have been enacted. Anxious to carry that measure—a measure I had publicly pledged should pass at that session—I strove to achieve it by the votes of the Senators from Colorado.

For more than thirty years I have never given a vote, at home or abroad, for the election of any man or for the support of any measure that I have not asked myself what the effect would be upon the great cause of equal, universal, and impartial liberty in my country. Acting ever under a vow made here in this Capitol thirty years ago, I have always subordinated political organizations, public men, and public measures to the overshadowing issues growing out of the existence of slavery, the domination of the slave power, and the rights and privileges of the African race. Actuated by the sentiment of impartial freedom for all of every color and race, resolved to use all the means sanctioned by law and humanity to secure equality of rights for all, and to make my country a great Christian Republic, I have aided in pulling down and building up political organizations, and in making public measures contribute to the advancement of the great cause. Perhaps I have erred in action—never, I am sure, have I erred in intention or purpose. Looking back upon these thirty years of active life, I do not remember more than one vote I would change to-day if I had the power.

But, sir, by the course of events our power in the Senate is now assured, and after the 4th of March next will be quite as strong as it is now. I need not state, for we all know how our numbers have increased until now we have a clear, undoubted two-thirds vote here upon all leading questions that may arise. The necessity under pressure of which I acted at the last session has passed away. Satisfied to admit Colorado and Nebraska, always excepting that word "white," that stained their constitution, I gave voice and vote to their admission to secure for the holy cause for which we are struggling the control of the Senate. That control has been otherwise secured. The commanding necessity under which I then acted exists no longer. Then the admission of these young States in spite of this odious word "white" seemed to me to be demanded by the needs of the periled country; now their admission with this word "white," it seems to me, is not demanded by the needs of the country.

I am as desirous as anybody can be to welcome these young States into the Union. I am as desirous as anybody can be that Nebraska should be represented here; but, I repeat, the necessity that controlled my vote at the last session has passed, and I believe that we can and should impose the condition now proposed. The Legislature elected in that State can be called together in a few days; the Legislature can pronounce upon this question, and in a very brief time Nebraska will be in the Union.

A bill has passed the House of Representatives by an immense majority and is now pending before the Senate, to give suffrage without distinction of color in the Territories of the United States. We must and should act upon that bill. I shall vote for it with all my heart. The admission of this State at this time without imposing this condition upon her and then the passage of that bill would put us in a false position before the country. The passage of that territorial bill will confer suffrage upon the colored men of Nebraska; the uncondi-

tional admission of that new State will for a time take suffrage from them. No loyal man in possession of suffrage shall ever say to me, "You, sir, robbed me of my rights."

I have come to the conclusion, sir, that before the 4th of March the constitutional amendment will have been adopted by the country; but whether it be adopted or not, there is one thing very clear to my mind as a duty that we cannot shun, in my opinion we are neglecting it now, and that is, to take the governments of these rebel States out of the hands of the rebels. They have no business with the governments of those States. It is a betrayal of the cause of the country to put the governments of those States into their hands, or to continue the governments of those States in their hands. Whether we call them States or Territories, one thing is clear: the loyal people, black and white, of those States should be protected in life, liberty, and property, and we are bound to protect them. The disloyal men have no right to any share or part in the governments of those States and should at once be dismissed from the places they have usurped through the weakness or treachery of the President. Before the 4th of March we must take the governments of these rebel States out of the hands of disloyal men. I am anxious for the passage of this bill with this amendment, that this question may be submitted to the Legislature, that the Legislature may agree to it, and that her Senators may be here to aid in the good work before us.

Mr. WILLIAMS. I suggest to the honorable Senator from Massachusetts that he amend his proposed substitute by inserting after the word "color" the words "excepting Indians not taxed," because it will be impossible for me to vote to allow every person, including the wild and untamed Indians of Nebraska, equal rights and privileges in that Territory. With that amendment my objection to it would be greatly modified.

Mr. WILSON. If permitted to do so, I will modify my amendment so as to except Indians not taxed.

The PRESIDING OFFICER. The Senator can so modify his amendment.

Mr. WILSON. Then I ask the Clerk to make that change in it.

The PRESIDING OFFICER. The question before the Senate is on the amendment moved by the Senator from Pennsylvania [Mr. COWAN] to the amendment of the Senator from Missouri, [Mr. BROWN.]

Mr. DOOLITTLE. I should like to inquire of the honorable Senator from Massachusetts whether he really intends in the Territory or the State of Nebraska to have the Indians vote or not.

Mr. WILSON. I have just made a modification of my amendment so as to exclude untaxed Indians.

Mr. WILLIAMS. "Excepting Indians not taxed."

Mr. DOOLITTLE. I understand the Senator from Massachusetts to say that he is strong in the belief that the constitutional amendment which is now pending will be adopted by the States before the 4th of March next. The Senator from Massachusetts voted for that constitutional amendment, which was submitted to all the States. I wish to inquire of him whether it is his understanding that the faith of Congress is pledged, in case the constitutional amendment is adopted by the States of the South, that they are entitled then to be represented. I understood the honorable Senator from Ohio [Mr. WADE] to state most distinctly that he understood that to be the pledge which was given on the part of Congress, while the Senator from Massachusetts [Mr. SUMNER] insists that no such pledge was given. I should like to know how the other Senator from Massachusetts understands that; whether if those States vote for the amendment they are to be entitled to have representation.

Mr. WADE. This test is frequently applied to us, and I am very frequently quoted, and rather at short hand. I want it to be under-

stood exactly what I do assent to, and what I did. I did not state, nor intend to be understood, that when these States had adopted the constitutional amendment they were entitled to come in at all hazards. This is the proposition to which I did assent, and which I stated, and to which I adhere now. I supposed that when that constitutional amendment was adopted by two thirds of the States, so as to become part and parcel of the Constitution of the United States, and adopted by the seceded States, their relations with the General Government would be such that they might apply for admission, and, all other things being equal, I think I said they ought to be admitted, provided they came in loyal, provided they placed their States in harmony with the Union, and sent loyal men, &c. Then, sir, my pledge and my understanding was, they being in a condition to apply, if they were loyal and their States showed a disposition to be friendly to the Union, they ought to be admitted; but not barely because they, out of policy, adopted the amendment to get a foothold here, being disloyal, showing themselves disloyal, that they were entitled to all events to be admitted. That I did not mean.

Mr. DOOLITTLE. The Senator from Ohio of course has a right to correct me if I did not state his position correctly. My question was put to the Senator from Massachusetts, [Mr. WILSON.] I wish to know what he understood, whether he agrees with his colleague or with the Senator from Ohio in relation to the submission of that constitutional amendment to the States of the South.

Mr. WILSON. I do not recognize the right of the Senator from Wisconsin to put a question in that form to me; but I say to him, and I have no hesitation in saying it, that I voted for the admission of Tennessee into the Union, not simply because she adopted the constitutional amendment, but because she had furnished thousands of men to fight our battles; had abolished slavery before the constitutional amendment prohibiting slavery had been adopted; had elected a loyal Governor and a loyal Legislature and a loyal delegation to Congress; had given the power by her revised constitution to her Legislature to confer suffrage upon her colored men, and her leading statesmen pledged their faith that her Legislature would promptly do that act of justice, wisdom, and policy. I believe that those pledges will be redeemed and that Tennessee will lead the van among the States in giving suffrage to the freedmen. I believed then and I believe now that the vote for the admission of Tennessee weakened the enemies of the black man and strengthened his friends.

But I know of no other State that went into the rebellion that is in any respect in her condition. We passed no act compelling us to admit rebel States on the adoption of the constitutional amendment. We are bound by no pledges, and after the action we have witnessed during the past few months, patriotism and liberty, justice and humanity, demand that we should go to the extreme verge of our power to protect the loyal men of the rebel States. For one, sir, I do not intend that this question shall be settled until every man in those States is in full possession of his natural rights—the right to be protected in life, liberty, and property, and the right of the ballot to protect life, liberty, and property. Seven States have already adopted the constitutional amendment. The Legislatures of thirteen loyal States meet next month, and before the 4th of March this constitutional amendment will be adopted by three fourths of the States represented in Congress.

Mr. SUMNER. That is enough.

Mr. WILSON. I regard that number as enough. But whether the amendment be adopted or not I hold it to be our duty, a duty that should have prevented us from adjourning, to take the governments of those States out of the hands of the men who now hold those governments and who have no moral or legal right to hold them. Neither the President nor Congress had authority to put those States into

rebel hands as has been done, and we neglect our duty in permitting rebels to hold these States for an hour, or in allowing rebels to elect Governors and Legislatures and govern the loyal people. I shall go up to the extreme verge of constitutional power to protect these loyal people. I believe the only protection the black men of the South have, or can have, is to weapon their right hand with the ballot to protect their lives, their liberties, and their property. If it be necessary for the protection of his life, liberty, and property that the black man shall have the ballot, man and God will forever condemn us for withholding it. I give all my doubts in favor, not of the rebel, but of the loyal black man.

Mr. DOOLITTLE. My honorable friend from Massachusetts took some little time to make an answer to the question whether he agreed with his colleague or whether he agreed with the Senator from Ohio; but, sir, from what he says and the purport of what he says, I understand him not to consider himself or Congress bound in any respect, whether the States of the South do or do not vote for the amendment; that no act on our part in any respect has bound the faith of the Government to those States in case the constitutional amendment should be adopted and they should vote for it, that it will give to them any right to have their representatives admitted without imposing the further condition, upon which he now seems to insist, that they should also give universal suffrage to all the colored men in those States. That is the substance of his statement. But I do not understand the honorable Senator to deny that Congress did submit a constitutional amendment to the States, upon which the States of the South among others were invited to vote. I believe the Senator does not take such ground as that. The Senator from Ohio very distinctly stated in his speech, and he has said nothing to-day to qualify it, that this constitutional amendment was submitted to those States, to be voted upon by those States, accepted or rejected. That is enough for all the purpose which I have in hand at this present moment. What I desire to say is this: submitting a constitutional amendment to the States of the South is conceding them to exist as States, with Legislatures capable of ratifying or rejecting the amendment. No man, it seems to me, can logically say that they have the power to accept or to reject an amendment to the Constitution of the United States and at the same time say that they are neither States nor have any Legislatures at all. I know the honorable Senator from Massachusetts [Mr. SUMNER] has been consistent, always maintaining that they were not States to which a constitutional amendment could be submitted. He has insisted that the constitutional amendment could not be submitted to the States of the South, because he has always consistently maintained that there were no States there to submit it to.

Mr. SUMNER. Not precisely. No State governments.

Mr. DOOLITTLE. No Legislatures.

Mr. SUMNER. No valid Legislatures.

Mr. DOOLITTLE. No valid Legislatures that could give any valid vote for or against it. Not so with the Senator from Ohio; not so with his colleague from Massachusetts; not so with a majority on this floor. They have contended that they were States; that they had State Legislatures; that those State Legislatures were called upon to vote either yes or no on the question of the ratification of the amendment; and I say there is no man who can stand up and logically say that they are States, with Legislatures, with the power to vote ay or no upon a constitutional amendment changing the Constitution of the United States, and in the same breath say that they are not States and have no Legislatures which can choose Senators. Men must take position. It is a question on which there is no neutrality. The men who say that there is a constitutional amendment now submitted and pending before them, and that they have the right to vote ay

or no, cannot deny that they are States; they cannot say they have no Legislatures.

Mr. President, this voting on a constitutional amendment which is to change the fundamental law not only of their State but the fundamental law of our States also, is the highest possible act that can be performed by any Legislature, much higher than an ordinary act of legislation which only concerns their own people, much higher than an act of the Legislature that chooses a Senator; and yet men say they can vote on a constitutional amendment, accept it or reject it, and yet they are incapable of electing a Senator.

Mr. FESSENDEN. Who says that?

Mr. DOOLITTLE. I say that is the substance of the whole argument.

Mr. FESSENDEN. But who says it?

Mr. DOOLITTLE. That they cannot elect a Senator?

Mr. FESSENDEN. No; but that they had now in their present form a sufficient State government to accept or reject a constitutional amendment.

Mr. DOOLITTLE. I understand the honorable Senator from Ohio to say that this constitutional amendment has been submitted to these States. He says that five of these States have rejected it.

Mr. FESSENDEN. But he does not say it is legal action.

Mr. DOOLITTLE. How can they reject it if they have no Legislature to do it?

Mr. FESSENDEN. They can assume to do one thing or the other.

Mr. DOOLITTLE. But nobody but a Legislature can act upon it at all.

Mr. FESSENDEN. That is all very true.

Mr. DOOLITTLE. If they have no Legislature, how can they reject it?

Mr. FESSENDEN. I will reply to the Senator after he gets through.

Mr. DOOLITTLE. Certainly, if called upon to vote on the question, a person who has the power to vote ay has the power to vote no. It is submitted to the Legislature to vote ay or no. If they can vote ay, they can vote no, and if they can vote no they can vote ay, and the giving them or acknowledging that they have the power to vote either way acknowledges them to be States with Legislatures. We cannot say as the hunter was said to have done when he loaded his gun and fired, to hit it if it was a deer and to miss if it was a calf. We cannot say that we submit a constitutional amendment to the State, and if they vote ay they are States and have joined in the ratification of an amendment to the Constitution of the United States, and if they vote no they are not States and have no power to vote at all.

Mr. President, I do not wish to continue this discussion. Indeed I dislike to be drawn into a discussion of other questions than those that are precisely the ones pending before the Senate on the admission of the Territory of Nebraska; but all the Senators who have discussed that measure have run off on to the question of the reconstruction of the States of the South and the constitutional amendment. Therefore, as that question seems to be before the Senate, though not necessarily involved in the pending question, the admission of Nebraska, I wished to say a single word as bearing on that subject.

Mr. FESSENDEN. Mr. President, I do not design to be drawn into any premature expression of an opinion upon a subject not under discussion; and the habit that some gentlemen have of asking questions upon matters foreign to the subject of debate, as to the opinions of Senators, would not have any effect at all as appert to me, because, in parliamentary language, I should say, when such a question was put, if I chose to say it, "It is none of the Senator's business; he would find it out when the time came." Now, the Senator from Wisconsin says that gentlemen must define their positions; there is no neutrality; they must be somewhere or other. We all know where he is just at this time, about as near the equator as he can get. [Laughter.]

With reference to the question raised by



him, so far as the committee on reconstruction is concerned, I think by a reading of their report their understanding of this whole matter may be arrived at. We submitted a constitutional amendment, and in the report itself we discussed the question of the standing of the States themselves. Unless I am very much mistaken in my recollection of the substance of that report, it does not admit but almost specifically denies that any one of the States in rebellion has ever since been in a condition to do a legal act as a State or one which we were bound to recognize; that any of them is so constituted that the men presuming to be the Legislature or to act as a Legislature are so in point of fact unless we choose to recognize the State government as such, which we have never done with regard to any of them excepting simply the State of Tennessee.

I understand that this matter of admitting a State is a matter of compact. A State may establish a government if it pleases, or a sort of government to suit itself; it may call a convention; it may institute a form of government if it likes and proceed to act under it; and if the Congress of the United States chooses to recognize that as such in a Territory, or in a State situated as these rebellious States are, they have the power to do so. But suppose they do not choose to do it, but take exception to the form, does the body assuming to act as a Legislature remain a Legislature so far as we are concerned? Does the so-called State government entitle itself to be the government of the State so far as Congress and the Government of the United States are concerned? Not at all, until we come into the compact. I think that principle will enable us to answer the question that is put by the Senator. We do not say that a State government is all right if it answers "ay" but all wrong if it answers "no." We submit our constitutional amendment in the regular form; we provide that it shall be submitted to the Legislatures of the States. We do not say what States. We do not submit it ourselves except by passing a vote to that effect. We authorize the Secretary of State to transmit a copy to the several States of the Union; no more than that; and when he receives the answer to let it be known. That is all. We do not undertake to say that either this, that, or the other State is in a condition to act so as that its action on the subject shall be binding.

Now, with reference to myself individually, I do not know, and I do not undertake to say, what I may or may not do in a given, specific case. But when we vote for a constitutional amendment to be submitted and it is submitted by the Secretary of State to the Legislatures now in existence, do we admit that those States are regularly constituted, and that we have got to recognize them after they have acted? Not at all. My own understanding is that I have a right to inquire, and it is my duty to inquire, whether this constitutional amendment has been legally adopted by a Legislature of a State which I am bound to recognize. Have I not a right to make inquiry? If an organization, no matter how got up, with or without the consent of the people or a majority of the people of a State, sets itself up as the Legislature, am I precluded from inquiring into the fact whether that is the Legislature of the State whose action is binding on the question submitted? That is a question which I have a right to examine. I am not prepared to say in the very teeth of the report of the reconstruction committee, so called, that these States are so constituted and so organized that their action, so far as the United States Government is concerned, is legal and binding upon any one subject. I have not admitted that; I do not admit it now.

And yet, sir, I am free to say that if from the conduct of a government assuming to be the government of a State, from the constitution that they submitted—and here let me say that no constitution has yet been submitted to Congress from any of these States—I saw that the principles of that constitution were such

as would render it safe and proper in my judgment to say that it was the constitution of a State, and that the State should come into Congress, I might then come into that compact and say that such a State was to be admitted into the Union or to be recognized as one of the States of the Union, if gentlemen like that language better, on the constitution thus submitted to Congress and the provisions they had made. But is it to be held that before any such thing has been done, when the old constitutions have been overthrown, with everything, to use the language of the President, prostrate in the dust, nothing new done under the authority of Congress, or even by the assent of any one of these States, I am to take it for granted that that is the constitution of a State, and that they are States in the Union with all proper connections with the Government of the United States before I know what it is? I take it for granted that that is not obligatory on me in any sense; and I want to say here now with regard to the formation of these States, the new formation of these States if you please to call it so, because we all understand what their condition is, I conceive that I have a right to inquire what the terms of their constitutions are, to see whether those terms are satisfactory, whether they have placed themselves in a condition to be admitted, whether they were in a condition to adopt the constitutional amendment which we have submitted, and whether they have done it; not that any convocation of people called together by a satrap, forming new arrangements to suit themselves, which they have never chosen to submit to Congress or the people of their State, of which we know nothing officially, are necessarily a Legislature and a government, all of whose acts we are pledged to take as the acts of the proper, well-organized, constitutional governments of States in the Union and having repaired all their broken connections with the Union.

I admit no such doctrine, sir, and therefore I say, after a vote has been taken, if any should be by any one of these so-called States adopting the constitutional amendment, it may be a question preliminary with me: has the constitutional amendment been adopted by a legally organized constitutional government of a State, which I am bound to recognize? And, sir, I do not preclude myself from a right to look into the terms of the constitutions they submit to Congress. I rose simply to enter this caveat, and I think if gentlemen will read the report of the reconstruction committee they will find nothing particularly inconsistent with what I have said in relation to that matter. Upon all these questions, separate or otherwise, as they come up I am ready to act when they come; but no general rule can be established which will be binding upon me with reference to questions of this description: each one is to stand upon its own particular merits or demerits, as the case may be.

Now, sir, what the reconstruction committee submitted was this: when the constitutional amendment has been legally and constitutionally adopted and become a part of the Constitution itself, then, in connection with the bill which was introduced at the same time, any State which shall have adopted it may resume its position in the Union.

Mr. JOHNSON. You speak of the States in rebellion.

Mr. FESSENDEN. It referred to them of course, whether it said so or not, because it could have no application to States recognized as members of the Union.

Mr. DOOLITTLE. I have the language of the report before me.

Mr. FESSENDEN. I remember its substance.

Mr. DOOLITTLE. The language is "that whenever the above-recited amendment shall have become part of the Constitution, and any State lately in insurrection shall have ratified the same, and shall have modified its Constitution and laws in conformity therewith, the Senators and Representatives from such State,

if found duly elected and qualified, may, after having taken the required oaths of office, be admitted," &c.

That was the language of the bill accompanying the report, and it went on:

"And be it further enacted, That when any State lately in insurrection shall have ratified the foregoing amendment to the Constitution"—

That is whether the other States ratified it or not—

"any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid by such State may be assumed and paid by such State, and the payment thereof, upon proper assurances, may be postponed for a period not exceeding ten years."

These are the two provisions about the ratification of the amendment by the States lately in rebellion.

Mr. FESSENDEN. That is precisely as I recollected it, and it supports what I have said. "And shall have modified its constitution and laws in conformity therewith," is the language. Am I not to look to their constitutions and their laws? Am I not to see whether they are "in conformity therewith." Am I to take it for granted, because a Legislature formed as these Legislatures are has voted ay or voted no, that therefore their constitution and their laws, which have never been submitted to Congress, are "in conformity therewith?" Am I not to look at them? That brings it precisely to the point I have been suggesting, that all these matters are matters for consideration.

I consider that the question of the constitutional amendment has been submitted to the voters of the United States, and that the recent elections have established that that is to be supported and insisted upon. That was the issue made; it was the issue with the President and with all who opposed it; and that I deem to be established. The bill we have not acted upon. The bill has not been taken up in either House of Congress and acted upon. Congress has never expressed an opinion upon that proposition, although it is part of the report of the reconstruction committee. But I say now, as I have said before, I am as desirous as any man can be that this unhappy controversy should be ended; I am as desirous as any man can be that all these rebellious States should be back again in the Union on a perfect equality with those that are there now, and I will do everything in my power to bring it about, and I will not be too stringent as to conditions; I am willing to yield much and to suffer much; but I will not yield under any circumstances the guarantees we have insisted upon up to this date, and such further ones if necessary—I do not say now that any others are necessary—as will secure the Union against a recurrence of a disaster such as we have suffered.

Now, sir, if the Senator wants to ask me any question pertinent to what I have been saying I am perfectly willing to answer.

Mr. DOOLITTLE. The point which I was discussing, and which my learned friend has passed over, in my judgment, without fully meeting, is this: whether Congress did submit that constitutional amendment to those States, assuming that those States lately in insurrection had the power as States to ratify or to reject it. That was the question I was discussing.

Mr. FESSENDEN. I will answer that distinctly if the Senator is ready for his answer now.

Mr. DOOLITTLE. Certainly, I will hear what the Senator has to say.

Mr. FESSENDEN. Congress said nothing whatever on the subject; and the reason is manifest. Congress submits a constitutional amendment in the ordinary form; it says it shall be submitted to the Legislatures of the several States of the Union; and there it stops. There is the submission.

Mr. DOOLITTLE. I agree with the Senator that Congress took no action—

Mr. FESSENDEN. I have not finished my answer yet. It does not follow that because we provide for submitting the amendment to the several States every State is in a condition to act upon it. The reconstruction committee recommended that when the amendment

should be adopted by the number of States necessary in order to make it a part of the Constitution of the United States, without saying or intimating how many or how few were necessary, then any of the rebellious States which should have adopted it and conformed their laws and constitutions thereto should be admitted. What did that mean? It did not assume to say that either of those States was then in a condition to be admitted, or even in a condition to have the constitutional amendment submitted to them. But the time may arrive, if it has not yet come, when they may have Legislatures legally elected and constitutions properly formed. Because they are not endowed with the capacity to act as members of the Union to-day it does not follow that they may not be to-morrow or next week or next year. We could not undertake to say when that would be, whether it had taken place or not; but so far as the reconstruction committee expressed an opinion in their report it was that there was not a legal government in any one of those States; and if there is no legal government in any one of them they are not in a condition to act on this question or any other.

Mr. DOOLITTLE. Mr. President, it is true that Congress did not pass the bill or act on the bill any further than that in the House of Representatives when it was called up it was laid on the table by the yeas and nays by a very large vote; but the question that has arisen has not been on any act of Congress, but on the understanding of those gentlemen who took part in the submission of this constitutional amendment. Upon the one side it has been alleged that the submission of this amendment was made to the States upon an implied pledge that if it became a part of the Constitution and the States lately in insurrection ratified it and conformed their laws and constitutions to it, they would have the right to be admitted here on this floor if they sent proper representatives. The Senator from Ohio says that of the States acting upon this question five have rejected the amendment. The point which I was discussing was whether this constitutional amendment was submitted to these States for them to act upon, and whether by submitting it to these States we did not imply of necessity that these States were capable of either accepting or rejecting it.

Sir, the reconstruction committee, so far as they are concerned, are bound as a matter of course by the report which they have made, and the reconstruction committee, by the bill which they introduced, declared in so many words that the States in the South did have the power to ratify the amendment, and they held out a pecuniary inducement to those States to persuade them to the adoption of the amendment by pledging themselves that if any one of those States would ratify the amendment the payment of its direct tax should be postponed.

Mr. FESSENDEN. The distinction is, if the Senator will allow me to interrupt him, that the reconstruction committee did not say they were now in a condition to do it.

Mr. DOOLITTLE. The reconstruction committee, in the bill which they submitted declared "that when any State lately in insurrection"—of course that referred to States of the South—"shall have ratified the foregoing amendment," the payment of its direct tax shall be postponed. I think that that on the part of the reconstruction committee assumes them to be States.

Mr. FESSENDEN. As now organized, at present?

Mr. DOOLITTLE. It assumed them to be States with power to accept or reject, to ratify or to refuse to ratify. If they ratified it, the pecuniary consideration was held out to them for doing it of postponing the payment of their direct tax. If they refused to do it, as a matter of course the tax was not postponed.

I undertake to say what I said a little while ago, that this is one of those questions upon which you must take either one ground or the

other, and there is no neutrality between the positions. Either the Senator from Massachusetts is right when he says that they are not States—

Mr. SUMNER. There is no valid government; that is what I say.

Mr. DOOLITTLE. No valid State government to which a constitutional amendment can be submitted?

Mr. SUMNER. That I hold.

Mr. DOOLITTLE. You must either take that ground, or you must take the other ground, that they are valid State governments to which it can be submitted. What I said was that the Senator from Ohio insisted that it had been submitted, and that five of the States had already rejected it; and if they have the power to reject they have the power to accept, and it of necessity implies that they have a State Legislature with power to act either for or against.

Mr. President, I have no disposition to detain the Senate from a vote on the pending measure which is now before the body if it is desirable to come to a vote to-night; but so much had been said on this question that I felt called upon to say a single word myself.

Mr. BROWN. Mr. President, the debate has taken a very wide range and the proposition has taken several shapes. I do not wish just at this moment to make any extended remarks, but I feel called upon by what the Senator from Massachusetts [Mr. WILSON] has said in submitting his amendment to say a word or two. He asks me whether I will accept the amendment which he proposes. To this I have to say that the amendment as drawn by myself accords more nearly with my own idea of what is the best mode of arriving at it; still I am not tenacious about the forms in which the object shall be achieved. I understand that there are other amendments pending or proposed to be offered, one of which proposes to enforce this as a condition-precedent by attaching penalties to any who shall violate it. That would be another shape in which this might be enforced. The present amendment as presented by myself designs to submit it to a vote of the people. The amendment of the Senator from Massachusetts designs to submit it, as was done in the case of Missouri, to a vote of the Legislature.

My own view of this matter is that it would derive its force and its efficacy rather from the act of Congress which we might pass, and thus become a fundamental clause in that act, than from the mere mode of assent which it might receive from the people through their Legislature, or through their direct popular vote. That its force and its efficacy would inhere in it by virtue of the congressional act of the fundamental clause therein contained. And therefore I am not so very tenacious about the modes in which it may be arrived at; still I do want to get something that will be efficacious.

Now, it is proper and right to say in regard to the amendment which has been submitted by the Senator from Massachusetts, and which is a copy of the Missouri resolution, that that resolution has been efficacious up to this day. That resolution was placed upon the State of Missouri; it was assented to by the Legislature of that State, and it has never been violated by the people of the State nor I believe has it ever been decided unconstitutional by the Supreme Court.

However, I desire to say that I think the questions which are involved here are of too great a magnitude to be driven through under any pressure for the purpose of getting this State at once into the Union. I do not think that the ultimate object to be attained, the getting of Nebraska into the Union, will be forwarded one particle by undertaking to press it through in this manner at this time, in advance of a deliberate consideration of all these questions. Now, I for one should like to have some little time to examine these various propositions that are to be submitted and whose view is to harmonize our own friends in their posi-

tion. Unquestionably the Republican party of this country has got to take a ground on the whole suffrage question, as relating to the Territories and as relating to the States, that will be inconsistent with the position taken here in the State of Nebraska. I would like to harmonize the party in its positions on that subject. I should like to have the necessary delay for concert and for consultation and for examination, and therefore, sir, I will move that the Senate do now adjourn.

Mr. WADE. I hope not. I hope we shall get a final vote on this proposition before we adjourn.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. WADE. I call for the yeas and nays. The yeas and nays were ordered; and being taken resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Dixon, Doolittle, Edmunds, Henderson, Johnson, Norton, Patterson, Poland, Sprague, Sumner, and Williams—14.

NAYS—Messrs. Anthony, Cattell, Chandler, Crain, Creswell, Fogg, Foster, Fredlinghousen, Hendricks, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Pomeroy, Ramsey, Ross, Stewart, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—25.

ABSENT—Messrs. Conness, Cowan, Fessenden, Fowler, Grimes, Guthrie, Harris, McDougall, Nemith, Nye, Riddle, Saulsbury, and Sherman—13.

So the Senate refused to adjourn.

Mr. DAVIS. Mr. President, in the interpolation between the Senator from Wisconsin and the Senator from Maine, I should have been glad if the Senator from Maine had been asked to give an explicit answer to some such question as this: suppose the States lately in rebellion had taken no notice at all of the proposed constitutional amendment, could they have formed any State constitutions which would have been satisfactory to my honorable friend from Maine, and which would have induced him to vote for their admission or readmission into the Union. I will illustrate it by the case of Tennessee. Suppose Tennessee had not acted upon the subject of the proposed amendment at all but had adopted precisely the constitution which she did adopt, and upon that constitution had asked to be readmitted as a State into the Union, would the honorable Senator upon that state of the case with regard to Tennessee have voted for her admission into the Union?

Mr. EDMUNDS. Mr. President, I had been desirous of submitting some observations to the Senate on the subjects which are under consideration at some little length, but inasmuch as I perceive that brethren of my political faith are not disposed to listen to any further debate on the subject, I shall not attempt at this hour of the day to go forward with what I was desirous of saying. If I had had an earlier opportunity without trespassing upon gentlemen older here than myself, I should have had something to say on the subject; but I do not wish to occupy the time which my friends here are desirous to devote to voting, with anything which I can say.

Mr. HENDRICKS. I do not think the amendment proposed by the Senator from Massachusetts ought to be adopted without some reflection on the part of the Senate. Although it has the form of the enactment of 1821 in relation to Missouri, I do not think the cases are at all analogous, and upon that subject I wish to submit just one or two remarks. The act of Congress of 1821 proposed that Missouri should be admitted into the Union on an equal footing with the original States in all respects whatever—

"Upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of the said State to Congress shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States."

It was claimed in Congress that one of the provisions of the constitution of Missouri was itself in violation of the Constitution of the United States. One of the provisions of that

constitution prohibited the immigration into that State of free persons of color; and it was claimed by some that they being citizens of the United States could not, under the Federal Constitution, be excluded from the right of immigration to the State of Missouri. To settle that question, as a matter of compromise, this act was adopted which amounts to just this, that that clause in the constitution of the State of Missouri shall not be so construed by the Legislature of Missouri as to authorize the enactment of any law in violation of the Constitution of the United States. This act of Congress accepted by Missouri did not propose to change the constitution of Missouri at all, but was a declaration that the constitution of Missouri should not be construed so as to make it in violation of the Constitution of the United States.

But what is proposed here? It is proposed by the Senator from Missouri to change the constitution of Nebraska. Now, does Nebraska come here as a State with a constitution? If a constitution, then how was that constitution adopted? No Senator has claimed that the constitution of Nebraska was adopted merely by the act of the Legislature. It has greater force altogether than a mere legislative act. It is claimed to be a fundamental law deriving its validity and its force and power from the will and act of the people. A constitutional convention, it is understood, may adopt a constitution without submitting it to the people, because the delegates are elected for that purpose. The act of the delegates in constitutional conventions is the act of the people, and they may make a law above an enactment by a Legislature, a law that shall govern a Legislature.

Then it was the act of the people in voting upon this constitution that gave it the force of a constitution. Now, how can that constitution that is adopted be changed? Can Congress do it? The Senator from Ohio, who has charge of this bill has argued most emphatically that Congress cannot. Congress cannot change the constitution of a State proposing admission into the Union. Then this act of Congress proposed by the Senator from Missouri will not change the constitution of Nebraska. Then how is it to be changed? By submitting this act of Congress to the Legislature of Nebraska, and then saying that the Legislature of Nebraska acting with Congress may change the constitution; in other words, Congress and the Legislature of a State may make a bargain by which the constitution of that State may be changed.

I presume that this constitution has some provision in regard to its own amendment and how it shall be amended, and I suppose that that is by some formal proceeding which shall secure the judgment and wish of the people on the subject; but we propose to change the constitution upon a subject over which the State has exclusive control. Upon the subject of franchise we propose to change that constitution and in effect to strike out the word "white" and to allow white and black to vote, not by the voice of the people, not in any form of proceeding which has ever been recognized as changing a constitution, but by a bargain between Congress and the Legislature of the State. I submit to Senators whether that can be done. Can we now propose to the Legislature of Nebraska to change this Constitution which was adopted by the people; and if the Legislature of Nebraska agrees to it, will that make a constitution for Nebraska? If we can make one provision of a constitution, can we not make an entire constitution in that way; and is it possible that Congress can submit to a territorial Legislature a proposed constitution and that being accepted by the territorial Legislature it shall become a government for the people and bind all future legislation? I do not understand the most liberal to have ever gone so far. This, sir, is all I desire to say on this point.

Mr. SUMNER. Mr. President, every step we have taken in this discussion shows its importance, its magnitude. It is important as a

precedent; but I submit that it becomes of transcendent importance when we consider its bearing upon our duties to the rebel States. It is on that account that I do not sympathize with my friend before me [Mr. WADE] when he seeks to press this to so swift a conclusion. There are Senators here who are now anxious to speak upon it. There is the Senator from Vermont, [Mr. EDMUNDS,] who never speaks without engaging the attention of the Senate and saying what we are all glad to listen to. There are other Senators here who, unless I have been misinformed, are anxious to be heard upon this great question; and yet the Senator from Ohio insists that we shall stay here to vote while those Senators are practically silenced. He knows very well that at this late hour they will not undertake to speak. When therefore he presses his vote, it is to press them to be silent.

Now, sir, I cannot sympathize with that. I think that the time has come for the adjournment to-day. Let us go home and consider the new form which this proposition assumes, consider the criticism which is made by the Senator from Indiana, [Mr. HENDRICKS.] That certainly is entitled to much weight. I do not say, however, that it is entirely correct; but I do say that before we embark in favor of this proposition and commit the fortunes of the Republic to it, we ought to consider its character. We ought to consider whether in all respects it is sea-worthy, whether it can carry us safely over the great sea which we are to traverse. Let us therefore consider it carefully and let Senators who desire to speak upon it be heard. Do not let them be silenced by what I would almost call a snap judgment. This question, sir, has not been considered in this Chamber according to its dignity. It has not been debated enough. Senators do not yet see its importance, its grandeur, and how essential its right settlement is to the peace, security, and welfare of this Republic. If you go wrong on this question, sir, you do more than you can do in any other way to shut the gates of peace on this Republic. I say, therefore, for the sake of the Republic and that we may bring about a settlement of the great question before us, let us carefully now consider the form which the proposition shall assume on which we are to vote. In that view, sir, I move that the Senate do now adjourn.

Mr. HENDRICKS. Mr. President—  
The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. HENDRICKS. I do not propose to debate it, but I propose to suggest to the Senate and to the Senator having this bill in charge that as we adjourn to-morrow for the holidays, some of us will want to start home to-morrow evening, and it is desirable to have a vote on this bill at some early hour to-morrow. We have frequently agreed upon an hour for a vote, and I suggest that we take a vote on this bill at four o'clock to-morrow.

Mr. POMEROY. That will do.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

Mr. HENDRICKS. Before that vote is taken I ask the Senator to withdraw the motion for a moment and I will renew it if he desires.

Mr. SUMNER. I withdraw it to accommodate the Senator.

Mr. HENDRICKS. I propose, if there be no objection, that it be considered the sense of the Senate that we shall take the vote at four o'clock to-morrow.

Mr. BROWN. I suggest that some Senators who are going away may probably start to-night, and there may be no quorum here to-morrow.

Mr. HENDRICKS. I know of no Senators going to start to-night.

Mr. BROWN. I know of several.

Mr. WADE. I know that when debates run into the night they take very long, and latterly we have been in the habit of making some arrangement as to the time of taking the vote. That seems to shorten debate and be more satisfactory. We have done it frequently.

Now, if I can be assured that we shall have a quorum here to-morrow and we can agree upon an hour when we shall certainly get the question and finish the bill before the final adjournment I shall be willing to accede to that, inasmuch as several gentlemen want to be heard. Of course, nothing can be done here that is binding among us, but if there is an understanding that there will be a quorum here—

Mr. TRUMBULL. There will be a quorum, I have no doubt.

Mr. WADE. Then with that understanding, if Senators assent to it all around, I shall not resist an adjournment any longer.

Mr. BROWN. I do not assent to it.

Mr. SUMNER. Now the motion to adjourn. The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor.

Mr. HENDRICKS. I yield to the Senator from Pennsylvania who wishes to say a word.

Mr. BUCKALEW. A bill like this ought to be voted upon with the Senate full, and if a number of members are going away to-night or in the morning it would be manifestly improper to take the vote on this subject to-morrow. As to myself, I am willing to conform my action to the pleasure of the majority of the Senate. I have been with an observant eye during the day looking to a point of time when I could address the Chair, not for the purpose of making a general discourse such as we have listened to, but for the narrow purpose, perhaps the unusual purpose in connection with such debates, of speaking upon the question itself and stating distinctly the reasons why I vote against this particular bill and shall vote against the bill which will follow it, and shall also at the present or future sessions vote against the several other bills of like character which will follow these.

Now, sir, I beg to remark that although this debate has been somewhat protracted, although it has gone over several days of the session of the Senate, and it has appeared no doubt tedious to gentlemen, yet we are discussing a question of the first magnitude and a question that will not expend its force and its interest with the present measure. Since the conclusion of the war we are passing upon the general question of the admission of States; and it will be a calamity, it will be an inconvenience, it will be an evil if the Senate, for the purpose of getting a hurried vote should commit itself upon this bill, because the position we assume here is a position which will control and perhaps ought to control our action hereafter.

Several gentlemen who have spoken are interested with reference to the connection of this bill with the general subject of suffrage. I feel no interest upon that point, but I do feel a deep and a real interest, and I have a right to feel it as the representative of a State of three million people, in the question of the magnitude of the new States which are hereafter to be introduced into this Union; of the time, manner, and circumstances under which constitutions framed by them shall be received as the basis of their introduction into this Confederacy of States.

Now, sir, I have some ideas that I would desire to express to the Senate, not after this bill is passed and the subsequent one, but now before the judgment of the Senate is pronounced. I do not know that anything I can say will change the ultimate vote of this body on the question we are now considering; but I desire to take up the enabling acts introduced in 1864 by the Senator from Ohio as the organ of the Committee on Territories; to show the circumstances under which those bills were passed; the objects in their enactment; and then to follow that out by a statement of the several steps which have since been taken in these Territories and in Congress with reference to their admission, and to show from an examination or exploration of this new field of inquiry that there are considerations which have not yet been presented to the Senate in this debate, which according to the best of my judgment ought to be considered before this question is determined.



All I have to say in conclusion is, that if the Senator from Ohio and the Senate are desirous of going on to-night I am content to occupy a brief space in the argument I have suggested.

Mr. HENDRICKS. If the Senator will yield to me, I will move an adjournment.

Mr. BUCKALEW. In a moment. I was going to say that I am willing to deliver my observations to-night if the Senate desire to proceed with the discussion to-night; or to reserve them for a future occasion.

Mr. HENDRICKS. I move that the Senate do now adjourn.

Mr. WADE. With the understanding before suggested, I shall make no objection.

Mr. BROWN. There is no understanding about it.

Mr. KIRKWOOD. Then let us have the yeas and nays.

Mr. RAMSEY. If there is no stipulation, let us vote down the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 19; as follows:

YEAS—Messrs. Brown, Buckalew, Cragin, Davis, Dixon, Doolittle, Edmunds, Harris, Henderson, Hendricks, Morgan, Norton, Patterson, Poland, Pomeroy, Sprague, Sumner, Van Winkle, and Willey—19.

NAYS—Messrs. Cattell, Chandler, Creswell, Fogg, Foster, Frelinghuysen, Howard, Howe, Kirkwood, Lane, Morrill, Ramsey, Ross, Stewart, Trumbull, Wade, Williams, Wilson, and Yates—19.

ABSENT—Messrs. Anthony, Conness, Cowan, Fessenden, Fowler, Grimes, Guthrie, Johnson, McDougall, Nesmith, Nye, Riddle, Saulsbury, and Sherman—14.

So the Senate refused to adjourn.

Mr. DOOLITTLE. It seems there is rather a thin attendance. There are several absentees who I think have come into the Senate since the calling of the roll was commenced whose names were not on the roll. I suggest that the absentees be called again.

The PRESIDENT *pro tempore*. The vote has been taken, and the result announced; and that matter is not now open for discussion.

Mr. SUMNER. It is evident that several Senators went home supposing that the Senate was about to adjourn. I think on that ground, if on no other, it would not be advisable for us to go on now. I therefore move that the Senate adjourn.

Mr. CRESWELL. Is a motion to adjourn now in order just after the same motion has been voted down, without any intervening motion?

The PRESIDENT *pro tempore*. It is in order. Discussion has taken place since the last motion was put.

Mr. WADE. I hope we shall not adjourn. The motion was not agreed to; there being on a division—ayes 16, noes 16.

Mr. HOWE. I rise to inquire what the question is.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Pennsylvania [Mr. COWAN] to the amendment of the Senator from Missouri, [Mr. BROWN.]

Mr. HOWE. I should like to hear it read. The Secretary read Mr. COWAN'S amendment, which was to add to the amendment of Mr. BROWN these words:

*Provided, and it is hereby distinctly understood, That the people of the Territory of Nebraska when admitted as a State into the Union shall owe direct and personal allegiance, each one of them, to the Government of the United States, and that the said State of Nebraska shall not hereafter claim nor be taken to have power or authority to convert the citizens of said State into foreigners or alien enemies, so that they may as a consequence of crime be held and considered as such.*

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Missouri, [Mr. BROWN.] Is the Senate ready for the question?

Mr. SUMNER. I do not think the Senate is ready for the question. I think it is too important a proposition for us to be called to vote on it without seeing it fairly before us and understanding its bearing in every respect, constitutionally, legally, and politically. I am not satisfied that the proposition in its final form

will be effective. It may be; I am not sure of it. I am anxious that it should be considered in these aspects. I wish to know whether it is a proposition that we can safely accept at this moment. I hope, therefore, that it will be printed, and I move that the pending proposition be printed for the use of the Senate. I mean to include the amendment of my colleague, of course.

Mr. WILSON. I have sent my amendment to the desk.

Mr. BROWN. My amendment has been printed.

Mr. SUMNER. I mean the substitute of my colleague.

Mr. WILSON. I wish to have that printed. The PRESIDENT *pro tempore*. The question is on the motion to print the pending amendment.

Mr. WILSON. My amendment is an amendment to the amendment moved by the Senator from Missouri. It is proposed to print the amendment to the amendment.

Mr. SUMNER. I want them all printed.

Mr. CRESWELL. To print all the pending amendments?

Mr. SUMNER. Yes, sir. There is only one that I regard of very great importance, and that is the substitute proposition, and that I do think the Senate ought not to act upon without seeing it in print before them.

Mr. CRESWELL. I was about to remark—

Mr. WILSON. Will the Senator from Maryland give me the floor a moment?

Mr. CRESWELL. Certainly.

Mr. WILSON. I understand the question before the Senate is the amendment moved by me to the amendment of the Senator from Missouri. Does the Chair recognize that fact?

The PRESIDENT *pro tempore*. The vote having been taken upon the proposed amendment of the Senator from Pennsylvania, the question now is on the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Missouri.

Mr. CRESWELL. I was about to remark that I have no objection whatever to the motion to print, provided gentlemen will make the understanding suggested by a gentleman on the other side, namely, that we have a vote to-morrow at four o'clock. If that meets the approbation of the chairman of the Committee on Territories I am content to accept it.

Mr. WADE. I offered to accept that, but it was not accepted as I understood. I was willing to make that compromise.

Mr. BROWN. I for one am not willing to make any such understanding as that.

Mr. WADE. I understand so.

Mr. BROWN. I do not wish to bind anybody else by it for this reason: that the small time that would be given to-morrow, one or two hours, would be totally insufficient to discuss this question as gentlemen here present would wish to discuss it. If we are going to enter into a discussion of it let us have time to discuss it fully and fairly. If we are not, let us be forced to vote upon it now. I, for one, am not willing to make any such arrangement as that. It will simply be to carry over the question without doing any good as far as discussion goes. It is perhaps right that I should say further, in justice to myself, that I shall probably be compelled to leave the city this evening by the eight o'clock train. I would therefore rather vote on the bill before I go, if it is not to be put over for some little time. It will be impossible for me to delay my departure for reasons that I could state if desirable.

The PRESIDENT *pro tempore*. The question is on the motion to print the pending amendment.

Mr. WADE. That motion to print of course involves a motion to adjourn before we take the question. If I could be made to believe that this simple proposition that is as common here in this legislative body as the common counts in *assumpsit* are in courts of justice, had all at once assumed a revolutionary importance, or such a degree of importance as is attributed

to it, I should approach it with great fear and trembling; but I have been here a good while; several new States have been admitted into the Union since I have been here, and it was about the most peaceable proceeding we have ever had. It made no jar whatever in the body-politic. This Territory now stands upon precisely the same footing with every other one that has been admitted since I have been here. It contains nothing more nor less than all the rest of them have contained.

Gentlemen tell us that it is connected somehow with our dealings with the settled States. It has no kind of reference to them. It is an independent proposition not at all disturbed by anything that we have to do with the States that have seceded. In their reconstruction questions entirely detached and different, having no connection with this whatever, will be up. I know of no reason why we should not let this Territory come in upon the same principles that we ever have let other Territories come in. We let in the Territory of Nevada awhile ago. It has not more population to-day than Nebraska. It has no element in it entitling it more to be a member of this Union than Nebraska has. It ought to have come in. It was well it did come in. I want to see these States extending in a solid column right through to the Pacific ocean, as will be done if you admit the two States that are now knocking at your doors.

There is no great question involved in it. It seems to me that there is no necessity for that precaution that gentlemen allude to. The Senator from Massachusetts believes it is one of the most important questions that ever came before Congress.

Mr. SUMNER. I do not doubt it.

Mr. WADE. Well, I cannot be made to see it. Nebraska, one of the most patriotic, one of the most orderly of communities, with numbers sufficient, with a good, glorious republican constitution akin to all the rest of these western constitutions and just like them, coming in here, I do not think will make a revolution at all, nor bind anybody as to the course he shall see fit to take in reconstructing States in rebellion. Therefore I do not see any reason why we should not vote on the question to-night. We have got a vast deal to do this session. I never have known important business crowding upon Congress as it is now; and yet in full view of all this gentlemen would persist in adjourning for two weeks and now want to adjourn to deliver arguments hereafter. They have not had time for argument, they say. When the question of adjourning was up, I was opposed to that, and yet the same gentlemen who want to make arguments here and spend a week longer on this proposition are the very men who will adjourn you two weeks in the midst of an important session like this. I think we have got a good deal to do this session, even more than we have time to do, and I know the habits of this body well enough to know that if this question is suffered to pass off now for two weeks, all that has been said upon the subject will be said over again. We have spent I believe three days on it, and we shall have to spend three or four days more upon it, and we shall have no more light upon it than we have now. I am opposed to adjourning unless we can make an arrangement to take the vote to-morrow. Then I have no objection; but that it seems we cannot do, and therefore I hope we shall decide the question to-night.

Mr. HENDERSON. I am certainly a friend of this measure. I expect to vote for the admission of the State. I have not failed to vote for the admission of new States, and I expect to make no exception in this case to my usual course of conduct; but I have consistently voted this evening for an adjournment. I make it a rule when four and a half o'clock arrives to vote for an adjournment whether we are in the short session or the long session. I have been here long enough to find out that we do but little after that hour except to take the question upon motions to

adjourn. Now, sir, we shall do nothing this afternoon. We may remain here until eight o'clock but we shall take no vote on this measure. The old adage of *festina lente* perhaps will apply very well. Shall we not get along better by taking a little time to consider and reflect upon this question? The Senator from Massachusetts offers an amendment. I am rather favorable to it. It is a very important question for us to consider who are friendly to this measure; shall we adopt it or reject it. I really do not know which is better. I am now inclined to vote for it. If we vote for it, can we carry the bill by a two-thirds vote? I apprehend it will be necessary virtually to pass this measure by a two-thirds vote. I understand from the Senators from this State that the Legislature can be called together in the course of a very short time and that they can act upon it. If so, I do not see any objection to the amendment. I am really in favor of the principle that all these Territories shall admit suffrage regardless of color. I believe we have got to come to it, not only in the new States, but in the old ones. I so expressed myself at the last session. I have not changed my mind. I believe that it is fair, it is right that every man should have a voice in the Government, who discharges the duties of citizenship. Hence I have no objection to it; I should like to see the amendment adopted; but would it not be better for the friends of the measure to consult together and see whether that makes it stronger or not? I apprehend it has eventually to be carried by a two-thirds vote in this body; and yet the Senator from Ohio insists that we shall remain here after five o'clock in the evening to discuss this question when a very large minority of the body are determined to have no vote on it to-night. I do not see that we ever do any good after that hour, and I now move that we adjourn.

Mr. SUMNER. I hope there will be an order to print.

The PRESIDENT *pro tempore*. The motion to adjourn supersedes all others and the question is not debatable.

Mr. HENDRICKS. I wish to appeal to the Senator from Missouri to withdraw that motion for one moment. I wish to move that this bill be postponed to and made the special order for January 7.

Mr. HENDERSON. I cannot withdraw it. The PRESIDENT *pro tempore*. The motion is not withdrawn.

Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Brown, Buckalew, Cragin, Davis, Dixon, Doolittle, Edmunds, Henderson, Hendricks, Morgan, Patterson, Poland, Pomeroy, Sprague, and Sumner—15.

NAYS—Messrs. Anthony, Cattell, Chandler, Creswell, Fogg, Foster, Frelinghuysen, Howard, Howe, Kirkwood, Lane, Morrill, Ross, Stewart, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—20.

ABSENT—Messrs. Conness, Cowan, Fessenden, Fowler, Grimes, Guthrie, Harris, Johnson, McDougall, Nesmith, Norton, Nye, Ramsey, Riddle, Saulsbury, Sherman, and Williams—17.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question now is on the motion that the pending amendment be printed.

The motion was not agreed to.

Mr. SUMNER. I have one word to say in reply to the Senator from Ohio. He did not see the importance of this question. He says it is the question of every day, a commonplace question. There is the precise difference between the Senator from Ohio and other Senators on this floor. There have been occasions when the Senator has seen the importance of a question of human rights. In an unhappy condition now he does not see that importance.

Mr. WADE. A "fundamental condition." [Laughter.]

Mr. SUMNER. A condition of mind. [Laughter.] The Senator has not forgotten a contest in this Chamber in which he took part with myself to defeat a proposition not so objectionable perhaps as that which he is

now favoring, to precipitate Louisiana back into this Chamber. The Senator remembers it well. He knows that that contest began at an earlier hour in the afternoon than this, and that it was only toward midnight when there was an adjournment, and nothing was gained. The Senator from Illinois [Mr. TRUMBULL] tried to put that question through the Senate; but even he, with all his abilities and the just influence that belonged to his position, could not do it. The Senator from Ohio will not be instructed by that example. He now proposes a kindred proposition. He seeks to introduce into the Union a State which defies the first principle of human rights. The Senator from Ohio becomes the champion of that community. He who has so often raised his voice here for human rights now treats the question as trivial. He says it is a technicality only.

Sir, can a question of human rights be a technicality? Can a constitution which undertakes to disfranchise a whole race be treated in that respect as only a technicality? And yet that is the position of the Senator from Ohio. Why, sir, the other day he did openly arraign the constitution of Louisiana and the effort of our excellent President, Mr. Lincoln, who sought to press it upon us. Now, forgetful of that he tries to do to-night what the Senator from Illinois tried to do then. I doubt, sir, whether he will succeed to-night better than the Senator from Illinois succeeded then. The constitution of Louisiana at that time was odious; it ought not to have been foisted upon the Senate; and I doubt if there is any Senator now on the right side who does not rejoice that that constitution was defeated.

But, sir, you are now to do the same thing for this constitution which you did for that of Louisiana. It must not be allowed to pass this body so long as it undertakes to disfranchise persons on account of color.

Mr. CRESWELL. Will you "filibuster" all the time?

Mr. SUMNER. I say it must not be allowed to pass this body if possible, if it can be prevented, so long as it contains so offensive an exclusion as that. But, sir, I do not wish to indulge in these remarks. I wish that this subject should be gravely discussed so that we may vote upon it properly. I wish that the proposition of my colleague may be carefully considered. I wish to know whether, if that is adopted, there will be a sufficient security. If there will be such security, I shall be very glad to vote for it and accept that, and then we may all harmonize in the support of the bill. But, if that or some kindred proposition cannot be adopted, I shall be obliged at the last moment, even if I stand alone, to go against this bill and to make every effort that I can to prevent its passage. I move now, sir, that the Senate adjourn.

Mr. WADE. I hope not.

Mr. SUMNER. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Brown, Buckalew, Cragin, Davis, Doolittle, Edmunds, Henderson, Hendricks, Morgan, Patterson, Poland, Sprague, and Sumner—18.

NAYS—Messrs. Anthony, Cattell, Chandler, Creswell, Fogg, Foster, Frelinghuysen, Howard, Howe, Kirkwood, Lane, Morrill, Ross, Stewart, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—19.

ABSENT—Messrs. Anthony, Conness, Cowan, Dixon, Fessenden, Fowler, Grimes, Guthrie, Harris, Johnson, McDougall, Nesmith, Norton, Nye, Pomeroy, Ramsey, Riddle, Saulsbury, Sherman, and Williams—20.

So the Senate refused to adjourn.

Mr. WADE. One word in reply to the Senator from Massachusetts, who thinks that I am altogether pertinacious, if not obstinate on this subject, and thinks that my conduct at the present time is inconsistent with what it was when he and I were opposing the admission of Louisiana two years ago. There is no analogy, I say again, between the two cases, not the least in the world. Louisiana was a State organized under a military order emanating from the President of the United States—military order No. 37; and of course in my judg-

ment it was not a constitutional body. It had no right to be in the Union. This is a Territory, as I have said a good many times, loyal, seeking to come into the Union in the old, beaten track—nothing unusual about it, nothing to hang an argument upon except it is the high-sounding words of the Senator from Massachusetts; and if a man were to hear him speak now about the importance of what I have compared to a count in *assumpsit*, would believe that it was an indictment on which half the world would be annihilated. And he speaks of my obstinacy! Why, sir, he stands up here almost alone against his friends, nearly all favorable to this measure. I have no doubt had it not been for what I will not call his obstinacy, this measure would have passed on Monday to the satisfaction of nine tenths of all those that generally act with him. His will must prevail against the whole body, or they must give way to him, for he intimates and gives us to understand that this bill never shall pass except it is in accordance with his judgment, or if it ever does it will not be until he is a good deal older than he is now. I generally content myself, if I differ with the great majority of my friends, to record that difference without any factious opposition to their will. I do not think that I ever can be accused of that.

Mr. SUMNER. How was it with regard to Louisiana?

Mr. WADE. In the Louisiana case I acted in accordance with many of my fellows, and all of us had the conviction that the measure was unconstitutional. You do not pretend that this is unconstitutional, or that it is any infraction of the usages of this body from time immemorial; but you allege that there is something connected with this proposition different from what has ever before been presented. Not at all. You say I am going against human rights. No, sir; in my judgment I am going in favor of human rights, to strengthen a body who are the advocates of human rights, to strengthen our arm, so that we may resist. If it becomes necessary, any and all departments of this Government that may seek to trample down human rights. Your view of the subject is an exceedingly narrow one. I am anxious to reinforce this body with elements that go for liberty and right, while you seek to exclude them and thrust them out on a mere technicality. I know, sir, that the cause we have in view will be greatly promoted by carrying out this measure to admit these States and the worthy men whom they have sent to represent them here; and I think it is very ungracious now as an after-thought to bring up objections to their admission that were never dreamed of till lately.

How long is it since you let in a State with a constitution exactly like this? If the Senator from Massachusetts made objection to it then, I am not aware of the fact. When the enabling act was passed without imposing any such condition as he now contends for, he made no objection that I know of. These people have complied with every demand you have made; and now all at once it is proposed to treat them as though they were rebels seeking to destroy this Union, instead of forming a most loyal and worthy part of it. I am not standing here to contend against human rights. I am in furtherance of the rights of man going to bring into this body those who can aid and assist us, and will do it always to maintain our great principles. The Senator from Massachusetts takes a narrow view. He would thrust them out and leave it uncertain whether the Territory may not be consigned to the hands of our mortal enemies. He has no regard to the consequences. A little miserable technicality, a "sticking in the bark," as Lord Coke would say, is the guide to his action here, and renders him too often entirely impracticable. I believe before high Heaven that the great cause of human rights would have been further advanced to-day than it is now if he had been more practical. I remember well how at the last session the Senator from Massachusetts withstood the first propo-

sition to amend the Constitution reported by the reconstruction committee and threw it back five or six months, in opposition to almost every one of his friends here. It was, as a consequence, delayed till after the adjournment of the State Legislatures. There stood Maryland ready to adopt your constitutional amendment, if her Legislature could have received it in time; but it was opposed here, I will not say factiously, until the time for action there had passed by, and thus you lost one State, perhaps for many years; and the Senator finally voted for a proposition just as objectionable on the point upon which he made his opposition as the one that he contended against so strenuously.

Sir, it will not do always to stand upon these narrow grounds. It is not always statesman-like to do it. I think it is better to look to consequences, to see what great bearing measures before the Senate will have. I want these loyal States in the Union. I am more anxious that they should come in than I am that the southern States should be reconstructed. They can well wait and undergo a probation until we are satisfied that they have reformed, repented, and become loyal.

But, sir, I do not wish to pursue this kind of argument; I know it is taking time. Now, let me say to the Senator from Missouri, [Mr. HENDERSON,] who says that all the questions have been taken here early, at four or five o'clock, that I do not remember of one single great question that ever has passed this body since I have been here except after just such a scuffle as this late in the night. We always debate them until gentlemen are tired of debate and submit to have the question taken. I cannot remember, I say again, unless an arrangement has been made, an occasion when any question of considerable importance has been settled in this Senate in the daytime.

Mr. HENDRICKS. I move that the further consideration of this bill be postponed until the 7th day of January next and made the order of the day at one o'clock; and I desire to say just one or two words upon that subject.

It is very evident to every Senator that the discussion that is going on this evening is of no practical benefit so far as this bill is concerned. One or two hours have been expended in a controversy between the Senator from Massachusetts and the Senator from Ohio, and I sympathize with both Senators, [laughter;] but I do not see that it is of any particular advantage for us to stay here to continue that further. It is not a fair opportunity now, as every Senator will say, to debate this bill and the amendments that are proposed. The Senator from Pennsylvania wishes to address the Senate upon this bill; he says upon the bill itself; the Senator from Massachusetts wishes to be heard upon the question of the rights of man; and I wish to hear both of them, but not just now, [laughter;] and neither of them wishes to speak just now.

I will say to the Senator from Ohio, and I think he will concede the fact, that although I am opposed to his bill and will vote against it, yet I have interposed no factious opposition. I desire him to have an early and fair hearing of his bill, and if there is a majority of this body in favor of it let them pass it; if there is a majority against it, which I think is not very probable, then it will not be passed. If the Senator from Ohio will say that the measure is in any danger by being postponed to the 7th of January, when we can dispose of it in a reasonable time, then I will withdraw my motion; but there will be then two months very nearly left of the session.

I do not agree with him, and I do not think there is another Senator who will agree with the Senator from Ohio, that this is just as simple a thing as an action of *assumpsit*, the first or second count in a declaration. I think it is very different. There are some actions of *assumpsit* that are complicated, that it takes a good lawyer to understand, but I suppose he refers to a suit on a warranty of a horse. I think that is what he is thinking about. Now,

I am not able to see—I do not think it is a very simple proposition made by the Senator from Massachusetts that we shall change a constitution of a State by the joint action of Congress and of the territorial Legislature.

It is a first principle in regard to statutes that the power which enacts a statute can repeal it. The act which we may pass upon this subject we can repeal. The act that the territorial or State Legislatures out there may pass can be repealed; but where is the constitution? If the territorial Legislature agrees to our present proposition, as suggested by the Senator from Massachusetts, the next Legislature having equal power may repeal that, and what becomes of your provision of the Constitution? I am sure lawyers here will not say that this is a simple question. It is a troublesome question. If we postpone it to the 7th day of January it can be acted on. I do not think it is becoming to press a thing of this sort when Senators say they wish to discuss the merits of it, when we can easily pass it, and there is no difficulty about it, by postponing it to the 7th day of January.

Mr. KIRKWOOD. I should be glad to know the effect of this motion. If the bill should be postponed until that day, and after the commencement of our session after the adjournment other business should be brought up and left unfinished from day to day on the 7th of January next, will not the unfinished business have precedence of this?

The PRESIDENT *pro tempore*. Under the rule of the Senate, the unfinished business of the day before takes precedence of all special orders.

Mr. KIRKWOOD. I think, then, we had better keep it before the Senate until we adjourn. If we can do no better, let it be the first thing in order when we meet again.

I did not intend to say a single word in regard to this question, following my usual course of contenting myself with voting; but one or two remarks have fallen from the Senator from Massachusetts that in my judgment render it necessary that I should say a word. He compares the case of the Territory of Nebraska to that of the lately rebellious States. I think there is a great difference between them. The people of the Territory of Nebraska are loyal men; the people of the late rebellious States are not loyal; and when he compares the one with the other I think he does injustice to himself and to the people of that Territory.

Mr. SUMNER. I made no such comparison.

Mr. KIRKWOOD. He speaks of the constitution submitted by some persons in Louisiana as odious, as offensive, and compares the constitution of Nebraska and the constitution of that State or proposed State intending to convey the idea, I presume, that the constitution of Nebraska is odious and offensive. Now, I wish to say to that Senator that the constitution of Nebraska and the constitution of Iowa in this particular are identical. Does he call the constitution of Iowa odious and offensive? Does he call the constitution of Illinois odious and offensive? I do not stand here to hear the constitution of the State I in part represent on this floor so characterized; and the Senator from Massachusetts I think forgets what is due to him and due to the people of these States when he so characterizes them. The people of Iowa are as loyal as the people of Massachusetts are.

Mr. SUMNER. No doubt about it. I never said otherwise.

Mr. KIRKWOOD. But he said our constitution was offensive.

Mr. SUMNER. I made no allusion to the constitution of Iowa.

Mr. KIRKWOOD. But you made an allusion to a constitution precisely similar in this identical point to that of Iowa. The Senator from Massachusetts, it seems to me, sometimes assumes more than belongs to him in talking about these things. He should remember that there are other States in this Union besides Massachusetts; and when he speaks of particulars wherein those States do not agree with

Massachusetts he should be careful of the terms he applies to them.

Now, what is this question? Why should the application for the admission of this Territory be compared with the application of the States lately in rebellion to be admitted here? It is doing injustice to these people—people who have been all the time during this rebellion as loyal as the people of any State in this Union. It is wrong to place them side by side with the men who have been in rebellion against our Government; it is unfair to them; and I repeat again I cannot see the difference between characterizing the constitution of Iowa as odious and offensive, and characterizing the constitution of another State that agrees with it precisely in terms, in that way.

Mr. SUMNER. May I ask the Senator if he considers that provision in the constitution of Iowa right or wrong?

Mr. KIRKWOOD. I conceive it to be the business of the people of Iowa and not the business of the Senator from Massachusetts. The people of Iowa will deal with it in their own way when they see fit; and as a loyal people they have the right to do so; and so I apprehend have the people of Nebraska.

Mr. SUMNER. The Senator from Iowa has not been in this body very long. Had he been here longer, he would have known that toward the people of Iowa, by my vote and voice, I have always been true. One of the earliest efforts that I made in this Chamber, now many years ago, was in protection of the interests of the people of Iowa. On that occasion, as the records will show, I received from the Senators of Iowa expressions of friendship and kindness which I cannot forget. I have never thought of the State of Iowa except with kindness and respect. I have never alluded to the State of Iowa except with kindness and respect. I have made no allusion to Iowa to-night. I have not had Iowa in my mind to-night in any remarks that I have made; and, sir, for one good reason: it is my habit when I speak in this body, so far as I am able, to speak directly to the question. The State of Iowa has not been before us; her constitution has not been before us. Therefore, I have had no occasion to express any opinion upon it.

But there is another constitution which has been before us and on which I have been asked to vote. On that constitution I express an opinion. I say it contains an odious and offensive principle; and I doubt if the Senator from Iowa would undertake to say that an exclusion from rights on account of color would be properly characterized otherwise than as odious and offensive. I did not know that the constitution of Iowa was open to that objection, or if I knew it it was not in my mind; but I do know that the constitution of Nebraska is open to that objection, and in that respect I pronounce it odious and offensive. It contains a disfranchisement of men on account of color, and it is a little difficult to speak of that without losing perhaps a little patience. It is difficult at this time, when we have such great responsibilities thrown upon us with reference to the States lately in rebellion, to look upon a candidate State like that of Nebraska, coming forward with a constitution containing this principle of disfranchisement, without feeling the strongest disposition to use language which I do not want to use, language of the utmost condemnation. I say that such a constitution at this moment from a new State does not deserve any quarter. I say the constitution ought to be a hissing and a by-word; and I am at a loss to understand how any Senator at this time, having the great responsibilities that we have with regard to the States lately in rebellion, can look upon a new constitution like this except as a hissing and a by-word. Sir, it is a shame to the people that bring it here, and it will be a shame to Congress if it gives it its sanction. I use that language advisedly, and I stand by it even at the expense of the criticism of the Senator from Iowa.

But when I say this I intend no reflection



upon the State of Iowa. The State of Iowa is not before us. The State of Iowa is not a new State, or Territory rather, applying for admission; nor is it, thank God, a rebel State, but it is a true loyal State which in other days, some years ago, in haste and under the sinister influences of the hour, introduced words into its constitution which the Senator from that State now brings forward into this Chamber, not for condemnation, but from his tone I should suppose for praise. Sir, he should rather follow another example and throw a cover over that part of the constitution which is unworthy of the civilization of our times.

I am very sorry to have been led into these remarks. I was astonished that the Senator from Iowa should compel me to make them. When I go back to the earlier days, I think that perhaps I might have expected other things from a Senator of Iowa. However, I have said enough on that point.

And now, sir, I come again to the question which, in the opinion of the Senator from Ohio, is so trivial, nothing more than a question of *assumpsit*.

Mr. WADE. A common count in *assumpsit*. Mr. SUMNER. A common count. That is the way he regards it at one moment, and then in another moment it is a great question. Did he not say that no great question had ever been settled in this body except late in the evening, and in that way, unless his language was entirely vague, he meant to class the pending question among those of that character.

Mr. WADE. No, I did not.

Mr. SUMNER. He says no, he did not. Then so much the worse for him. He will regret hereafter that he did not see that this question was a great question; that whether we should admit a new State at this moment, with that offensive constitution, is a great question, one of the greatest that has ever been submitted to the Senate. However, I will not say any more, except that I move an adjournment, [laughter;] and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 18; as follows:

YEAS—Messrs. Brown, Doolittle, Edmunds, Hendricks, Morgan, Patterson, Poland, Pomeroy, Sprague, Sumner, and Wilson—11.

NAYS—Messrs. Cattell, Chandler, Creswell, Fogg, Foster, Frelinghuysen, Howard, Howe, Kirkwood, Lane, Morrill, Ross, Stewart, Trumbull, Van Winkle, Wade, Wiley, and Yates—18.

ABSENT—Messrs. Anthony, Buckalew, Conness, Cowan, Cragin, Davis, Dixon, Fessenden, Fowler, Grimes, Guthrie, Harris, Henderson, Johnson, McDougall, Nesmith, Norton, Nye, Ramsey, Riddle, Saulsbury, Sherman, and Williams—23.

So the Senate refused to adjourn.

Mr. POMEROY. I voted to adjourn because I supposed that there were Senators who desired to discuss this matter at considerable length, not because I was not willing myself to take the vote, and take it now, or because I desired to occupy any long time in the discussion. During the time I have been here I have never known at this stage of the session any effort to pass a bill when there were Senators like the Senator from Vermont, the Senator from Massachusetts, and the Senator from Pennsylvania, who said they desired to discuss the question. It was only out of courtesy to them that I voted to adjourn, because that courtesy has always been extended I think at this stage of the session. I admit that toward the close of a session when we are obliged to press measures, that courtesy is not always, and perhaps not often, extended; but at the commencement of a session, when there was no great pressure upon us, and when the shadow of a bill has come over us that looks as though the next Congress was going to be joined on to this, there can be no great pressing necessity for passing this measure to-night; at the same time, if it is insisted upon, I have no objections to staying.

I certainly shall vote for this bill; and I can state in a single word why I cannot vote for the amendment. I am embarrassed by the previous action of Congress. The Senator from Mas-

sachusetts, who believes just as I do upon this question of suffrage, is not embarrassed. I am embarrassed for this reason: when this Territory was organized, it contained precisely the same qualifications as the Territory which has since become the State which I have the honor in part to represent. Congress in that organic act said that over the question of suffrage, for the first Legislature, voters should have certain specified qualifications; but that the qualification for voting in this Territory for all subsequent Legislatures after the first should be made by the people of the Territory in their legislative capacity. Now, when we delegated this question of suffrage to the people of those Territories in the organic act, did it not pass from us?

Again, when we passed an enabling act in 1864, we said that the law of the Territory should be the qualification of voting. We had previously said that the people should have the right to fix it, in the organic act in 1854. Then in 1864, ten years from that time, we said that the law of the Territory should be the law of suffrage, that they should define the qualifications for voters. Now, the Senator from Massachusetts comes in and says that this question of voting shall be settled by an act of Congress and the State Legislature when that is called together. I submit that neither Congress nor the State Legislature to be convened under the call of the Governor of the Territory have anything to do with the question. It is a question of making a portion of the constitution, and neither Congress nor that Legislature can make any portion of the constitution. If they can make any portion they can make the whole.

Therefore I say I am embarrassed. If it was a new question, I would vote at any time to let every man who is a citizen of the United States and who has the qualification of age and residence vote, irrespective of color. If this was a new question there would be no division among us. But I say I am embarrassed by having previously voted that the qualification for voting in this Territory should be decided by the Legislature of the Territory. I do not believe that we can come in now and say that the new Legislature of the State together with Congress can make a part of the constitution on this subject; and therefore I shall have to vote almost against my own convictions; I shall have to vote against this amendment of the Senator from Massachusetts and then the amendment of the Senator from Missouri, because I believe our hands are tied up by previous legislation.

This question presented to us in this light does not apply to the rebel States at all. I shall not be embarrassed in my action in reference to the rebel States by my action on this bill. These people have vested rights by previous acts of Congress, and they have not forfeited them. They are loyal now and always have been. They have lived up to every contract we have made with them. We cannot come in and take any advantage of their action to repudiate our own. On that ground, I say that the question of suffrage for the people of that Territory is not with us. We lost it years ago. It is with the people, I admit, but it is not with us in any sense, so that Congress and the territorial or State Legislature can fix it. The people in their original capacity can do it, I admit; but that is not the proposition before us; that is not the proposition of the Senator from Massachusetts; and it is on that account I have to vote against his amendment.

Mr. EDMUNDS. Mr. President, I do not rise for the purpose of entering at large into the discussion, because I perceive that gentlemen of the Senate are unwilling to hear; but I do rise for the purpose of saying one word in reply to my friend from Kansas, who admits that this constitution as it is now presented to us, or rather that this instrument which will become a constitution when we agree to it and not before, is radically unjust and wrong in its provisions, and yet he feels bound to agree to it on account of the fact that the previous ac-

tion of Congress; and himself as a member of it, has committed him to that course. Now, I undertake to declare that in my opinion until this proposition which Congress holds out to the people of the Territory shall have become final by the action of both parties, ratified by the final action of both parties, it is wholly and perfectly within the control of Congress to undo it whenever, in its judgment, founded upon a sense of any previous mistake or upon any question of policy which may arise, it shall think fit to undo it. We may organize a Territory to-day; we may disorganize it to-morrow; and the whole course of the Government and judicial decisions under territorial laws has always been to uphold the doctrine that over the Territories, whether in an unorganized or an organized condition, the law-making power of the land has supreme and complete control, as much so as it has in this District, where by the Constitution, under other words to be sure, we are invested with legislative authority.

Now, I beg to put it to my friend from Kansas whether he would feel bound by the express committal of Congress in the act of 1854 to admit this Territory into this body as a represented State with a constitution such as the act of 1854 expressly authorized that people to make. The act of 1854, which organized that Territory, was born under the blessed influence of what is called the squatter-sovereignty or Douglas doctrine, and by that act Congress expressly committed itself to allow the people of that Territory to set up the institution of slavery if they pleased, and solemnly agreed in advance, if it be an agreement, that they would receive that State with slavery if it chose to have slavery. The language of the act of 1854 is in these words:

"And when admitted as a State or States, the said Territory, or any portion of the same."

Mr. FESSENDEN. Will my friend from Vermont allow me to make a suggestion?

Mr. EDMUNDS. With pleasure.

Mr. FESSENDEN. I understand he is desirous of addressing the Senate upon the whole subject, and as I have come to the conclusion that it is perfectly useless to attempt to get a vote on this bill to-night, on consultation with the honorable Senator who has it in charge, with the permission of the Senator from Vermont and the Senate, I should like to move an adjournment.

Mr. EDMUNDS. I will yield to such a motion if it be agreeable to the gentlemen who have charge of the bill; but I do not wish to get time against the will of my friends.

Mr. FESSENDEN. If the Senator will give way, I wish to say that I am very much averse always to interposing a motion to adjourn against the wishes of those who have charge of the bill on my own side of the House, or stand in their way, but I have become convinced that it is out of the question to attempt to get a vote to-night, such a vote as we would be likely to have with the Senate so thin. Many Senators have gone home. Some Senators desire to address the Senate; and a question of this importance certainly ought not to be acted upon at such an hour and with so thin a Senate. Under such circumstances therefore, if my friend on my right [Mr. WADE] has no objection, I will move an adjournment.

Mr. WADE. Several of the friends of the measure who have been acting with me think it would be better to adjourn. My own judgment is that we shall have it just in this same fix the next time. Nevertheless, their judgment is that we ought to give more time. Some gentlemen wish to speak on the subject. I was exceedingly anxious to get this bill to a vote before we adjourn. However, finding that that is the wish of many of those acting with us, I will not resist the adjournment any longer, but shall expect to take the bill up to-morrow and finish it if I can.

Mr. FESSENDEN. Then I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 19, 1866.

The House met at twelve o'clock m. Prayer by Rev. DAVID TRUMBULL, D. D., of Valparaiso, South America.

The Journal of yesterday was read and approved.

## REVOLUTIONARY PENSIONS.

Mr. UPSON, by unanimous consent, introduced a bill supplementary to an act to increase the pensions of the revolutionary pensioners now on the rolls of the Pension Office, approved April 1, 1864; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

## CIRCUIT JUDGE OF KENTUCKY.

Mr. McKEE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill to increase the salary of the judge of the United States circuit court for the district of Kentucky to the sum of \$5,000.

Mr. McKEE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

E. J. CURLEY.

Mr. McKEE. I move that the bill of the Senate for the relief of E. J. Curley, which was placed upon the Private Calendar without reference to a committee, be taken from the Calendar and referred to the Committee of Claims.

The motion was agreed to.

E. E. SHED.

Mr. PIKE. I ask leave to withdraw from the files of the House the papers in the case of E. E. Shed, upon which the Committee of Claims made an adverse report yesterday. The papers are desired for use before the Court of Claims.

Leave was granted accordingly.

## PERSONAL EXPLANATION.

Mr. MAYNARD. I ask consent of the House to make a personal explanation.

No objection was made.

Mr. MAYNARD. The other morning, in the remarks which I made in connection with the resolution introduced by the gentleman from Massachusetts, [Mr. DAWES,] I am reported as having said that a young man by the name of Nelson, a captain in the Federal service, had been demanded, as I understood, by the Governor of North Carolina from the Governor of Tennessee as a felon, by reason of a homicide committed by him in the discharge of his duty while on a raid in North Carolina. I have since seen Governor Worth, of North Carolina, who assures me that he has never made any such demand of the Governor of Tennessee.

It is possible that in respect to the demand by the Governor I may have misunderstood the parties from whom I received the information touching the matter; I refer to the Governor of Tennessee and Captain Nelson, at whose house I passed a night a few days before I came here. Captain Nelson explained to me very fully the circumstances of the homicide, for which, as he told me, he had been indicted for murder in the State of North Carolina. He had been set upon and bushwhacked—if I may be pardoned the solecism—from a private house while on duty. He pursued the offender and put him to death on the spot. This had been the subject of indictment in one of the North Carolina courts as for murder.

It was that fact, and not the mere matter of his having been demanded by the Governor, that I wished to bring to the notice of the House. I wished to show how, under the forms of the local laws, our soldiers and officers are annoyed and persecuted. And in this connection I will add what I did not say at that time, that as I am informed his case is not the only instance but is one of a great many. I

learn that Colonel Kirk, known very well to my colleague before me, [Mr. TAYLOR,] and many of his regiment have been indicted as murderers or robbers or horse-thieves or on some other charge of violating the criminal laws of North Carolina by reason of their hostile operations while in our military service. It was, I suppose, for these and similar proceedings that the Legislature of that State have condescended to grant a general amnesty to the Federal Army, from General Sherman down to the humblest soldier.

## CAPTAIN ANDREW SMITH.

Mr. VAN AERNAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Claims be instructed to inquire into the propriety of directing the proper disbursing officer to pay a Treasury draft of \$200, given in settlement of the accounts of Captain Andrew Smith, of the twenty-first New York cavalry, on the indorsement of Dr. W. W. Potter, of the New York State Military Agency, and report by bill or otherwise.

## DISTRIBUTION OF SOLDIERS' MEDALS.

Mr. HUBBARD, of West Virginia, by unanimous consent, introduced a joint resolution authorizing certain medals to be distributed to honorably discharged soldiers free of postage; which was read a first and second time.

Mr. HUBBARD, of West Virginia. I desire that this resolution shall be considered at the present time. I think there can be no objection to it.

The joint resolution, which was read at length, proposes to authorize the adjutant general of the State of West Virginia to distribute through the mails, free of postage, to the honorably discharged soldiers of West Virginia and to the relatives and friends of those who were killed or died of wounds or disease while in service, certain medals furnished by the Legislature of that State; and it is provided that in such case the envelope inclosing the medal, shall be franked by the adjutant general in the mode prescribed by the Postmaster General.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUBBARD, of West Virginia, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## BLACK ROCK HARBOR, CONNECTICUT.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of establishing a light-boat off Black Rock Harbor, on the coast of Connecticut.

## TAXATION OF GROSS RECEIPTS.

Mr. PHELPS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so modifying the internal revenue law as to dispense with taxes upon gross receipts.

## SUPPLIES FOR INDIAN SERVICE.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution:

Whereas the Commissioner of Indian Affairs did, on the 21st day of November, 1866, advertise for sealed proposals for supplying the Indian service with certain goods, wares, and merchandise; and whereas it is reported that said Commissioner did, on the 18th day of December, 1866, award the contract for supplying said goods, wares, and merchandise on a bid much higher, and on samples inferior to those offered by other parties: Therefore,

*Be it resolved*, That the Secretary of the Interior be directed to transmit to the House Committee on Indian Affairs the bids received on the 15th day of December, 1866, by the Commissioner of Indian Affairs, in compliance with the advertisement above referred to, and the award made by him on the 18th day of December, 1866; and all papers received by said Commissioner in any way relating to said bids and award, together with all samples accompanying said bids; and that said committee be instructed

to examine into the acts of said Commissioner and report the result of their investigation to this House; and in the mean time the Secretary of the Interior is directed to suspend contracts based upon said award.

The SPEAKER. This being a call for executive information unanimous consent is necessary for its consideration on this day.

Mr. LE BLOND. I object to the introduction of the resolution.

GEORGE ST. LEGER GRENFEL.

Mr. WENTWORTH. I ask unanimous consent to submit the following resolution, which it is very important shall be considered to-day:

Whereas it is represented in the newspapers that the Legislature of Florida has adopted a report and resolution recommending that one Colonel George St. Leger Grenfel, who was convicted as one of the leaders in the conspiracy to release the rebel prisoners in Camp Douglas, at Chicago, and then to burn said city, and sentenced to death therefor, but whose sentence was afterward commuted to imprisonment for life, be pardoned: Therefore,

*Resolved*, That the President of the United States be requested to furnish this House with copies of all the papers in his possession touching the case of said George St. Leger Grenfel.

Mr. NICHOLSON. I object.

Mr. WENTWORTH. I hope the gentleman from Delaware will withdraw his objection. If he knew the facts I know he would withdraw it.

Mr. NICHOLSON. I withdraw my objection.

The resolution was then adopted.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## SUPPLIES FOR INDIAN SERVICE—AGAIN.

Mr. INGERSOLL. Is the Speaker correct in deciding that my resolution is a call on the Executive Departments for information?

The SPEAKER. It directs the Secretary of the Interior to furnish certain information to this House; and that is calling for executive information.

Mr. INGERSOLL. I will change the resolution so as to call on the Commissioner of Indian Affairs.

The SPEAKER. That would not change the character of the resolution. A single objection will prevent any resolution being received or considered to-day.

## DEFICIENCY BILL

Mr. STEVENS. I call up the amendments of the Senate to House bill No. 876, making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

The amendments were returned to the Senate at its request for the purpose of correcting a mistake made in their engrossment, and have since then been returned with the correction made.

The SPEAKER. As the bill came here the wrong sections were proposed to be stricken out. It is now returned with the proper amendments to strike out the following:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000. To enable the Commissioner of Public Buildings to pay the three watchmen appointed under resolution of July 25, 1866, at \$300 each, \$2,700.

Mr. STEVENS. I move concurrence in the amendments of the Senate.

Mr. BIDWELL. I would like to know the reason for striking out those paragraphs.

Mr. STEVENS. The Senate say that the contract has been violated and they are about to investigate it to see whether that is the fact.

Mr. BIDWELL. If that be so I do not object to its being suspended.

The amendments of the Senate were concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## STATE DEPARTMENT EXPENSES.

Mr. WARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be requested to communicate to this House a statement of the amounts charged to the State Department since May 1, 1865, for services rendered by naval vessels.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## OREGON LAND GRANT.

The SPEAKER stated the first business in order to be Senate bill No. 62, to amend an act entitled "An act granting land to the State of Oregon, to aid in the construction of a military road from Eugene City to the eastern boundary of said State," pending from the morning hour yesterday.

Mr. McRUER. Mr. Speaker, I think it is only necessary to refresh the minds of the House in regard to this amendment. It only seeks to provide for an omission in the original bill whereby the State of Oregon might receive three sections of land per mile in aid of the construction of this military wagon-road by going three miles beyond the original limits.

I will here state that by the act of Congress passed March 3, 1863, the same amount of lands we now seek was extended to the States of Michigan and Wisconsin. The last Congress, by act of June 30, 1864, passed another bill to aid in the construction of a wagon-road in the State of Michigan, granting three sections of land and permitting the parties to go three miles beyond the line of the road to get the designated amount. This amendment only seeks to give to the State of Oregon the privilege to select this land within six miles of this road. It does not increase the grant at all. This bill came from the Senate, was referred to the Committee on Public Lands, and is unanimously reported by them with a recommendation that it do pass. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time.

Mr. McRUER. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and the question being taken, no quorum voted.

Tellers were ordered; and the Chair appointed Messrs. McRUER and COOPER.

The House divided; and the tellers reported—ayes 79, noes 20.

So the bill was passed.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes; when the Speaker signed the same.

## MILITARY WAGON-ROAD IN OREGON.

Mr. McRUER, from the Committee on Public Lands, reported back House bill No. 21, granting land to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia river, to Fort Boisé, on Snake river, with a recommendation that it do pass.

The bill was read. It grants alternate sections to the extent of three sections in width on each side of the road. It provides that the

lands so granted shall be exclusively applied to its construction and shall be disposed of only as the work progresses. It reserves all lands heretofore reserved or appropriated by the United States except so far as may be necessary to locate the route through the same one hundred feet in width. The road is to remain a public highway for the use of the Government of the United States free from tolls. It provides that the land so granted shall be disposed of only as fast as each ten miles are constructed, and also limits the time for its completion to five years. The manner of the construction is to be such as the Legislature of Oregon shall direct.

Mr. McRUER. This military wagon-road is to run through a mountainous and unsettled country for a distance of about two hundred and seventy-five miles. The country is for the most part a wilderness, inhabited only by Indians. It is no new thing to grant lands to aid in the construction of military roads. Similar grants have been made to States not so remote nor so wild as Oregon—for instance, to the States of Wisconsin and Michigan.

This bill, in the first place, went to the Committee on Military Affairs, and I believe it received the favorable consideration of that committee. It was finally referred to the Committee on Public Lands. It has been considered by them and unanimously reported with a recommendation that it do pass. The subject was referred to the War Department, and in reply we received a communication from the Secretary of War inclosing a copy of a letter written by General Grant, in which he says:

"I am in favor generally of encouraging and assisting the opening of roads through the Indian country. They enhance the value of the United States lands in their vicinity, and render military transportation easy."

This is a cheap way of securing a military road by the Government. This bill provides that no tolls shall be exacted of the United States Government for transportation of any troops, mails, or military stores over this road. It is more carefully guarded than any other bill which has been passed to aid in the construction of a wagon-road. Unless the State of Oregon performs this work she receives none of the lands. It is expressly provided that before any grant of land is made the State must build ten miles of the road. Upon the completion of ten miles she receives a grant of land continuous with those ten miles and not beyond. Heretofore grants have been made in advance of construction. I think there can be no good objection to this bill.

Mr. DAWES. Is there any time limited in the bill?

Mr. McRUER. It must be completed within five years, which is comparatively a short time. The bill is carefully guarded and I know of no reason why it should not pass.

Mr. PIKE. Is this for a wagon-road?

Mr. McRUER. It is.

Mr. PIKE. Are there any restrictions proposed by the bill?

Mr. McRUER. It provides that the State of Oregon shall specify how this road shall be built, what shall be its width, &c.

Mr. PIKE. This is a grant to the State of Oregon?

Mr. McRUER. Yes, sir. The road is to be entirely within the jurisdiction of the State of Oregon.

Mr. PIKE. Will the gentleman from California [Mr. McRUER] accept an amendment to make a grant of land to the State of Maine for a similar road?

Mr. McRUER. If I am not mistaken, the Government built a road in Maine at its own expense.

Mr. LE BLOND. I would inquire of the gentleman from California [Mr. McRUER] if this bill has been printed?

Mr. McRUER. It has been printed; it was offered in the early part of the last session, and is House bill No. 21.

Mr. LE BLOND. Has it not undergone

some changes since that time at the hands of the committee?

Mr. McRUER. It has been amended by the committee, but all the amendments are of a restrictive character. The bill is not so liberal now in its terms as it was when it was originally introduced.

Mr. LE BLOND. Mr. Speaker, if this was an original proposition to grant the public lands for purposes of the kind specified in this bill, I should feel compelled to vote against it; it certainly has become alarming to see the quantity of land donated by the Congress of the United States for these private purposes. Now, it does seem to me that before we make any more such grants of land as this we should see what restrictions are imposed by this bill. As I understand it, this bill is based upon the alleged necessity of a military road in the State of Oregon. If I understand the history of these land grants, the real object of all such bills as this is to confer public lands upon private corporations organized within the several States. I think Congress should consider whether they are willing to donate the public domain in this wholesale manner, without any beneficial results being obtained for the Government of the United States. I think it is time that we put a stop to this wholesale system of disposing of the public domain.

Mr. McRUER. I now yield to the gentleman from Oregon, [Mr. HENDERSON.]

Mr. HENDERSON. Mr. Speaker, I would say to the House, and especially to the gentleman from Ohio, [Mr. LE BLOND,] who has just taken his seat, that I have no doubt if he understood the nature of the country through which this road is to pass, and the necessity of a road through it, he would have no sort of objection to it. But a man who has never been in that country, who knows nothing of the circumstances there, cannot appreciate the importance of a measure like this.

I desire to say to members of this House that formerly it was the custom to ask for an appropriation of money to build such roads as these. We have lately come to the conclusion that money cannot be obtained for such purposes, and so we are not disposed to ask for it. But knowing that the building of such roads as this not only facilitates commerce and intercourse, but also enhances the value of the public lands, we feel that we have the right to ask Congress for liberal grants for this purpose.

Now, I would say to gentlemen here that they cannot expect new countries like Oregon, Washington Territory, and the other Territories west of the Rocky mountains to build these roads without the assistance of the General Government. How is a sparse population like that in these countries to build roads of two hundred and seventy-five or three hundred miles in length, through a mountainous country, infested with Indians all the time, and to sustain themselves without other assistance? I want to inform gentlemen that in the eastern part of the State of Oregon for the last five or six years, and I might say almost from the first settlement of the country, there has been a perpetual warfare between the Indians and the white people there.

The route of this road, with the map of that country, was drawn by the military commander on the Columbia river and sent here with a request of that officer that Congress should make an appropriation to build that road to facilitate the transportation of arms and munitions of war, so that the ravages of the Indians may be stopped and the lives of white settlers and traders be preserved. A bill was drawn and referred to the Committee on Military Affairs. It was carefully examined by that committee, who reported in favor of its passage. The bill was printed and referred to the Committee on Public Lands. The latter committee also carefully investigated the subject. In order to satisfy themselves fully they sent a draft of the bill to the Secretary of War, asking his opinion upon it. The Secretary of War not being so conversant with the subject as he



supposed General Grant to be, sent the bill to that officer, who, after investigating the subject, reported favorably upon it.

I wish to say to members of this House that the warfare by the Indians on that route is now carried on to such an extent that trade between the settlements and the mining region of the country is almost entirely broken up. By this warfare of the Indians hundreds of lives have been destroyed and tens of thousands of dollars' worth of property have been wasted within the last two or three years. These lives and this property are worth infinitely more than it would cost to build this road. This warfare by the Indians is now going on in the very country through which the road is to pass, although there are two or three military posts upon it. It will be far cheaper for this Government to donate a few sections of land to open a military road than it will be to fight the Indians there for years to come, which will have to be done if things continue as at present, unless the Government intends to leave the people of Oregon to fight their own battles and foot their own bills, as they have been obliged to do to a great extent since the settlement of that country. I do hope that the House will take a liberal and just view of this matter and pass this bill.

Mr. THAYER. I desire, with the consent of the gentleman from California, [Mr. McRUER,] to ask him a question.

Mr. McRUER. Certainly.

Mr. THAYER. I desire to ask whether this bill contains any clause excepting mineral lands from this grant?

Mr. McRUER. The mineral lands are excepted by a general law; but I have no objection to the insertion of a clause specially excepting mineral lands.

Mr. THAYER. Then I move to amend by adding the following:

*Provided, That the grant hereby made shall not embrace any mineral lands of the United States.*

Mr. McRUER. That is very acceptable. I now call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. THAYER was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. McRUER. I call for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. RANDALL, of Pennsylvania, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 37, not voting 78; as follows:

YEAS—Messrs. Alley, Allison, Delos R. Ashley, James M. Ashley, Baker, Baxter, Bidwell, Bingham, Bromwell, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eekley, Farguhar, Grinnell, Griswold, Hayes, Henderson, Hill, Holmes, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Kelso, Koontz, George V. Lawrence, Marvin, Maynard, McClurg, McKee, McKuer, Mercer, Moorhead, Moulton, Myers, O'Neill, Paine, Patterson, Perham, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Scofield, Starr, Stevens, Stokes, Nathaniel G. Taylor, Thayer, Trowbridge, Upton, Van Aernam, Burt Van Horn, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge.—76.

NAYS—Messrs. Ames, Ancona, Boyer, Campbell, Cooper, Cullom, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Chester D. Hubbard, Hunter, Kerr, William Lawrence, Le Blond, Marshall, McCullough, Morrill, Niblack, Nicholson, Noel, Orth, Phelps, Pike, Samuel J. Randall, Ritter, Stigraeves, Spalding, Strouse, Taber, Nelson Taylor, John L. Thomas, Thornton, Hamilton Ward, Wentworth, and Winfield.—37.

NOT VOTING—Messrs. Anderson, Arnell, Baldwin, Banks, Barker, Beaman, Benjamin, Bergen, Blaine, Blow, Boutwell, Brandegee, Broomall, Buckland, Conkling, Culver, Darling, Davis, Dawson, Defrees, Deming, Denison, Dumont, Eggleston, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Goodyear, Hale, Abner C. Harding, Harris, Hart, Higby, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Humphrey, Johnson, Jones, Kasson,

Ketcham, Kuykendall, Laffin, Latham, Leftwich, Loan, Longyear, Lynch, Marston, McIndoe, Miller, Morris, Newell, Pomeroy, Radford, Rogers, Rollins, Ross, Rousseau, Schenck, Shanklin, Shellabarger, Sloan, Stilwell, Francis Thomas, Trimble, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Whaley, and Wright.—78.

So the bill was passed.

During the roll-call,

Mr. MORRILL said: The gentleman from Ohio, Mr. GARFIELD, is absent from his seat to-day on account of sickness.

Mr. PERHAM said: My colleague, Mr. LYNCH, is confined to his house by illness.

The result was announced as above stated.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. McRUER, from the same committee, submitted adverse reports on the following cases; and the same were laid upon the table:

A bill (H. R. No. 244) concerning certain lands granted to the State of Nevada;

A bill (H. R. No. 245) concerning public lands in the State of Nevada;

A bill (H. R. No. 707) to relinquish title to the town of Santa Cruz, California; and

An act (H. R. No. 689) to encourage the construction of a telegraph line between the State of California and the Territory of Idaho.

#### KANSAS LAND GRANT.

Mr. DRIGGS, from the Committee on Public Lands, reported back Senate bill No. 320, to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863, with amendments.

The bill, which was read, provides that whenever it shall be deemed impracticable or inexpedient to construct any portion of said Atchison, Topeka, and Santa Fé railroad in manner as in said act required, and whenever the Governor of said State shall certify to the Secretary of the Interior that upon such portion, in lieu thereof, said railroad company have constructed a road suitable for the running of a steam traction-engine with its train of cars over the same, the grant of lands in said act made shall be confirmed to said State for the purpose of aiding in the construction of said road, and in all other respects as in said act provided; provided that the amount of lands granted in said act, when applied to the construction of said steam traction road, shall be three alternate sections of land per mile, designated by odd numbers, on each side of said road; and provided that patents shall issue upon the completion of every twenty miles of road upon the certificate of the Governor as aforesaid.

Section two authorizes said company to construct said roadway from the boundary line of the State of Kansas, through the Territories of the United States, on the most eligible route to Santa Fé, in the Territory of New Mexico, and to such Government forts in said Territory as the President of the United States may approve. And there is granted to said company the right of way through the public domain to the extent of two hundred feet on each side of said road. And for the purpose of aiding in the construction of said roadway and its equipment, and to secure the safe and speedy transmission of the mails, troops, munitions of war, and supplies over said road, the same amount of land, not mineral, but not excluding iron or coal, is granted to said company, as in the first section of this act is provided, and upon the same terms and conditions, but upon the certificate of a commissioner, appointed by the Secretary of the Interior, that said conditions have been complied with.

Section three provides that said grants are made only upon condition that said road shall be constructed in a substantial and workmanlike manner, with all necessary culverts, bridges, viaducts, crossings, stations and water-

ing-places, and other appurtenances, including engines and cars sufficient to move not less than fifty tons, or two hundred passengers in one train, at a rate of six miles an hour.

The amendments of the committee were offered and agreed to, as follows:

In section one, line twelve, strike out the word "three" and insert the word "five."

In section one, line fourteen, strike out all after the word "numbers," to include the word "aforesaid" in line sixteen, and insert "to be selected within ten miles of said road, with all necessary ground for depots, watering-stations, switches," &c.

In section two, line nine, strike out the word "two" and insert "one."

In section three, line seven, after the word "of" insert the words "at least."

At the end of section three insert the following: "And upon the further condition that no land shall be acquired by or patented to the company or corporation building said road until fifty miles shall have been completed, and the same shall be in practical operation and engines and cars running over the same, when two hundred and fifty sections of land, in alternate odd-numbered continuous sections, may be patented to said company; and so on from time to time for each additional fifty miles that may be completed, equipped, and running as aforesaid, until the whole is completed, at which time the company shall receive patents for any fractional miles, so as to acquire the full amount of land granted by this act for the whole number of miles of road built."

Add a new section, as follows: "And be it further enacted, That this act shall not take effect until the State of Kansas, through the Legislature thereof, shall consent to and approve of the same."

Mr. DRIGGS. There is a report from the Committee on Public Lands, which I ask the Clerk to read.

The Clerk read as follows:

The undersigned, to whom was referred Senate bill No. 320, being an act to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863, has examined the same, and finds that it proposes to reduce and limit said grant upon the following contingency: that the company to which said lands shall be granted by said State may substitute for railroad steam traction-engines; and when they shall have constructed and equipped twenty miles of road, and shown an ability to move in one train fifty tons of freight, or two hundred passengers, at the rate of not less than five miles per hour over it, they shall be entitled to obtain lands at the rate of five sections per mile instead of ten, as now provided by said act for the railroad; but the bill simply modifies and changes the conditions on which a grant heretofore made may be claimed. I can see no good reason why this change may not be made. If the terms of the bill are not complied with, or, in other words, if the experiment, if it may be properly called such, is not successful, then no lands can be claimed. If it is successful it certainly seems as if the Government could well afford to grant for the demonstration as much as it has repeatedly given for the construction of an ordinary wagon-road. The committee therefore recommend that the bill be reported back to the House with recommendation that it be passed, with the following amendments.

JOHN F. DRIGGS,

For Committee.

Mr. DRIGGS. I have but one word to say in regard to this bill, and it is this: that it presents the single feature of asking Congress to reduce the ten sections to five. It provides also instead of a railroad over the western prairies they may employ traction steam engines. I have before me a report of several scientific gentlemen who have examined the machine and give it as their decided opinion it will work successfully. If the experiment proves to be successful it will be the means of traversing that vast region of prairie lying east of the mountains and be of incalculable benefit to the Government. The committee thoroughly investigated the proposition, and we propose to reduce the grant from ten to five sections; and with the proper restrictions provided in the amendment we recommend the passage of the bill. I demand the previous question.

The House divided, and there were—ayes 36, noes 29; no quorum voting.

The SPEAKER, under the rule, appointed Mr. DRIGGS and Mr. MORRILL as tellers.

The House again divided; and the tellers reported—ayes 49, noes 51.

So the previous question was not seconded.

Mr. THAYER. I move that the bill be laid upon the table.

Mr. DRIGGS. Allow the bill to be recommitted. I did not explain the bill as I did not think there would be any objection.

Mr. THAYER. I agree to that.

The bill, as amended, was recommitted to the Committee on Public Lands.

#### PAY OF TENNESSEE MEMBERS.

Mr. ASHLEY, of Ohio. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Sergeant-at-Arms of this House be instructed to pay Hons. SAMUEL L. ARNELL, WILLIAM B. CAMPBELL, and ISAAC R. HAWKINS, the mileage due them for the first session of this Congress.

These gentlemen were in attendance, except Mr. ARNELL, during a part of the session before the State was admitted; and Mr. ARNELL started from Tennessee on receiving a dispatch informing him of the fact, and got here the next day after the adjournment, having been detained on the way by a railroad accident. The Sergeant-at-Arms decides that he cannot pay them. I merely offer this in order that he may be authorized to pay them. I move the previous question.

Mr. BENJAMIN. I move to refer the resolution to the Committee on Mileage.

Mr. ASHLEY, of Ohio. I have no objection.

The resolution was accordingly referred to the Committee on Mileage.

Mr. BENJAMIN moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### LEASE OF SCHOOL LANDS.

Mr. HOLMES, from the Committee on Public Lands, reported back House bill No. 553, to amend section two of an act entitled "An act to authorize the Legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee to sell the lands heretofore appropriated for the use of schools in those States," with a substitute therefor.

The substitute was read, as follows:

*Be it enacted by the Senate and House of Representatives*, That section two of said act be, and the same hereby is, amended so as to read as follows, namely: SEC. 2. *And be it further enacted*, That the Legislatures of said States be, and they are hereby, authorized to make such laws and needful regulations as may be deemed expedient to secure and protect from injury or waste the sections reserved by the laws of Congress for the use of schools to each township, and to provide by law, if not deemed expedient to sell, for leasing the same for any term not exceeding four years for agricultural lands, and fifteen years for mineral lands, in such manner as to render them productive and most conducive to the object for which they were designed.

Mr. HOLMES. In 1843 Congress passed a law authorizing the Legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee to sell the lands appropriated for public schools. The second section, proposed to be amended, authorized the States, in case the lands were not sold, to provide by law for leasing them for four years. Some of these lands have been discovered to contain minerals, and it is found impossible to lease them advantageously for so short a term as four years. The amendment changes the second section only by authorizing the Legislatures in those States, if they shall think proper, to provide for the leasing of the mineral lands for a period not exceeding fifteen years.

Mr. GRINNELL. I would inquire of the gentleman if there is any such thing in his judgment as a Legislature of the State of Arkansas?

Mr. HOLMES. The gentleman is as competent as I am to answer that question.

Mr. GRINNELL. I am not desirous of legislating on any such supposition. If there is no Legislature, of course they cannot legislate.

Mr. HOLMES. The original bill applies to several States which are assumed to have Legislatures, and this bill simply changes the former law in such a way as to allow the Legislatures of those States to lease the mineral lands for a term of years not exceeding fifteen, if they shall see fit.

Mr. ASHLEY, of Ohio. Is this bill printed?

Mr. HOLMES. It is not.

Mr. ASHLEY, of Ohio. Then I move it be printed and postponed.

Mr. HOLMES. I decline to yield for that purpose.

Mr. STEVENS. I think the gentleman had better have it printed.

Mr. ASHLEY, of Ohio. I have no disposition to oppose the passage of the bill, but I shall vote for no bill recognizing any of these illegal Legislatures or bogus governments, and I must have this bill printed before I vote for it. I will therefore move that it be printed and postponed or recommitted to the committee, whichever the gentleman chooses.

Mr. HOLMES. I do not desire to have it recommitted, and I do not propose to yield for any such purpose or motion.

Mr. ASHLEY, of Ohio. I move to postpone it till the 3d Monday in January.

The SPEAKER. The Chair will state that in the present condition of the Calendar, with the various special orders made, by an ordinary postponement the bill would not probably be reached during the session.

Mr. HOLMES. I want to say in reply to the gentleman from Ohio [Mr. ASHLEY] that this is not an original bill. It simply proposes to amend section two of the law of 1843, and this bill does not in my opinion recognize the Legislatures of any of the States lately in rebellion.

Mr. STEVENS. The law to which the gentleman refers was passed when a different state of things existed from what exists now: I am opposed to recognizing Louisiana and Arkansas as States of the Union, and I move to lay the bill on the table.

Mr. HOLMES. I have no objection to the insertion of a proviso excluding any of the States not now represented in Congress, if the gentleman desires it.

Mr. ASHLEY, of Ohio. I would suggest that the following proviso should be inserted:

*Provided*, That this act and the act to which this is supplementary shall not be applicable to any States declared in rebellion by proclamation of the President of the United States.

Mr. HOLMES. I will yield to allow the amendment to be offered.

Mr. ASHLEY, of Ohio. I move the amendment I have indicated.

Mr. HOLMES. I now call the previous question upon the bill and amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. HOLMES. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. BROMWELL. I would inquire if the amendment adopted upon the motion of the gentleman from Ohio [Mr. ASHLEY] does not exclude the State of Tennessee, because it has been declared at one time to be in insurrection?

The SPEAKER. That amendment has been adopted, and the House is now acting under the operation of the previous question.

The bill was then passed.

Mr. STEVENS. I move to amend the title of this bill by striking out the words "Arkansas, Louisiana," so that it will read as follows:

An act to amend section two of an act entitled "An act to authorize the Legislatures of the States of Illinois and Tennessee to sell the lands heretofore appropriated for the use of schools in those States," approved February 15, 1843.

The amendment was agreed to.

Mr. HOLMES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

Subsequently, on motion of Mr. ASHLEY, of Ohio, by unanimous consent, the amend-

ment offered by him to the bill amending the act relating to the sale of school lands, was so amended that it would read as follows:

*Provided*, That this act and the act to which this is supplementary shall not be applicable to any States declared in rebellion by proclamation of the President of the United States except the State of Tennessee.

#### NATIONAL BANKS AND CURRENCY.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the House, in bill form, one thousand extra copies of bill No. 771, to amend the national bank act.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### HOMESTEAD LANDS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the act approved June 24, 1866, for the disposal of the public lands for homestead actual settlement in certain States therein mentioned, as to require the applicant, from and after the first day of January, 1867, to make oath that he has not borne arms against the United States or given aid and comfort to its enemies.

#### SUPPLIES FOR INDIAN SERVICE.

Mr. INGERSOLL, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the Commissioner of Indian Affairs did, on the 21st day of November, 1866, advertise for sealed proposals for supplying the Indian service with certain goods, wares, and merchandise; and whereas it is reported that said Commissioner did, on the 13th day of December, 1866, award the contract for supplying said goods, wares, and merchandise on a bid much higher, and on samples inferior to those offered by other parties: Therefore,

*Be it resolved*, That the Secretary of the Interior be directed to transmit to the House Committee on Indian Affairs the bids received on the 15th day of December, 1866, by the Commissioner of Indian Affairs, in compliance with the advertisement above referred to, and the award made by him on the 13th day of December, 1866; and all papers received by said Commissioner in any way relating to said bids and award, together with all samples accompanying said bids; and that said committee be instructed to examine into the acts of said Commissioner and report the result of their investigation to this House; and in the mean time the Secretary of the Interior is directed to suspend contracts based upon said award.

Mr. FARNSWORTH. I would say that I suppose the House alone can hardly direct the Secretary of the Interior not to carry out a contract he has made.

The SPEAKER. The objection comes too late. The resolution is agreed to, whether the House has such power or not.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Pennsylvania, in the chair,) and resumed the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The Clerk resumed the reading of the bill, and read the following:

For compensation to the private secretary, assistant secretary, short-hand writer, clerk of pardons, three clerks of fourth class, steward, and messenger of the President of the United States, \$13,800.

Mr. GRINNELL. I move to amend by striking out in the paragraph just read the words "clerk of pardons." I believe that the insertion in an appropriation bill of an appropriation for this officer is of very recent date. We have endeavored to ascertain by resolution how many pardons have been granted. We have thus far been unable to obtain this information. Now, sir, I wish to grant as few facilities as possible for the granting of pardons.

It is known that one prominent rebel, the great pirate of this century, has received a pardon, and has been permitted to become the professor of moral philosophy in a southern college. I propose that we shall dispense with this clerk for the present. Hence I have submitted my amendment.

Mr. WENTWORTH. I am opposed to striking out the appropriation for the pay of this clerk. We have sent to the President calls for information with reference to pardons, and it would be impossible for him, so numerous have been the applications for pardons, to make out a full reply without this clerk. At least I hope the resolution that was adopted this morning at my instance will not fail to be answered for the want of clerical force. I find by looking at some southern papers that the members of the Legislature of Florida—a Legislature of traitors—pretend to have recently paid a visit to the Dry Tortugas, where they have been investigating the claims of prisoners there to pardons. They have recently taken up the case of a notorious leader in the attempt to liberate the rebel prisoners at Chicago and afterward burn the city a few years ago; and that Legislature has decided that he was convicted on the testimony of perjured witnesses. I suppose they would say the same of every other criminal there. That there was a conspiracy to liberate the prisoners in Camp Douglas on the night before the election, and to take possession of the polls and burn the city, has been proved to the satisfaction of every one who ever investigated the subject. The evidence was so overwhelming that one of the prisoners on trial killed himself. Another was sentenced to be hanged, but his sentence was commuted to imprisonment for life, and he is now at the Dry Tortugas. The Legislature of Florida has now taken his case in hand, petitions President Johnson to pardon him, and charges that he was convicted by perjured witnesses. I would like to see the papers in the case before the President takes action, if possible. If not possible before the pardon, it would gratify my loyal constituents exceedingly to know upon what ground our President pardons traitors and convicted incendiaries.

Mr. SCOFIELD. Mr. Chairman, during the last session I was told that on all these pardons sent South each recipient was subjected to a charge of \$300. A gentleman residing at the South informed me that he saw a great many pardons come there, which were delivered by the express company, and each was charged with \$300.

Mr. WARD, of New York. That is cheap enough. [Laughter.]

Mr. SCOFIELD. I made some inquiries here of persons perhaps not altogether responsible, but whom I thought trustworthy enough, and they informed me that the Adams Express Company were receiving a great many pardons from the State agent of Alabama, who also acted as agent for the State of Tennessee; that many hundred pardons had been sent by this express company to the persons entitled to receive them through some State authority; that each one had marked upon it "C. O. D. \$300"—"C. O. D." meaning, I believe, "collect on delivery," and that the money had been returned here. Now, I would not assert this to be the fact, because I do not know it, although at that time I thought the authority was pretty good; but if fees are being charged by agents here they certainly ought to pay this clerk of pardons. [Laughter.] Therefore I believe I shall vote for this amendment.

The amendment was agreed to.

The Clerk read as follows:

For paper, special dies, and printing of circulating notes, and expenses necessarily incurred (including express charges) in procuring the same, in the office of the Comptroller of the Currency, \$200,000.

Mr. MAYNARD. I desire to inquire of the chairman of the Committee on Appropriations whether the item just read is intended to cover the printing of such Treasury notes and fractional currency as are now issued.

Mr. STEVENS. That is the object of it. The Clerk read the following:

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawback, together with the expense of carrying into effect the various provisions of the several acts providing internal revenue, excepting items otherwise estimated for, \$6,000,000.

Mr. BENJAMIN. I move to amend by adding at the end of the paragraph just read the following:

*Provided, That no assessor or collector shall be entitled to any portion of the salary pertaining to the office until such assessor or collector shall have been confirmed by the Senate.*

Mr. MAYNARD. I suggest to the gentleman whether it would not be proper to modify his amendment by inserting "unless" instead of "until."

Mr. BENJAMIN. I cannot see that the change would add to the force of the amendment in any way, though I do not know that I would have any serious objection to the modification.

Mr. MAYNARD. The word "until" would imply that the payment was to be postponed, and the word "unless" would imply more than that, that unless he was confirmed he should not have pay at all.

Mr. DAWES. Though he be confirmed by the Senate he would not be entitled to pay until he was confirmed.

Mr. MAYNARD. "Unless" is the better word.

Mr. BENJAMIN. I have nothing to say in regard to the word to be used.

Mr. MAYNARD. If the word "until" be used would the officer draw any pay for services rendered prior to the time of his confirmation?

Mr. BENJAMIN. I apprehend he would after he has been confirmed.

Mr. MAYNARD. If he has been appointed regularly by reason of a vacancy and is confirmed he ought to be paid from the time he was appointed.

Mr. CHANLER. Mr. Chairman, I suggest to the gentleman from Missouri this is nothing but an intimation to collectors and assessors of internal revenue to reimburse themselves. If these men are to receive no salary they will certainly take their case into their own hands.

I have no complaint to make in regard to the system of internal revenue as administered by the Administration, nor have I any personal charge to make against the different collectors and assessors; but it is very weak legislation to say to a body of men throughout the whole country, "Though you are entitled to compensation for your labors, you shall not have it unless you are confirmed by the Senate." You use your political power to put these men upon the defensive; and if the records in the office of the internal revenue are correct, a more rotten and corrupt system never was invented and does not exist. You are but adding another incentive to the same men to continue the system of corruption into which you have appointed a select committee in this body not two weeks since to examine and report. If this is done for political personal reasons, if this is done for the purpose of visiting upon those who have been put into office where certain gentlemen elected to the Fortieth Congress have questions of revenge to settle, let us know the facts. Let the committee of investigation, when it comes to lay before the House its report, tell us the causes for visiting upon these men the chastisement of the law.

But, sir, for a Legislature to pass such an amendment is a stultification, if honesty is the basis of your legislation. If mere party persecution is the rule here, then make the law as the gentleman suggests. You have created a committee; trust that committee. They are men of your own choice, appointed by the Presiding Officer of this body. Their investigations are now going forward.

I hope, sir, no such act will be passed in the face of the existing charges against the Internal Revenue Bureau. It would be much more consistent with the dignity of the body and common

sense and the common principles of human nature that you should allow the officers in authority to do their duty, under the contract which is always implied, that they will be paid for their services. Whether the Executive has placed them there, or they were appointed at the suggestion of certain members upon this floor, is a matter of no consequence. I have nothing to say on that subject, but I do ask the gentleman to withdraw his amendment in view of the facts of the case, until the report of the committee of investigation comes in. Let us see what we are doing before we drive these men to the wall and force them to take their salary out of the proceeds of the revenue, thereby cheating the citizen. These men will not work for nothing. The honorable gentleman from Missouri does not work for nothing, patriotic as he is; and patriotic as this body is, the increase of their salary at the last session is an indication that they will not work for nothing.

Now, sir, men who are not remunerated for their services are tempted to help themselves. It is a bid for dishonesty in every bureau of the internal revenue throughout the country. On that I rest the question. It is not sound legislation. It is not creditable to this body. It is not dignified.

Mr. BINGHAM. I move the following amendment to the amendment:

*Except in cases of commissions to fill vacancies which may have happened by death or resignation during the recess of the Senate.*

I call the attention of the committee to the fact, as the amendment stands it excludes the payment of assessors or collectors commissioned by the President to fill vacancies happening during the recess of the Senate. If a vacancy happen by death or resignation, so stands your Constitution, the President is empowered to fill that vacancy by a commission which shall expire at the end of the next session of the Senate. There is certainly no man here prepared to say that that duty, enjoined upon the President by the express words of the Constitution, shall nevertheless be so far interfered with that the person so commissioned shall receive no compensation. There is no excuse for any such legislation. On the other hand, I am free to confess that I am not of that class of persons who suppose that the words in the Constitution of the United States, "vacancies that may happen during the recess of the Senate," may be tortured into any such construction as has been attempted to be put upon them by the present Executive, to wit: that he will make vacancies at his arbitrary will and pleasure without regard to the public interest. Satisfy this House that a vacancy has been created in that way for corrupt ends, and you satisfy it at once that the Executive is guilty of a high crime and misdemeanor within the meaning of the Constitution. When he is armed by the Constitution with all executive power and charged with the duty to take care that the laws are faithfully executed, it never by implication or otherwise was intended that he, under pretense of executing the laws of the United States, should remove men from office duly appointed and commissioned by and with the advice and consent of the Senate, not because of incapacity or infidelity to duty, but men of eminent capacity, because of their stern fidelity to duty and unwillingness to corrupt a trust.

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me to ask a question?

Mr. BINGHAM. Yes, sir.

Mr. RANDALL, of Pennsylvania. I wish to inquire whether President Lincoln did not during the whole term of his tenure of the executive power, exercise it in the same manner in which the gentleman now complains President Johnson has done?

Mr. BINGHAM. The gentleman misunderstood me. I qualified the words which I uttered, and when the gentleman asks me a question of that sort he assumes that I have decided myself that removals have been made for corrupt purposes.

Mr. RANDALL, of Pennsylvania. It is not



for me, Mr. Chairman, nor for the gentleman from Ohio to inquire into the motives of either President Lincoln or President Johnson, but I do assert that they have occupied exactly the same position in reference to these removals from office. In other words, that Mr. Lincoln removed persons from office during his term in the same manner as Mr. Johnson has done, for political purposes. I do not assert that Mr. Lincoln did it for corrupt purposes at all; neither do I believe that Mr. Johnson has done it for such. And I am glad to hear that the gentleman from Ohio qualifies his statement, and says he has not made up his mind on that point.

Mr. BINGHAM. I was only saying that the gentleman had done me injustice in overlooking the fact before he took the floor at all.

Mr. RANDALL, of Pennsylvania. I did not mean to misstate the gentleman's position.

Mr. BINGHAM. I have no doubt the gentleman did not mean it, but I was explaining to the House why I made this exception, and having said that much and the gentleman having made the suggestion which he has by way of explanation of his position, I beg leave to notify him—and it is a further justification of the exception that is made here for the present—that we are charged by the Constitution and by our oaths, in case the question comes before us, with the duty of deciding that very question, whether the President of the United States has for corrupt personal ends created vacancies in any office hitherto filled, in accordance with the provisions of the Constitution, by joint act of the President and Senate of the United States.

I repeat what I said before in justification of the exception I have made by the amendment which I have offered, that in case the House of Representatives, upon full investigation and inquiry, comes to the conclusion that the President of the United States, for corrupt personal ends and not because of incapacity or of infidelity to duty, has removed a competent and faithful officer, he is guilty of a high crime and misdemeanor within the terms of the Constitution. The decision of that question in the first place belongs to the House. Therefore it is I make the exception.

Mr. RANDALL, of Pennsylvania. I can only say that the gentleman from Ohio [Mr. BINGHAM] has given us some sort of notice of what he is going to do with the President. I doubt not the acts of the President will stand the test of examination, and the sooner you commence your work and cease to threaten the better.

Mr. BINGHAM. I have not said what I am going to do. I have only stated why I made the exception which I indicated.

The question was upon the amendment of Mr. BINGHAM to the amendment of Mr. BENJAMIN.

Mr. BENJAMIN. I desire to modify my amendment so that it will read as follows:

*Provided, That no assessor or collector, not appointed to fill a vacancy caused by death or resignation, shall be entitled to or paid any portion of the salary pertaining to the office of said collector or assessor unless confirmed by the Senate.*

Mr. STEVENS. I understood yesterday that the Committee of the Whole, by unanimous consent, adopted the five-minute rule, which allows but five minutes debate for and five minutes against any one proposition.

The CHAIRMAN. The Chair so understands.

Mr. BENJAMIN. I desire to say in regard to the amendment I have offered, that I have no desire to interfere with those assessors and collectors who have been appointed to fill vacancies caused by death, resignation, or anything else that should entitle them in justice to receive their pay. But we know this very well, that persons who have been rejected by the Senate, who have not been able to command a single vote in that body for their confirmation, have been reappointed by the President, and are now discharging the duties of assessors and collectors under the internal revenue law.

Now, we all agree that the Senate is entitled

to a voice in this matter; that the Senate is entitled to a say-so as to who shall discharge the duties of these offices. The Senate has expressed its opinion in condemnation of many of these persons; but in spite of that expression of opinion the President has appointed them, and they are now discharging the duties of these offices. It is to prevent payment in such cases that I have offered this amendment.

There is a case of the kind in my own district. An individual was appointed there during the session of the Senate at the last session of Congress. He failed to receive in favor of his confirmation a majority of the votes of the Senate; I am not certain that he received one vote. Yet immediately after the adjournment of the Senate he was reappointed and commissioned, and is to-day the collector of the district which I represent in this House. And other members here know of other cases of the kind, not only assessors and collectors, but many other officers. I have, however, offered my amendment to this appropriation, which is for the purpose of paying assessors and collectors, to prevent the payment of such officers as I have mentioned.

Mr. O'NEILL. I desired the floor a few minutes ago, in order to say a few words in reply to my colleague from Pennsylvania [Mr. RANDALL] on the other side of the House. It may be a little out of order for me to do so upon this amendment, and yet I may as well state to the House the difference, so far as Philadelphia is concerned, between the political appointments of Mr. Lincoln and those of the present Executive of this country.

Mr. STEVENS. I wish to ask for the enforcement of the rules.

The CHAIRMAN. Debate is closed upon the pending amendment.

Mr. RANDALL, of Pennsylvania. I hope my colleague [Mr. O'NEILL] will be allowed to proceed and that I may be allowed to clean him out. [Laughter.]

The CHAIRMAN. It requires unanimous consent.

No objection was made.

Mr. O'NEILL. What Abraham Lincoln did during his administration, and what Andrew Johnson has been doing during the last campaign, in the matter of political appointments, are entirely different things. The late President of the United States, I do not think, ever permitted or ever acquiesced in any such acts as have been performed under the present Executive. For instance, the present Secretary of the Navy within the past few months permitted a board of naval officers, two of them officers of the line, and another an officer of the engineers of the Navy, to sit in judgment upon the political status of the working men and master mechanics employed in the Philadelphia navy-yard. He permitted these officers officially to ask the question whether these poor working men and master mechanics belonged to a political organization opposed to the policy of Andrew Johnson. I do not know whether the present President ordered that to be done. But I do know that those officers of the Navy, departing from the true line of their duty; obliged, I have no doubt, to depart from it by an order; did sit as a board and inquire of master mechanics and others whether they belonged to the organization which elected radical Republican members to this House, and whether they marched in the processions of that organization. These inquiries were made a matter of record, which record I believe is now in the Navy Department.

Mr. RANDALL, of Pennsylvania. Mr. Chairman, in reply—

The CHAIRMAN. Debate is exhausted.

Mr. RANDALL, of Pennsylvania. I hope I shall be allowed the privilege—

The CHAIRMAN. The gentleman can only proceed by unanimous consent. Is there any objection?

Mr. RANDALL, of Pennsylvania. I condemn as much as my colleague the act to which he alludes—

Mr. FARNSWORTH. I object to the gen-

tleman from Pennsylvania proceeding out of order.

The CHAIRMAN. The remarks of the gentleman from Pennsylvania are out of order, objection being made.

Mr. RANDALL, of Pennsylvania. I move to amend by striking out the last word.

The CHAIRMAN. No further amendment is in order. An amendment to the amendment is now pending.

Mr. RANDALL, of Pennsylvania. I thought there was an understanding that I should be permitted to reply to the remarks of my colleague.

The CHAIRMAN. The Chair must rule that debate is out of order.

The question being taken on the amendment to the amendment, it was agreed to.

Mr. RANDALL, of Pennsylvania. I move to amend the amendment by striking out the last word. I wish to say in reply to my colleague, that I condemn just as much as he does the sitting of that board, which emanated from the authority of the commandant of the yard, a Republican; and so soon as the Navy Department was informed of the matter an order was issued countermmanding the action of the commodore of the yard.

Mr. O'NEILL. I desire to say that this board did sit, and that after its sitting those working men and master mechanics and others were discharged for the reason I have mentioned.

Mr. FARNSWORTH. I rise to a point of order; there is an amendment pending, and debate is exhausted upon both.

Mr. RANDALL, of Pennsylvania. I have proposed a new amendment to strike out the last word.

The CHAIRMAN. The amendment of the gentleman from Ohio [Mr. BINGHAM] was voted upon; and the question recurring on the amendment, the gentleman from Pennsylvania moved an amendment to the amendment. The gentleman from Pennsylvania is in order.

Mr. RANDALL, of Pennsylvania. Now, I desire to say one word as to what Abraham Lincoln and those under him did in that navy-yard, during the period of his presidency. Abraham Lincoln wrote with his own hand a letter, which was read individually to the workmen of that yard, demanding that at the election then about to take place I should be beaten at all hazards. Gentlemen may talk about men in high position descending to small things. Why, sir, I felt humiliated to think that the President of the United States should have done such an act.

Again, sir, my colleague is perfectly well aware that during the Administration of President Lincoln a secret committee was organized in the city of Philadelphia, headed by an ex-sheriff, to inquire into the political sentiments of every man, woman, and child holding any employment under the Government; and according to my information every woman who had a brother who was a Democrat was deprived of employment as a sewing-woman in the United States arsenal at Philadelphia. Yet my distinguished friend [Mr. BINGHAM] has the effrontery—he will pardon the expression, for I entertain for him great respect—to complain of Andrew Johnson because he has made removals from office for political reasons. I am only sorry that he did not carry the war further into Africa than he did, and see how the action of Abraham Lincoln would stand the test which he would apply to the course of Andrew Johnson.

The secret committee to which I have alluded did not emanate from any Department; it had no legal authority whatever; it originated in a desire to persecute people for opinion's sake; and at that time my respected colleague was very ready to be the recipient of all the political benefits arising from that sort of a crusade.

Mr. O'NEILL. Mr. Speaker—

Mr. RANDALL, of Pennsylvania. I yield to my colleague.

Mr. O'NEILL. Mr. Chairman, I was very much pleased to hear my colleague say that he

felt humiliated at the fact of this board sitting in the Philadelphia navy-yard. I could name the gentlemen who were upon that board—distinguished officers of the Navy, some of whom had fought the battles of their country upon the sea. Not one of those men dared to protest officially against the requirement of this duty which they were called upon to perform. I will say here boldly that I consider it a high misdemeanor on the part of the Secretary of the Navy, or any other officer, to call naval officers from the discharge of their legitimate duties to perform the miserable work which was required of these officers. Whether they were ordered to do it by the President or the Secretary of the Navy or the chief of the Bureau of Yards and Docks or by the commandant of the yard, all I have to say is that the record of their examination into the political status of the employés in that yard is now on file in the Navy Department, and those who did not pass the examination satisfactorily to the political exactions of the Johnson party were discharged, although many of them but one year before had successfully passed a competitive examination, open to the whole world, for the places which they filled.

Mr. RANDALL, of Pennsylvania. And some of the men who had been indicted for stealing were reinstated.

Mr. STEVENS. I must rise to a point of order, for the purpose of putting a stop to this discussion, which is clearly out of order.

Mr. O'NEILL. I want to say a word in reply to my colleague.

Mr. SPALDING. I hope Pennsylvania may have the floor.

Mr. STEVENS. Subjects have been brought here and discussed which have nothing to do with this bill; and the rule is, in the five-minutes debate, that gentlemen should be confined strictly to the pending amendment.

Mr. RANDALL, of Pennsylvania. I thought my colleague was always in favor of a "scrimmage," and I hope he will not stop this one.

Mr. STEVENS. I insist the debate shall be confined to the pending amendment.

The CHAIRMAN. The Chair sustains the point of order. The question recurs on the amendment of the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. LE BLOND. I rise to a point of order. While the amendment of the gentleman from Missouri was pending, the gentleman from Pennsylvania moved to amend it by striking out the last two words; and the question now is, therefore, not upon the amendment of the gentleman from Missouri, but on the amendment to the amendment moved by the gentleman from Pennsylvania.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania offered his amendment merely for the purpose of making some remarks. Indeed, when it was offered no amendment was in order.

Mr. LE BLOND. I understand when a motion is made the Chair is not to determine whether it is made simply for delay, or for the purpose of speaking on it, or made in good faith. I understand that to be the jurisdiction of this House. I insist, therefore, on the question being presented to the House in its proper form.

The CHAIRMAN. If the gentleman from Pennsylvania will say that he made the amendment in good faith the Chair will put it to the House.

Mr. RANDALL, of Pennsylvania. I did make my amendment in good faith, and I thought I had one minute left. [Laughter.] If not, I will withdraw my amendment to the amendment.

The amendment, as amended, was then agreed to.

Mr. LE BLOND. I move to amend the amendment by striking out the last two words.

The CHAIRMAN. As I understand the parliamentary rules the gentleman's amendment is not in order.

Mr. STEVENS. The words cannot be

stricken out because they have just been inserted.

The CHAIRMAN. The amendment, as amended, has been adopted, and is not subject to further amendment.

Mr. LE BLOND. I understand the amendment of the gentleman from Pennsylvania was still pending, and hence the other proposition could not be offered.

Mr. FARNSWORTH. The Chair has decided, and I object to further debate.

The CHAIRMAN. The Chair does not want to be rude to gentlemen. He is only temporarily in the chair and he hopes the gentlemen will confine themselves to the rule.

Mr. LE BLOND. I take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that the amendment to the amendment, and the amendment as amended were adopted. From that decision the gentleman takes an appeal.

While the question was being put to the House Mr. LE BLOND continued to seek the floor, but was not recognized by the Chair.

The decision of the Chair was sustained.

Mr. LE BLOND. I yield to power but not justice.

The Clerk read as follows:

Contingent expenses of the Treasury Department. In the office of the Secretary of the Treasury:

For copying, labor, binding, sealingships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, \$10,000.

For temporary clerks in the Treasury Department: Provided, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services, \$50,000.

Mr. MAYNARD. I move, in line three hundred and seventy, after the word "services," to insert the following:

And in his discretion to employ ladies when their services can be made equally profitable.

I do not propose to argue this amendment. It is a subject we have all had before us. I leave it to the good sense and good feeling of the House. It gives to the Secretary of the Treasury, in expending this sum of \$50,000 for temporary clerks, the discretion to employ ladies when they can be employed as economically as men. It has been tried for several years and in the main has worked well.

The amendment was agreed to.

Mr. FARNSWORTH. I move to strike out the whole paragraph in reference to temporary clerks. It will make no difference so far as the amendment of my friend from Tennessee is concerned, for the Secretary of the Treasury has already the authority to employ ladies as temporary clerks, and there is no necessity for giving him the authority over again.

I am against giving the Secretary of the Treasury authority to employ clerks at his discretion, and at his discretion to classify them. I think it is high time to stop the giving of this discretionary power to employ and classify these temporary clerks. If any legislation is needed it is a law to reorganize and classify the clerks. We have seen how the Secretary of the Treasury has exercised the discretion which Congress has heretofore given him. We gave him \$250,000 two years ago to be distributed through his Department to clerks according to merit and the character of their services. He expended a portion of that by giving it to the heads of bureaus, and fourth-class clerks, perhaps giving a little of this money to third-class clerks, but not a dollar to the first and second class clerks or to the ladies and messengers employed at a small compensation. Last year Congress provided how he should distribute the balance of the appropriation. We directed it to be expended on the low-class clerks and employes of the Department. We then gave him an additional appropriation at his discretion again, and how has he disposed of that. In the same way that he disposed of a portion of the first appropriation of \$250,000, by giving it to the heads of the bureaus and higher-class clerks. So, if we give him this \$50,000, according to

the precedent already set, how will he expend it? Why, he will give it to the heads of the bureaus, and perhaps to such of the clerks as he happens to like best. He will give a portion of it to the fourth-class clerks, but not one cent to those men with families who are trying to live on \$1,200 a year.

Mr. HILL. I would inquire of the gentleman what information he has as to the manner in which the money has been expended. A resolution was introduced a few days ago calling for that information, but I am not aware that it has been replied to.

Mr. FARNSWORTH. I am not aware that any official information is before the House. I get my information from the persons about the Department who say they know that the money has been distributed in this manner. So, I hope this giving the Secretary money to distribute to his clerks according to his discretion will be stopped.

Mr. LE BLOND. I wish to offer a few remarks in reference to this proposition. It is curtailing the powers of the Secretary. It is akin to the proposition disposed of by the House in a very summary and unheard-of manner but a few moments ago. Sir, this system of legislation I for one feel it my duty in my my humble capacity to oppose, and I do so in good faith and not with any captious disposition.

Who is best qualified to know the character of persons that are serving under another; their capacity to discharge their duties and their worth as officers in the Department? None so well as the men who have charge of the Departments. This same principle prevails throughout your whole Government. There is no one who knows better the worth of an officer and his faithfulness to the Government than the man who has the appointing power, or who is chief executive over a certain class of these officers. He has control of them and he should make the appointment.

There are gentlemen here who in the last political contest went over the country saying that a certain party was a "bread and butter brigade." What evidence have we had of the truth of the assertion on this floor? It is a struggle on the part of these men who shall hold these offices and strip the Executive of the appointing power. Who constitute the "bread and butter brigade?" Why, sir, the very Constitution is stricken down, all the powers that have been conferred upon the President of the United States and exercised since the foundation of the Government are to be upturned, and for what? For the purpose of saving the "bread and butter" to the party here who seek to control matters in their own way, right or wrong.

Sir, sound policy and economy require that the power of appointing these officers should be in the President. It has been so exercised by all the Executives from President Jackson down to the present time. There never was a time in the history of the American Republic when so many officers' heads fell as during the three months when General Harrison was President of the United States. That fact has become history. Did you find the party then in power saying it was wrong? Did you find the opposition party legislating against the Executive for the purpose of retaining patronage? No, sir. The party then in power adhered to the policy that had been inaugurated because it was wholesome. Did you find any of the gentlemen on the other side complaining during the administration of President Lincoln because he removed Democrats? Not a word of complaint emanated from that side. Everything was right. But now, when the present Executive, a man of their own choice, seeks to exercise that power and to use the patronage for the purpose of carrying out constitutional measures, you find these very men rising up here and complaining of the Administration for the exercise of lawful power.

Now, the contest goes on as to who is to have this bread and this butter, who are to have epaulettes on their shoulders as the officers of

this "bread and butter brigade." Well, sir, from the strides that are being taken by the dominant party in this House I think there is no question where it will rest. My colleague [Mr. BINGHAM] has even thrown out an intimation—if I understand him aright, and I call his attention to it—that removals for political reasons are to be considered as corruption in office. He spoke of removals for cause and removals for disability, but did not allude to the other class of removals. That leaves it to be inferred that where the Executive removes for political considerations it is corruption in office.

Mr. BINGHAM. Will the gentleman allow me to say that I said nothing of the sort?

[Here the hammer fell.]

The question was upon the motion of Mr. FARNSWORTH, to strike out the paragraph.

Mr. BINGHAM. I move to amend the paragraph *pro forma*, by striking out the last word. It was very far from my purpose, when I introduced the proviso to the amendment of the gentleman from Missouri, [Mr. BENJAMIN], to excite or authorize any such remarks on the part of any gentleman as have just fallen from the lips of my friend over the way, [Mr. LE BLOND.] On the contrary, lest they might be some apology or excuse for such utterances as the gentleman has just made, I qualified my meaning by my own language so as to exclude any conclusion like that which the gentleman has announced. I stated that where the President of the United States makes a removal from office corruptly and for personal ends he was guilty of a high crime and misdemeanor, and that the Constitution charged us upon our oaths to make that inquiry and decide that question.

Mr. LE BLOND. Will my colleague permit me to ask him a question?

Mr. BINGHAM. Certainly.

Mr. LE BLOND. Does my colleague wish it understood that a removal from office for political reasons merely is one of the class he speaks of?

Mr. BINGHAM. I have made no intimation that would even justify such an inquiry. So far as I am personally concerned I excluded all inquiries of that sort. But as the question comes up, I am free to say further—and if anybody will persuade me that I am wrong in my judgment at any time, upon this or any other question, I will change it—I am free to say that where the removal is made merely because of personal considerations toward the party removed, and not with any corrupt motive on the part of the Executive, the removal being made in accordance with the continued practice of the Government from its organization to the present time, it would not in my opinion be a high crime or misdemeanor. Is my colleague [Mr. LE BLOND] satisfied?

Mr. CHANLER. Will the gentleman from Ohio [Mr. BINGHAM] yield to me for a moment?

Mr. BINGHAM. No, sir. I introduced that proviso for the purpose of preventing what I believed would be a flagrant violation of the written text and spirit of the Constitution of my country. I was provoked into these other remarks in the course of the debate, yet I intend to ask no pardon, to offer no apology for what I have said upon that subject. But I will take care that no man shall make a speech for me, or put into my mouth words which I never uttered or intended to utter. I think it would be well when this bill comes into the House to amend this portion of it—the amendment of my friend from Missouri [Mr. BENJAMIN]—so as to make it conform to the exact words of the Constitution. Gentlemen may say that it would be nugatory. I admit that it would be unless we proceed with the legislation already inaugurated to determine by law the legal effect of the words in the Constitution.

I have said this much to vindicate my own position, and to correct the impression which might otherwise be produced by the remarks made by my colleague, [Mr. LE BLOND.] I

now withdraw my amendment to the amendment.

Mr. CHANLER. I renew the amendment. Mr. Chairman, in the remarks which I made in regard to the original motion of the gentleman from Missouri the same question arose as to the patronage of the Administration. With such patronage, whether it be in the hands of the Executive, or directly in the hands of the people's representatives in Congress, I wish to have nothing to do.

Mr. FARNSWORTH. I rise to a point of order. I must insist that this debate is entirely out of order. My amendment has no political bearing whatever.

Mr. CHANLER. I am not speaking on any political question.

The CHAIRMAN. The gentleman from New York [Mr. CHANLER] will confine himself to the amendment, which is to strike out the word "dollars."

Mr. CHANLER. I call for the reading of the whole paragraph as proposed to be amended.

The paragraph was read.

Mr. CHANLER. I modify my amendment, and move to amend by striking out all after the word "employ."

The CHAIRMAN. The gentlemen will proceed in order.

Mr. CHANLER. Now, sir, the question is as to the employment of persons by this Government in certain Executive Departments; and I shall proceed to debate that question as I was proceeding to debate it when thus discourteously interrupted by the gentleman from Illinois [Mr. FARNSWORTH] who presented the amendment. I was proceeding to debate it in good faith, as I suppose he offered it in good faith. But the part of the political bully, played by the other side of the House, is performed with especial grace by the individual who has assumed to cut off debate upon his own proposition.

Now, sir, I wish to set myself right upon the record here with regard to this question of executive patronage, whether in the Treasury Department or any other Department. I am no advocate of the President, and I cannot take the position assumed by my friend from Ohio, [Mr. LE BLOND.] I am, sir, for the limitation of executive power. I am for the limitation of the administration of patronage by every department of this Government, and for the distribution of it through and among the representatives of the people. This is the only wholesome basis on which the Democratic party can exist.

I thank the gentlemen from Illinois for bringing this question before the House. We on this side of the House cannot support the policy of Abraham Lincoln, even though it be under the protection of Andrew Johnson. What was done under the plea of a "military necessity" shall not, with my sanction, be done when that plea is abandoned by those who originated it. When gentlemen on the other side have abandoned their own official, elected by themselves, for the distribution of patronage, I for one will not take him up.

I have had nothing to do with the distribution of patronage in the Treasury Department. As a Representative elected by Democratic votes I do not wish to participate in that patronage. It never has been at my command, and until I join with the Administration I will not condescend to ask any share of it. I wish the line to be drawn between Democrats of the Democratic party and Democrats of the Conservative Republican party who desire to live upon the pap and patronage of the Administration. I wish to be understood, sir, as belonging to the young Democracy of this continent, and not to the Democracy of the Treasury Department or any other Department. I wish to be understood as being a radical of radicals in the Democratic faith. I am not one of those who are willing to make discriminations against their own race and to exclude white men in order to let in black women to work in the

Treasury Department. I cannot follow the gentleman from Illinois in all the ramifications of his philanthropy and his love for the female sex.

[Here the hammer fell.]

Mr. STEVENS. Mr. Chairman, I rise to oppose the amendment of the gentleman from New York, as I understand it. I merely want the House to know the condition of this whole provision.

Last year Congress granted an appropriation of \$160,000 to be distributed at the discretion of the Secretary of the Treasury among the clerks and officers of the Department. That provision was not acceptable to the House, but was assented to in the committee of conference and agreed to by the House in order that the bill might pass. I then made up my mind that I should vote for no more such appropriations with so large discretion allowed in the expenditure. The Secretary of the Treasury distributed that money in a manner which some gentlemen may consider right, but which I deem a great abuse of it. Instead of making allowances to those who had salaries of \$1,200 and \$1,400, he paid the auditors \$1,000 additional; the chief clerks \$800, and so on. All those who did not need any extra allowance received it; and the Secretary's only justification, as far as I know, is to be found in the Bible, where it speaks of taking from those that have not and giving to those that have. [Laughter.]

I will refer to the estimates. It asked for an appropriation for temporary clerks in the Treasury Department, provided that the Secretary of the Treasury be, and is hereby, authorized in his discretion to classify the clerks authorized according to the character of their services; and provided further, that the Secretary of the Treasury may award such additional compensation to the officers and clerks as in his judgment may be deemed just and may be required by the public service. That continued the discretion. The Department asked \$250,000. The committee struck out all discretionary power, and left the Secretary of the Treasury \$50,000 for temporary clerks, thinking there may be a time when regular clerks may not be needed and temporary clerks might be employed to the extent of \$50,000. We struck out all discretionary power on the ground that this discretion was exercised without discretion and with gross partiality for the last two years. It was disagreed to by the House at the last session, but was adopted in the report of the committee of conference. I do not care whether the \$50,000 is voted or not. The committee reduced it from \$250,000 to \$50,000, and I do not care whether it is all stricken out.

Mr. CHANLER. I withdraw my amendment to the amendment.

The question then recurred on Mr. FARNSWORTH'S amendment, and it was agreed to.

Mr. MORRILL asked and obtained unanimous consent to return to the following paragraph:

For rent, dies, paper, and so forth, for stamps and incidental expenses, including the cost of subscriptions, and so forth, of such numbers of copies of the internal revenue records and customs journals as the Secretary of the Treasury may deem necessary to supply the revenue offices, \$250,000.

Mr. MORRILL. I move to strike out the words "and so forth" in lines three hundred and forty-eight and three hundred and fifty, and also in lines three hundred and fifty and three hundred and fifty-one to strike out "Internal Revenue records and customs journals," and to insert in lieu thereof, "Internal Revenue Record and Custom Journal," it being a newspaper published in New York.

The amendment was agreed to.

The Clerk read as follows:

For compensation of additional clerks in the General Land Office, under the act of 31 March, 1855, granting bounty land, and for laborers employed therein, \$83,640: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of \$1,200 per annum.



Mr. HARDING, of Illinois. I offer the following amendment:

Add the following: *Provided, further,* That said work shall be given only to persons in indigent circumstances, and to soldiers and to widows of soldiers who served in the Union Army during the late rebellion, and to be done only by the employé in person.

I do not intend to take up the time of the House with any lengthy remarks on the subject. I wish to correct an abuse I understand to exist relative to the service contemplated by this section. I hear, sir, that persons obtain work under that section and sub-let it so that they are able to make quite a sum of money, and are thus enabled to travel for pleasure and to spend a considerable portion of the summer at the springs. I know that persons, competent to perform the service, widows of soldiers who fell at Gettysburg, have been turned away after repeated efforts to procure some portion of this work to pay their daily board. I think I can assure the House, if proper investigation be made, it will be found that persons not at all in indigent circumstances, who have friends high in office, are receiving most of this work, for which they are receiving high compensation. I have for this reason moved the amendment.

Mr. STEVENS. I believe what the gentleman says about the employment of clerks, and it is true in regard to all of the Departments. I believe a great many who do not need it are appointed. A great many are appointed because members of Congress insist upon the employment of their friends; and they are employed without regard to their merits and necessity. I suppose it is so with regard to those who have been appointed at the suggestion of members on the other side of the House, as we have no power of appointment. It has been the practice, and I do not see how the Committee on Appropriations can refuse to pay those who are there under the law. We must make the appropriation if they are there according to the law.

Mr. HARDING, of Illinois. I beg leave to correct the gentleman; it is not to refuse to pay but to limit the employment to persons in indigent circumstances and soldiers and the widows of soldiers.

Mr. STEVENS. I suppose they will say any one is indigent who wants money. [Laughter.] The amendment was agreed to.

Mr. GRINNELL. I move to strike out the following:

Bureau of statistics:  
For contingent expenses, namely: laborers, office furniture, carpets, fitting up files, and miscellaneous items, \$4,000.

The amendment was agreed to.

The Clerk read as follows:

For compensation of the Secretary of War, Assistant Secretaries of War, solicitor, chief clerk, and the clerks, messenger, assistant messengers, and laborer in his office, \$61,340.

Mr. FARNSWORTH. I move to insert the word "Secretary" instead of "Secretaries." I do not suppose there is any necessity for two Assistant Secretaries of War.

The amendment was agreed to.

Mr. STEVENS. I move to strike out the word "solicitor."

The amendment was agreed to.

Mr. FARNSWORTH. I move to strike out this item under the head of "Post Office Department":

For additional and temporary clerks, \$40,000.

I would like to understand the reason for the employment of these additional clerks, and what reason there is for employing more clerks in the Post Office Department than they had before the war. During the war they were employing not so many on account of the post offices being closed in all the southern part of the country. Now, I suppose the post offices are reopened and the post routes restored, but there is yet no addition, as I conceive, to the duties of the Post Office Department beyond what they were before the war. I know it is the

custom of the heads of the Departments to increase their estimates from year to year. If you give them the right to employ additional clerks this year they send in an estimate for more the next year. They always increase but never diminish their demands.

Mr. STEVENS. This is the usual appropriation. It has been going on from year to year. The Department always finds it convenient to employ others than the regular clerks from time to time.

Mr. FARNSWORTH. I think my friend from Pennsylvania is mistaken. This has been going on for the last year or two, but I do not think a precedent can be found for it before the war. The excuse for the last year and the year before was the additional labor in the Post Office Department, in consequence of reopening post offices and post routes throughout the South. Now, I admit that they are entitled to all the clerks they had when all the post offices in the country were in operation, but I see no necessity for more.

The question being taken on the amendment, it was agreed to.

The Clerk read as follows:

For compensation of Commissioner of Agriculture, chief clerk, entomologist, chemist, and the clerks and employes in his office, \$33,020.

Mr. MAYNARD. I move to insert after the word "chemist" the words "and assistants." I am aware that this Department of Agriculture is in a little bad odor with this body, and perhaps elsewhere, but that it is a most important Department in the economy of our Government I have long been satisfied. And there is no branch of it I think of more importance than the chemist's laboratory. At present the laboratory is confined to a very small, dark, unhealthy room, hardly sufficient for a private gentleman to conduct experiments as an amateur. The amount of apparatus is also very small and wholly insufficient. The principal chemist is expected, as some one has expressed it, to be "his own glass-holder and bottle-washer," and perform all the manual operations without assistance. The chemist of the Department ought to have leisure for a great many other things than the mere manipulation of the laboratory.

This department of agricultural chemistry connected with the Department of Agriculture should, in my opinion, be enlarged and made more serviceable and effective than it now is. In order to do that it is necessary to give the chemist at least two assistants, and I think we might as well make the provision to that effect at this point in this bill as at any other. I do not desire to detain the committee by enlarging on this subject. It is one of not very lively interest, I am aware, but one of great practical importance to a great number of agricultural people.

The amendment was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For purchase and distribution of valuable seeds, namely:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, \$80,000: *Provided,* That the Commissioner of Agriculture shall only purchase and distribute, with the fund herein appropriated for that purpose, such seeds as are rare and uncommon to the country or such as can be made more profitable by frequent changes from one part of our own country to another.

Mr. WENTWORTH. I think there should be another proviso to this paragraph. I therefore move to amend it by adding the following:

*And provided further,* That he shall purchase seeds in this country only for distribution in foreign countries, and that he shall distribute in this country only seeds purchased in foreign countries.

I have, as an agriculturist, been familiar with this Department of Agriculture from its origin. I think it has gone far beyond the original intention of the agriculturists who labored for its establishment.

Mr. BIDWELL. I would suggest to the gentleman from Illinois [Mr. WENTWORTH] that he can accomplish his object better upon

another bill, upon the bill for the reorganization of the Agricultural Department.

Mr. DAWES. And I would suggest another amendment to this effect; that the beans which have already been left with members be returned. [Laughter.]

Mr. ASHLEY, of Ohio. I second that amendment.

Mr. WENTWORTH. I very frequently find that I have been sending home to my constituents seeds that can be bought anywhere in the West. Now, I do not censure the present Commissioner of Agriculture for this. All other Commissioners of Agriculture have done the same thing, and the present Commissioner is expected to continue doing what they did.

I find upon going to the seed department, especially in the spring of the year, the inhabitants of this city and the neighboring country up there begging for seeds. A great many of them have learned to go there to get their supply of seeds from the Department. Yet I am not one who entertains the opinion of the present Commissioner which seems to be entertained by many gentlemen in this House. I think he is a very worthy gentleman, one well qualified for the place he occupies. I think he will comply with any restrictions or limitations which we may apply. Those of us who have paid any attention to this subject certainly know that great abuses have crept into that Department, abuses which the Commissioner may not feel authorized to remove at his own instance.

Mr. MAYNARD. I wish to call the attention of the gentlemen from Illinois [Mr. WENTWORTH] to this fact, that different portions of our country with different climates and different soils require different seeds. Those that flourish very well in one locality will not flourish in another. By changing seeds from one part of the country to another, their growth is vastly improved. For example, the growth of wheat in our country has been almost entirely renovated, once if not twice, within a few years past in that way. That feature of the Agricultural Department, the transmission of seeds from one portion of the country to another, has been of great service.

Mr. WENTWORTH. I think I understand this subject as well as the gentleman from Tennessee, [Mr. MAYNARD,] for I have thoroughly investigated it. The people of the North are raising and sending seeds all through the country, North and South; and the people of the South are raising seeds. You can buy almost anywhere such seeds as are required in this country. But I have no objection to the purchase of foreign seeds for this country, or the purchase of seeds in this country for foreign countries.

Mr. STEVENS. I know that every year some assault is made upon this Department of Agriculture. I know also that there is no branch of this Government in which the people generally take so much interest as in this Department. The distribution of seeds especially is valued very highly in the agricultural portions of the nation. I do not know anything in which my constituents feel more interest than they do in getting a change of seeds even from portions of our own country. Transferring seed from one locality to another, as the gentleman from Tennessee [Mr. MAYNARD] has well said, is a very excellent thing, having very often a most remarkable renovating effect. If you strike out this appropriation, therefore, you strike out that which is very much desired by all the agriculturists of Lancaster county, Pennsylvania.

I know that in the distribution of these seeds there are many things that look frivolous. There are some things done, I suppose, to please the ladies, and some things to please the gardeners; yet this distribution of seeds is all very useful, and I do not think that heretofore there has been any abuse in this matter except such as is incident to all human affairs. I believe that this distribution of seeds, together with all the other operations of the Department

of Agriculture, has been of great public advantage, and the Department ought to be cherished for the benefit of the public at large. Although it is easy to ridicule a few items introduced in this bill, yet I think that these appropriations for the benefit of the agricultural interests of the country are of great importance. The Department of Agriculture has been so conducted that it has proved more valuable than I ever expected it to be.

Mr. BIDWELL. I move to amend the amendment by striking out the last word.

Notwithstanding all the embarrassments and imperfections that may be connected with the operations of the Department of Agriculture, I think we ought not to do anything which may have the effect of crippling it and marring still further its efficiency. I believe that this Department might be and should be reorganized and made more efficient. It is a Department in whose operations the entire country takes an interest and a pride.

The proposition of the gentleman from Illinois is one which cannot be introduced here so as to be made effectual and practical. There is no doubt that seeds can be purchased in Europe and introduced in this country to very great advantage; and the practice should be continued. I think, also, that it is of advantage to purchase seeds in our own country and send them to Europe, exchanging them perhaps for European seeds. It is also desirable to exchange the seeds of one part of our country for those of another portion. But the necessary legislation for carrying out this object cannot be properly embodied in a brief amendment to an appropriation bill. We cannot in this hasty manner prescribe the necessary legislation as a guide for the Commissioner of Agriculture, so that the object we have in view may be put into practice. We had better allow the clause of the bill to stand as it is, and let a bill be introduced hereafter for the reorganization of that Department. This is my judgment on the matter. I hope that the amendment will not prevail.

Mr. MAYNARD. I would like to ask the gentleman from California [Mr. BIDWELL] a question: is there not as much difference between the crops of his State and those of mine as there is between the crops of either of our States and those of any country in Europe?

Mr. BIDWELL. Oh, yes, sir. And I believe that the Commissioner of Agriculture ought to require every person upon the Pacific coast to whom seeds are sent, to send in return a certain quantity of seeds raised in that region. In other words, seeds raised in the Atlantic States should be distributed on the Pacific coast, and those raised on the Pacific coast should be distributed in the States of the east. There are great advantages in exchanging seeds, as I know by experience. I withdraw my amendment to the amendment.

Mr. WENTWORTH. I renew the amendment; and I desire to say that I trust nothing I have said may be construed as reflecting in any way upon the Department of Agriculture, and least of all upon the Commissioner, although I think that great abuses have crept into the Department with reference to the purchase of American seed for American distribution. But, as the gentleman from California, [Mr. BIDWELL], who is the chairman of the Committee on Agriculture, and no doubt understands this subject thoroughly, has declared his intention or willingness to introduce a bill for the reorganization of this Department, a measure which will provide a cure for existing abuses and secure the intended efficiency of this branch of the governmental administration, I am willing to withdraw my amendment. I shall look to him to introduce a proper measure for remedying all existing defects.

Mr. BIDWELL. I pledge myself to the gentleman to use my urgent exertions to accomplish that end.

Mr. WENTWORTH. Then I withdraw the amendment to the amendment, and also the original amendment.

Mr. FARNSWORTH. I move to amend by striking out in the seven hundred and eighty-sixth line the word "eighty" and inserting "sixty"; so that the clause will read:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed bags, and miscellaneous items, \$60,000.

This will make the appropriation correspond in amount with that made last year.

Mr. BIDWELL. I trust the gentleman will give us some reason why this amendment should be adopted.

Mr. FARNSWORTH. Sixty thousand dollars was considered sufficient last year; and I do not see why the same amount should not be enough now.

Mr. BIDWELL. I think that \$80,000 was the amount appropriated last year.

Mr. FARNSWORTH. The document in my hand shows that the appropriation last year for this item was \$60,000. This year the amount called for by the estimates of the Commissioner was \$90,000. The committee reduced it from \$90,000 to \$80,000, striking off \$10,000; and I desire the Committee of the Whole shall reduce it to the appropriation of last year.

It will be observed by the House that these estimates are increasing from year to year. If Congress gives every time they ask all they ask, they will run up thousands every year. It is our duty to keep them in bounds. I wish to keep this within the bounds of last year. My proposition of seeds under that appropriation is all I ask.

Mr. MORRILL. I move to amend the amendment by reducing the sum to \$40,000.

Mr. FARNSWORTH. I accept that.

Mr. MORRILL. Mr. Chairman, I have heretofore struggled to make some reformation in that Department, but our friends are so fond of the "stistics" and "anilyas" of the Department that I have never been able to succeed. We have here an appropriation of \$38,000 for employes without any specification and left entirely to the disposal of the chief of Department. When this Department was first established that sum was, I believe, about the amount of the whole cost of its annual maintenance. As the gentleman from Illinois has stated, all we allowed last year was \$60,000—much more than was necessary if economically expended. All of the items as this year proposed in this appropriation amount to \$162,000—every year increasing, as will be seen, and more than three times what it cost only a few years ago. And beyond this the Commissioner is allowed to go to the Public Printing Office and have published a monthly or semi-monthly document costing the Government, as I am informed, an amount equal to this whole appropriation. Some of the articles published in this governmental periodical may be of some value, but they might much better be included in the annual report.

It strikes me we should at this time pay some attention to the expenditures made in this as well as in other Departments. And what is the character of the seeds we receive? Seven eighths are precisely such as you can go to any agricultural seed-store and buy. I will do the justice to say that even the old names of thirty years ago have not been changed. It is nothing more than a bonus to those people who see fit to write to the Department or call upon it for their regular annual supply of common garden seeds. Look at the way in which these seeds are expended, saying nothing of the equally extravagant manner in which they are purchased. One half at least are given to those who call either in person or by letter upon the Department for their supplies. For those who happen to live near by it is just the thing to call and select their annual supply of seeds without paying for them; while those who live at remote distances are compelled to forego such privileges. It seems to me equally unfair that persons living near by or remote from the capital shall be allowed annually to address a letter to the Department for parcels of seed, thus sponging them out of the Government

instead of paying for them at the agricultural seed-stores. These are little matters but they constitute a large item in the expenditures of the Department. And I speak from knowledge that the quality of these seeds is inferior to what they were some years ago. Then we had the best kind selected from the old varieties, and some of a new and rare sort. Now we have the commonest varieties and sometimes the poorest distributed in small parcels, a large share of which are useless when received because not suited to the climate. I do not wish to cripple this Department. I wish to reform it and make it worthy of the Government; and now everybody knows that it is discreditable.

Mr. SPALDING. I move that the committee meet now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, of Pennsylvania, reported that the Committee of the Whole on the state of the Union having had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1868, had made sundry amendments thereto.

#### OCCUPATION OF SAN JUAN.

Mr. DENNY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to this House, if this can be done compatibly with the public interest, a copy of all correspondence between the Government of the United States and Her Britannic Majesty's Government on the subject of the joint occupancy of the island of San Juan, in Washington Territory.

#### RECONSTRUCTION.

Mr. STEVENS. I desire to move to take up House bill No. 623, to enable the States lately in rebellion to regain their privileges in the Union, for the purpose of offering some amendments and having them printed. It is an important bill lying over from the last session, and ought to be taken up and acted on after the holidays.

Mr. RANDALL, of Pennsylvania. I object.

Mr. STEVENS. I move to postpone all the preceding special orders.

The motion was agreed to.

Mr. STEVENS. I present certain amendments to the bill and move that they be printed. The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. JOHN W. FORNEY, its Secretary, informed the House that the Senate had framed a joint resolution (S. R. No. 140) for the relief of Charles Clark, marshal of the United States for the district of Maine, in which he was directed to request the concurrence of the House.

#### ORDER OF BUSINESS FOR TO-MORROW.

Mr. HALE. I ask unanimous consent that the House devote to-morrow to the consideration of the President's annual message, in Committee of the Whole on the state of the Union, and that no other business be transacted.

Several MEMBERS. Oh, that will not do.

Mr. STEVENS. I hope we will have no such understanding. If there is no quorum here that will be the fact, but I object to losing another day in addition to the two weeks' recess.

Mr. WASHBURN, of Illinois. As chairman of the Committee of the Whole on the state of the Union, I desire to say that there are many gentlemen, some thirty I believe, who desire to make speeches; and I hope unanimous consent will be given to devote to-morrow to speech-making. We lose no time by it.

Mr. STEVENS. Suppose we say to-morrow and during the vacation. [Laughter.]

The SPEAKER. That will not be in order, as the two Houses have resolved not to be in session.

Mr. SPALDING and Mr. FINCK objected to making the order.

## ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" when the Speaker signed the same.

## LIBRARY OF CONGRESS.

Mr. HAYES, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That the usual number of copies of the report of the Librarian of Congress for the present session be printed for the use of the House.

## UNITED STATES TROOPS IN MEXICO.

Mr. RANDALL, of Kentucky, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President be requested to communicate to the House, if in his opinion not inconsistent with the public interest, any further information in regard to the occupation of the Mexican Territory by the troops of the United States which he may have received since he sent to this House his message of the 8th instant.

## LEAVE OF ABSENCE.

On motion of Mr. RICE, of Massachusetts, leave of absence was granted to his colleague, Mr. HOOVER, who had been called home on account of death in his family.

And then, on motion of Mr. FINCK, (at ten minutes before four o'clock p. m.,) the House adjourned.

## PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. HAYES: The petition of Ernst F. Kleinschmidt, of Hamilton county, Ohio, for the return of \$12 50 paid to the collector of the second district of Ohio at a tax sale made without authority of law.

By Mr. STOKES: A petition from a portion of the loyal colored men of Tennessee, asking for justice and equal rights.

## IN SENATE.

THURSDAY, December 20, 1866.

Prayer by Rev. A. WRIGHT, of Fort Laramie, Dakota Territory.

The Secretary proceeded to read the Journal of yesterday. After the reading had continued for ten minutes,

Mr. WILSON. I move that the further reading of the Journal be dispensed with. The most of it is taken up with the record of the yeas and nays on motions to adjourn.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to dispense with the reading of the Journal. Is there any objection? No objection being made, the further reading of the Journal will be dispensed with.

## PERSONAL EXPLANATIONS.

Mr. WILLIAMS. Mr. President, I desire with the indulgence of the Senate to say a word or two in reference to a report that I made last Tuesday morning by the direction of the Committee on Finance, which has been greatly misrepresented and misunderstood.

During the last session of the Senate the ladies of the Treasury Department presented a petition to the Senate asking to have their compensation increased. That petition was referred to the Committee on Finance, and in accordance with their request a law was passed increasing their pay, which law I earnestly supported in the committee and in the Senate. When the committee resumed its business at this session that petition was found upon the files, and I was instructed to report it back and ask that the committee be discharged from any further consideration of it, because the subject had been disposed of at the last session. That petition related in no way to any application made at this session for an increase of salary or to any compensation to the men employed in the Departments.

Since that time several clerks have called upon me for information as to the nature and

effect of that report, which I have given, I suppose, to their satisfaction. Others have written letters to me representing the difficulties under which they labor on account of the lowness of their salaries; and some have written scurrilous and abusive letters to me upon the assumption that, because I made that report, I was opposed to any increase of their salaries. I have, sir, upon all suitable occasions expressed the opinion that the compensation paid to the officials of the Government in Washington was too low, although I have not favored adding a certain per cent. to all the salaries without respect to the merits, abilities, and responsibilities of those connected with the Departments.

My opinion upon that subject has not been changed; and I do not intend to allow my action to be influenced by the fact that some of these clerks who are now so clamorous for an increase of their salaries, at the last session formed what were called "departmental clubs" to denounce and vilify Congress, with the view I suppose of ingratiating themselves with the appointing power, and eating with safety the crumbs that fell from their master's table. Nor do I intend to allow my action to be influenced, to the prejudice of the good and deserving men in these Departments, by the course pursued by some who have few qualifications for office, and less of the characteristics of gentlemen. But I think it is proper to say, for the information of all concerned, that those persons asking for that legislation will not promote the end they have in view by addressing anonymous letters, full of scurrility and abuse, to the members of the Senate and the House who are performing what they conceive to be their duty in respect to this matter.

Mr. JOHNSON. I do not see how any action of Congress can be had on the sending of an anonymous letter to members of Congress, or to the President of the United States, or to the judges of the Supreme Court of the United States. Those things are very common, I am sorry to say. It is an outrage, but perhaps one which Congress is incompetent to correct. I cannot imagine by what legislation they can provide practically against it.

Mr. WILLIAMS. I have asked for no legislation.

Mr. JOHNSON. Now, in relation to another thing: the attack upon Congress by the press is not to be defended; nor is such an attack if made by any individual, private or official. It may be in harsh terms assailing the motives of members of Congress. It is equally indefensible for any one holding a public capacity to assail the integrity of the Supreme Court of the United States. The Senate will understand I suppose to what I allude. There appeared yesterday in a paper, which is semi-official as far as the party in power is concerned, an attack upon that high tribunal founded upon false assertions of fact, and couched in terms which if the facts had been true should never have been used toward such a tribunal or toward any department of the Government. They gave an opinion a few days since in which the court were unanimous, that under the law as it stands military commissions could not legally be constituted, and that everything that such commissions may have done in the trial of individual citizens not constituting a part of the Army or Navy of the United States, or the militia in the service of the United States, was entirely void and inoperative. The majority of the court thought that it was not in the power of the United States or of Congress, by law to authorize the trial of citizens by a tribunal of that description; the minority thought otherwise; but they all concurred in holding that the law which was passed upon the subject did not authorize the President to constitute such tribunals for the trial of individual citizens; and because that opinion was announced—the opinion of the majority was given by a man whose character, public and private, stands beyond possible reproach, placed upon that high tribunal by the late lamented President, loyal

throughout the civil contest in which we have been engaged—the editor to whom I allude thought proper to say that treason had found a refuge in the bosom of the Supreme Court of the United States. I am sure no Senator on this floor will justify such an attack; but what are we to do? It is owing to the license which the press may take under the protection of the Constitution of the United States, which proclaims freedom of the press as one of the rights of the citizen. The only remedy is for the individual who may be assailed to institute suits against the assailant; but such remedy as that will never be resorted to, it is to be hoped, by the judges of that high tribunal. They will stand upon the character which long lives of honor and integrity have earned for them, while the assailant will reap all the reward to which he may be entitled by such an assault.

## PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the petition of clerks of inspectors of provisions and clothing at navy yards, praying for an increase of compensation; which was referred to the Committee on Naval Affairs.

Mr. VAN WINKLE. I present the petition of William T. Connell, John Keplinger, and Isaac Conrad, three West Virginia soldiers who enlisted in August, 1861, but within a month prior to their being mustered in were taken prisoners, and were held as prisoners until January, 1863. They say that the accounting officers decide that they cannot get their pay for the time they were prisoners without the action of Congress, and they therefore petition Congress for pay as privates from August 17, 1861, to January 9, 1863. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WADE. I present a memorial and resolutions, adopted by the Southern Republican Associations, at a meeting held at their rooms, No. 226 F street, Washington, District of Columbia, on the 8th of December, setting forth their views of what ought to be done and on what principle the State of Texas and the other rebel States ought to be reconstructed. The resolutions are long and voluminous, and I shall not undertake to read them through, nor even to state all the principles which they deem important. I move that the memorial and resolutions be referred to the committee on reconstruction.

The motion was agreed to.

Mr. CATTELL presented the petition of carpet manufacturers of the city of Philadelphia, praying for the repeal of the five per cent. internal revenue tax on manufactures; which was referred to the Committee on Finance.

## ADMISSIONS TO THE FLOOR.

Mr. GRIMES. I offer the following order, which, under the rule, will lie over until the next meeting of the Senate:

*Ordered*, That the forty-eighth standing rule of the Senate be, and the same is hereby, repealed and abolished.

Mr. SUMNER. What is that rule?

Mr. GRIMES. It is the rule which excludes all persons from the floor of the Senate except persons therein named. Until within a few years it has been regarded as unseemly and improper for members of this body to violate that rule; but it has been relaxed to a very great extent, and every day some gentlemen see fit to introduce their friends upon the floor; others choose to abide by the rule. The result is, that when their friends, who think that they possibly ought to be admitted on the floor as well as other people, go into the gallery and see persons who are not authorized on the floor, an explanation is required which is exceedingly undesirable for any one to give. If we are going to have the rule relaxed in regard to one person, or the friends of one person, I want it relaxed as to all. I shall therefore call up this order at the next meeting of the Senate.

Mr. WILSON. I hope this matter will pass



over for the present. I desire to introduce a joint resolution.

The PRESIDENT *pro tempore*. It lies over under the rule.

#### LIBRARIAN'S REPORT.

Mr. ROSS. I move to take up the joint resolution that I introduced yesterday in relation to the government of the States lately in rebellion.

The PRESIDENT *pro tempore*. Reports from committees are first in order.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print the report of the Librarian of Congress and five hundred copies for the use of the Library, have directed me to report it back without amendment and recommend its passage; and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution, which is as follows:

*Resolved*, That the usual number of copies of the report of the Librarian of Congress for the present year be printed for the information of the Senate, and five hundred extra copies for the use of the Library.

Mr. SUMNER. Is that a report from a committee?

Mr. FESSENDEN. This is the report of the Librarian of Congress made to the Committee on the Library, giving information which they called for and which is important.

The resolution was adopted.

#### GOVERNMENT OF THE REBELLIOUS STATES.

Mr. FESSENDEN. Mr. President, I suppose that by unanimous consent, the honorable Senator from Kansas [Mr. Ross] may now be permitted to call up his resolution. I understand that he desires to call it up in the morning hour with a view to make a few remarks upon it, and as this is the last opportunity he will have before the recess, I think the Senate will be disposed to indulge him.

Mr. POMEROY. I hope the resolution may be allowed to be considered.

Mr. FESSENDEN. If the Senator now makes his motion, I presume, by unanimous consent, it will be allowed.

Mr. POMEROY. It will occupy but a few moments.

The PRESIDENT *pro tempore*. No objection being interposed, the motion of the Senator from Kansas [Mr. Ross] will be entertained. The motion is that the Senate proceed to the consideration of the joint resolution named by the Senator from Kansas. Is there any objection to its present consideration.

Several SENATORS. No objection.

Mr. HOWE. I shall not object to this motion of course under the circumstances, though it embarrasses me somewhat to allow it to be done, considering that I was deeply interested in the business pending in the morning hour yesterday; but I shall waive that out of deference to the wishes of the Senator from Kansas.

Mr. SUMNER. I will make a similar remark. I have given notice that I should call up this very day the joint resolution reported from the Committee on Foreign Relations, tendering the thanks of Congress to Cyrus W. Field; but as the Senator from Kansas desires to occupy the time, I shall let that pass over until after the recess.

The PRESIDENT *pro tempore*. No objection being interposed, the resolution named by the Senator from Kansas is before the Senate. It will be read.

The Secretary read it, as follows:

Joint resolution (S. R. No. 152) relating to the government of the States lately in rebellion.

Whereas the amendment to the Constitution of the United States, proposed at the first session of the Thirty-Ninth Congress, known as article fourteenth, and submitted to the several States for their acceptance or rejection, not having been accepted by a constitutional majority of the States, and certain sections of the country lately in rebellion being deemed thereby in danger of falling into a state of anarchy, by reason of their having no legitimate civil government; Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the joint committee on reconstruction be directed to inquire into the expediency of establish-

ing such regulations for the government of such districts lately in rebellion against the United States as shall have refused or may hereafter refuse to adopt the said proposed amendment, as may be found necessary for the preservation of the peace and the protection of society and the interests of the Government in those districts.

Mr. ROSS. Mr. President, it would appear to be a work of supererogation to attempt to demonstrate the necessity for the adoption of the measures contemplated in this proposition. Of the justice and reasonableness of the pending constitutional amendment, the non-acceptance of which is proposed to be made the basis and pretext for further legislation for the purpose sought to be attained thereby, there is no occasion for further argument. That amendment has passed the ordeal of the most exhaustive public discussion to which any policy was ever subjected, and the voice of the people has been overwhelmingly in its approval. A verdict of commendation has been passed upon it which no political measure ever before received, and we are admonished thereby, to adhere faithfully and persistently to it, as the only one upon which the people of this country are willing to risk the work of reconstruction—as the plan, of all others, which will most speedily, most effectually, and most safely compass the great object we all have in view—the rehabilitation of that section of the country lately in rebellion against the General Government, and its restoration to its former peaceful prosperity in the Union.

Thus far all attempts to that end have failed of accomplishing the desired object, in fact have worse than failed, through causes that have been needlessly and unexpectedly thrown in the way, and we are to-day witnessing an apparent negation of the axiom that “revolutions never go backward.”

There is now no protection under the law, in many of those districts, for life or property; and it has become a grave question how the rights of loyal citizens there may be best conserved and society reorganized upon a stable and enduring basis. Manifestly in no way but by the assertion of the power of the Government in such a manner as to compel respect. Theorize as we will about the particular legal status of the late States we cannot escape this conviction: that they are practically out of the Union; that so far as the exercise of the functions of sovereign States in the Union are concerned, it is an impossibility. Those functions have been destroyed by the acts of rebellion, war, and a general surrender. Those people surrendered all they had and were, including the right to exist as States in this Union, consequently they cannot again exist as States until political vitality is breathed into them by the general Congress. The labor now demanding our attention is, instead of simply discussing theories, whether practicable or impracticable, to devise forms which shall accomplish the great aim of human government—the protection of the citizen in all his rights. If those States persist in refusing to be reconstructed within the Union, it is our duty to reconstruct them outside of the Union. They are none the less under the obligations of citizens because traitors; their obligations to the Government remain unimpaired notwithstanding their rebellion; while the duty of the Government to preserve so far as possible the organization of society, and to secure a complete and impartial administration of justice among them, is equally enduring and unimpaired.

But a brief period has elapsed since the whole country was ablaze with joy as the tidings of peace spread over the land. The most despondent were hopeful of a restored Union and the reestablishment of better and safer counsels. Under these inspiring impulses, that magnificent Army which had exceeded in equipment, in discipline, in fortitude, in heroic devotion to the cause in which it was enlisted, and in splendor of achievement, all previous military establishments of the world, suddenly melted away and was absorbed in the commercial, mechanical, and industrial pursuits from which it had been drawn at the call of its beleaguered

and endangered Government. Our country appeared about to resume, as a whole, its march on the high road of material prosperity and political greatness which had been so summarily checked by the inauguration of the rebellion. The rebel armies had been vanquished and scattered. Disloyalists everywhere had seen and experienced the futility of their treasonable armaments and schemes. The power and vitality of the Government and people had been demonstrated to them in a most convincing and fearful manner, and nothing appeared to remain to them but submission to and acquiescence in the decisive verdict that had been pronounced upon the field of battle. Nothing but a desire to gather up the wrecks of what they had been, and prepare, submissively yet joyfully, for such a future as their magnanimous and forgiving conquerors had hastened to declare they might hope for, seemed to actuate them; and the country, from one end to the other, joyously proclaimed the advent of peace.

But in an evil hour of our destiny that good man who, like the fabled Atlas, had, as it were, carried the nation upon his shoulders through its four years of war and tribulation, was permitted to be taken from the post of honor and responsibility which he had so worthily filled, and the fruition of that hope which had been the ever-present and abiding faith of loyal men, was put far from us. The hand of the assassin had nearly undone the work of years and scattered the bright visions of the future. An insidious, baleful influence seemed to have taken possession of a portion of the Government, and unrepentant rebels were permitted to swarm at the capital of that Government which had so recently been the object of their vengeance, impudently demanding the restoration of rights which their great treason had forfeited. Treason, instead of being made odious, became apparently the surest passport to executive clemency and favor. Under no other Government and in no other age was a parallel to it ever witnessed.

Encouraged by favor and patronage, where there was a conscious merit of punishment, the central idea of the rebellion, resistance to the always and everywhere aggressive spirit of liberty and progress, seemed again to take possession of that people, and the hope was tacitly held out to them by wicked and designing men, in power and out of power, that that which physical force had failed to accomplish might yet be secured by partisan machinations and the ballot.

In furtherance of this diabolical plot we have knocking at our doors to-day the representatives of former States which yet stand unwashed, unpurged of the greatest crime of the age—treason to the Republic and to liberty. The party of treason, which gave no word of encouragement to the armies of the Republic in the day of its sore trial, which pronounced the war a failure, and clamored for disbandment and separation, finds in those late States its warmest partisans and adherents. There the more prominent a man may have been in the rebellion, and the greater his zeal in resisting the proposed measures of restoration, the more certain are his chances for official preferment by the suffrages of the people; while the reverse is equally true, that continued and consistent loyalty to the Government is deemed ample warrant for oppression, ostracism from society, and expatriation. So long has this state of things continued, and to such an extent has it been carried, that there is now practically no law in many localities of that country, for the protection even of property or life. Loyalty to the Government is made a social crime, for which the offender is, in too many instances, thrust beyond the pale of society, beyond the protection of law. The Constitution and the laws of the country are daily and hourly violated, in that a discrimination in political creeds is established which excludes the citizens of many of the States from residence and the prosecution of commercial and industrial pursuits in large portions of the Republic.

The first business of this Congress should be to seek and find a remedy for this grievous and growing wrong. The abortive and ill-conceived subterfuges thus far applied by the executive branch of the Government have but aggravated the evil, and already brought this question into almost interminable complications. The pretended Governments attempted to be established there, are but a sham and not worthy to be dignified by the term. The most practicable and effective plan for its solution now presented is, in my judgment, that contemplated by this joint resolution—the institution by this Congress of a vigorous system of government for that country, which shall enforce obedience to the law and respect for the rights of others; which shall be able to create a degree of loyalty to the Government, if not in this generation, *then in the next*. Let it be understood as a foregone conclusion, that the just and righteous principles of the pending constitutional amendment must be acceded to in some legal, responsible form, by convention or otherwise, before they can ever again enjoy the privileges and prerogatives of citizens of the United States.

Whether that plan shall conform to the one now maintained for the government of the Territories, or whether it shall combine the territorial with the State organization, is proposed to be made in part the duty of this joint committee to determine and report. The main thing to be accomplished is the successful government of the turbulent elements and the protection of society in that country against that confusion and anarchy to which, under its present misgovernment, it is rapidly hastening. If we would not see repeated at our own door, and within our own borders, the supremacy of violence, and that absence of law and order which has characterized the history of neighboring nations, we must act promptly and decisively. We have within the body-politic a stupendous moral and political evil, which can be removed only by the application of the most vigorous measures of cure, those measures to be continued in effective, practical operation until that people shall consent to be governed, in common with ourselves, by a Constitution broad enough to embrace within its protecting folds the humblest of God's creatures, who confesses to it allegiance and support. It is my own deliberate and settled conviction that a thorough, complete readjustment of the machinery of government of those States, entirely in harmony with the General Government in all its parts, can never be secured until the ballot shall have been placed in the hands of every loyal man in those communities, whatever may have been his previous condition, or what his color.

I take the broad ground that suffrage is a natural right, one which inheres in every human being, not to be restricted except for incompetency or the commission of crime—circumstances which render that restriction imperative for the preservation and well-being of society and of government. It is upon this principle that all forms of republican government and law are based, and without which those forms would be tyranny and oppression, in that they would deny the right of the individual to participation in the formation of laws for his protection and for his government.

Where does any man, any class, or any race, procure the exclusive authority to make laws for his fellow or his neighbor? Where all are contending for equal political right, who is to decide in which party or race that right shall rest? I am aware that the custom of the world has been for the stronger to arrogate to itself the right to govern and make laws for the weaker. In our own day it has ever been so, and the further back we go in the history of our race, the more marked and prominent becomes that custom, the more conspicuously and hatefully is that old idea illustrated, that certain races were born to rule; that certain classes in those dominant races were still more elevated in the scale and fitted for government; and to carry the logic to a legitimate conclu-

sion, there were in those superior classes certain families and individuals peculiarly endowed with the capacity for the government of their neighbors—a peculiarity which came to constitute in the ignorance and superstition of that day a sort of divine right to rule and lord it over their fellows from generation to generation.

Sir, if that species of logic was good then, it is good now, and our forefathers made a fearful mistake when they established this Government of the people, and introduced the sad innovation of declaring that all men were invested by nature with equal inalienable political rights; and were entitled to an equal voice in the selection of their rulers.

Now, sir, if this theory proves anything it proves too much, unless its advocates are willing to go back to the political systems of the early ages of mankind, which vested in the patriarch of the clan the sole sovereignty, descending from father to son. To that does the principle inevitably tend. There is no escape. If one race is endowed by nature with political prerogatives over another, then the same must of necessity be true of classes, families, and individuals; and we find ourselves reverting back to the most absolute forms of monarchy. So that, admitting for the sake of the argument, the general inferiority of the negro as a race, the deduction therefrom that he is incapable and not entitled to exercise the right of suffrage, the principal argument used by the opponents of all measures for his enfranchisement and elevation to political equality, by proving too much, proves nothing. The proposition to invest the negro with the right of suffrage has been denounced on this floor as monstrous.

Sir, another proposition has also been advocated on this floor equally monstrous—the continued exclusion of a race from the enjoyment of the rights of manhood because they have from time immemorial been deprived of them. It is simply a proposition to perpetuate a wrong upon a whole race because, forsooth, that race has borne it so long that they are not deemed worthy of redress. What can be more monstrous than this?

Again, sir, we are accused of insincerity in our profession of a desire to deal justly and generously with this despised race; and gentlemen claim for themselves credit for the performance of acts of kindness toward these people, which those who are demanding for them concessions of political right would not deign to perform.

Sir, what is kindness? Is it simply the doling out of a few crumbs, or perchance a pleasant word, to one whose manhood or womanhood we are daily and hourly grinding out of them under the iron heel of oppression? Or is it a confession and fostering of that manhood, and a concession of those God-given rights which it carries, the right to live, the right to work, the right to be peers in the Commonwealth, the right to own ourselves and be ourselves? That, sir, is kindness, that is justice, and it is not strange that those who are most nearly interested should be quick to perceive it.

For one, sir, I confess that I do not share the fear expressed by some gentlemen, of the effect of precipitating a mass of ignorance, as it is styled, upon the ballot-box. The black man's aspiration for liberty has always been as fervent and enduring as the white man's, notwithstanding the lamentable fact that he was totally unable to decipher the printed word which spelled it. He has ever been an enthusiastic lover and devoted follower of our beautiful flag, although totally unable to read or comprehend the cabalistic device inscribed thereon. He has always known enough of astronomy even, to comprehend the fact that the north star pointed to liberty, although he and his fathers were prohibited, by most solemn legal enactment, and under fearful pains and penalties, from learning it from books.

Where will you draw a line of demarcation which shall rule out such men as these? Shall the fact that a man is able to make a scratch with a pen and call it his written name, or read

his A, B, C, alone entitle him to the almost sacred right of suffrage? By no means. There is a test infinitely above these by which they should be judged—a test established by God himself when he set his seal upon his finished work and saw that it was good. That test is manhood, and by no other can we safely abridge that right which was an outgrowth and has become a characteristic of this western world. That test, thank God, has been established here at the fountain head of the Government, and I have an abiding faith that it will be eventually copied and imitated by all the branches, and this country made in truth what it has been in theory—the home of liberty.

These are laid down simply as the bases of correct republican government, to be ultimately provided for in the reorganization of these States, though it is not my purpose to insist upon them as a condition precedent to their readmission. We have proffered to those States specific terms of readmission in the proposed amendment. We have virtually said to them that their claim for representation in these Halls shall be granted upon the acceptance of that amendment, necessarily, of course, in the nature of our Government and in view of constitutional provision, with the right to criticize and determine the qualifications of individuals who are thus returned by them for admission. I regard the proposal of this amendment as in the nature of a compact by which at least this Congress is virtually pledged to so admit them upon the fulfillment of the terms proposed, and that to do otherwise would be an act of bad faith which could not but be disastrous in the operation of the precedent which would thus be established. Especially in view of the fact that a portion of that people, as in the State of Tennessee, have accepted the terms and returned to their allegiance, would it be unjust to vary those terms to others who are even now laboring for their acceptance in their own States, and with whom the proposed amendment is being daily strengthened and its ultimate ratification becoming more certain.

In a limited sense we are treating with them as with a foreign nation; we offer them terms of readjustment; we have had with them a war which, though it practically destroyed their former governments and relations with the Federal Union, yet demonstrated their inability to discard their allegiance to this or permanently establish other governments in its stead.

The question now recurs, their governments having been destroyed by a war which has left in existence but little of the material of which they were originally composed, having incapacitated themselves by treason from participating in any form of loyal government until authorized to do so by the removal of that disability by Congress, and having relinquished the right to maintain any other by the implied and universally understood terms of a general surrender—who shall reorganize those Governments, and by what power can they be vested with the authority so to do? Manifestly that authority must be delegated to whatever loyal persons may be found there who have survived the chaotic condition which has passed over them, together with such others, if any, the Congress may deem it safe and proper to reinvest with that franchise.

This theory cannot be justly made obnoxious to the charge of destroying those governments and seeking to replace them with others, as so far as practical operation and efficiency are concerned, no matter what theory may obtain, they were already destroyed, and by the hostile act of those people themselves. The law-making power of the country not having reorganized them or instituted others, the conclusion becomes inevitable that there is now no legitimate local government in those late States.

Under this state of facts the duty of the Congress, in my judgment, becomes clear and palpable. The Constitution imperatively requires us to guaranty to every State a republican form of government. The dictates of humanity require that individuals and society shall be protected

in the enjoyment of rights incident to manhood and associated communities, while the integrity of the Government demands that its power shall be asserted through forms competent for the protection of the loyal citizen in the exercise of his political rights.

In my judgment these ends can be reached in no way so effectually as by reinvesting the power of the State in the hands of those who, be they few or many, have been its faithful friends in the day of its extremity, and guaranteeing to them the support of the military power of the nation, if that should be necessary, for their maintenance, and the administration of impartial justice throughout the limits of those districts.

It is not sufficient to say that Congress is unmaking States by the institution of this process, for they first unmade themselves. They first subverted or destroyed the forms which had been originally given them; the permanency of which had been guaranteed by the Constitution, and assumed to set up in their stead a spurious government in contravention of that guarantee. That spurious government assumed to make war upon the General Government, and was in its turn destroyed; all its functions, all its powers, all its rights—if that term were admissible—having been surrendered unconditionally at the close of that war.

Now, what is an unconditional surrender? Manifestly a yielding of all pretensions, forced though it be, which were in dispute and which had produced the state of war. When an army is vanquished and its members surrender themselves as unconditional prisoners of war, they manifestly surrender their cause as well as their persons, the right to resume the same to accrue only at the voluntary consent of the victor. So it is to-day all over the South. Those ten late States are simply ten camps of paroled prisoners of war, every man of them who voluntarily pronounced allegiance to the confederate government being liable to be arrested and shot by a drum-head court martial upon the first manifestation of turbulence or insubordination. How can such a people organize or reorganize a political government? Manifestly only by the consent of the conqueror. There is obviously no power but in the general Congress for their resuscitation.

Another most potent reason why the action I now propose should be taken, and that without delay, is that the youth of that country are growing up under the baleful influence of the political dogmas which inspired and sustained the rebellion, unchecked by that wholesome, restrictive legislation for which loyal men everywhere are now looking anxiously to this body. It is our bounden duty to throw around that rising generation the better influences of loyalty, to teach them the necessity of obedience to law, by punishing disobedience and enforcing order and respect to the authority and rights of the Government and society. It is to those who are now coming upon the stage that we must look for the permanent maintenance of peace and the ultimate restoration and reorganization of the social and political systems of that region.

The great bulk of those who have been engaged in the effort to overthrow the Government can never be expected to enter with any genuine heartiness into this work. The virus of treason has been too long rankling in the body politic; has too thoroughly permeated the social system and characterized the habits of thought of that people to admit of any future dependence upon them for any coöperation in the great labor of reconstruction which the history of the past five years has imposed upon us. With them the question is not one of conciliation. It is simply one of government; whether they shall be permitted longer to insult the Government for which their fathers and ours passed through untold horrors to establish; whether they shall be permitted longer to defy its just and equal laws; whether they shall continue with impunity to harass and oppress those to whom the law of God and of

the land vouchsafe the right to live and traffic among them.

In those who are so soon to step upon the stage of political life and in their turn to assume the privileges and prerogatives of citizenship, we have a plastic element which, by wise and just, yet decisive legislation, we may mold into firm and faithful adherents of the Government, out of which may be evolved a powerful and consistent loyalty that will bind together the extremes of this country with an indissoluble bond. This is one of the paramount objects of legislation on this subject. It should be ours. We are not making laws for to-day, nor for this generation simply, but for all time to come. The influence of a right determination of this now long-mooted and distracting question of reconstruction cannot but be felt to the latest day of the Republic.

Let us keep steadily in view that magnificent future which the concurrent data of the past warrants us in anticipating, and legislate for that as well as for the present. Let us secure a firm reunion of this Republic, now stepping upon that elevated political dais assigned to the front rank of nations, by the institution of measures which shall irrevocably establish justice and equality of political right between all its citizens. In no other way can we hope to secure this beneficent result. The measures to that end now pending before the country in the proposed constitutional amendment promise all that is asked or hoped for. In the language of the bronzed and scarred veterans who fought out the late war to its so successful termination, language spoken by one of the mightiest gatherings of freemen ever witnessed upon this continent, that amendment is wise, prudent, and just:

"It clearly defines American citizenship and guarantees all his rights to every citizen.

"It places on a just and equal basis the right of representation, making the vote of a man in one State equally potent with the vote of another man in any State.

"It righteously excludes from places of honor and trust the chief conspirators and guiltiest rebels, whose perjured crimes have drenched the land in fraternal blood.

"It puts into the very frame of our Government the inviolability of the national debt, and the nullity forever of all obligations contracted in support of the rebellion."

But in their blindness and the madness of their folly, a portion of this people have refused the terms of restoration thus fairly, even generously offered, and persist in those practices which in the late war made our country a reproach to the humanity of the age. In the insanity of their treason they have contemptuously spurned the proposition, and thrust it ignominiously from the doors of their legislative assemblies. It is too just and equitable a proposal to find favor in the eyes of this generation of traitors. It breaks down the barriers which successive ages of class legislation have established between men. It humbles that gilded and guilty aristocracy which for two hundred years has preyed upon the rights and lived upon the labor of those it had succeeded in despoiling of their manhood. That amendment lifts a race from that condition of abject serfdom in which the end of the war found them, and invests them with the common rights of man. Yet it is spurned and jeered, and those who now essay to wield the destinies of one third of the Republic will have none of it. They vainly and foolishly throw themselves in the way of the pacification of the country, and would retard its progress to its high and inevitable destiny, heedless of the misfortunes of those who are blind to the logic of events, and resist the decrees of fate.

What then? Shall we regard the impotent ravings of madmen and recede from the work so well begun and so vehemently approved by the country? Undo the labor of a year, and abandon a cause which is watered by the tears and carried to the throne of the Most High upon the prayers of good men everywhere? By no means. The Divine curse rests upon him who puts his hand to the plow and looks back. We are enjoined by every consideration of justice, of mercy, and of wise and prudent

statesmanship, not to retrace our steps, not to yield the vantage ground thus far attained in the scheme of reconstruction and national progress, but to press forward and to seal with further discreet and opportune legislation, that triumph which time will speedily unfold to our view.

It is useless for that people to demur against this proposed amendment, that it disfranchises those who have taken prominent part in the war of the rebellion, and guarantees the faithful payment of the debt created for their subjugation. This action is but a repetition of the history of all unsuccessful rebellions. Not to thus protect ourselves, our institutions, and our credit, would justly subject us to the criticisms which have been so lavishly made upon our form of government by the statesmen of other nations, of instability and of containing within itself the germ and moving cause of its own dissolution. Not to do it would but sow the seeds of another and perhaps more potent rebellion in future years.

But we must stand by that amendment. It has triumphantly passed the ordeal of public criticism, and is practically established as a feature of our fundamental law. Let us be admonished by the spontaneous outburst of popular feeling in its favor. Not only the people proper, but that grand army of the Republic, which carried the country through the terrible fires of the rebellion, which left dead upon the field an eighth of its entire number, sacrificed in the fury of battle that the Republic might live, has resolved that no traitor whose hands have been lifted in impious and fratricidal strife against his country, shall ever again have it in his power to use the functions of the Government for its destruction. We want no more examples of public officials, who but seek power that they may the more effectually subvert the purposes of treason and repudiation.

We who have stood shoulder to shoulder in the battle's red front, where the fires of carnage lighted the souls of brave comrades to death and immortality, will not now insult the cherished names of the dead; will not falsify the issues upon which we have fought and conquered in this war; will not now blacken the record of devotion to our country and to liberty which has been signalized upon a thousand battle-fields by honoring treason and exalting traitors. We have not forgotten our murdered President—we have not forgotten our martyred comrades, starved in the loathsome pens of Libby, of Andersonville, of Saulsbury, and of Belle Isle. We have not forgotten those faithful spirits who piloted our escaped prisoners through dreary nights of wandering in southern swamps and forests, who fed and secreted them from their blood-hound pursuers, and then paid the penalty with their lives. We have not forgotten those unconquerable southern loyalists who braved persecution and death to signalize their love for the old flag and their faith in the ultimate triumph of the cause which it symbolized. We have with us the widowed and orphaned ones of this war. We have with us an army of scarred and maimed heroes, who are condemned, but wrecks of their former selves, to walk the earth in sadness and in sorrow all their after lives. We remember that it was by this great affliction that the country was saved—that they unflinchingly stood in the breach between the Republic and her foes, and we will be true to them. No diabolical rebel scheme of repudiation shall ever deprive them of the just and grateful tribute which our rescued country pays to these stricken ones.

In view of the distracted condition of that country the most effective and speedy legislation consistent with prudence is imperatively demanded. Everywhere throughout the late rebellious States loyal men are imploring with outstretched hands for that protection which only this Congress can give, through the operation of just and equal laws. Not alone to the persistent, long-suffering loyalists of that country, who through the night of horror which followed the attempted secession of



their States bravely kept the faith, but to ourselves and to the world, do we owe the duty of suppressing the reign of violence inaugurated by the war and fostered by the machinations of demagogues. The humanity of the enlightened and progressive age in which we live, demands at our hands that the massacres of Memphis and New Orleans shall not be repeated; that the sacred regard of human life and human right which characterizes this age of all others shall again be restored there; that the downtrodden poor, who for two centuries have borne in meekness and humility the lash of the taskmaster, shall be reinvested with their manhood and protected by the strong arm of the Government in the enjoyment of those rights which the contemporaneous verdict of all other nations has given them, and which ours can no longer withhold with safety to our political or social fabric.

It is to this end that I offer the joint resolution now submitted, and I move its reference to the joint committee on reconstruction.

The motion was agreed to.

#### LAND OFFICE REPORT FOR DISTRIBUTION.

Mr. STEWART. I am instructed by the Committee on Public Lands to report the following resolution:

*Resolved*, That there be printed of the report of the Commissioner of the General Land Office, with the accompanying large connected map, five thousand copies in the German language, five thousand copies in the French language, five thousand copies in the Swedish language, and five thousand copies in the English language, for distribution in foreign countries; and five thousand copies for the use of the Senate; and the Secretary of State is requested to cause the distribution of the aforesaid twenty thousand copies through the Commissioner of the Paris Exposition, or such other persons as in his discretion he may deem proper.

The cost of this printing with the large connected map will be \$27,297 25, according to the estimate of the Superintendent of Public Printing. That estimate includes the printing of twenty-five thousand copies, five thousand for distribution in this country, and twenty thousand for distribution in foreign countries with the large map. The large map includes all that is in the other maps and excludes a variety of maps that accompany the report. The large map will be sufficient for all purposes. The translation is to be done in the Interior Department, where there are several clerks competent to that duty, and of course that will involve no expense except the employment of their time.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Nevada to ask for the present consideration of the resolution now reported by him from the Committee on Public Lands. It requires unanimous consent to consider it at this time. Is there any objection?

Mr. WILSON. It is evident that it will lead to debate, and I hope it will not be pressed as another question is to come up very soon.

Mr. JOHNSON. I suppose the probability is that the expense will be \$100,000 instead of \$27,000.

Mr. WILSON. The proposition will evidently lead to debate.

Mr. STEWART. If the resolution is to be passed at all, it ought to be passed before the holidays.

Mr. WILSON. You had better not hurry it. The PRESIDENT *pro tempore*. Is there any objection to the consideration of the resolution at this time?

Mr. FESSENDEN. Yes sir, I object.

The PRESIDENT *pro tempore*. The resolution must lie over under the rules.

#### NAVY REGISTER.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That one thousand extra copies of the Navy Register of the United States for the year 1867 be printed for the use of the Senate.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 484) to secure the speedy construction of

the Union Pacific railroad, southern branch, and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 153) authorizing the President of the United States to prevent the infliction of corporeal punishment in the States lately in rebellion.

Mr. GRIMES called for the reading of the resolution at length; and it was read.

Mr. JOHNSON. Is that offered for consideration now?

Mr. WILSON. No, sir; for the purpose of reference.

Mr. JOHNSON. Then I have no objection to its introduction.

The joint resolution was read twice, and referred to the Committee on the Judiciary, and ordered to be printed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed an enrolled bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" and it was thereupon signed by the President *pro tempore*.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 222) prohibiting payments by any officer of the Government, to any person not known to have been opposed to the rebellion and in favor of its suppression.

The message further announced, that the House had passed the joint resolution (S. R. No. 123) in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine.

#### HOUSE BILLS REFERRED.

The following House bill and joint resolution were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 553) to amend section two of an act entitled "An act to authorize the Legislatures of the States of Illinois and Tennessee to sell the lands heretofore appropriated for the use of schools in those States"—to the Committee on Public Lands.

A joint resolution (H. R. No. 222) prohibiting payments by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of its suppression—to the Committee on the Judiciary.

#### UNITED STATES TROOPS IN MISSOURI.

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the unfinished business of yesterday.

Mr. HENDERSON. With the permission of the Senator from Ohio, who has charge of that business, I desire to state that I have just received a dispatch from the Governor of my State which makes it necessary, in my opinion, to offer a resolution of inquiry. I submit this resolution:

*Resolved*, That the President be requested to inform the Senate whether since the 1st day of December, 1866, he has caused troops in the service of the United States to be marched to the interior of the State of Missouri, for any purpose whatever; and if so, that he communicate the reasons for such orders, and also whether such action has been taken on the application of the Legislature or the Executive of said State.

By unanimous consent, the Senate proceeded to the consideration of the resolution.

Mr. HENDERSON. I have just received a dispatch from the Governor of the State, in the following words:

JEFFERSON CITY, MISSOURI, December 19, 1866.

General Grant has sent United States troops to Lexington. I have protested against their presence there unless asked for by me. I will not submit to the interference with a matter of exclusive State

jurisdiction. I ask Congress, if he does not remove them, to require him to do so. Correspondence by mail to Henderson.

THOMAS C. FLETCHER.  
Governor of Missouri.

To Senators HENDERSON and BROWN of Missouri, and Representatives BLOW, KELSO, McCLEURG, VAN HORN, LOAN, BENJAMIN, and ANDERSON.

Mr. President, I know nothing, of course, in regard to the matters upon which the dispatch is predicated. The Constitution requires that the President shall interfere upon the request of the Legislature, or, if the Legislature be not in session, on the request of the Executive of the State, in order to suppress domestic violence. I suppose that the object of sending the troops there is merely to enforce obedience to the laws of the State. I understand that the State Executive feels himself perfectly capable of doing so, perfectly able to enforce obedience to the laws. The people of the State take it upon themselves so to do, and do not ask the interference of Federal troops. I desire merely to get the facts, because I do not know from the dispatch the Governor sends me what the facts are, and it is better that the President communicate them; and until he does communicate them, or until I receive a letter from the Governor, I am utterly unable to explain the reasons for his action. Of course there will be no objection to asking for the information.

Mr. DAVIS. I am no advocate for the enlargement of executive power, nor am I an advocate for the enlargement of congressional power. I want these branches of the Government to be restricted by the Constitution and to know no call except that which the Constitution makes. Now, if I understand the communication of the Governor of Missouri, which has been read by my honorable friend, he simply states the fact to be that the General-in-Chief of the United States ordered some Government troops to be stationed at Lexington, and that he requested their removal and the President had not removed them.

Mr. HENDERSON. It was to suppress domestic violence.

Mr. DAVIS. I did not so understand the communication of the Governor.

Mr. HENDERSON. The newspapers so state.

Mr. DAVIS. I am not speaking of the newspapers; I am speaking of the communication officially sent by the Governor of Missouri to her Senators. Does the Governor of Missouri intend to controvert the position that the President of the United States has the perfect and the undeniable constitutional power to locate the troops of the United States in any State he may choose, and in any locality in any State? Is there any plainer principle of constitutional law than that? Was it ever thought of being controverted before? Are the times becoming so out of joint, so frenzied, so utterly mad, as to deny propositions so unquestionably true as that?

Mr. President, it is not my purpose to interfere in any way to prevent the object which the honorable Senator from Missouri has in view. I merely state my understanding of the law that regulates the case as presented by the Governor of the State of Missouri. I have nothing more to say.

Mr. HENDERSON. Mr. President, I of course cannot take up the time of the Senate now, because I have asked this only as a favor of the Senator from Ohio, who has charge of the business regularly before the Senate. The Governor, I may state, cannot be expected to state all the facts connected with this matter in a telegraphic dispatch. He states that he has written to me. I do not know the circumstances, nor has the Governor undertaken to communicate them to me. I suppose that this was not the case of a mere order that the troops should go to the city of Lexington, there to be stationed; and my friend is mistaken when he supposes that to be the purpose of the order. I find outside of this dispatch, in the newspapers, that they have been sent there for the purpose of suppressing domestic

violence, that they have been ordered there for the purpose of enforcing obedience to the laws of the State, and that the Governor has protested against their interference.

Mr. DAVIS. Will the gentleman just allow me to make a suggestion?

Mr. HENDERSON. Certainly.

Mr. DAVIS. The communication of the Governor of Missouri to my honorable friend, is not that the President had ordered those troops there, but that General Grant had sent them there.

Mr. HENDERSON. I suppose—

Mr. DAVIS. That is the power which has made the order, but of course the General would act in subordination to the President.

Mr. HENDERSON. I suppose that there is no objection to the resolution, and I desire that it be passed.

The resolution was agreed to.

#### ADMISSION OF NEBRASKA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Indiana [Mr. HENDRICKS] to postpone the further consideration of the bill to the 7th of January and make it the special order for that day.

Mr. EDMUNDS. Mr. President, when I was interrupted last evening by the motion to adjourn I was about to read from the act of Congress of the 30th of May, 1854, to show the position that the Congress of the United States, under the influences which then controlled it, assumed in respect to this Territory and in respect to the sister Territory of Kansas. I was about to read from it also to show, in reply to the observations of my friend from Kansas who addressed us last evening, [Mr. POMEROY,] that if there be anything in this notion of estoppel upon the legislative power of the country, when we go back to the foundation of the thing we find that we should be now estopped from refusing admittance to this Territory into the State representation of the nation if she presented herself, as happily she does not, with a constitution which authorized involuntary servitude and perpetual slavery. That act declares:

"That when admitted as a State or States, the said Territory or any portion of the same shall be received into the Union with or without slavery as their constitution may prescribe at the time of their admission."

Another section of the act provides, "that the true intent and meaning of this act is to leave to the people of the Territories" the exclusive right and privilege of regulating their own domestic affairs in their own way. It is a complete delegation of the power, which the very passage of the act itself implied to have resided in Congress before that time, to the people of the Territory to set up institutions, which should be in opposition to what we all now agree is the proper political status of a Territory, or not, as they pleased, and Congress committed itself if it had the power to do so, committed us if it had the power to do so without question, without objection, to receive this Territory into the galaxy of States with slavery if she chose to have it. For one, I wish to repudiate once for all the idea that the Congress of 1854 or of 1864 or of any other year had any rightful authority whatever to forestall the action which we here and now think it fit to take respecting the political condition of the people of any Territory or any section of the country over whom by the Constitution we are authorized to exercise control. It is a doctrine which would carry us, as Englishmen are fond of saying, to grief very rapidly indeed.

When in 1864 what is called the enabling act was passed, Congress did not feel itself bound by the political opinions of ten years before that time; it did not find itself committed then to any faith which would preclude it from imposing such further conditions and restrictions as it might think desirable for the

welfare, not only of the people of this Territory, but of the whole nation, and therefore it provided that the seventy-eight thousand miles of territory which composed the Territory of Nebraska might be admitted as a State, the language of the act being that "the inhabitants of that portion of the Territory" within the described limits "are hereby authorized" to set up a State government—

"Provided, That the constitution when formed shall be republican and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: And provided further, That said constitution shall provide by an article forever irrevocable"—

And I beg the learned Senators who believe in the power of the States to repudiate their constitutional compacts the moment they get in, or to repudiate the conditions upon which we may choose to admit them, to observe it—

"By an article forever irrevocable without the consent of the Congress of the United States:

1. That slavery or involuntary servitude shall be forever prohibited in this State.

2. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

3. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands," &c.

It makes no provision as to the class or color or race of persons who shall be authorized to set up that Territory into a State, and who shall then be entitled, having complied with these conditions, to present themselves to us that their claims for admission may be considered.

There is, therefore, it appears to me, no plainer proposition than that now, when the constitution is presented to us, we are, without any estoppel or committal or other qualification, left free to exercise our judgment and discretion which the Constitution has reposed in us upon the question whether, under the circumstances as they now exist, in the light of the history that since then has passed over the country, it is fit and right that this Territory ought to be admitted as a State with the constitution which she brings to us; because, as I have said, in the nature of things there can be no binding estoppel upon the legislative power of the country at any time, and because it is manifest to me that the act of 1864 which authorized the creation of a State from this Territory commits us to no principle whatever upon the subject of the right of suffrage, the right of representation, the method upon which the State should organize its government, except upon the general declaration of principles which should be the guide to that people in forming a constitution. Hence, if we find in that constitution anything respecting the establishment of its courts; the trial by jury—a right held in most civilized countries, deriving their ancestry from Anglo-Saxon sources, at least, to be sacred—if we find in it anything which does not commend itself to our sound sense of what is just and right, is it to be said that by any implied estoppel our mouths are to be closed and we must accept that now which otherwise we would not have done?

I think, then, sir, that it is clear that we must meet this case upon the reality, if it be a reality, of the question which is presented, and that we cannot shelter ourselves, however much we might wish to do it, behind the thin disguise that we have committed ourselves to this false step which we are asked to take. We must meet the question as it is. Now, what is the question? The question is, first, whether we have the power under the Constitution of the United States to dictate the terms and conditions and qualifications under which Territories shall be created into new States and admitted to an equal participation in the active operations of the Government. If we are a mere machine, obliged to act whenever a Territory presents itself and in whatever form it presents itself, as the Douglas doctrine upon which this Territory was first organized seems to declare, then of course there is no room for debate; we are exercising, then, merely executive and not legislative functions,

and we have no opportunity for the exercise of any discretion whatever. If, on the contrary, the grant of power which the Constitution gives to Congress to admit new States into the national councils is one which implies judgment and discretion, implies that sense of responsibility which ought to operate in all legislative affairs, then most clearly it is our duty to scan to the uttermost letter the constitution of any new-formed State which is presented to us. The Constitution of the United States upon the subject of our power over the admission of new States reads as follows:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress."

There is an unqualified grant of power in the first instance; discretionary, depending upon the will of the law-making power of the country for the admission of new States. Then there are imposed upon it conditions and qualifications respecting the carving of new States out of old ones, and no other condition and no other qualification whatever. Therefore I take it to be plain and beyond contradiction that it is within the clear constitutional power of Congress to prescribe the terms and qualifications and the time and the fitness upon which any new State shall be created out of any of its Territories. It is a right which cannot be questioned at all; and it is a right which, independent of the Constitution, flows logically and necessarily from the supreme legislative dominion which we have over the Territories of the United States; Territories many of whom, this very Territory indeed itself, were not within the dominion of this Government when the Constitution was formed, and which, therefore, the Constitution itself by its own vigor never could have operated upon. We having exclusive and complete jurisdiction over these Territories, and having complete discretionary power by the express letter of the Constitution over the admission of States, is it to be said that we must shut our eyes to what is contained in the constitution of a Territory which is offered to us for acceptance, and are we to be told that this objection or that objection which may be just in itself cannot be heard because we are trampling upon the rights of any body or set of men? I take it not. There is no inherent right in the people of any Territory to be constituted into a State. Congress may never organize a Territory at all; it may never dispose of its public lands there; when organized it may keep it in the perpetual condition of a Territory if it pleases; because all the considerations which govern such questions are considerations which merely appeal to the ordinary legislative discretion of the law-making power, and therefore every circumstance and consideration which enters into the fitness of the thing itself which is proposed to be done is a matter that we have no right to set aside.

Then, Mr. President, if we have the power, and it is our duty in the exercise of that discretionary power to exert it as we do all other legislative power upon the principles of legislative and political justice, the question is what this constitution ought to contain to authorize us to receive this new State into the family of the nation. It would hardly seem that, on this side of the Chamber, in reaching forward to the discussion of a question of that kind, I should be met with any objections from the gentleman who so properly leads us on these territorial measures, a man who has been all his lifetime in the skirmish line and front battle rank of liberty and equal rights everywhere. He can hardly, I think, rise in his place and tell us that it is not right and fit that men, irrespective of race and color, should be entitled in a republican and a free government to the exercise of political rights. I mean innocent men; I mean men who have forfeited no natural or social or political rights which they may have been otherwise entitled to by treason or

any other crime; but innocent, honest citizens of the country, without respect to race or color, are certainly, the honorable Senator must admit, entitled, as a matter of justice as well as a matter of policy and purity, to be represented, to have a voice in the selection of their representatives, and to be among those who consent to the laws which are to affect their life, their liberty, and their pursuit of happiness.

Why, sir, the notion that Government is instituted for a select few who are to be discovered by their descent as kings are, or by their learning as the priests used to be, or by their property as aristocratical Governments generally are, ought to have been exploded in the light of recent events in this country. There can be no solid foundation upon which democratic government—I do not mean to use the term “republican” because that seems to excite the opposition of the other side of the Chamber as to the definition of the term—there can be no solid foundation upon which democratic government, if we have any faith in it, can rest except that the people, irrespective of what their race is, irrespective of the accidental conditions of birth or fortune or learning; must consent to the laws and have a voice in the selection of the agents who are to make and execute the laws under which they are to live.

I believe that every writer upon the theory of democratic government, upon the abstract theory of all just government, agrees that any arbitrary distinction, any arbitrary test, even of intelligence, has no place in the foundation of the exercise of those rights which relate to the selection of the persons who are to administer the government for the benefit of all; because the man who is ignorant has precisely the same right to protection, he has precisely the same right to every species of protection that the law gives to his neighbor who is intelligent, he has the same right to choose among his intelligent neighbors as any other man which of them shall make laws for him. The absurdity of undertaking to set up these tests is the more manifest from the fact that so far as the world has at present progressed we cannot fail to see that if any special test of intelligence or of property or any other arbitrary rule were laid down, the larger part of mankind would have no voice in government. There are many communities in which intelligence has reached a very small point of advancement. Is it to be said that those communities must necessarily and theoretically be governed by some despot or king; and if so, how is he to be selected? By his superior strength or by his age or by his color? No, Mr. President; there is and there can be no just dispute, when we consider this subject in the light of the democratic equality which we all profess to believe in, that the right to select your rulers, the right to have a voice in choosing those who are to make your laws, must necessarily reside in every person in the community over whom those laws are to operate, so long as that person entitles himself by obedience to the law, by making no war upon his neighbor, by committing no crime, to have a voice in the administration of affairs.

I do not mean by this to undertake to make any argument against the propriety of learning. That is not the point. The more we have of it, the better we shall be off. But I do undertake to say that to make learning or color or property or race a test in a democratic country of the right to choose its rulers, is to sap the foundation of the very principle of the democracy upon which you act. In this body, by a very large majority, we have agreed to this proposition, and discarding every test save citizenship and loyalty we have declared that distinctions of race and color or of learning have no place in the democratic theory of this Government; and we expect to be obliged, gratefully obliged it may turn out, to carry this principle wherever the Constitution permits us to carry it, into more sections of this country than it has yet been carried by far.

Following upon that action of ours in this

district, the people of this Territory, over which Congress has the same control, for which it has made laws and set up institutions, and from which it may take them to-day lawfully and constitutionally if it pleases, come to us with a constitution which has this inherent and radical distinction. Wherefore is it there?

Mr. WADE. If the Senator will allow me, I wish to ask him a question. If this amendment or any other amendment which may be made here should be ingrafted on the constitution which Nebraska has presented with her application for admission, cannot the State after her admission alter it at any time? Can we make such a permanent regulation with regard to suffrage here that will continue against the will of the State after her admission?

Mr. EDMUNDS. I am very happy to answer the question of my honorable friend. Speaking for myself, I have not a particle of doubt that we can. If we cannot, in what condition do we find ourselves? If we cannot admit States upon a condition, what becomes of our condition on the subject of slavery? If we have the power to provide that Kansas or Nebraska shall never set up slavery, have we not the power to provide that she shall never set up any other arbitrary or unjust or unequal distinction among her citizens?

Mr. WADE. I never supposed we could prevent a State setting up slavery unless by an alteration of the Constitution. Now, of course she cannot do it, because the Constitution forbids it. Before that time I supposed that she could.

Mr. EDMUNDS. I did not. Why, sir, we have uniformly admitted States on conditions. Every State that has been admitted, I think has been admitted on some condition or other. We have usually provided, it is true, that that condition should be incorporated by an ordinance irrevocable in their constitution, but so far as it derives its validity from that constitution the people have a right to change it at any time. Therefore, when you go back to the root of the matter, the binding obligation upon these new States to adhere to the conditions which we impose and which they agree to, grows out of the paramount and supreme power of the will of their creator, the Congress of the United States, exercising its functions under the Constitution of the United States, which declares that its laws, independent of all State constitutions and State laws, shall be the paramount law of the land.

Now, Mr. President, to return to the point to which I was speaking: wherefore is this distinction set up in the fundamental law which the people of this Territory have brought here and laid upon our desk? My honorable friend from Ohio, imitating a distinguished citizen of Massachusetts who is now dead, in believing that the Declaration of Independence was only a sounding and glittering generality, tells us that this is only a mere technicality; it does not amount to anything; there are no colored men there, and we are really “sticking in the bark” when we are endeavoring to ingraft upon this constitution the perpetual and fundamental condition that equality among men shall be preserved there; that we are really impeding the progress of republicanism by being overnice about such little, immaterial trifles as the right of men of any particular race or color to exercise the full political privileges of citizenship to the exclusion of all others.

Mr. President, I do not regard it as an immaterial trifle. If it was of consequence enough to be matter of deliberate consideration in the territorial convention of the people of Nebraska, as I assume that it did, if it was of consequence enough to go into the fundamental law as one of the cardinal principles upon which that free government is to be instituted, then certainly it is no such mean thing as not to deserve consideration and debate from us; it is something more than a mere technicality, in the language of the Senator from Ohio; it is something more than the sounding and glittering generality that that

eminent citizen of Massachusetts to whom I have alluded characterized as being the chief quality of the Declaration of Independence; and I am surprised indeed, sir, surprised beyond measure, and I feel regret that is even greater than my surprise, to see the honorable Senator from Ohio, whom we all love so well to follow, leading us through this District against all opposition for these same equal rights, and then turning to the westward and saying that after all it is nothing but a technicality, that men are standing in their own light and in the light of their party if they venture to lift their voices in favor of erasing this offensive, unjust, and inhuman distinction!

There is everything, Mr. President, in justice; and we shall learn when the empire of tradition which has been tottering has at last completely fallen, we shall learn in the new light that we are coming to, that we shall never have complete prosperity if we do not stick to our principles through thick and thin. There can be no temporary triumph, there can be no temporary necessity in the nature of things possible which will justify a true man in departing one hair from justice and truth.

There is something more, Mr. President. While we all love justice and equal rights, and we all love our party because we believe it represents the active operation of that justice and the essential propagation of those rights, we must still remember that even the party which we wish to carry forward and build up for this purpose is not great enough and strong enough to do wrong. We must remember that we must not stand upon one principle in the District of Columbia and upon exactly the opposite one in the Territory of Nebraska, because although we are strong now, the free people of this country will never believe in a party which is inconsistent with itself, and of whom it might be justly said if we put this bill through as it is: “Your pretense in the District of Columbia and in the southern States about the equality of men is merely because it suits your purpose to get in Republican Senators and Representatives; but when it suits your purpose to get in Republican Senators and Representatives from Nebraska, then you believe that there is no such thing as equal rights irrespective of race or color; it is only a technicality, then, or a glittering generality.”

Mr. President, as strong as we are, and justly strong; as proud as we are and as conscious as we are of our strength, we do not deserve to be strong or proud or successful if we do not adhere to a great principle of justice and equality which we practice upon here where we have the power; if we do not adhere to it in Nebraska because it happens at the moment that we are to gain a Representative or two or a Senator or two by denying the principle there. And as we have the power, in my judgment, the clear and unquestioned power, in the exercise of our discretion, in admitting this Territory to be a State, in creating it to impose such conditions cardinal and perpetual as seem fit to us, why not let us do it? Why not let us say to the people of this Territory, “We receive you upon the condition that within your borders, notwithstanding your constitution or your laws, you shall practically exercise equality and justice toward every citizen within your limits?” As I have said before, the power cannot logically under the Constitution be denied. There is no danger if it could in trying the experiment; the friends of this measure certainly, if they believe it to be merely a *brutum fulmen*, are not injured by it, and will thus concede the assertion of a principle upon the part of the Congress of the United States, which I trust within the next five years will be carried to the remotest corner of the land.

Mr. WADE. I had not intended, Mr. President, to say anything more on this subject; nor shall I now detain the Senate longer than will enable me to reply to some of the positions which the Senator from Vermont has assumed, placing me I think in a false position, or at



least using arguments that I had employed in a sense in which I did not intend and which I hardly think could have been properly so understood.

The Senator rather insinuated that after having been for a great many years an advocate of free and liberal principles, I have somehow fallen from that position and become the advocate of other principles. I do not understand that to be my position. When slavery was the question before us, when the right of men to vote was presented to us, I have always been the advocate of principles of liberty; and where the proper opportunity was presented for my action in support of them I have been I believe as unwavering in that respect as any other Senator on this floor. I do not admit that I have now less zeal on that subject than I have always had. I have never, however, been one of those who would drag those principles to an extreme so as to lose a practical opportunity of advancing great public objects on account of what I considered an abstraction, a technicality. Sometimes a thing like that may be insisted upon so as to lose the opportunity of performing great good. Whenever such occasions have arisen there may have been an apparent inconsistency on my part, but I have been willing to stand the hazard of it before the people and before my own conscience and to risk a shadow to obtain the substance.

That has always been my course; I am never frightened at a red rag hung up; I do not bite at it. But show me that the principle which you say I am about to violate is really a principle and not the bare shadows of a principle, the ghost of a principle, as I think is the case here, and I am with you.

Now, how stand these Territories? The Senator from Massachusetts yesterday branded the proposition that I have been advocating here as shameful and disgraceful. He repeated that assertion in the face of this Senate, almost two thirds of whom at the last session voted for this very measure—not once, but more than once, for they repeated the vote in regard to both these Territories; and the same members, if we may judge by the votes they constantly gave yesterday, stand ready now to give the same vote, notwithstanding all the Senator's arguments, and although he has branded the proposition as shameful and disgraceful.

Do gentlemen think that four fifths of the Republican members of this body are advocates of absolute wrong and injustice, that they are willing to sacrifice those principles for which they have so long and so courageously contended under all circumstances, that they stand up here shamefully to trample them under foot to-day with no motive on earth to do so?

Mr. EDMUNDS. I should like to ask my friend one question: whether in his own individual and conscientious judgment he believes this provision in the constitution which is offered to us, excluding all other than white men from political rights, to be a just and proper constitutional provision or not?

Mr. WADE. I am willing to answer that. I do not think that the right of voting is like the right that a man has to personal liberty. I think it is subordinate perhaps to that; but undoubtedly I think it is right and proper that all mankind, certainly without any distinction of color, and perhaps without regard to sex, ought to have the right of voting. I agree to that; but I know it has been the practice of all our governments to deny that right for certain political reasons that they believed justified them in doing so. It has been the habit of our Government from its foundation, and it has met the approbation of all the just men in it up to a very recent period.

Mr. EDMUNDS. So it has, but—

Mr. WADE. I will answer the Senator; I never dodge anything. I do not think it was right politically. I am an advocate for universal suffrage, and always have been; but when you ask me to stand by that principle where it will have no effect, and where, as I said

before, to insist on it will defeat a great meed of good that is within our reach in order to assert the ghost of that principle, I do not think it is to act wisely. Therefore the Senator was wrong when he said I had argued this right of suffrage as a glittering generality, as a certain gentleman said of the Declaration of Independence. I never have treated the Declaration of Independence as a glittering generality, but as a reality; yea, sir, more important to mankind than any declaration that has been made since that which was made to Moses on Mount Sinai. Its effect on the world has been greater, and it has had no sterner advocate for its principles than myself, so far as I have been able to assert them always.

I have said nothing about this right in the abstract. It is a right, and I am the advocate for it; but I am not willing to sacrifice everything to it where it has no application. I was endeavoring to show the improbability of an abandonment of their principles by two thirds of this Republican Senate, yea, more than two thirds of the Republican Senate, more than four fifths of them, who are as tender upon the subject of human rights, and even upon this political right of voting, as the Senator from Vermont. And he must not attempt, nor must the Senator from Massachusetts attempt to brand the Senate with standing here ready, prompt, eager to do a shameful and disgraceful thing. A little modesty should assure a man that such a proposition as that would hardly go down in this Senate.

I have resisted the application of these amendments because I doubt now the constitutionality of them; but I am willing to tell the Senator from Vermont, and all other Senators, that if his proposition is constitutional I have no objection to it. I am in favor of it now if it can be done properly and within the verge of the Constitution of the United States. If I am wrong in the supposition that we cannot ingraft upon the constitution of a State seeking to come into the Union a condition that shall be binding upon her when she is in and a continual provision that she never can violate, convince me of it and I shall be willing to enforce in the present case this principle of absolute right, if you please to consider it so, so that it never shall be changed. I do not see, however, that we have that power; and I argued as well as I could, and I believe in accordance with all the great jurists of the United States heretofore, that we had no such right; that it would be in the power of this State the next day after you admitted her to turn around and change her constitution, and thrust out the provision that you had forced upon her.

Mr. EDMUNDS. If my friend will allow me, I wish to ask him how can he ever have it determined whether he can impose such a condition or not unless we first make a law which shall propose such a condition? We can never reach the point of finding it out if we do not do that.

Mr. WADE. We cannot foresee exactly what the courts will do, who are supposed to have the construction of the constitution in the last resort, and even their decisions are not like those of the Medes and Persians; they do not always stand. There is no such thing as absolute certainty. There is no test of the constitutionality of a law, perhaps, except it is the final decision of the court of last resort upon full deliberation.

Mr. SUMNER. Will my friend allow me to call his attention to the very enabling act under which the people of Nebraska have acted? I find by referring to that that it requires that the constitution shall provide by an article forever irrevocable without the consent of the Congress of the United States three different things: first, that slavery shall be prohibited; secondly, that there shall be perfect toleration of religious sentiment; and thirdly, that the people inhabiting the Territory shall disclaim all right and title to the unappropriated public lands.

Mr. WADE. I understand all those provisions.

Mr. SUMNER. The question is whether those conditions are not irrevocable.

Mr. WADE. I think they are.

Mr. SUMNER. Very well; let us add another to them.

Mr. WADE. They are in the nature of a compact between the people of the Territory when they apply and Congress who have made the proposition. They have agreed to frame their constitution upon that hypothesis; and although we could not bind them from here by ingrafting upon their constitution any such provision as this, I have no doubt that we may make stipulations with regard to the public lands, because they have been in every constitution that ever has been made and admitted here, of the western States at least. But they should have been put into the enabling act. If at the time when we told them that on complying with the propositions we made in that act they should be admitted, we had said to them, "It shall be an irrevocable condition of your entering into this Union that you shall make a provision for the elective franchise, so that no person shall be excluded on account of color," and they had complied with it and placed it in their constitution in accordance with the requisition we made, then it would have partaken of the nature of a compact between the General Government and the people of the Territory, in such sort that I am by no means ready to pronounce that it would not be binding forever, except by the mutual consent of the parties that agreed to it. But this proposition stands in no such position. I wish the Senator from Vermont would convince me that it does. I am perfectly willing that the proposition he has made, as I understood him, should be placed upon this constitution, provided it can be done constitutionally. He aims at a thing that I am not averse to; but I am averse to sacrificing the opportunity and doing a wrong to ourselves, to the people of the Territory, and to the gentlemen who are seeking seats upon this floor, upon what I foresee will never touch the rights of a man.

Mr. EDMUNDS. Then I wish to suggest to my friend from Ohio that if my amendment, being incorporated into this bill, should turn out to be unconstitutional it will not do any harm; the State will be in. Why does he object to it?

Mr. WADE. So anxious am I that this State should be admitted and that Colorado should also be admitted that I am willing; if it will produce harmony here, so that we can carry both measures and all unite upon the same ground, which would be an excellent thing for ourselves, to agree to the proposed condition if we can do it constitutionally. I have grave scruples in regard to it; I think it would not be binding upon the State. That is my judgment, but as the Senator says, if it should be otherwise, the provision can do no harm, and every gentleman who believes it to be constitutional may vote for it. If it is an error at all, I admit it is in the right direction; and although as I have said, it is a bare abstraction, nevertheless if Senators believe it is constitutional, or if they believe that is so doubtful a point that it ought to receive the sanction of the courts to determine it, certainly I have no objection to their voting for the amendment. I want these States in. I have argued all the time that I do not care anything about this word "white" as applied to these States, because in my judgment it has no effect, not because the word "white" may not be a materiality and of great consequence in some connections, but in this connection where it stands it will harm a hair of no man's head.

The Senator from Vermont mistook me when he supposed I was going to argue in the abstract that it was wrong to admit colored persons to vote; I gave no such intimation. I wish it might be so that they could vote everywhere; and I wish the Senator would remember my argument, good or bad. My argument was,

that the very result which he seeks to bring about, as all of us do, is so certain that it will be brought about sooner by admitting the State than by not admitting her. We have the pledge of the influential gentlemen here and of all the principal men of that Territory, who are all for it, that it will be brought about sooner, this abstraction will be rectified sooner by permitting the State to come in than by thrusting it out; and I do not like to do a vain thing. I argued before as I am compelled to argue now that it was a vain and idle thing to do it, because the State, the moment she was in the Union, if she saw fit, could call a convention, rectify her constitution, and exclude this provision. That is the way I looked at it. Some Senators seem to think that is not the case. If it is not the case and we have full and plenary jurisdiction over the subject, and can put into this constitution a provision that will admit its members and bind the people there to a principle that is right in itself, certainly I can have no objection to it—not the least in the world. Let them in. I know they never will thrust it out if you put it in; I am satisfied of that. I have argued to you that they themselves will put it in, and surely they will not thrust it out if you put it in. They are ready to take it. If we can do it, let us do it; and let us all combine, unite, and place in there a provision that will admit the members upon the floor and still leave it to the people, as I think they will have the power if they dislike it to put it out.

I have stated to you my belief, founded upon as large an inquiry on the subject as I could make, that the people there are as anxious to have it in their constitution as you are; and it was not a matter of deliberation with that people that this word "white" was placed in their constitution. It is a form that is copied in copying one constitution from another. They found it everywhere they went. They put a copyist to work, and when he took up the constitution of Nevada, of Iowa, of Oregon, of my own State, of Illinois, of Indiana, or any other western State as a precedent from which to write the principal articles of the constitution, he copied that in, just as a clerk copies technical phrases into a deed when he is following a precedent. That is the way it was inserted. It was not a matter of deliberation, as I understand, among those people. It is in there; it will have no effect; but if you can get rid of it by putting in a condition that there shall be no discrimination in the franchise on account of color, very well. There are some words that seem harsh in that amendment, and I would recommend that they be modified. They might be offensive to the people of Nebraska, and it would have a better effect without them. I would recommend if that amendment is to be adopted, instead of putting such strong penalties into their constitution, it be provided simply that it shall be a fundamental principle in their constitution that they shall make no discrimination on account of color or race in regard to the elective franchise, or something like that. I would rather it should be so. It would be more palatable to them, and just as effectual, in my judgment.

Mr. EDMUNDS. If the Senator will allow me, the objection to that is, that the theory upon which my amendment goes is, that having full power over the creation of new States we may create them upon such conditions as we please. Those conditions have force, not because that State having accepted them becomes willing or unwilling afterward to fulfill them, but because it is the paramount law of the land which operates upon every citizen in the new State. Then, how are we to enforce the paramount law of the land other than as we enforce all other laws, by providing punishments and penalties for its infraction? In that case a colored citizen of Nebraska going and offering to vote, being refused, brings his action precisely as he would in Massachusetts or Vermont, against the polling officer, whatever his title may be, for denying to him

a right, and goes to a jury of his country for damages. That is all the way men enforce their right to vote in our own States. Then in addition to that you proceed to punish the officer by fine and by imprisonment ordinarily, but not in this amendment, for violating the law. Therefore, this section of punishment is not offensive, or ought not to be offensive, to the people of Nebraska, because it being a part of the paramount law, the condition on which we create the State, we only punish the citizens of the United States who choose to violate the law.

Mr. WADE. I do not suppose that the Senator wishes to put any more stringent provision into the constitution than the people of Nebraska themselves would have put in it probably if their attention had been called to it. They would not have gone on with all the provisions of a law making penalties on that subject, but they would have declared probably that there never should be any discrimination on the subject of the franchise on account of color or race. You would be willing to trust that people with making their own penal laws to enforce a constitutional duty, I hope. Let us not be over jealous about these things. When you make it their duty, create it so in their constitution, you ought to have the charity to believe that that people will enact a law on the subject sufficient to enforce it; but when you undertake to specify severe penalties and force them on the people from the outset, it does seem to me they might think it was objectionable. I think the other would be just as well. I think we ought to trust the people with that. When you have made it their absolute duty to make a provision of law on that subject, who can doubt that they will do it?

Mr. MORRILL. I should like to ask the Senator from Ohio whether it is his understanding, if this State should be admitted upon the condition stated in this amendment and the constitution sent back for ratification, as that amendment provides, the Senators elect in the mean time would have their seats on the floor of the Senate?

Mr. WADE. There are two propositions now pending—an amendment to the constitution and an amendment to that amendment. One of them contemplates that it is to be sent back and the people there are to pass upon it. That is the amendment of the Senator from Missouri. The amendment to that and the one I have been speaking of, if I understand it, only provides that they are accepted upon the condition that they shall make no discrimination, &c. That admits them at once. If it is a constitutional provision it makes it absolutely certain that they must assert it by penal law, and they are admitted at once. There is nothing else for them to do only to come in and comply with the condition. The nature of the condition is one subsequent, if I may say so, instead of precedent. Then under that they would be admitted at once, but it would be the duty of the State to comply with the provision we have ingrafted upon the constitution as a condition. That is the way it stands. I have no objection myself to its being inserted, because if it should not be strictly constitutional, and I have my scruples about it, if it is ever brought up before the courts to determine in the last resort, and they should determine it to be null and void, then we should have done all we can do in that direction, and have harmed nobody at any rate. On the other hand, if they determine that it is our right to do such a thing, then I would be glad to do it. That is the way I view it; but of course my assenting to it in that way amounts to no more than the assent of any other Senator. I cannot commit any part of the committee to it. I would not resist it. If we can be harmonized on this subject so that all can act together we shall accomplish a very great point, even beyond the bearings of this constitution itself.

Mr. POMEROY. The Senator from Vermont, in reply to a remark I made last evening, in which I said I was embarrassed in voting on

this amendment on account of some previous legislation of Congress, answers me by saying that he thinks I would be equally embarrassed if the State should present itself with a constitution permitting or inaugurating slavery, because in the organic act to which I referred not only did the Legislature have the right to prescribe the qualification for voting, but it also had the right to establish that institution; the people might vote it up or vote it down, but they had the right of voting on it. The inference was, that I would be embarrassed if I voted against the admission of Nebraska, if it came as a slave State; to which I reply in a word that I should not feel that embarrassment for this reason, and this is the very least of the reasons that I should offer, Congress has repealed it; Congress repealed it before the people of the Territory took any action on it and acquired any rights under it. That is a sufficient answer. In the legislation of 1854 they did establish it, but before any action was had by the people of that Territory, in 1864 they said, in so many words, "Slavery or involuntary servitude shall be forever prohibited." One part of this statute, therefore, has been repealed by the power that made it and which had the right to repeal it.

But how is it about voting and about the qualifications for voting? In 1854 Congress said that the people of this Territory in their legislative capacity should prescribe the qualifications for voting. Then in 1864, in the enabling act, Congress declared—and I voted for it with the other Senators—that the law of the Territory should be the law of suffrage in forming the State constitution. The reason why I would not be embarrassed in the one case and am embarrassed in the other is simply this: that in the one case the statute was repealed, and it was wrong, even if it had not been repealed; and in the other case, the statute has not only not been repealed, but it has been reenacted.

But the real difference between the Senator from Vermont and myself is this: I believe Congress can admit States; he believes Congress can create States. I do not believe Congress can create a State any more than they can create a world. The power never was given to Congress to make States, but only to admit them. Nebraska to-day is as much a State as any other State not represented in Congress. Nebraska to-day, without the action of Congress, is as much a State as South Carolina or Georgia or Alabama. It has got boundaries; it has got a government, not recognized to be sure; it has got officers; and so have Alabama and Georgia. They are all States. That provision of the Constitution which provides that Congress may admit new States means of course that they have got to be States when admitted. They are not made States by Congress. California was made a State before it was admitted here; Congress did not make it. It never had a territorial government. Other States have been made. Vermont remained a State for fourteen years before it was admitted. Kansas was a State for years before it was admitted. The people, under the legislation of Congress, make a State and then afterward, when Congress recognizes it, it becomes a State in the Union.

Mr. JOHNSON. With or without the legislation of Congress?

Mr. POMEROY. Yes, the people of a Territory can make a State with or without the legislation of Congress—not a State in the Union, but a State outside of it; and it is to be a State or else it cannot be admitted; Congress cannot make it.

The legislation contemplated by the Senator from Vermont is, he says, the right to legislate over the State by virtue of our eminent domain and because we have got supreme authority. That does not devolve in us the right to make a constitution for a people. This proposition proposes to amend their constitution in a way not pointed out by the instrument itself. I contend that the way to amend the constitution

of Nebraska is according to its own provisions and not by an act of Congress. An act of Congress put into this act of admission and assented to by the Legislature cannot amend a constitution in violation of its own provisions. I do not believe it would be worth the paper that we consume in writing or printing it. If this amendment ever has any validity at all, it will be because it has been submitted to the people and the people have ratified and adopted it. Then it may become a part of the constitution. I do not believe that this constitution, when it was made by the territorial Legislature, had any virtue as a State constitution until it was adopted by the people. I do not think any Legislature can make a constitutional provision binding unless it has been made so by virtue of the instrument itself or in harmony with our common law on the subject, and that is submission to and adoption by the people. I do not see any way to amend this constitution except by sending it back to the people. I can see very well how this proposition can be made a part of the constitution in that way. It is on that account, not desiring to send this constitution back to the people, believing that there is no practical importance in the question that is now raised, that I shall vote for the admission of Nebraska exactly as the bill has been reported by the committee and without any amendment.

Mr. HOWARD. I did not intend to speak again on this bill, but I do not feel like suffering the final vote to be taken upon it without paying some attention to the ground which has been taken in the discussion by the Senator from Vermont. If I understood the argument and observations of the Senator rightly, his principle is this: that under that clause of the Constitution which declares that the Congress may admit new States into this Union, it is competent for Congress to annex as fundamental conditions any requirements that Congress may see fit, and on the consent of the people of the Territory to those conditions, if they are declared to be irrevocable, without the consent of Congress, they are to remain in force as law forever, or so long as Congress withholds its consent. I aim to state the proposition of the Senator fairly. If I fail to do so I wish he would correct me.

Mr. EDMUNDS. You have stated it exactly.

Mr. HOWARD. Now, sir, I cannot under any circumstances give my consent to that principle. I do not believe Congress possesses such a power. The power granted is simple and plain; it is "to admit new States into this Union." To admit new States into the Union is to invest those States, of course, and necessarily, with every power, every faculty, every constitutional provision which pertains to any of the States in the Union under the Constitution. It is to impart to the new States the same rights of legislation, the same sovereign power that belongs to the old States or to any other States, for in respect to political power it is impossible, in the very nature of things, that there should not be a perfect equality among the States.

If we may annex an irrevocable, fundamental condition which is to underlie the constitution of every new State that we admit, then I foresee consequences which will not be entirely agreeable to the people of the United States. For instance, if we may annex as a fundamental condition that the black man shall have an equal right to vote with the white man, we may with equal propriety and with equal assertion of law say that the whole population, male and female, black and white, shall possess this right, and we may incorporate it in the State constitution in the form of this so-called irrevocable condition, not to be repealed or altered without the consent of Congress.

We may go further; we may declare that in their constitution the people of the Territory shall enact that real estate shall descend unequally to the heirs-at-law of a decedent; that it shall descend entirely to the male heirs or

entirely to the female heirs; we may declare that this constitution shall contain a clause prohibiting the resort to any legal proceedings for the collection of debt, leaving every debt as an obligation of honor, to be discharged according to the sense of honor that may happen to be entertained by the debtor. Indeed, we may go through all the details of State policy, State legislation, and individual rights, as regulated by the constitutions of the States. Even further than this, we may here in these Chambers draft and enact not only a constitution for the State which is contemplated to be admitted, but we may enact an entire code of laws for the State, and for all its citizens and all its inhabitants, organizing its courts of justice, and making provision for every exigency that arises in society under a State constitution; and we can go so far as to declare, according to the argument of the honorable Senator from Vermont, that the assent of the people of the Territory to this State constitution formed here, to this code of laws formed here, shall be irrevocable, without the consent of Congress. What, then, becomes of State rights? Why, sir, it is merely converting the Congress of the United States into a manufactory of new States and new State constitutions. It denies to the people of the States almost all, yes, all, substantially, of those original and immemorial rights which have been exercised by the people of the States ever since the dissolution of our connection with Great Britain.

Sir, I cannot vote for any such doctrine as this, and I do not believe that this sweeping principle, or rather claim, will ever meet the approbation of the people of the United States. I know it will never meet the sanction of that great, patriotic, and loyal party in the country whom we represent here. It is one of those extreme ideas which cannot be of any value if placed in the form of legislation, and if in that form, can produce nothing but mischief and that continually. I said yesterday, and I repeat it to-day, that under the general terms in which the power to admit new States is granted in the Constitution, Congress may, if it sees fit, annex conditions to the admission; that is, prescribe acts to be performed by the people of the Territory before they become a State; but after they have become a State they have the same power over their internal affairs which has ever been possessed by the people of any and all the other States of the Union. We cannot take away from them the right of reforming and amending their own fundamental law in any manner they may see fit, not inconsistent with the Constitution of the United States.

Mr. EDMUNDS. I am entirely willing that my honorable friend from Michigan should speak for his section of the great party to which we belong. I will speak for mine. My section of that great party has always believed in the power of Congress under the Constitution, making, under the Constitution, by its legislation, the supreme law of the land, which that same Constitution declares shall be higher and stronger than any State constitution or any State laws in all cases in which the general rights of the citizens of the United States, as such citizens, are concerned; and I undertake to say in reply to my honorable friend, speaking for an humble but a somewhat older section of that party than he represents, because I believe Vermont got on the Republican platform some considerable time before Michigan did—

Mr. HOWARD. If the Senator will excuse me. Michigan has the precedence by several weeks. You were next in succession. [Laughter.]

Mr. EDMUNDS. I beg to say that before that gallant and capital State of Michigan was born into this world the State of Vermont, by her legislative resolutions on these subjects, declared the very doctrines that I am contending for now.

Mr. HOWARD. The doctrines are old, but not the party.

Mr. EDMUNDS. The Whig party of the State of Vermont traces a true and legitimate descent in the regular and hereditary way into the present Republican party. It is only a change of names with us, and not of principles. I do not know how it is in Michigan. I will not undertake to say.

Now, to return to the question: my honorable friend says that this power on our part to impose conditions when we create that corporation which is called a State; that is, when we endow a society of men with certain political privileges of local government, does not exist, for the reason that if it did it might be abused; that is to say, he says if we have this power we have the power to say that females shall vote; we have the power to say how real estate shall descend; and we have the power, in short, to regulate the whole internal concerns of the State. I have been taught by an eminent jurist of this country, a Virginian, too, whose name was Marshall, once, I believe, the Chief Justice of the Supreme Court of the United States—I have no doubt my honorable friend has heard of him—that the fact that a power might be abused was no argument whatever against the existence of such a power.

Mr. HOWARD. The Senator will excuse me for interrupting him. I deny the power. A thing which does not exist cannot be abused.

Mr. EDMUNDS. That is exactly what I was saying. I stated the gentleman's position to be exactly that; and the only reason he gave us—he may have some better one, but the only one which he has honored us by stating—was the numerous instances of abuse which it might lead to; and thus, in reply to that, I have said that we have high authority, if we need authority on such a question, for saying that the fact that a power may be abused is no argument at all against its existence.

My friend asks what would become of State rights if Congress were to exercise powers of this description? Let me reply by inquiring what will become of State rights unless we create these States? They have not any State rights now. This constitution which is offered to us is nothing but waste paper until we breathe into it the breath of life by the power of our legislative authority. It is the supreme law of the land that we make under the Constitution, which creates this State at all; and I have been taught, in my little reading of law, to suppose that the power to create implied the power to affix qualifications and conditions in the act of that creation, which should follow its life until it should terminate as an inherent and inseparable part of its existence.

But my friend says, "What if these people do not accept it? What then? Where are they?" The same answer may be made when we create any corporation. We endow a body of men with corporate privileges. Suppose they do not exercise them; suppose they do not accept the boon which we offer to them; does that prove that we have not the power to create the corporation? Suppose they lapse; suppose they become disorganized as the southern States have; does that demonstrate that we have no power to revitalize them upon other conditions or to govern them in their disorganized condition under the paramount law of the land? My friend voted with me for the civil rights bill, which undertook to regulate private rights in every State of the country, old and new; and he voted for it, I suppose, as I did, under the Constitution of the country which authorized us, passing laws in accordance with that Constitution, to see that they were executed upon the citizens of every State. We are not passing laws here for the State of Nebraska in its political capacity. We have no relations, or very few indeed, with any State in its political capacity. Those relations are all pointed out explicitly and expressly in the Constitution itself. But the relations of this national Government with the people of the State are personal and direct; and it is upon the people in their individual and separate capacities as citizens that the law operates. Therefore, if a



State fails to fulfill its functions, if the State of Vermont or the State of Michigan dislikes the conditions upon which it has been admitted, and chooses to elect no Senators or members of Congress or members of the Legislature, and chooses to become wholly disorganized, are the people of either of them any less citizens of the United States than they were before? Does not the paramount law of the land still operate upon their persons and upon their property? Or are they adrift and loose in the world, with no power on the part of the Government to regulate their conduct toward the rest of the country? I do not believe in any such doctrine.

This proposition which I advance is not a new proposition; the power which it seeks to exercise is not a new power. In some form or other it has been exercised from the beginning of the Government to this day; because, as I said before, those conditions which we have heretofore imposed to be incorporated into the constitutions of these States, the conditions which we imposed by the act of 1864 to be incorporated into this very Constitution, have their only force and vitality from our action; for, so far as it depends upon the will of that people, they may change that will to-morrow and reconsider it and set it aside, and then so far as their action was concerned, it would no longer exist; but the paramount law under which that Constitution was formed and which created its very existence remains intact and in vigorous force and exercise as it did before. That is my position, and standing upon that position I am quite ready to meet the Senator.

Mr. KIRKWOOD. I have been from the commencement of this discussion very anxious for the admission of the State of Nebraska. I am so yet. I should have been glad if the people of this Territory had come here with a constitution not containing the word "white;" it would have been more nearly in accordance with my particular views of what a constitution ought to be; but they have not done so. Now, sir, there are three propositions before the Senate touching that question; one submitted by the Senator from Vermont, which proposes substantially that we shall here say that that word shall be stricken out. Now, I should be glad to know what would be the effect of doing that thing. There is an old saying "that it takes two to make a bargain." Suppose we pass this bill with the amendment of the Senator from Vermont; what then? Is Nebraska a State or not? Has she agreed to the Constitution as we expound it, as we lay it down? Has she agreed that she will have the constitution with the word "white" stricken out? If she has not agreed to it, can we impose it upon her without her consent? In other words, suppose the bill with that amendment be passed by both Houses and signed by the President, are the Senators from that State and the members from that State in the other House entitled to admission in the two Chambers at once? If Nebraska be a State they would be so entitled, and would have the same rights as any of us here. But suppose their people at home should not approve of this proceeding; suppose they should say they do not want this word "white" out of their constitution; then one of two things would follow: either they would have a constitution imposed upon them to which they had never given their consent, or else they would not be a State in the Union.

Following out the argument of the Senator from Michigan, how can we here make a constitution for the people of that State? I do not see how we can. If we can say that the word "white" shall be stricken out of their constitution in fact, can we not say that twenty other words shall be put in, and then if our action concludes them they are governed by a constitution they never made.

In regard to the amendment submitting this question to the action of the Legislature of that State, I would have no objection to that but for the fact that the General Assembly is already

elected; it does not know the views and wishes and opinions of the people of Nebraska on that subject; and not knowing them, it cannot express them. If it were to be submitted to a General Assembly to be elected after our action, then we should know what the views of the people of Nebraska were on the question; but if it is submitted to a Legislature already elected, as I understand that of Nebraska to be, we cannot find out what are their views upon this question. If we adopt the amendment of the Senator from Missouri and submit the matter to the people of Nebraska, it must necessarily delay the admission of the State until the next session of Congress, and I do not think that the practical importance of the question involved is sufficient to justify us in producing that result.

For these reasons I shall vote against all the amendments for the admission of the State.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of this bill until the 7th day of January next and make it the special order at one o'clock on that day.

Mr. BUCKALEW obtained the floor.

Mr. GRIMES. I think it is quite evident that we shall not be able to get to a vote on this question to-day, and it is very important, as this is our last sitting during the present year, that there shall be an executive session, in order that some confirmations may be made. I do not want to interfere with the course that the Senator from Ohio has marked out for himself; but, if he will give his consent, I should like to move that the Senate proceed to the consideration of executive business. I understand there are five or six gentlemen who propose to speak on this question.

Mr. BUCKALEW. I hope the Senator will not make that motion until I am through.

Mr. WADE. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania give way to the Senator from Ohio?

Mr. WADE. If the gentleman has got the floor I have nothing to say.

Mr. BUCKALEW. Mr. President, I do not feel any great amount of interest in the pending motion for the postponement of this subject until next month, nor do I feel any considerable degree of interest in the amendment to the bill which has been the main matter of debate this morning; I mean the admission of this State upon a proposed fundamental condition relating to suffrage. As to the first question, the question of postponement, it is one of those which naturally and properly belong to the majority of the body to fix and determine for themselves. All that the gentlemen who do not constitute that majority, who are not responsible for the manner and time in which the business of the Senate is conducted, can claim is, that when measures are pending they shall be fully and fairly heard; that the judgment of the body shall only be pronounced after they have had a reasonable opportunity to submit their sentiments to it for its consideration. Therefore, last evening I submitted some remarks in the spirit in which I have just made this observation. I then stated that I desired to be heard upon this general question of the admission of new States into the Union, and that I was content to conform myself to the desire of the majority of the Senate, either to proceed last evening or to speak to-day or upon some other subsequent occasion which might be fixed.

As to the proposed amendment to the bill, to which I have alluded, I have to remark that in the first place I suppose it has been sufficiently discussed; it is unnecessary to add anything upon either side of the argument. In the second place, confessedly as regards the application of a provision of this kind to the Territory or proposed State of Nebraska, it would have no considerable effect, no practical operation, and therefore it is not necessary that we should debate it at length. I pass that topic, therefore, and embrace the

occasion to speak upon the merits of the bill itself, following in this particular the example set me by other members who have discussed the bill itself when speaking in point of form upon different propositions of amendment submitted to it.

Mr. President, in 1864 the Senator from Ohio, [Mr. WADE,] who has charge of the present bill, as the chairman of the Committee on Territories, reported three enabling acts to the Senate. One was to enable the people of Nevada to form a constitution of State government for themselves; another was to enable the people of the Territory of Colorado to do the same thing; and the third bill was to enable the people of Nebraska to do the same thing. These three bills were reported by him and were passed by the Senate at his instance, he taking upon himself on several occasions the whole or nearly the whole of the debate in their favor. I propose to examine for a short time those bills presented by the same member who now desires us to pass this bill; and I make this examination because those bills, and the time and circumstances under which they were passed and the objects in view in their enactment, are all intimately connected with the question before us.

The enabling acts for the Territories of Nevada and Colorado were passed on the 21st of March, 1864, and that relating to the Territory of Nebraska upon the 19th day of April of the same year, about one month afterward. Now, sir, what were the leading and material provisions of those acts? I may state, in the first place, that those acts were all very much alike. They were, I believe, identical in all their provisions except the particular of the name of the Territory, and also in the particular designation of boundaries; otherwise the three acts were precisely alike, and the examination of one gives us complete knowledge of the provisions of the others. I will take the act relating to the Territory of Nebraska, which appears on the fifty-first page of the pamphlet of laws of the session of 1863-64. By the third section of that act the Governor of the Territory was authorized to issue a proclamation calling upon the people of the Territory to elect delegates to a constitutional convention. The words are:

"And the Governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives as aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the House of Representatives."

Then by the fourth section it was provided:

"That the members of the convention thus elected shall meet at the capital of said Territory on the first Monday in July next, and after organization shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory."

Then follows in the fifth section a provision with regard to the adoption of the constitution:

"That in case a constitution and State government shall be formed for the people of said Territory of Nebraska, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, 1864, at such places and under such regulations as may be prescribed therein."

There is only one other provision of these enabling acts to which I propose to call attention, and that is found in the concluding part of the fifth section. After providing for the returns of the election upon the question of adopting or rejecting the constitution—the returns are to be made to the acting Governor—it proceeds:

"The said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress."

The Senate will perceive that this enabling act with reference to the Territory of Nebraska was that the Governor should, by proclamation, call a convention to meet in the month of July following; that if the convention formed a constitution it should be voted upon and accepted or rejected in October following; and that in case of the acceptance of the constitution and a return of such acceptance made to the President of the United States, he should issue a proclamation declaring the State admitted into the Union. It will be seen that it was contemplated that these Territories, if they chose to assume to themselves the dignity and character of States, should be prepared for representation in Congress at the second session of the Thirty-Eighth Congress, to wit, when it assembled in the month of December, 1864. These bills contained provisions by which the people of each of these three Territories would be enabled to take their place in the confederacy of States and obtain full representation in both Houses of Congress upon the assembling of Congress in December, 1864. The remarkable provision that they should be declared admitted into the Union by presidential proclamation, "without any further action whatever on the part of Congress," was a departure from the previous practice of the Government in such cases, and exhibits the anxiety felt for their speedy entrance into the Union as States.

Now, sir, it will at once be seen that the pretense that the people of either of the Territories that have been spoken of in the debate—Colorado or Nebraska—have proceeded under the enabling acts in the formation of constitutions for themselves, and in applying for admission into the Union, is wholly groundless, is without the slightest foundation in fact or in law. Either one of the enabling acts expended itself within the year 1864. It was to be executed in that year by the officers and people of the Territory concerned if executed at all; if it had effect, if it had the result that was contemplated, the new State would appear by her representatives in the Congress of the United States in December of that year. Any proceedings which have taken place since that year in either Territory in connection with the formation of a constitution have been wholly unauthorized by the enabling acts. They have been voluntary on the part of the people and authorities of the Territory in question. They have not been authorized or instigated by the legislation of Congress in any way whatever. The result is inevitable that these Territories appear before us as petitioners; they apply to us as, perhaps, they can properly apply, for permission to enter the Union if we think under all the circumstances they should be admitted; but any questions of right under the enabling acts of 1864 are out of the case and wholly foreign to the debate.

Before I pass on, I will pause a moment to make the inquiry, what was intended or designed in 1864 in the enactment of these several enabling acts as they are called? It appears from the congressional proceedings, which are preserved to us, and which we can consult, that the people of neither of those Territories applied for admission formally. There was no agitation on their part. Individuals resident in one or the other of the several Territories may have verbally expressed such a desire, but I believe it will be found upon investigation that no application was made by any officer or citizen of those Territories in a formal manner to either House of Congress for the passage of an enabling act. Why, then, were those bills introduced and passed? We know, from subsequent inquiry and investigation, that the number of inhabitants in either one of these Territories was exceedingly small at that time. There was a paucity of population, a deficiency of population for any reasonable purpose of forming a new State or introducing a new State into the Union. Why, then, were those bills passed?

I was never able to give any other explanation than this: that they were passed for the purpose of heading off (if I may use the expression) Mr. Lincoln, who was then President of the United States, in his policy of reestablishing State governments in the South and obtaining their recognition and representation in this Government. In his annual message at the beginning of the session, he had communicated to Congress a plan for the reorganization of State governments, in which any greater number than one tenth of the people of any insurrectionary State were authorized to reorganize their government; and he pledged the faith of this Government that such State government should be recognized and upheld by it.

Not only that, but it was notorious to the whole country, and appeared in all forms in official documents, that Mr. Lincoln was not only announcing a plan but was executing one. He was carrying forward its execution in Tennessee under the present President of the United States, who was sent there by him. He was carrying it on in the State of Louisiana actively and energetically. He was carrying it on also in Arkansas in the communication to General Steele, who was for a time in command in that State, and in other ways he was engaged in its execution. He was also carrying it on in the State of Virginia, within sight of the Capitol, at our very doors.

A very grave question arose upon which men differed, and differed upon both sides in politics, differed among themselves. It was whether that policy of his of organizing States upon the minority principle and by military power or under military coercion was valid, and if valid, whether it was reasonable and proper that it should be done. Upon that whole question I agreed with the Senator from Ohio, the chairman of the Committee on Territories. I thought it was absurd, it was monstrous that those presidential States should be set up as members of this Union and should be represented in the Senate and in the House to the full extent to which their populations were represented before the war, that a mere fragment of the population of a State should wield the whole political power of that State in this Government, both in Congress and in the Electoral Colleges. I, for one, thought that to be a monstrous proposition and resisted it; in this agreeing with the Senator from Ohio.

But although I agreed with him in his views on that question of presidential reconstructed States as they were then presented in the midst of the war, I did not agree with him in the means by which his object should be reached. He desired to head off this presidential policy. He felt about as John Miner Botts did in the days of Tyler. He, too, was opposed to the President and his policy and desired to check him, to defeat his policy, to prevent the accomplishment of his designs. I united with that Senator in voting against recognizing those State governments, in resisting their being represented in Congress, in resisting the counting of their electoral votes for President and Vice President of the United States. I did all this upon clear grounds and upon full conviction. But there was one thing in which I could not agree with the Senator from Ohio, and that was, in calling into existence imperfect, weak, inadequate, premature States in the West for the purpose of checking the policy of the President; rushing in Nevada and Colorado and Nebraska for the purpose of outvoting Mr. Lincoln's new members from the South. I could not go that far with the Senator from Ohio, and therefore never gave my assent to these enabling acts of 1864.

But, sir, to pass on: under what circumstances were those bills enacted by Congress? I propose to show that to the Senate and to the country. I propose to show the statements upon which the assent of Congress was given to those measures, and I propose to show that those statements came from the Senator from Ohio himself. Upon the con-

sideration of the Colorado enabling act, Mr. COLLAMER said:

"I wish to inquire of the chairman of the Committee on Territories whether he has any information as to the extent of the population of this Territory?"

"Mr. WADE. Nothing that I can rely upon with a very great deal of confidence. I have taken some pains to ascertain the facts from the Delegate in the other House, and from Mr. Edmunds, of the Land Office, who has some information on that subject. I understand there must be now about sixty thousand inhabitants in Colorado; some think a great deal more than that. That is the smallest number I find intimated by those who profess to know anything about it. It is a Territory which is filling up very rapidly. Judge Edmunds tells me that he has not the least doubt in the world that before they finish their arrangements and become a State, there will be sufficient population there for a Representative in Congress, according to the ratio of representation fixed by the last census. That is about the information I got."

When the enabling act for Nebraska was pending the Senator from Ohio said, in the conclusion of the debate, these important words—and recollect, he was speaking as the organ of the Committee on Territories, speaking upon a territorial question, in a case and at a time when his expression of opinion was entitled to the highest respect and confidence.

"I have no doubt that this Territory will have a population amply sufficient for a Representative by the time they get a State government formed and are ready to elect their officers."

Which, according to the provisions in the enabling act, would have been in October, 1864. Now, by the legislation of Congress, under the present census, the population required for a member of the House of Representatives is one hundred and twenty-seven thousand; and Congress was assured, when these enabling acts were passed in 1864, that by the time the people of these Territories appeared, respectively, and claimed admission under those enabling acts they would have, each of them, at least the ratio or number of one hundred and twenty-seven thousand.

Mr. WADE. I hope the Senator will allow me one moment in explanation of that. He thinks that my predictions as to the population of these Territories were not well founded; that I stated it very large. I certainly announced what the Commissioner of Public Lands, who was very well acquainted with the subject, stated. It was the opinion of everybody with whom I conversed, and it was the best light I could get at the time. But the amount of population that we expected then was interrupted and undoubtedly disappointed by the terrible Indian war that occurred about that time, driving a great many out of the Territory, and drawing a great many into that war. I have no doubt that that had the effect to prevent those expectations being fulfilled. That is all I have to say on that subject. I repeat, what I have frequently said, that the population of Nebraska now is larger than Territories have usually had when they have been admitted, though not so large as I expected it would be at the time that enabling act was passed.

Mr. BUCKALEW. But, Mr. President, the force and effect of this fact is not weakened or removed at all in respect to the point for which I cited it, and that was, to show that the Congress of 1864 was misled, if not intentionally, in effect, deceived with reference to the subject of population in both the Territories that are now before us for admission, and that if the truth had then been known, if the facts as they were subsequently ascertained had been fairly stated and fully understood, there is no reason to believe that these enabling acts would have been passed. Congress acted under a misconception of the amount of population in each of these Territories.

I say this is conclusive against any argument founded upon these enabling statutes—the argument which has been pressed upon us with such force from the commencement of the debate down to this time. At the very time when the Senator from Ohio, upon authority which misled him equally with the Senate, was fixing the minimum of the population of Colorado at sixty thousand, at the very moment

when he was informing us that the Delegate from that Territory in the other branch claimed that it was much larger than that, the actual number of inhabitants in that Territory could not possibly have been over thirty thousand, one half the minimum fixed, and upon which I have a right to say the action of Congress was predicated.

And so in regard to the Territory of Nebraska. We were assured that it would have one hundred and twenty-seven thousand inhabitants by the time its constitution was formed and its officers elected. Instead of that being the fact in October, 1864, when we were told it would take place, here in 1866, and at the end of the year, we are acting upon the question of admitting Nebraska, with a probable population of not more than fifty thousand. It is true, strange and vague statements are made about there being some eighty thousand people in this Territory, with nothing to sustain them except an unofficial and unreliable letter, to which I shall hereafter allude. We have satisfactory proof, that the population must be in the neighborhood of fifty thousand only. But Congress was told more than two years ago, that in October 1864, it would be up to the ratio of one hundred and twenty-seven thousand.

I will now briefly state the facts as to numbers, having laid the foundation for the exhibit. First, in relation to Colorado; by the census of 1860 the population was 84,277. The vote in August 1861, was 10,580; in December 1861, 9,854; in October 1862, 8,224; in September 1864, following the date of the enabling act, 5,769; in September 1865, upon the adoption of the constitution, 5,895, upon which vote a majority of 155 in favor of the constitution was reported. In this connection I will give the figures from the census or enumeration taken in 1861 to show the division of the population as to sex and age.

Mr. JOHNSON. Under what authority was that census taken?

Mr. BUCKALEW. Under the authority of the territorial Legislature I suppose. The census of 1860 shows facts of the same character, but I take the figures of the enumeration of 1861 because it is a little later. In 1861 there were in Colorado, 18,228 adult males, 4,884 adult females, and 2,622 minors; making a total population of 25,329, showing a decrease of total population from the previous year of about 9,000.

Mr. President, as has been frequently stated in this debate, in the settled parts of the country the number of voters as compared with the whole population is about one fifth. In the Territories and in the new parts of the country from the fact that females and minors do not go into them as rapidly and as largely as adult males, it follows that the proportion of voters to the whole mass of population is much greater; and of inevitable necessity, therefore, in estimating the population of a Territory or a new State you must multiply the voters by a smaller number than five. That is inevitable, and the explanation is abundantly furnished by the enumeration in 1861 in Colorado, which shows the enormous preponderance of adult males over females and minors in the population of that Territory.

But, sir, there was a peculiar reason for such great preponderance applying to Colorado which does not apply to all our Territories. It was a mining region; it was the case of a shifting and changing population; and you cannot apply the same reasoning to the same extent in agricultural Territories. Now, sir, I pass to the case of Nebraska. By the census of 1860 its population was 28,841, of which there were white males—I take the white population alone, because the negroes are so few that they may be omitted from the calculation—16,689, and females 12,007; showing that one fourth of the whole male population of the Territory was in excess of the female. On the 2d of June, 1866, the present year, the vote on adopting the constitution amounted in the aggregate to 7,776, and for Representa-

tive to 8,084. In October last the total vote was 9,136 at a full election, at a time of excitement, and when it is likely that as full a vote was polled as could be polled at any time within its limits.

These figures in regard to Nebraska prove that the population of that Territory at the time of the October election, all those who made up the total mass of people from whom voters were taken, could not have exceeded forty-five thousand, and the probability is that the number did not exceed some thirty-six or thirty-seven thousand. The Senate is told that there has been a brisk immigration into that Territory during the past summer and fall, during the six months within which the provision as to residence of voters applies. They must be at least six months in the Territory before they can vote. Sir, if you should make a liberal estimate of an immigration into the Territory of some two thousand families, say of five members each, or a total immigration that would be equivalent to that, you would only get some ten thousand additional inhabitants, and the introduction of that large number of persons into a Territory containing only thirty-five to forty thousand people would be a matter of general observation and of universal remark; it would be stated and held by all to be a very large increase of population. If, therefore, you should assume that there was within six months the large immigration of some ten thousand into that Territory, you would not get the total number above fifty thousand.

But it seems that some one connected with the Bureau of Statistics has written a letter addressed to gentlemen of Nebraska who are here, in which he expresses a general opinion that the population of that Territory is some eighty-odd thousand. Now, what has he to go upon? In the first place this is not an official paper; it does not pretend to be. There is no authenticity about it so far as the Senate is concerned. It is not a paper addressed to it, nor verified to it, nor one made up under any responsibility whatever. And, sir, in what way can men of the Bureau of Statistics know anything about the population of this Territory? They cannot certainly know it from a census, because there has been none taken. They cannot know it from an enumeration of taxables in the Territory, because there has been no such enumeration. In what manner then can they acquire information about it? I do not know any statistics there can be in the Treasury Department unless it be the returns of incomes; and to attempt to estimate population upon returns of that kind would be so absurd that I should suppose no man inside or outside the bureau would attempt it. If there be any information in the Treasury Department accessible to this officer of the Bureau of Statistics, or accessible to any one else, it must consist of responses to letters sent to United States officers in the Territory. Letters may have been addressed to the assessors or collectors in the Territory and their opinions obtained. I presume that this extravagant and manifestly untrue estimate must be predicated upon something of that description. I can conceive no other manner in which it could have been obtained.

The United States assessors in that Territory, if they were called upon, would be very apt to make a liberal estimate, especially if they participated in the feeling in favor of a new State which is felt by other gentlemen who are here from the Territory, and opinions from them not predicated upon an actual enumeration would be utterly worthless, would be so unreliable that any man might be thought destitute of good sense who should think of forming an opinion upon them. We, however, have the population of the Territory sufficiently established for all practical purposes in the statistics which I have presented, as we have also in the case of Colorado.

I say, then, that it is proposed here to admit Colorado into the Union as a State with a population not exceeding thirty thousand, and

Nebraska as a State with a population not exceeding fifty thousand, while the ratio or number requisite for a member of Congress in all the old States, the settled portions of the country, is one hundred and twenty-seven thousand; and as a representative of three million people, who constitute the political community known as Pennsylvania, I am asked to give to seventy-five or eighty thousand people double the representation in this branch of Congress that is possessed by those three million, and to give them also three times the representation to which their numbers would entitle them in the House of Representatives. Sir, I cannot do it; and no member of this Senate or of this Congress ought to ask my State or its people to assent to so unreasonable a proposition.

We agreed when the Constitution of the United States was formed that our numbers should go for nothing in this body.

That was a feature of the compact among the thirteen members which were to compose the Union; but there was to be representation according to population in the other branch of Congress; and that principle that States shall be represented according to numbers in the House of Representatives is the only compensation which the large States received for the surrender of the principle of numerical representation in the Senate.

That representation in the House is invaded by these bills. It is not merely disproportionate representation in the Senate, it is not merely the equality of thirty thousand men of the mountains in Colorado in this Senate with three millions in the East; it is not the equality of fifty thousand upon the plains of Nebraska in this Senate with three millions in the East; but it is the representation of these Territories with eighty thousand population, in the House of Representatives as if they had two hundred and fifty-four thousand, or enough for two Representatives, according to the ratio under the existing act of Congress. It is, then, not senatorial inequality alone against which we object; it is representative inequality, also.

And, sir, what are the reasons which are to reconcile us to this injustice? Is there any complaint in the Territory of Nebraska of bad government? Does the Executive, appointed by the President and confirmed by this Senate, oppress its people? Are the judges sent there by our advice and consent corrupt or incompetent men? Is not property secure? Is not life secure? Is not justice administered fairly? There are no complaints; there is no reason for complaint. We are told in this debate that the Governor of this Territory is acceptable to its people; that he is in full accord and sympathy with them; in short, that there is no foundation for complaints by the people of the Territory or any part of them in regard to the existing government which has been instituted by Congress.

The Senator from Ohio who sits nearest me [Mr. SHERMAN] spoke about the expense of a territorial government. He is a member of the Finance Committee; he is looking after money matters with great care, and he wants the Territory admitted as a State to save the expense of a territorial government. In that connection let me give some facts in regard to another Territory. General Sherman, in his recent report of the 5th of November, speaking of the Territory of New Mexico, says:

"The whole Territory seems a pastoral land, but not fit for cultivation. The mines undeveloped are supposed to be very valuable, but as yet remain mostly in a state of nature. We have held this Territory since 1846, twenty years, at a cost to the national Treasury of full one hundred millions, and I doubt if it will ever reimburse to the country a tithe of that sum."

By the census of 1860 the population of New Mexico was 93,516. At present General Sherman says: "The entire population may be estimated at 100,000," and from other information which I have examined I suppose it to be somewhat more than that. Here is a Territory with a population of 100,000, a Territory very expensive to us, and where, if you need relief



from the burdens of a territorial government, you should apply an enabling act and organize a State government and get rid of some portion of the burden, at least the burden of the administration of civil affairs.

Mr. WADE. Will the Senator allow me to make a suggestion on that point?

Mr. BUCKALEW. Certainly.

Mr. WADE. I believe it is not usual for us to commence to bring Territories into the Union. As long as their people are content with their territorial condition and do not apply to be admitted, I do not think we take the initiative. But then the people of New Mexico are an unprogressive people; that Territory has been a great while inhabited, long before Nebraska was ever heard of as a Territory, and most of the people are Spanish. It does not fill up very rapidly. I do not suppose it has many more inhabitants now than it had thirty years ago. The simple answer to the suggestion, however, is that they have not applied to be admitted.

Mr. BUCKALEW. The Senator has forgotten that I alluded to the fact that there was no formal application by these Territories for which he reported enabling acts in 1864.

Mr. WADE. There were petitions; and their Delegates urged it upon us over and over again in regard to both these Territories.

Mr. BUCKALEW. If the Senator will look back to the Congressional Globe, to his own declaration, he will see that he is mistaken. The facts that he now alleges may have existed in the case of one of them, but did not in the case of the others. There were public reasons which in the opinion of the Senator justified that legislation, and therefore he introduced it. It was not the demand of the people; it was not the clamor of a border population that moved him; it was considerations of public policy in this Government.

Upon the debate on the Nebraska enabling act, April 12, 1864, the Senator from Connecticut [Mr. FOSTER] inquired whether the people of the Territory had asked to be admitted as a State, and argued that the Senate should be satisfied that a majority of the people desired it. To this the Senator from Ohio [Mr. WADE] answered, that the people of the Territory had a Delegate in the House of Representatives who, he supposed, fairly represented their will and their wishes. That the Delegate ought to know whether the people wanted it or not; that he had no doubt the Delegate "fairly represented the people there; but whether he did or not the bill only presented to the people the opportunity of taking upon themselves a State government, if they saw fit to do so. If they did not want a State government they were not obliged to have it." The conclusion then, is clear, from this debate in the Globe, that there was no formal application before the Senate by petition, memorial, or otherwise for the passage of the enabling act. The Senator from Ohio put the question entirely upon the advocacy of the measure by the Delegate from the Territory in the House.

Here, then, is the case of New Mexico with a population of 100,000. To be sure these people are Mexicans; but are they not citizens? Is there not to be equality among citizens in this country? Have we not heard that doctrine expounded and warmly insisted upon very recently even in this Chamber? We acquired these inhabitants, or most of them, by the treaty of peace at the conclusion of the Mexican war, the treaty of Guadalupe Hidalgo, and these inhabitants thus acquired, and who became our fellow-citizens, are entitled to precisely the same right and the same favor as any other population in any Territory in the United States.

Then, sir, I insist that the argument is decisive against the passage of the present bill; that not only is this population inadequate, not only were all the statements made to Congress on the subject of population in 1864 unjustifiable, proved to have been unfounded, grossly erroneous, but you find that there are

other Territories exceeding this in population as to whom no such measure as the present is proposed in Congress. Here is Utah; I do not know what the population of that Territory is; I am told by one of the Senators from Kansas that it is about 120,000. Certainly those people, or their territorial authorities in behalf of them, have applied to Congress for admission into the Union. I am not in favor of the admission of Utah as a member of the Union; I am not in favor of the admission of New Mexico with her 100,000 people as a member of the Union any more than I am in favor of the admission of a Territory with 50,000 or with 30,000 inhabitants; but for very shame's sake you must deal equally with the Territories. If you admit these with a population of limited numbers, low down in the scale, how can you justify your legislation before the people of the country as well as the people of the Territories upon the ground of equality and even-handed justice? You deny Utah membership in the Union: your denial perhaps is prudent and reasonable and just, but when you admit a Territory with 30,000, one third or one fourth her numbers, how can you say no to her?

Mr. President, I have concluded what I proposed to say on the subject of this bill. I have spoken because I felt charged upon me the duty of discussing it. I regard it as the pioneer of a series of bills which are likely to come up for consideration in the Senate during the present and future sessions, and upon which sound opinions must be formed and maintained if representation in this Government by the several States is to stand upon a just and satisfactory foundation.

Mr. SPRAGUE. Mr. President, I who in part represent one of the smallest States of the American Union look on with great complacency when I witness Territory after Territory formed into States, having the consent of a majority, and with the approbation of all the States here represented; and the Senators who are thus introduced into this body seldom represent one half of the population of the smallest State. My friend, the distinguished Senator from Indiana, [Mr. HENDRICKS,] seldom rises in his seat except to complain that the six New England States, with a population less than either New York or Pennsylvania, have a representation here of twelve members, while each of those States has but two. The exact words in the Constitution that compel obedience to this state of things are as follows:

"ARTICLE V.—No State without its own consent shall be deprived of its equal suffrage in the Senate."

You complain of this provision when you practice it daily. Would Indiana be a State to-day if the thirteen original States had been governed by the spirit that emanates from the Senator? Certainly not. The six New England States joined with the smallest middle State would have kept her a colony and a dependency. Would the great West have resisted? Taught dependence, they would have been less likely; but the power that could triumph over that of Great Britain might have been able to have sustained themselves against any adversary.

The liberality with which the men of the Northeast, and those of the smaller States, have ever treated this subject, fills all fair-minded men with profound admiration.

These men surrendered political power and prospective wealth to their people to advance the principles of free government, and thus became the founders of the present greatness of the country—honor sufficient to satisfy the most extended ambition. What do you gain by enlarging the representation here? No measure can prevail without having the consent of the representatives of the people in the other House. Do you want more than this? Do you ask greater influence? States or sections, as such, have influence here when advocating ideas. There are very few State interests, or the interests of a section, which have real

merit, that do not prevail now. Under an enlarged representation would they more than prevail? Would you agree better? I have been here long enough to see that it is confidence in the integrity, in the fairness, in the justice of members that carry measures, not because those members represent small or large States, larger or smaller sections.

Would you build up your State upon principles hostile to the justice, to the honesty, to the fairness of your respective measures? Could you succeed better than you now do in advancing measures so based if you had increased representation? I think not. Numbers would rightfully confuse your councils. While great States combine to destroy small ones they may live upon terms of amity, but when the division has once been entered into, what next! Have we not witnessed but yesterday convulsion and redivision growing out of the very best system of robbery and plunder? Study the causes and effect of the recent conflict in Europe. Did the greater State obtain advantages from its past record of robbery and plunder? Suppose that you of the large States should resolve to violate the compacts of the Constitution, treat with profound illiberality the expansive ideas of the men of the Northeast, how long would you be content with the advantage you had gained? Having obtained influence you would absorb territory. Thus would be reenacted a coalition, established in injustice, that would be disastrous to those who formed it, equally so toward those who were the subjects of it. Exhausted and beaten by the conflicts you would, after having stayed the wheels of progress and shown your incompetency and your unfitness for the enjoyment of a government based upon justice and the rights of man, gladly resume the *status quo* of our own time. Such has been the history of the grasping ambition of large constituencies when dealing with smaller ones, when the smaller have been forced into giving up ancient privileges. How much more so when those privileges have been the safeguards of your prosperity and your progress.

Again, before this last step has been taken, before you have inaugurated this war and revolution—for it is only by war and through revolution you can ever arrive at the point at which you aim—you must have a contest with all the smaller States, with every new State with a small population, and with those of the American people who desire to develop our western wilderness into American States, and with all those who comprehend the greatness of their country and understand the simplest principles upon which that greatness has been established; formidable forces, it must be admitted. I therefore see additional guarantees for the perpetuity of State sovereignty and the peace of the country by increasing the number of States that are to constitute the American Union. I have no fear for the future, because that future has for its leading object the virtue, the independence, and the progress of the mass of the people. A branch of the Government that holds on to that which is gained for these objects, and does not lose hold of them in a too eager reach after greater progress before the people are educated to enjoy it, will not be inconsiderately treated in the future.

You would excite the fears of the smaller States! Why? The revolution has indeed renewed our ideas. We do believe something has come to pass besides a sacrifice of life and property, and that something else has been developed in the struggle for free principles over those that are slave. For this we are told that our natural interests will be warred against; that you will destroy our property through a policy that is destructive to our prosperity. Our prosperity is identical with that of the country, and when you strike at ours you injure your own, and you strike at country and all that has made that country glorious. If, however, to the contrary, why continue to believe our principles are to be found only in our pockets? Was that charge, so often made be-

fore the war, proven when the flag of our country, the emblem of freedom, justice, and prosperity, was dragged in the dust and when the blood of its defenders covered it? Did those States, now the subject of hostile wordy attack, falter? From whence came the first sinews of war? From whence came money and property? The lavishness of their gifts was equalled only by the willingness with which they shed their blood. The people of those States will continue to shed their blood, and they will sacrifice their property if the ignorance, the envy, or the ambition of men compel it; and also all the rights they have to a fair recognition of Government—ay, Government itself, if it must be so—to defend the principles for which our Government was established. We ask nothing for ourselves that may not be enjoyed by others. We demand only that every man under the Government shall have the rights enjoyed by us. Such is our crime. Banish then from these Halls those revolutionary harangues so near akin to those repeated here prior to the revolution. Do not encourage a spirit you do not believe; for while it may furnish food for reflection that is profitable to all, it does not find a response in the heart of any lover of his country, of liberty, or of justice.

In a comparative manner I have endeavored to treat the subject of representation in the Senate, and I point to the grand results that have come from that representation. I do not treat of the reasons that induced the actors from the first revolution to enact that compact. The advancing power of the nation and of the States sufficiently attest their wisdom, and those of our own time, whose coöperation is recorded, will in the future share in that wisdom. We are now approaching the second step contemplated in the previous remarks made by me upon the District suffrage bill. By an immortal act of the people the control of the person of one individual by another has ceased forever. No one, I think, is at a loss to understand as to who is an American citizen. And the question is: shall Congress recognize as a State of the Union the Territory of Nebraska, having a constitution that does not recognize a class of American citizens on account of their color.

Congress has exclusive control over the Territories and the individuals thereof. Congress is therefore bound to exercise jurisdiction over every citizen in a Territory. Congress can constitute every citizen an elector or withhold that privilege; but by the latter act Congress cannot free itself from the responsibility of exercising jurisdiction over him. By recognizing Nebraska as a State, with its present constitution, the Government of the United States surrenders, so far as it can, all control of the individual to the State. Thus those individuals that are not recognized by the State lose the protection and control of the Government of the United States and are not recognized by the government of the State. A class of people are thus deprived of all government. Have these people been guilty of any crime that they should not have that which they would have among Indians on your plains; ay, among the half-civilized and barbarous tribes in Africa? In all my reading and experience I have never heard of any one ever having been born over whom a Government did not have jurisdiction. The men whom it is proposed to exclude from government in Nebraska now have an all-powerful Government in the United States. Soon they will be far poorer in this regard than the native Indian or African. Our civilization, the sympathy or interest of the people of Nebraska may, it is true, protect him, and that which he is entitled to by right may be extended to him in charity. The Government of the United States, being bound to exert its whole power for his protection, surrenders him over to the charities of a people who refuse to recognize him. I doubt the ability or the right of any Government thus to free itself from its responsibilities.

Mr. SAULSBURY. Mr. President, I wish to say something on the passage of this bill, but

I know that at this present hour, four o'clock, it is utterly impossible to attract the attention of the Senate to any remarks I may make. We have reached the usual hour of adjournment, and I presume the debate will not be further continued to-day. In this discussion most grave fundamental principles which underlie our whole system of government have been invoked. It was not my intention to say one word on the passage of this bill, but I have sat here and heard propositions advanced and opinions advocated in such utter contravention of the principles of the founders of our Government that I think I ought to claim the privilege of saying something on the final passage of this bill. I move that the Senate do now adjourn.

Mr. GRIMES. I suggest that we have an executive session.

Mr. SAULSBURY. I withdraw my motion for that purpose.

Mr. EDMUNDS. I desire to submit an amendment which I shall hereafter propose to the amendment of the Senator from Missouri to the bill before the Senate. I ask leave to present it that it may be printed.

The PRESIDENT *pro tempore*. The proposed amendment will be received informally and ordered to be printed.

#### EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of the executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned—the adjournment being under a resolution of the two Houses to Thursday, January 3, 1867.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 20, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### PERSONAL EXPLANATION.

Mr. SPALDING. I ask leave to make a personal explanation.

The SPEAKER. Is there objection? The Chair hears none.

Mr. SPALDING. Mr. Speaker, the acknowledged organ of the Republican party in Congress (the Daily Morning Chronicle) in its issue of December 19, has seen fit to distinguish me by placing my name at the head of one of its most significant editorials, which I send to the Clerk's table, and ask to have read.

The Clerk read as follows:

"MR. SPALDING'S RESOLUTION.—There are some Republican journals which desire still further efforts to induce the southern Legislatures to ratify the constitutional amendment, before resorting to the territorial plan of reconstruction. Among them is the Albany Evening Journal, which, in an article published on Saturday, has the following:

"Let Mr. SPALDING'S resolution be adopted, declaring that upon the adoption of the amendment by any State its loyal representatives will be considered, as in the case of Tennessee, entitled to immediate admission. Make this last tender of the olive branch to the South. Afford a reasonable time for the minds of people to act upon it; and if the rebel leaders still prove potent and powerful, if the refusal to indorse the amendment is persisted in, as if no doubt will be, then proceed to declare the existing governments illegal and unconstitutional, and organize others upon a loyal basis."

"The Journal appears wholly unconscious of the glaring inconsistency contained in this proposition. If Congress proceeds to declare the existing governments illegal and unconstitutional, it will do so on the supposition that they are so in fact. But if they are, they have no right to act upon the adoption of amendments to the Constitution. The very act of submitting the amendments to them, as above proposed, would be a direct admission of their legality. Would the Journal have Congress stultify itself by making this admission and then following it by a declaration that they are 'illegal and unconstitutional'? Heretofore their existence as States has not been distinctly recognized by any deliberate act. In directing the submission of the amendment to the States, there was nothing to show whether the term was designed to include the 'States lately in rebellion,' and the action of the Secretary of State in transmitting it to them, was merely an indication of his own opinion on the subject. The ratification of the amendment by Tennessee previous to her admission was considered more with reference to the evi-

dence of a loyal disposition thereby afforded, than to its validity as a legislative act, and if the territorial theory be adopted, it cannot be counted among the States on whose ratification the adoption of the amendment will depend. It may be that some of the past legislation of Congress has inadvertently ignored the actual condition of the South; but if the true theory is to be fully accepted, our business now is rather to undo anything inconsistent therewith, which may have been already done, than to anticipate such acceptance by the deliberate stultification recommended by Mr. SPALDING and the Journal."

Mr. SPALDING. Sir, the honor of placing before this House the resolution ascribed to me in this article has not yet devolved upon me. The only resolution that I have offered upon the subject was one of inquiry, which was referred on the 10th instant to the joint committee on reconstruction, and reads as follows:

"Resolved, That the committee on reconstruction be requested to inquire into the expediency of passing a joint resolution declaratory of the purposes of Congress in the reception of Senators and Representatives from the rebellious States, respectively, upon the ratification by them of the constitutional amendment and the establishment of republican forms of government not inconsistent with the Constitution of the United States."

If by this measure I recommend to Congress "deliberate stultification," my perceptions are so obtuse that "I cannot see it."

While I am on this subject, however, I desire to state for the information of the editor, as well as others who may feel an interest in my opinions, that I adhere to the constitutional amendment in all its parts; and advise its adoption as a measure of conciliation and security by all the States, so-called, whether represented in Congress or otherwise.

If ratified by three fourths of the States represented in Congress it will, in my judgment, become a part of the Constitution. Of this I have no reasonable doubt. Yet I would have the late confederate States, by their supposed legislative bodies, ratify this amendment as evidence of their submission and loyalty, before I would vote to receive Representatives from one of them; and I should further require that their State governments should be submitted to the approval of Congress.

I do not believe that the approval or disapproval of the amendment by the ten outstanding communities, or any of them, will affect the constitutional ratification of the same in the least degree.

I will state a strong case to show the strength of my belief: if it were possible for the amendment to receive three fourths of the States, commonly called the loyal States, less one, and at the same time enough of the so-called disloyal States to make the gross amount three fourths of the whole number, loyal and disloyal, I should not regard the amendment as a part of the Constitution without some act of Congress recognizing the disloyal States, thus voting as in harmony with the loyal States under the Constitution.

It must not be understood that I concur with the astute editor, in reducing the State of Tennessee to a cipher in the foregoing computation, as she has satisfactorily passed the ordeal.

I hope, Mr. Speaker, that I have made myself understood. I want the constitutional amendment adopted; and so do the people whom I represent. I want the outstanding States restored to the Union, after they shall have given sufficient guarantees for their truth and fidelity hereafter; and so do the people whom I represent.

It may become necessary, ere long, to place those revolted States in the condition of Territories. If that necessity shall be made apparent I shall not flinch from the work, though I would fain save the country from so great a strain upon its institutions of government.

#### PRINTING OF BILLS, ETC.

On motion of Mr. HOLMES, the following bills before the Committee on Public Lands, were ordered to be printed, together with the amendments proposed by the committee:

A bill (H. R. No. 304) granting land to the Iowa and Missouri State Line railroad, and for other purposes; and

A bill (S. No. 336) granting lands to aid in



the construction of a railroad and telegraph from the Columbia river to Salt Lake City.

On motion of Mr. McRUER, the same order was made in regard to the following bills:

A bill (S. No. 133) granting lands to aid in the construction of railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California; and

A bill (H. R. No. 878) to quiet titles in the town of Santa Clara, in the State of California.

On motion of Mr. HENDERSON, the same order was made with regard to House bill No. 908, referred to the Committee on the Judiciary, to amend an act entitled "An act to regulate the time and manner of holding elections for Senators in Congress," approved July 25, 1866.

#### PRIVILEGES OF A MEMBER.

Mr. WILLIAMS, from the Committee on the Judiciary, by unanimous consent, submitted the following report in relation to the imprisonment of Hon. CHARLES V. CULVER:

The Committee on the Judiciary, to whom was referred the following resolution, to wit:

Whereas it is alleged that CHARLES V. CULVER, of Pennsylvania, a member of this Congress, is detained from his seat in this House under arrest in violation of the provisions of the sixth section of the first article of the Constitution and of the privileges of this House: Therefore,

Resolved, That the Committee on the Judiciary is hereby instructed with all practicable dispatch to inquire into the circumstances of the case and report the same to this House, and to report to this House whether any breach of its privileges has been committed, and what action should be had thereupon; that the said committee have power to send for persons and papers, to sit during the sessions of the House, and to report by bill or otherwise at any time.

Respectfully report—

That they have taken prompt measures, as directed by the House, to ascertain the facts of the case by bringing the sheriff and jailor of the proper county along with Hon. CHARLES V. CULVER himself, and the commitment and other records bearing on the question of his arrest and detention as a prisoner, before them:

That the result of their inquiries is that the said CULVER, a member of this House representing the twentieth congressional district of Pennsylvania, was arrested in the month of June last, and during the actual session of Congress, at his home in Venango county in that State, by virtue of a warrant issuing out of the court of common pleas of that county, under an act of the General Assembly of Pennsylvania, passed on the 12th day of July, 1842, upon an affidavit filed by a certain James S. Myers as the plaintiff in an action of *assumpsit* instituted against the said CULVER upon a contract for the return of certain bonds and notes alleged to have been lent to him, charging that the debt incurred thereby was fraudulently contracted by said CULVER; and that upon a hearing before the then acting judge of said county he was committed in default of the required security to the jail of said county, where he has been since that time imprisoned until the 18th instant, and under which commitment only, whereof a copy is hereto annexed, he still continues to be held.

The next point of inquiry under the order of the House was, whether upon this state of facts any breach has been committed of the privileges of this House in the arrest and detention of one of its members.

The sixth section of the first article of the Constitution of the United States provides, *inter alia*, that the Senators and Representatives "shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same."

This privilege, which is borrowed from the law and custom of Parliament, is of such high antiquity in England as to be absolutely lost in the night of time, and to stand therefore rather upon prescription, as claimed by the Commons, in the 17th of Edward IV, than on any positive law, although recognized in statutes as old as the reign of Ethelbert, and Edward the Confessor, and Canute. Its importance to the freedom and usefulness of a Legislative Assembly are abundantly vindicated in its remote origin and its long and uninterrupted descent to the present time.

The exceptions, moreover, in cases of treason, felony, and breach of the peace, are identical in substance and almost identical in language with those which have been always recognized in England, and have accordingly been limited in practice to cases strictly criminal, for the reason stated by the Commons in a conference with the Lords on the 17th of August, 1641, that "privilege of Parliament is granted in regard of the service of the Commonwealth, and is not to be used to the danger of the Commonwealth." And it is accordingly said by Hatsell that there is not a single instance of a member's claiming the privilege of Parliament to withdraw himself from the criminal law of the land.—Page 206.

With these exceptions, however, it is not to be controverted that the privilege of Parliament may be successfully invoked to protect the person of the member in every case where he may be placed under arrest; and so important are these privileges said to be that they cannot be waived, and no man is allowed

to plead ignorance of the persons of those who are entitled to them. (Cushing on Legislative Assemblies, 224.) In Wellesby's case (2 Russell and Mylne, 666) it was declared by the Lord Chancellor to be the plain, obvious, and intelligible rule "that with respect to everything which is in its nature criminal, privilege of Parliament is no protection; but with respect to everything in the nature of civil process, whatever may be the technical and outward form of that process, such privilege will inure to protect the party." And it is elsewhere laid down that "in regard to civil process—that is proceedings instituted for the enforcement of a civil right—no doubt privilege protects, whether the process be original, mesne, or final, and whether the proceeding be by action at the suit of an individual, or information or other process at the suit of the public."

Taking the rule, then, as stated here upon the highest authority, to be the correct one, it is very clear to your committee that the arrest made in the present case does not fall within any of the exceptions specified in the Constitution. The case out of which it arises is a civil suit for the recovery of damages in an action sounding in contract. The process issued is but a warrant, authorized by an act of Assembly abolishing imprisonment for debt in cases where fraud is charged as an ingredient in the contract, and its effect is only to require the defendant to pay or secure the debt, or give security not to remove or dispose of his property in fraud of his creditor, or that he will apply within thirty days for the benefit of the insolvent laws of the State. It is therefore in every view but mesne or interlocutory process, auxiliary to the main object, which is the collection of a debt, or, perhaps, more properly speaking, the recovery of damages for a breach of contract. It is indeed no more in substance than a substitute for the *capias ad respondendum* in cases where the old remedy was intended to be preserved. And this is precisely the construction which it has received from the supreme court of Pennsylvania in two several cases in which they have declared it to be "but simply an arrest for debt"—"a process to hold to bail"—in an action *ex contractu*—"collateral and in aid" of it without the features of a summary conviction—that the fraud imputed is but a private injury which modifies the ordinary private remedy, and that the act which authorizes it is nowise penal, nor the proceeding itself a criminal one. (Goshin *vs.* Place, 8 Casey, 320; Berger *vs.* Small, 3 Wright, 315.) Unless, therefore, there was something in the time and place of the arrest to take the case out of the protection of the Constitution the arrest and detention were manifestly irregular.

By the terms of that instrument the privilege of members is limited to the time of their attendance at the sessions of their respective Houses, and in going to and returning from the same; and it is conceded that Mr. CULVER was neither in actual attendance here, nor going to or returning from the seat of Government, at the time when he was arrested. But these words are entitled to, and have always received a liberal construction for the benefit of the people, who are the parties interested in the attendance of the member, and the unembarrassed performance of his duties. Indeed, the Parliament itself, which is the sole judge, as it is the jealous guardian, of its own laws and customs and privileges, has been always careful to avoid any precise definition of those privileges, lest it might result in an abridgment of them in the future. Thus, in regard to the time allowed for going and returning, although it has been generally considered to extend to forty days in either case, they have refused to determine any more than that it shall be a convenient one. There is no question here, however, as to the duration of the privilege. The arrest was made during the last session of Congress, and the detention continues during the present one. Whether he was actually here or not when arrested, or whether it was his intention to be in his seat at the present session, can make no difference. It is his duty to be here, as it is the right of Congress and his constituents that he should be, and his power to perform that duty is not to be abridged because he might choose to neglect it. Cushing remarks that the personal privileges of members continue in full force notwithstanding their absence either with or without leave of the Assembly, in the same manner and to the same extent as if they were present; for otherwise it would be in the power of a member by his own act or fault to oust the Assembly of its right to his attendance and services. (226.) And this is reason. It is no answer, therefore, to the charge of a violation of his immunities, that he was not in actual attendance at the session of the House at the time of his arrest.

But if it were even true that he was without a privilege, which it is settled that he could not waive without leave, (3 Gray, 140, 222,) and therefore lawfully arrested during the session of the House, because he happened to be at home, it would not authorize his detention now. It is unquestionable law that a member arrested and imprisoned on civil process during vacation, or at any other time, when not entitled to assert his privilege, is entitled to his discharge from such arrest and imprisonment on the assembling of the body to which he belongs, and the records of Parliament abound with cases where the privilege has been allowed although the member was in custody before he was returned.

It being, then, the conclusion of your committee that, upon the facts shown, and the law as applicable to them, the case referred involve a clear breach of the privileges of the House, the next and only remaining question is, what action is to be taken thereon, or in what manner and by what process are the rights and privileges of this body to be vindicated.

On this point there is no difficulty. In early times it was the practice of Parliament, in cases of arrest on mesne process, to direct the Speaker to issue his warrant for a writ of *supersedeas* or privilege, or a

writ of *habeas corpus*, returnable before the Parliament itself. During the reign of James I the usage prevailed for the Speaker to write letters to the judges to stay proceedings, and sometimes to send his warrant to the parties themselves, who, with their attorneys who commenced the action, were brought by the Sergeant to the bar of the House, (May, 136,) but the Court of King's Bench in the time of Charles I declared that it was against the oaths of the judges to stay judgment in any case, and the practice was discontinued. In 1625, however, the Commons declared that "the House hath power whenever they see cause to send the Sergeant immediately to deliver a prisoner," and accordingly writs of privilege have ceased to be used, and the practice of releasing the prisoners directly by warrant or by sending the black rod or the Sergeant in the name of the House to demand them, has been continually adopted. (May, 115.) In 1707 the Sergeant was sent with the mace, as his symbol of authority, to the warden of the Fleet, who readily paid obedience to the orders of the House, and discharged Mr. Agill, a member then in execution; and Peers and Peeresses, as well as members of Parliament, are now discharged directly by order or warrant, and the parties who caused the arrest some times visited with censure and punishment. The general course, however, in modern times, is to make an order of discharge, and to signify the same, properly authenticated by the clerk, to the parties who have the custody of the prisoner, and who, upon their refusal to obey, may be proceeded against as for contempt; and this is suggested by an American author as perhaps the only appropriate remedy here. (Cushing, 227.) Your committee can see no reason, however, for the issue of an order to which no answer can be received but absolute obedience, where in case of contumacy an attachment for contempt would only result in the punishment of the delinquent, without effecting the object aimed at, which might at any rate eventually require a direct exertion of the powers of the House upon the person of the prisoner. They would therefore advise the more summary, simple, and complete, and less circuitous remedy of immediate deliverance by the hands of its own officer, and they accordingly recommend the passage of the following resolution:

Resolved, That the Speaker be directed to issue his warrant to the Sergeant-at-Arms, commanding him to deliver forthwith the Hon. CHARLES V. CULVER, a member of this House, detained, as it appears, under mesne process issuing out of the court of common pleas of Venango county, in the State of Pennsylvania, in a civil suit instituted therein, at the instance of a certain James S. Myers, from the custody of the sheriff and jailor of said county, or any other person or persons presuming to hold and detain the said CULVER by virtue of such process, wherever he may be found—a copy of the said warrant duly authenticated by the Clerk of this House being first delivered to the party or parties in whose custody he may be—and to make return to this House of the said warrant, along with the manner in which he may have executed the same.

#### VENANGO COUNTY, &c.

The Commonwealth of Pennsylvania to the Sheriff and Jailor of the county of Venango, greeting:

Whereas a suit has been brought by James S. Myers against C. V. CULVER, in the court of common pleas of said county, which is now pending therein; and whereas the said James S., on the 12th of June, 1866, made complaint under oath setting forth that the debt was fraudulently contracted by the said C. V. CULVER, whereupon a warrant was issued for the arrest of the said C. V. CULVER, who was brought before Hon. Isaac G. Gordon, president of the twentieth judicial district of Pennsylvania, by whom the said warrant was issued for a hearing on the 27th day of June instant, when the parties offered evidence in part, and the hearing was continued over until the 28th of June instant, when, after hearing the evidence and counsel for the defendant, it was, upon due consideration of the case by the said judge, considered and determined by him that the allegations of the complainant are substantiated, and that the said C. V. CULVER did fraudulently contract the debt for which the said suit is brought, therefore you are hereby commanded to take the said C. V. CULVER and commit him to the common jail of the said county of Venango, and there detain him until he shall be discharged by law.

Witness the hand and seal of the said judge of Franklin this 28th day of June, A. D. 1866.

ISAAC G. GORDON,

Presiding Judge.

A true copy of the original mittimus produced by Cyrus S. Mark, jailor of Venango county, Pennsylvania, and referred to in his examination before the Judiciary Committee.

Attest: E. G. BOWDOIN,

Clerk of the Judiciary Committee.

The resolution reported by the Judiciary Committee was unanimously agreed to.

#### PAYMENT OF CLAIMS.

Mr. DELANO. I ask the unanimous consent of the House to offer the following resolution, which I hope will give rise to no debate:

Resolved by the Senate and House of Representatives, &c., That until otherwise ordered, it shall be unlawful for any officer of the United States Government to pay any account, claim, or demand against the said Government which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion; or in favor of any person who dur-



ing the said rebellion was not known to be opposed thereto, and distinctly in favor of its suppression, and no pardon heretofore granted or hereafter to be granted shall authorize the payment of such account, claim, or demand, until this resolution is modified or repealed.

No objection was made to the introduction of the resolution.

Mr. STEVENS. Is that a joint resolution?

Mr. DELANO. It is, and I ask its passage now.

The joint resolution received its first and second readings, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### FREE SCHOOLS IN DISTRICT OF COLUMBIA.

Mr. STEVENS. Mr. Speaker, had I got the floor at the time when the gentleman from Ohio [Mr. SPALDING] sat down, I had intended, perhaps irregularly, to have said one word in regard to his position. I will only now say, however, that I think the argument of the editor is altogether the better of the two and perfectly conclusive; and that while I do not charge the gentleman to be the author of it, the doctrine implied in his resolution is the most pernicious which can possibly be brought to obstruct the final reconstruction of this Government. But I am not going into the argument as it might look out of place after the gentleman has left the floor. I have only thought it proper to say this much in favor of the argument of one who cannot appear here himself, and which I deem conclusive and entirely more satisfactory than that of the gentleman from Ohio. I now ask leave to offer the following resolution:

*Resolved*, That a committee of seven be appointed to report a bill to establish a system of free common schools for the District of Columbia from which no child over the age of six years, residing in said District, shall be excluded except for improper conduct. The schools to be supported by taxes impartially levied on the assessable property of the District, together with such fixed annual appropriation as Congress shall grant.

No objection being made, the resolution was received and agreed to.

#### SURVEYS OF WESTERN RIVERS.

Mr. DONNELLY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to this House the report of Major General Warren of the surveys made during the past season under his supervision of the upper Mississippi river and its tributaries, including the Minnesota, Cannon, and Zumbro rivers with a view to the improvement of the navigation of the same.

#### WILLIAM P. WINGATE.

Mr. MORRILL. I ask leave to report back from the Committee of Ways and Means a joint resolution which passed the Senate last session in relation to the settlement of the accounts of William P. Wingate, collector of the port of Bangor, Maine.

The joint resolution was read. It provides that, whereas certain goods (molasses and salt) were imported by certain parties and held in bond in the custom-house at Bangor, Maine, on the 2d day of May, 1864, and were on that day released and withdrawn upon the payment of the duties imposed therein prior to the enactment of the joint resolution of April 29, 1864, the collector not then having received official notice of such enactment, and whereas the said collector is now charged with fifty per cent. additional to the amount already paid upon the said goods, the Secretary of the Treasury shall in the settlement of the accounts of said William P. Wingate, not exact from him payment of the additional duty of fifty per cent. imposed by the joint resolution of April 29, 1864, on the merchandise thus withdrawn from consumption by the parties named on the 2d day of May, 1864, and shall order the cancelling of the several bonds given by the importers.

Mr. STEVENS. I do not fully understand this joint resolution, and therefore I think we had better, according to the understanding, go into Committee of the Whole on the state of the Union on the President's annual message; and I make that motion.

Mr. MORRILL. I hope the gentleman will let me explain this joint resolution. It ought to pass.

Mr. STEVENS. I think we had better go into committee.

Mr. MORRILL. I hope the gentleman from Pennsylvania [Mr. STEVENS] will withdraw his motion until this joint resolution shall have been disposed of. I think there can be no objection to it.

Mr. STEVENS. I will withdraw the motion for that purpose.

The joint resolution was then read the third time and passed.

#### MARINE HOSPITAL AT CHICAGO.

The SPEAKER laid before the House a communication from the Secretary of the Treasury in reply to a resolution of the House of the 17th instant, in regard to a site for a marine hospital at Chicago.

Mr. WENTWORTH. I move that the communication be printed and referred to the Committee on Commerce.

The motion was agreed to.

#### ESTIMATES OF POST OFFICE DEPARTMENT.

The SPEAKER also laid before the House a communication from the Postmaster General, submitting estimates of appropriations for the year ending June 30, 1868, in compliance with the act of July 2, 1836; which was referred to the Committee of Appropriations, and ordered to be printed.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. HISE was entitled to the floor.

Mr. HISE. Mr. Chairman, before I resume my argument, I beg leave to make a few suggestions for the benefit of the reporters. The report which has already been made of my remarks on Monday last, is incorrect in a few unimportant particulars. For instance, I used the name "Pinckney" in the plural, "Pinckneys;" for there were two Pinckneys in the Federal Convention from South Carolina, and in speaking of the representation in that convention from Georgia, I used the word "Few" instead of the word "Fee." I did not say as reported, that I did not desire to be elected, but that I did not seek or desire the nomination. In other places conjunctions have been inserted which were not used by me, and occasionally some few words have been omitted which I did use. However, I have no reason to complain of the report, for it is generally correct.

I would also remark for the benefit of the reporters, that the ripest scholar in belles-lettres and philology, in the heat and haste of extemporaneous debate, may and will commit errors and blunders, both in style and grammar. If I should do so, it would not be intentional, and I hope that such a report may be made of my remarks to-day as not to convict me of such blunders.

Mr. Chairman, when I closed my remarks on Monday last, I was discussing the theoretical views of the two political schools of this country, which had their origin, as I then remarked, at the time of the origin of the Government. I endeavored briefly to define the

principles of the school to which I belong, in which I have been educated, and which all my subsequent reading and experience have confirmed in my mind, as the only true and correct theory of our Government. This Government I assumed to be a Government exclusively of States; that it can be only a Government of States, and that the Government provided by the Constitution for States cannot legitimately govern anything but States.

I deny the right of the Government of the United States, through all its departments and by all its governmental machinery, under the Constitution of the United States, legitimately to govern any people, to rule and control by laws or the execution of laws, any people living outside of the boundaries and territory of the States in the Union, or such as may thereafter be admitted into the Union. At the same time that I plant myself impregably as I have done upon that position, I admit that in progress of time, even very early in the history of our Government, the United States being the grantee of large bodies of lands and territory unsettled, except perhaps by hostile tribes of Indians, when those lands began to be occupied, settled upon, and owned and possessed by large bodies of people, the Congress of the United States did assume the power of instituting and providing territorial governments for the people inhabiting the public domain. The title to these lands had been acquired first by deeds of cession from the various States, and also by treaties with foreign Powers, as in the case of Florida and Louisiana. That power, thus originally usurped, according to my deliberate judgment and opinion, has been practiced upon, and there has been a continuous exercise of that power from the time the first territorial government was made, which I think was in what is now the State of Ohio.

It is not a matter material with reference to the argument which was the first. The power has been exercised repeatedly from that day to this, the Congress of the United States assuming and exercising first, the power of instituting absolute governments for those people. It provided fundamental laws for them, fixing and regulating therein the mode and manner of their government, usually, I believe, retaining in the hands of the executive government of the United States the power of appointment of their executive and judicial officers, and retaining in Congress the authority to revise and repeal their local territorial legislation.

The Government of the United States usually supported the territorial government, paying the Governor and the other executive officers, and also paying the judges, appeals being allowed from the decisions of the territorial courts to the United States Supreme Court; as the laws of the territorial Legislature were subjected to the revision of the Congress of the United States.

Now, I say that this exercise of power by the Government of the United States was originally, in my opinion, usurped without authority. This has been denied, however, by the latitudinarian school of politicians, who claim that this Government is a popular Government, who insist that its powers are only limited and controlled by the extent of its ability to carry its acts into effect by majorities. Where do they find the warrant for the exercise of this power? I have not known any public man of much character, any man having much respect for his reputation, to hazard an opinion that this power is derived from any other source than that provision of the Constitution which declares that Congress shall have power "to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." I repeat, that I have no recollection of any public man of much repute in this country, any man who has occupied high public station, either in the judicial or legislative department of the Federal Government, that has contended that this power can be derived from any other

source than the provision of the Constitution to which I have referred.

The interpretation thus given is, in my judgment, totally unauthorized. The fatal error of that interpretation is made manifest by the use of two phrases in the provision referred to: first, the phrase "dispose of," and second, the phrase "other property." The language, in my view, furnishes under all reasonable rules of interpretation the most convincing ground for the inference that the authority granted under that clause was intended to reach no further than to give to the Congress of the United States the authority to dispose of their property, real, personal, and mixed, and to make all the rules and regulations necessary for the purpose of bringing it into market, keeping it, owning it, and disposing of it. The word "territory" used in that clause of the Constitution is used in the sense of property held by the United States, real property, not personal; and immediately in connection with the term "territory" occurs the phrase "other property belonging to the United States."

Now, I elaborate this point, not for the purpose of combating or changing the uniform practice of the Government, if I had the power or influence to do so, in regard to the organization of governments for the Territories—I mean for the people inhabiting or occupying the public domain. Let that matter pass. Such legislation had its origin in usurpation, without constitutional authority. But it has grown into precedent by repeated practice, and let it stand. But this does not deprive me and the men of my political school of the right still to contend and show from the character of our Government and institutions that the Government of the United States is legitimately, under the Federal Constitution, a Commonwealth of States and States alone; that its governmental authority has but this extent and is thus necessarily limited.

Now, when I gain this point, I gain everything. If I make this point clear, then the acts of this Congress by which you have deprived, first eleven and now ten States of their right of representation upon the floor of Congress, are unauthorized; are in usurpation of the rights of the States and sanctioned neither by law, logic, nor sound principle. Even concede that you have the right to make territorial governments—using the word "territorial" because the government so made is for the people inhabiting territory belonging to the United States—suppose you have, does it follow you have the right to establish political institutions of government and rule people inhabiting territory that does not belong to you? Does it follow, either in law or reason, that you have the power or authority to make territorial governments, and to rule and control and govern, through the instrumentality of your President, Congress, and judges, a people who never were in any State of the Union; a people who were never upon the territory of the United States, but who are entirely beyond any State in the United States, and outside of the boundary and jurisdiction, therefore, both of the States and of the Federal Government?

Why, sir, if you have this authority to govern people without their being represented here, suppose you try your hands upon the West India Islands, Cuba, Jamaica, San Domingo, and Porto Rico. Suppose you try your hands upon Mexico and the States of British North America, and see whether or not you are willing to pledge yourself not only to sustain your power over a people not represented, but your ability to make territorial governments over the whole of North America, including the adjacent islands. Now, sir, you have as much authority to extend territorial governments over the people of Cuba, over the States of Mexico, Central America, and British North America, as you have of extending a territorial, arbitrary government over the people of the States not represented.

You do not admit that these States are out

of the Union. If they are out of the Union then you have no right to govern them. If they are in the Union then they are in as States, and as States have a right to their proportion of representation in the Lower House of Congress and their right to equal representation upon the floor of the United States Senate. Otherwise, there is no constitutional power and authority to govern them; none whatever.

Now, the school of politicians to which I belong have usually been in a majority in the Congress of the United States from its origin up to the year 1860. It has seldom been the case until the last six years that there has been a majority in both branches of Congress of those politicians of the latitudinarian school, the school which favors the enlargement of the powers of the Government contrary to its plain import. That school has seldom ever been in a majority in both branches of Congress at the same time since the origin of the Government. You succeeded in setting up in the progress of time some two or three Administrations of the Government that held these views and represented the latitudinarian party, but either one or the other branch of the American Congress until within the last six years was against that party; so that the views I have expressed of the nature and character of the United States as being confederate instead of consolidated in form have been sustained by the American people from the adoption of the Government until when you commenced the inauguration of a military despotism over this country. The elder Adams, one of our first Presidents, and Alexander Hamilton, in the Convention were the founders of one school. Mr. Madison, of the Federal Convention, and Mr. Jefferson, the third President, were considered as the founders of the other.

Now I do not find from one distinguished man of our own political school an expression of opinion on a public theater, where the party could be held responsible for his views, a deliberate expression of his opinion, that this is a popular Government and its powers are coextensive with the will of existing majorities. You cannot find it; this is a Government of States; not only does the history of the times prove it by showing they were independent sovereign States before the Government was formed, but it is proved by the Constitution itself. It was made by the States. The States were to be represented equally in the Senate regardless of their geographical extent, of size, or amount of population. The principle was declared and the mode prescribed in the Constitution itself whereby the States should be represented in the lower branches of Congress, but they were still the representatives of States. The President of the United States was to be selected by the States. Each and all are required by the fundamental and irrevocable law, the Constitution of the United States, to select their representation in the Electoral College for the purpose of electing a President and Vice President; and if any candidate fail to receive a majority there then the election comes into this House, where it is to be decided by States, each State only having one vote, to be cast by the majority of its delegation, and a majority of all the States necessary to a choice.

Not only is it the fact that the machinery of the Federal Government has been provided by States; that its functionaries represent the States; that it gives to the States the power of electing the Chief Magistrate; but the Constitution itself proves most conclusively that the States were to continue to exist with all their retained powers in the Federal Union, and that the ends and purposes for which the Government of the United States was established could well be subserved without interference with the independent governmental character of the States. It was never intended to interfere with the authority and rights of the States as such. They were to rule themselves within their own borders to all intents and purposes, so that they assumed no granted power and exercised none

prohibited to them. They had the right to adopt their own criminal and civil codes, to regulate by their own laws their own internal concerns in every particular in regard to crimes and punishments, civil rights, the transmission of real estate by purchase or descent, the mode of distribution of personal estates, the relation of husband and wife, parent and child, guardian and ward, and, if you please, master and slave; all the duties and obligations pertaining to the various civil offices, of executors, administrators, and trustees. All these powers are retained by the States, with the reserved power to each State for itself to control its own policy in regard to manufactures, agriculture, and commerce within its own borders.

Now, look at the character of the Federal Government. It may raise an army. The States have no right to create armies or raise troops in time of peace. The Federal Government may build and support a navy. The States are inhibited from doing it. The Federal Government may make treaties with foreign Powers. The States are prohibited from doing it, and even from making compacts with each other. But all authority over their internal concerns in regard to the rights of property and of person are retained by the States except so far as they may be expressly granted to the Federal Government. The whole object and purpose was that the Federal Government should have control of our foreign commerce, our foreign relations; should have the power to make war, in conducting which the States were to unite all their energies and powers; and should have the authority to coin money, to impose taxes, and to borrow money, &c. It is easy, were it not for the tendency of ambitious men when in power to magnify and extend that power beyond its legitimate limit, it is easy for this Congress and for the Government of the United States in all its departments to trace and pursue the plain line of demarkation or distinction between the powers and jurisdiction of the Federal Government and that retained by the States. An infallible clue to a just and true interpretation of the Constitution of the United States in regard to the powers thereby granted by the States is to understand the objects and purposes to be promoted and attained by the Government it creates. These objects were to make war and peace as a unit, to control and conduct our foreign affairs and relations, to regulate our commerce with foreign Powers, between the States and the Indian tribes, to keep perpetual free trade and peace between the States. Let the Government of the Union, in the exercise of its powers, then, confine itself to the accomplishment of these purposes, carefully avoiding any invasion of the retained powers of the States, and the Union may be indefinitely extended and forever maintained.

Now, there is no more devoted friend and advocate than I am of the maintenance and preservation of the present union of the States, and not only of the States already included therein, but of other States that may be hereafter legitimately annexed or admitted into this Union. I wish to see the Union enlarged until it shall comprise the whole continent of North America, distributed and divided into States, each one reserving to itself and maintaining the right of controlling its own affairs within its own limits and exercising its own reserved rights.

A most important result would be secured by this union of States. Free trade between them would be established over the whole continent, and however much the powers of the General Government might be prostituted to embarrass our commerce with the world, and thus promote sectional aggrandizement and antagonism, we should have the consolation at least of knowing that it was beyond the power of that Government, through its power of indirect taxation or otherwise, ever to disturb free commercial intercourse or trade between all the States of the Union.

But you deny that they are States. Well,

sir, if a man will deny a solemn truth staring him right in the face; if a man will deny what the records of your own Congress prove; if a man will deny what is plainly stated in the Constitution of the United States; if a man will deny the fact that Virginia, Georgia, and the Carolinas were in part the framers of the Constitution, and that they are members of the Union created by that Constitution; if a man will deny these things, how can you demonstrate anything to him? These States, through their delegates to the Federal Convention, assisted in framing the Constitution, and they, by their several State conventions, adopted and ratified it. The other States now denied their due representation in Congress were each, by solemn compacts in the form of reciprocal and irrevocable legislation, passed and adopted by the legislative authorities of both the governments of the Union and of the said States, severally admitted into the Union, where they stand now and must forever remain unless severed by a successful revolution.

There are certain truths so palpable and self-evident that the mere statement of them is sufficient to prove them. There are certain mathematical and logical truths that no one will multiply words in attempting to prove. Who will attempt to prove that two parallel straight lines drawn out to an indefinite length will never meet? Who would attempt to prove by a demonstration of language that all the parts of the circumference of a circle are equidistant from the center, or that two straight lines drawn through the center of a circle at right angles to each other would divide it into four equal parts? There are self-evident truths in logic as in mathematics that need only to be stated to command assent. I say that these are States. They were States in the Union, and bound by the Constitution of the United States and its laws, under the Federal compact. It was because the people who inhabited these States attempted forcibly to prevent the Constitution and the laws made in pursuance of it from being enforced within their borders, that you made war upon them; you ravaged their country; you murdered many of their people; you burned and destroyed their property, and overrun them with armies that were permitted more latitude in their operations than, in my judgment, was ever permitted to armies in any war ever conducted by a civilized power.

This has been done, and it was done upon what pretext and for what purpose? It was to enforce the Constitution and laws upon these people. The States were attempting to secede and you said they should not secede. As States they could not secede. The Constitution of the United States declares that its provisions and all laws made in pursuance thereof shall be the supreme law of the land, anything in the constitution or laws of any State of the Union to the contrary notwithstanding; thus making it utterly impossible as a matter of law that any State could ever get out of the Union. No State can get out of the Union by law, whether in the form of legislative enactment or by any ordinance or decree of a convention. Then if they could not get out lawfully, have they got out in any other way? There is another way by which, perhaps, they might get out, and that would be by successful revolution, by their resisting successfully by force the enforcement of the Constitution and laws of the United States over them.

If they should succeed in resisting the power attempting to coerce them into the Union they might get out of the Union and from under the Constitution, and their getting out might be acquiesced in. But the revolution attempted has not succeeded. They have failed to get out, and being lawfully in all their ordinances and decrees, whether by conventions or through their Legislatures, were entire nullities; because that they are nullities is evident from the fact that the Constitution of the United States has made itself and the laws made in pursuance of it the supreme law of all the States. If, then, they are not out by law, how

are they out? And if they are not out, then you cannot govern them without their being represented in Congress. If they are not out, then the Constitution provides that Virginia, North Carolina, South Carolina, and Georgia shall have certain representation in the First Congress; and not only that, but that they should thereafter be entitled to their proportion of representatives in subsequent Congresses of the United States. The Constitution provides for the ascertainment of the entire number of Representatives, and that number is to be apportioned among the States by a given ratio. That ratio is to be adopted by the Congress of the United States, and then the number of Representatives of each State being thus ascertained, they have a constitutional right to come in here and be represented, and you cannot deny that right unless you do so by a flagrant violation of the Constitution, which virtually ejects those States from the Union.

I have stated, sir, and I state again, that there is no warrant of law for the assumption and that no judicial mind can assume for a moment that any civil act, any act of legislation, any act in the shape of a decree or ordinance of any public body of the States by which they attempted to break their connection with the other States, was anything but a nullity. It is especially ordained that the Constitution and laws of the United States shall be supreme over every State in the Union. These States are not out of the Union by law; they are not out by force. There was an unsuccessful revolution. And if they are not out by force, then they are in the Union. The Constitution is the chart, it is the special power of attorney under which the States are united together. For, sir, I assimilate this Constitution very much to a special, as distinguished from a general, power of attorney. It is special because the powers of the agents and functionaries of the Government therein provided for are limited and defined; and being so limited and defined the power is special, not general. This power of attorney was signed by all the States then in the Union, and it has been signed by each State that has subsequently come in, and each agreed with the others that neither shall ever be deprived of its just representation in this House and its equal representation in the Senate of the United States.

How, then, is it that you can overthrow the Constitution and revolutionize this Government? You are here as the agents of your various States; you represent your various States in this Congress as States. And do you, gentlemen, representing the great, gigantic, powerful State of New York, admit that a majority can at any time or under any circumstances, while you are willing to remain in the Union, deprive you, by a resolution of this body or by an act of Congress, of your representation in the Senate and in the House of Representatives in Congress?

The great States of New York and Pennsylvania, with a ring in the nose of each and cord attached, led by New England, are giving in to the long-determined and settled policy of the North to prevent the extension to the South and West of representative power in Congress, and are being driven on by the party lash, wielded and brandished by a Boston junto, who move and inspire the dominant majority in both the Senate and House of Representatives. This deplorable state of things cannot last; it is impossible for such patent and barefaced violations of the Constitution and the laws, of the eternal principles of right and justice, to last. It must have an end, and a disastrous end speedily I apprehend, if this reckless career is not arrested. I feel a deep interest and an anxious solicitude upon this subject, because I want no more revolution, I want no more war; I not only want the States now in the Union to remain there, but I want all the balance of the continent that is worth annexing to come in and to have our Union to be coextensive with the continent of

North America; not extended by violence and war, not by force upon the inhabitants of adjacent countries, but by the legitimate annexation of new States.

I hold, therefore, that we ought to look not only to the present but to the future. Yet you are here adopting a system of policy to deprive these States of their representation in Congress for no higher or nobler purpose than that of preserving your party predominance. Nothing else can be at the bottom of it. Humanity cannot prompt it; patriotism cannot inspire it; love of the Union and hope of its preservation cannot possibly justify it; because all these forbid it. Sound patriotism would say: "admit the representatives from those States;" common humanity and justice would say, "admit them;" the best policy and interest of the whole country would say, "admit them;" the Constitution and laws imperatively demand that we should admit them. They are in the Union and you cannot lawfully put their representation out of this House; it is their portion of the instrumentality and machinery by which they and other portions of the Union are to be governed.

Yet, for the mere sake of preserving your party predominance, and for no other or higher motive that I can conceive of, you are trying to do that which is contrary to the best interest of all sections. In my judgment, your course for exclusion and disunion is against sound policy, expediency, law, justice, and grossly violative of the Constitution. I can see no higher or better motive by which the men are influenced who do this monstrous wrong—always giving them credit for ordinary sagacity—than the mere preservation of their present party predominance; as though this Government was made for the mere preservation of party ascendancy and the promotion of party interests; as though this Government should be ruled through its legislative branch by men other than those of sound patriotism. The attempt to rule arbitrarily and by military power, the attempt to exclude States of this Union from their just share of representation in Congress, can only proceed from the brains of mere partisans and politicians, the spawn and filth produced by the boiling of the political caldron and which by a law of fermentation always arises to the surface. That caldron has been stirred up and boiling for the last six or seven years, by reason of which inferior men, unpatriotic men, men who are not sound statesmen, but mere politicians, have been foisted into power, and are now ruling through the dominant party, in such manner and with such purposes as must inevitably result, if not checked in time, in the destruction of the governments of the States, the overthrow of all the guarantees in our constitutions, State and Federal, for the preservation of the rights and liberties of the citizens, and the establishment of a despotic Government, upheld by a mercenary standing army, and taxing, governing, and controlling the whole country, regardless of constitutional restraints.

But why is it you do not want these people represented? Do you pretend to deny that those southern States have furnished in time past some of the most patriotic and illustrious men who have taken part in the councils of the Government. Before and during the Revolution and since, those States have sent to our public councils men of the highest patriotism and the soundest public spirit. Are you afraid of the influence that will be exerted by the men they will send here, if they be allowed their constitutional right of representation in these Halls. The talent, energy, and virtue of the men they would send here would be such as to command the respect of the nation and perhaps to influence materially and wisely the policy of the Government in the promotion of its best interests, both foreign and domestic, and for the conservation of the rights of their own States and the liberties of their own people.

Again, not only do you refuse to these



States their constitutional share of representation for no higher reason that I can conceive of than the one I have stated, but you go still further. Not only do you attempt to control these people without representation, without warrant or authority of law, but you establish over them a military despotism. You refuse to allow them to participate in the Government, nor will you allow them to govern themselves in their own internal concerns. There has been introduced here a bill (which I have but cursorily examined) to overthrow and demolish these State governments altogether, taking away all the authority of the States to govern themselves, to control their own domestic interests, to regulate the franchise or suffrage—to foist upon those States a government to be enforced by congressional power; and the President is to be ordered to use the military and naval forces of the country to overthrow the existing State governments and to impose upon them other governments in their stead, and in which demolition and substitution they have no choice but submission. This would imply a deliberate purpose to surrender those State governments into the hands of the negroes, disfranchising the white population and enfranchising the slaves that formerly belonged to them. This is the policy indicated by measures already adopted and by measures which seem to be contemplated.

In addition to this, my northern friends are engaged in another work of mischief and destruction which, if it prevails, will actually subvert the character of the Government, which will sweep away all the guarantees for the maintenance of the rights and powers of the States, giving to a single department of the Government entire control, regardless of constitutional restraints. The predominance of the Republican party of the North in both branches of Congress is such that they seem to have become fiercely aggressive upon the executive department of the Government, and seem disposed to disregard altogether the division and distribution of power among the several departments of the Government, as laid down in the Constitution. We know that outside of these Halls they have threatened to depose the head of the executive department by impeachment, for no cause known to the Constitution or laws, for nothing except acts which, in my humble opinion, prove him to be an honest, patriotic, and devoted friend of constitutional liberty.

I do not deny, nay, I admit, that Andrew Johnson, both before and since he became President of the United States, has done and said things which are so entirely in conflict with what I regard as sound political doctrine, so opposed to the principles to which he himself adhered in the earlier part of his public career, that I cannot and never shall approve of them. I will not specify the things to which I now refer. But it will be observed that those opinions and acts of the President officially pronounced and performed by him within six years past which the judgment of his former political friends condemn are approved heartily, no doubt, by his present political enemies. Those acts of President Johnson for which, if for anything, he ought to have been impeached, according to the views of those who think with me, are the very things which are virtues in the estimation of the gentlemen on the other side. Now, when President Johnson has become alive to the necessity of preserving constitutional government, when he has become satisfied that usurpations of power have been practiced and unconstitutional laws been enacted by the present Congress, and now seeks to interpose with his veto power to protect the Constitution and save the liberties of the people, gentlemen on the other side propose to impeach him.

There are things in his presidential career for which I admire him, and which induce me to overlook many things he has said and done during the last six years.

Now, sir, your party predominance it seems will be endangered if you allow these States to

remain in the Union; that if you allow them representation in Congress it will endanger your party predominance; that these \$540,000,000 of public treasure in that state of the case would not be monopolized by you; that you want all of the patronage in all the departments of the Government, and that you are not in favor of any division of it whatever. You fear that patronage would be endangered unless you should in substance overthrow, prostrate, and destroy the executive department of the Government by impeachment of the President.

It appears by the various movements which have been made that the object is to deprive the Executive of his power. You propose to take away his power, his absolute, uncontrollable power of appointment, by and with the advice and consent of the Senate. You propose to take away his power of removal of public officers except exercised with the consent of the Senate.

At present, as Congress is constituted, you have as large a majority in the United States Senate as here and can rely upon the Senate that no man shall receive an appointment unless he be a Radical, and that no officer being a Radical shall be removed. If the nomination be made of a man not a Radical in furtherance of the measures and purposes you have in contemplation, he would be rejected by the Senate. If a man thus rejected be appointed again it is to be a high crime and misdemeanor. If a man already in office is of your faith and politics he is not to be removed without the concurrence of the Senate.

So that in the matter of removals and appointments it seems to me to be the design and purpose to destroy in substance the power of the Executive over the subject of patronage; and also as you have two thirds majority to make the conservative principle contained in our Constitution utterly useless and powerless. It seems to be your design and purpose to carry all of your measures, constitutional or unconstitutional, so as to absorb all the powers of all the other departments of the Government in the hands of Congress, and thus remove all the checks and balances intended in the very frame-work and structure of the Government to prevent usurpations.

The CHAIRMAN. The gentleman's hour has expired.

Mr. LAWRENCE, of Ohio, obtained the floor.

Mr. FINCK. I wish to ask my colleague whether he is desirous of going on to-day?

Mr. LAWRENCE, of Ohio. I am.

Mr. FINCK. The gentleman from Kentucky has not yet concluded his speech, and I hope by unanimous consent his time may be extended for half an hour.

Mr. McKEE. I hope the House will extend that courtesy to my colleague.

The CHAIRMAN. If there be no objection the gentleman's time will be extended for thirty minutes.

Mr. McKEE. I hope my colleague will be allowed to go on without limitation until he finishes his speech. I think it is only fair and just that he should have as much time as he needs.

Mr. WENTWORTH. I rise to a point of order. The gentleman from Kentucky on my motion the other day had his time extended indefinitely, and I make the point that he has a right to go on until he concludes his speech.

The CHAIRMAN. It has been ruled again and again that such extensions are only for one hour. There is no objection, and the gentleman's time is extended for thirty minutes.

Mr. HISE. I will proceed, Mr. Chairman. In the very beginning of the Constitution you will find it is declared that the legislative power hereby granted shall be vested in the Senate and House of Representatives.

The qualification of a member of this House in regard to age is, I believe, that he shall be twenty-five years of age, and of a Senator of the United States thirty-five. The power was lodged in two Houses instead of one, with the

hope that one branch of the Legislature might operate as a check upon the other in order to preserve a constitutional government and prevent unconstitutional usurpations. But as the present Congress is constituted, both branches unite and harmonize with an overwhelming majority. They have created a joint committee, of which it appears I am a member, a most agreeable circle, called a committee on reconstruction. That committee it seems devised the whole scheme of policy which is to be pursued by the party in power on this subject of representation. After being agreed upon in the committee the schemes are ratified in both Houses.

Now, this valuable check is overthrown. The Constitution is to be put into execution by the official machinery therein provided for. It has provided that the Legislature should constitute one branch of the Government, the executive another, and the judicial another. Why was it thus distributed? Because it was believed that there was no security that the Constitution itself would be respected, and that a Government outside of the Constitution inaugurated by a series of acts of usurpation might be instituted regardless of its limitations and guarantees, conservative of the powers of the States and the liberty of the citizen, therefore, in order that it should conserve itself, that there should be a principle of conservatism within its own provisions, the framers of the Constitution divided the powers therein granted between three separate and independent departments; and in regard to the legislative power provided that it should be placed in two Houses, with the hope, as I said, that one would check the other, and if not, here was the Executive with the veto power provided, so that it might be interposed to prevent congressional usurpation. Then, here was the judicial power, created in the hope that if there should be usurpation of power or an attempt to control the Government regardless of constitutional inhibitions, that power might check it. The Supreme Court was established with authority and power to pronounce all such acts null and void.

These checks and balances were indispensably necessary in order that the Constitution should be preserved inviolate. We know from former history, we know from present events and signs that the greatest possible danger to a republican government and to free institutions proceeds from its legislative branch. There lies the danger to the maintenance of the rights of the States and of those guarantees intended to protect personal liberty. If the Government is already free it remains free so far as the judicial and executive branches of the Government are concerned. The people should be lightly burdened, and not oppressed with a revolting system of taxation such as this country is laboring under now; but what department is it that imposes this grinding taxation upon them? It is the legislative branch. It is by and through the law-enacting department of the Government that nearly all the usurpations take place by which free governments are overturned. Therefore the party controlling the legislative department and seeking to overturn free government always strike down, if possible, judicial independence.

During the last six years we have seen a party striking at the judicial department of this Government, and we have seen the judicial power shrink and cower until it became the servile agent and mercenary tool of the Congress of the United States in sanctioning or refusing to interpose to prevent the enslavement of the American people, in permitting the unlawful suspension of the writ of *habeas corpus* and the institution of military domination throughout the whole land. We have seen the judiciary of the country tamely and servilely submitting and becoming the subservient instrument of these usurpations of power by the legislative and executive branches of Government, not choosing to interpose to check it and to protect the rights and liberties of the citizens.

Now, sir, I put this before the country. I want it to understand what you are doing, and I want to know if the country will continue to put a congressional majority in both branches of Congress which will sanction your headlong career toward the destruction of all constitutional Government. Look at the ruin that this Radical party have brought upon the country since they came into power. Look at the deplorable condition of the times now, and contrast them with what they were when through sectional agitation they succeeded in carrying the elections by which they became entitled to the possession and control of the Government. They found the authorities of the Government in the hands of men respecting the Constitution.

Mr. ASHLEY, of Ohio. When?

Mr. HISE. When this party became entitled to power.

Mr. ASHLEY, of Ohio. I deny it. When Mr. Lincoln came into the presidential chair seven States were in rebellion.

Mr. HISE. Not a single State attempted to withdraw from the Union until it was known to the whole country that the North had consigned the Government to the political enemies of the South, and which the South firmly believed when they, the Radicals, obtained the actual possession of it would be wielded, as it has been, for the destruction of their constitutional rights. At all events, if the party now in power had never been put in its possession, the Union at this day would have been preserved, the States at this day would have been united, there never would have been any severance at all, because the Government would have continued to be conducted on those benign principles and under those constitutional restraints that would have reconciled all the States South and caused them to abandon any purpose of secession.

Mr. ASHLEY, of Ohio. Of course if the South could have ruled this country there would have been no rebellion. The late Senator Douglas made the declaration, however, after the war began, that the South would go out anyhow the moment they failed to rule the country.

Mr. HISE. We know very well that this thing of disunion had been brewing for a great number of years.

Mr. ASHLEY, of Ohio. Yes, it had.

Mr. HISE. One cause after another had been piled up until their aggregate became so great as to drive the Union asunder. Who is to blame most for the severance of the Union, for a portion of the States springing off from the balance? I think those who inserted the wedge and plied the hammer until they split it to pieces are the party most to blame.

Mr. WILLIAMS. Will the gentleman allow me to ask him a question?

Mr. HISE. I would rather not, as my time is limited; but I will yield to the gentleman.

Mr. WILLIAMS. It is a very simple question. I desire to ask him whether he regards the causes of the rebellion, as stated by him, as adequate to justify it.

Mr. HISE. No, sir.

Mr. WILLIAMS. Very well.

Mr. HISE. No, sir. I am against dividing the Union under any circumstances. Where the forms of the Government are preserved; where the framework and system of the Government remains; where the functionaries of the Government continue to be selected in the manner prescribed in the Constitution, I am not for violently breaking off and resorting to disunion or secession and rebellion. No, sir, I would endure error, I would endure corruption, I would endure usurpation in the hope that as long as this framework of Government remains, and so long as freedom of the press and of discussion remain, with speech and reason still left free to combat error, a remedy for all these evils might be found by a change of rulers, effected peaceably and without revolution under the Constitution itself and according to the means of relief it may furnish.

Mr. WILLIAMS. Will the gentleman allow me another question in this connection?

Mr. HISE. Yes, sir.

Mr. WILLIAMS. I wish to know whether freedom of speech had been respected in the rebel States during the last ten years before the rebellion broke out.

Mr. HISE. Mr. Speaker, I did not intend to go into, and I hope I will now be excused from going into, the rights and wrongs of the late civil war. I do not want to go into the merits of the question as to whether the wrong was upon the one side or the other. I am for peace and Union, and I do not want to harrow up or rasp the feelings of the coercionists and war men of the North. I am not disposed to charge a design of usurpation and a purpose to establish an unconstitutional government on the men, the people, the voters of the North. You cannot convince people unless you first conciliate them. If you first provoke and make war upon them, it is in vain to reason with them when thus excited and provoked. I hope the northern people will yet learn the sad truth that the South cannot be oppressed and enslaved and they themselves escape.

Mr. WILLIAMS. I understood the gentleman to set down the rebellion to the account of the northern States.

Mr. HISE. I expressed the opinion that if a party had never got into power in this country on an unconstitutional platform, or if after they got into power on that unconstitutional platform had consented to yield to a joint compromise, there would have been no war.

Mr. ASHLEY, of Ohio. What did they refuse to yield?

Mr. HISE. They refused to yield anything of importance.

Mr. ASHLEY, of Ohio. Did not the Thirty-Sixth Congress submit a constitutional amendment making slavery perpetual in this country, so that there should be no power in Congress to change it?

Mr. HISE. Do you remember that the President in his inaugural address, or in his message to Congress, one or the other, said in substance, I cannot repeat the exact words, "That no Government could stand or would stand if the party in power should be required by the party out of power, as a condition of their obedience, to surrender the main plank of the platform of principles or policy upon which they obtained power?" Did not that sentiment come from the then President of the United States? He said that a Government could not long stand where the party in power, which had come into power upon a given set of principles, upon a certain line of policy, was required to abandon it, or any portion of it, in order to secure the obedience of the party out of power or of a certain section of the Union.

Mr. ASHLEY, of Ohio. Will the gentleman yield to me a moment?

Mr. HISE. I would prefer not to do so.

Mr. ASHLEY, of Ohio. For a moment only.

Mr. HISE. Very well; I will yield.

Mr. ASHLEY, of Ohio. I would ask the gentleman from Kentucky [Mr. Hise] if the dominant party that came into power in 1861 did not propose an amendment to the Constitution of the United States guarantying to the States in the Union the right to control the institution of slavery forever? And did not a majority of the Thirty-Seventh Congress in both the Senate and the House of Representatives belong to the party of which the gentleman is a member when the southern States went into rebellion?

Mr. HISE. My recollection is not very distinct concerning the precise facts which occurred about that time; but I remember the general impression upon my mind. That impression was that there was no hope of an adjustment or compromise by the requisite majority in Congress and the requisite majority of the northern States. I had no hope of it. Besides that, the President said in substance that he intended to use force, what force was necessary for the purpose of recapturing the United States forts, arsenals, mints, and public property, and

enforcing the Constitution and laws of the United States. I refer to that now to show that war was determined upon and that any compromise was out of the question.

Mr. ASHLEY, of Ohio. Determined on by whom? Does the gentleman say that it was right for the South to take possession of the United States forts there, and thus inaugurate war?

Mr. HISE. I do not.

Mr. ASHLEY, of Ohio. Does the gentleman hold that when that was done this Government ought quietly to have acquiesced?

Mr. HISE. I hold, sir, that this Union could have been maintained and preserved by wise and moderate measures without a resort to the war by which so much injury has been unnecessarily brought upon the whole country.

Mr. ASHLEY, of Ohio. How?

Mr. HISE. It could have been maintained and preserved without all the ruin and bloodshed which ensued if the party coming into power would only have abandoned a plank in their platform and have given the requisite guarantees to the southern States, which they ought to have done, that they would agree to an adjustment, which would have inspired confidence that southern rights would not be invaded or their institutions destroyed. That platform was hostility to the institution of slavery, an avowed design to use the powers of Government to abolish it. To that extent the platform was unconstitutional, because the history of this country proves that slavery was a lawful institution, sanctioned and authorized by British law, by colonial law, by the laws of the States when they had achieved their independence, and by the Constitution and laws of the United States.

Mr. ASHLEY, of Ohio. I would ask the gentleman from Kentucky [Mr. Hise] if the platform upon which Mr. Lincoln was elected did not distinctly and positively disclaim any intention to interfere with the institution of slavery in any of the States? And I ask again if we did not submit to the South an amendment to the Constitution which provided that the southern States should control slavery forever.

Mr. HISE. This is leading me into a matter which I did not intend to investigate. But I will say that if they had consented in some legitimate manner, in some binding form upon which the southern States could have relied, that there would be no attack made upon their constitutional legal rights of property, no invasion upon the institution of slavery, the Union could have been preserved. That is my deliberate opinion.

Mr. KELLEY. With the permission of the gentleman, I would like to ask him a brief question right here. Will he yield for that purpose?

Mr. HISE. I will yield, though my time is running out.

Mr. KELLEY. I would ask the gentleman whether he remembers any single compromise made between the North and South with reference to which the South adhered to its bargain; any one?

Mr. HISE. Well, I cannot recollect; I cannot give facts, dates, or speeches, because they have passed somewhat out of my recollection. But my recollection is that the president of the southern confederacy, Jefferson Davis, while he remained in the Senate of the United States and until his State passed her ordinance of secession, made as patriotic and earnest efforts to have the difficulties of the country adjusted and prevent disunion as any man in the American Senate at the time. That is my impression. Do not ask me for dates, nor for what this man or the other man said, nor the precise purport of this, that, or the other proposition, because I did not expect to discuss that subject and have not the documents or facts before me. I can only state my impressions.

Now, sir, suppose that the southern people were wrong in the action which they took and that it was both inexpedient and unauthorized,

yet this does not justify you in the past and the intended treatment of the excluded States. If they erred in the attempt to carry their States out of the Union, is that a sufficient reason why now the hostile spirit engendered by the war should be continued? Now, when peace is restored, why should we not endeavor by every possible means to restore harmony to the country. "Ah," say you, "if we do not keep these people muzzled, if we do not deny them any share or influence in the Government and refuse them their share of representation in the Halls of Congress, our party predominance will pass away." That is the fear. Now, is that a motive by which statesmen should be influenced? Our object should be peace—a peaceable reunion of the States—or rather a union of them, because I deny that the Union has ever been divided; I deny that any of the States have ever been destroyed. There can be no such thing as "reconstruction" unless there has been a structure demolished. The name of the committee who seem to have charge of this whole subject is therefore not appropriate. There is no reason or necessity for any committee on reconstruction, because there is nothing to reconstruct. The Union has been preserved. Certain States that attempted to get out of the Union by force failed in that attempt and are still in the Union. All the acts by which they attempted to get out are null and void, being in conflict with the Constitution of the United States, the "supreme law of the land."

Now, sir, how does this Congress propose to treat those States? It has treated them as States in the various particulars and modes pointed out in the President's message. Gentlemen clamor here because those States have not adopted the proposed constitutional amendment, by which their whole social system and fabric of society would be debauched, demoralized, and reversed. Yet they have no authority to act on that constitutional amendment unless they be States of the Union. In many other particulars, as stated in the President's message, Congress has treated them as States. Yet it is now insisted that they are not States, and not being States are not entitled to representation upon this floor. It is pretended that they have relinquished and forfeited their rights as States. Why, sir, such a thing is impossible. Where is the law or the reason for it? Why, sir, during the wars of the French Revolution there was one portion of France, on the coast of Brittany, called, I believe, La Vendee, whose people fought on the side of the monarchy and against the revolutionary party; yet I never learned, from my reading of French history, that when the revolutionary party had proved successful the people of the insurgent districts were disfranchised. How was it in the civil wars of England, the conflicts between the houses of York and Lancaster, and the intestine strife during the reign of Charles I? After the Government became established, first under Cromwell and afterward under Charles II, were the people who had taken part in those wars either on one side or the other disfranchised—denied the privilege of sending their representatives to the House of Commons, and deprived of their rights as subjects of Great Britain? I imagine not. There may have been here and there cases in which the ringleaders were punished; but there was no disfranchisement of the people inhabiting whole sections of country, counties, or municipalities that may have been involved in a rebellion or civil war.

Why not have peace and union? You say they are not States, because you know if they are States they must have representation. If they are not States I admit they have no right to representation. But they are States; now you propose unlawfully and unconstitutionally to destroy their character as States and convert them into dependent territories or conquered provinces. Upon what authority? Where is the law for it? You cannot punish a State. There is no constitutional authority for the

indictment, trial, conviction, and punishment of a State as such. There is no punishment for States prescribed in the Constitution or in any law I have ever seen or heard of.

Why punish them? How can you try the State? You cannot do it. Do you want to punish the people? You cannot do it. It is impossible. The people of those States, many of them, would never have concurred in the movement of secession but for the enormities and atrocities practiced by this Government during the war, and the violation of what was declared to be the object of the war in a resolution passed by both Houses of Congress, to the effect that it was not intended to interfere with their domestic institutions or any of their rights and privileges under the Constitution. It was not, sir, until after the Government violated that solemn pledge, made in both branches of Congress, that the war was to be prosecuted, not for the purpose of subjugation or enslavement of those people, not for the purpose of overturning or interfering with their rights as States or their State institutions, not at all; but for the mere purpose of enforcing the Constitution and laws of the United States and preserving and maintaining the Union and the Government of the Union under the Constitution; and that when they succeeded in suppressing all armed opposition and resistance to the Government, then those States should be received again into the Union, or would be in the Union as before according to the declaration of Mr. Seward in his dispatch to our minister to France, that the States would come back again and remain in the Union with all their rights of property and representation. I repeat it was not until after these solemn pledges were violated by the subsequent development of the real objects and purposes, for the attainment of which the war continued to be prosecuted, that the southern people generally concurred in the necessity of persisting in armed resistance for defense.

Now, in violation of all these pledges you design in bad faith to convert these States into Territories. Where is the authority, where is the law for it? Some gentlemen contend the authority is to be found in that portion of the Constitution which says that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and upon application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence. Sir, that provision of the Constitution, in my opinion, authorizes no such thing as the conversion of those States into provinces to be governed arbitrarily. This clause of the Constitution contains no such authority. It is a mere guarantee that the republican governments of the States shall be maintained. There was no authority given in that clause to convert States into Territories so as to deprive them of all representation in Congress. It is an obligation, in fact, imposed upon the Federal Government to see that neither by domestic violence, foreign invasion, or in any other way the republican governments of the States should be overthrown. Now, does that give to the Government of the United States the power to overthrow the State governments when they are republican in fact, and to institute territorial governments so as to deprive them of all representation in Congress? Was that the object? Can this Congress make them Territories at its discretion? Can it reduce them to the condition of conquered and dependent provinces when they choose and as they choose? Because the duty is imposed upon this Government by the clause of the Constitution above cited to protect the States as States in the enjoyment of their republican forms of government as existing, can it be contended with any show of reason that this power or duty of the United States is properly executed and performed by overturning instead of guarantying the republican governments of these States, by changing their condition as States into that of dependent provinces, and by deny-

ing to them their right of representation in Congress? Never! no, never!

Mr. LAWRENCE, of Ohio. Mr. Chairman, the subject of the compensation of members of Congress engaged the attention of the framers of the Constitution, and that instrument provides that—

"The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States."—Article 1, section 6.

Whether this compensation shall be authorized in the form of an annual salary, payable at stated times, or as per diem wages, in either case with or without mileage, the duty of prescribing by law its amount is one of the most difficult and embarrassing.

Any bill changing the compensation during an existing official term, or for the prospective sessions to which Senators and Representatives in office may be reelected, of course calls upon them to decide a question affecting their own personal interests.

This, I know, is the legitimate and indeed the necessary exercise of a power conferred by the Constitution, but in the performance of that duty I hope it may never be truly said that the Congress of the United States did not act with their accustomed dignity, or refused the consideration and hearing necessary to arrive at a just conclusion. (Annals of Fifteenth Congress, first session, January 7, 1818, page 588.) I am not insensible of the fact that any effort at reduction, either of compensation for Senators and Representatives or of salaries of officers in other Departments is liable to be met with the "hue and cry" that the sole motive therefor is popular favor or approbation. For one, I choose rather to incur the hazard of this injustice than to shrink from an effort in this direction, which duty and the public judgment demand, and which sound policy requires. I recognize it as a solemn duty to conform our legislation to the matured will of an enlightened people. In the conflict of interest between those who bear the burdens of taxation and those who receive the emoluments of office, the public judgment is quite as impartial and just in its motive as any tribunal to which we can appeal; yet it is sometimes less powerful in the halls of legislation, because of the ever-present, more zealous, and earnest efforts of official position. The atmosphere that surrounds us here is an official atmosphere, and while justice should be done to all who move in it, and to all who may be in office elsewhere, let us not be unmindful of the millions who are the source, not only of all political power, but whose labor applied to the development of our natural resources is the main element in the production of wealth.

When this Congress commenced its first session, on the 4th day of December, 1855, the compensation of its members as "ascertained by law" was fixed at \$3,000 per year, and mileage at forty cents per mile. (Act of August 16, 1856; 11 United States Statutes at Large, 48.)

By the seventeenth section of the miscellaneous appropriation act, approved July 28, 1860, this annual salary was increased to \$5,000 per year, but the mileage was reduced to—

"Twenty cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session."—Laws of 1865-66, page 323, Appendix to Congressional Globe, part five, first session, Thirty-Ninth Congress, page 417.

Upon this subject I have introduced two bills; one of them proposes to repeal so much of the act of July 28, 1860, as increases the annual salary to \$5,000; the effect of which will be to revive and restore the annual salary of \$3,000, but to leave the mileage at twenty cents per mile. The other bill proposes to reduce the mileage to ten cents per mile.

These have been introduced in the form of separate and distinct propositions, so that one might not embarrass the other, if there shall be opposition to the one which may not exist against the other, but in the hope that both





be the best, but in that which I suppose most likely to succeed.

There are well-grounded objections to compensation in the form of a salary. The mode of compensation by a per diem allowance is more just, equitable, and in accordance with the analogies in the State Legislatures, where it has always been adopted. And this opinion has prevailed in Congress during the larger part of our history. (Annals of Congress, first session, Fourteenth Congress, 1815-16, page 190; Annals of Congress, second session, Fourteenth Congress, 1816-17, page 314.)

The act of Congress of September 22, 1789, fixed the compensation to March 4, 1795, by giving a per diem of six dollars, with mileage at twenty cents per mile. (1 United States Statutes-at-Large, 70)

The act of March 10, 1796, provided the same compensation. (1 United States Statutes, 448.)

The act of March 19, 1816, for the first time provided an annual salary of \$1,500, leaving the mileage unchanged. (3 United States Statutes, 257; Annals of Congress, 1815-16, first session, Fourteenth Congress, page 458.) This act was so indignantly disapproved by the people, that of all those who voted for it only three were returned to the next Congress, and it was repealed by the act of February 6, 1817, to take effect from the close of that session of Congress, with a provision against reviving the repealed act, so that the next Congress was left to fix the salary. (3 United States Statutes, 345.)

The act of January 22, 1818, fixed the compensation from March 3, 1816, at eight dollars per day, and mileage at forty cents per mile. (8 United States Statutes, 404.)

This act remained in force until repealed by the act of August 16, 1866, which left the mileage unchanged, but provided an annual salary of \$3,000. (11 United States Statutes, 48.)

The practice of the nation, except during a period of about twelve years, has been in favor of the per diem compensation rather than a salary. Rawle, in his work on the Constitution, declares that—

"The compensation ought to bear as exact a proportion as possible to the time employed. An act of Congress was passed a few years ago (March 19, 1816) in which a gross sum was allotted for an entire session. The dissatisfaction it occasioned produced an early repeal."

I know it has been urged that the tendency of a per diem compensation is to lengthen the sessions of Congress.

I cannot conceive it probable that such effect would follow; but if members could be influenced by such motive then with a salary the desire to avoid the personal expenses of a long session would be a motive to immaturity hasten or omit to act on at least some necessary business, and this is a vastly greater evil than long sessions or much speaking. Long sessions are not generally an evil. The presence of the Legislature is necessary to arrest executive usurpation, to correct abuses as they arise, and to prevent their occurrence. (Federalist, No. 53.)

The stupendous usurpation of Andrew Johnson in exercising unauthorized legislative power in the reorganization of illegal State governments in the rebel States would never have been attempted or tolerated if he had performed his duty by calling Congress together early in 1865 to settle the whole subject of reconstruction.

Even in the States where biennial legislative sessions have been authorized, the experiment has been found disastrous. In Ohio, where the constitution of 1851 authorized biennial sessions, the Legislature has held annual sessions by adjournment over during all the time except in one year, that of 1855.

If a per diem allowance should lengthen the sessions, public measures would be better matured; and if thereby Congress should to some extent become a logocracy, its much speaking would have the advantages which always flow from mature discussion. This mode of compensation is more just, too, because it pays for time employed, and not like a salary for time whether employed or not. The law can-

not fix the length of all the sessions; the business to be performed alone can do so, yet a salary unjustly assumes that equal compensation should be made for all sessions long or short, with much or little business.

But the pending bills have not attempted a change so great as sound policy would sanction, for they only seek to restore the salary as it existed before the increase made by the act of July last. And now we are met with the question, is the salary of \$3,000 per year adequate and just?

It was once said in debate that—

"The object of giving a per diem to members either of the State or national Legislatures was not by way of compensation for their services, still less to remunerate them for sacrifices of pecuniary or personal advantages of any kind. The real object was to enable individuals whose private means would not enable them to attend the sessions of the respective Legislatures, to meet the moderate and reasonable expenses to which they must necessarily be subjected by their attendance on them, and to the end that the country might not be altogether deprived of the services of men in narrow circumstances, from their inability to suffice to this extra expense. Hence, and in the same spirit a moderate and reasonable allowance was made for traveling expenses, not at such a rate, however, as would be required by the nabob of the South." \* \* \* "who cannot get along without his carriage and two horses and two black servants and two dogs."—*Huger's Speech*, March 7, 1866, Annals first session Fourteenth Congress, page 1163; *Harrison's Speech*, January 6, 1813, Annals first session Fifteenth Congress, pages 273, 279, as to mileage.

If this were true that members should only be paid "the moderate and reasonable expenses to which they must necessarily be subjected by their attendance" on Congress, a decidedly sweeping reduction should be made in the salary. But it is palpable that such was not the design of the Constitution, for it declares that members "shall receive a compensation for their services." The spirit and purpose of this provision contemplate such reasonable and moderate compensation for services as the average talent employed would command in other occupations equally arduous and as nearly similar as may be. This would include not only "the moderate and reasonable expenses of attending Congress" but moderate and reasonable recompense besides, for all these are included in the idea of "compensation for services." It cannot include compensation "to remunerate for sacrifices of pecuniary or personal advantages," for these are not proximate consequences of or necessary incidents to the position of a Senator or Representative, and could never be "ascertained by law" because they would differ with the condition and circumstances of each member. I am perfectly aware that no uniform compensation can do exact justice, and all that can be secured is an approximation to it. The same salary may not with equal and exact justice compensate some of the Representatives from California and the mining regions or from large cities, as it would those from the agricultural districts, for there is a wide disparity in rents, taxes, expenses of living, and rates of wages generally.

I will not inquire whether it would be just to discriminate, but that is impracticable and the Constitution seems to contemplate a uniform rule, which should be made not for exceptional cases, but with a view to a general and just average.

And now, in the light of these principles, a comparison of congressional compensation with the salaries paid to the highest judges of the State courts, which it is fair to presume are reasonable and just, will support the measures for which I am contending.

In the National Almanac and Annual Record of 1864 I find the salaries of the highest judges and of the Governors stated for twenty-four States thus:

	Judges of Supreme Court.	Gov- ernor.
1. Pennsylvania.....	\$3,400	\$4,000
2. New York.....	3,500	4,000
3. Indiana.....	2,000	3,000
4. Ohio.....	3,000	1,800*
5. Illinois.....	1,200	1,500†
6. Missouri.....	3,000	3,000
7. Iowa.....	2,000	2,000
8. Wisconsin.....	2,500	1,250
9. Minnesota.....	2,000	2,500
10. Kansas.....	1,800	2,000

	Judges of Supreme Court.	Gov- ernor.
11. California.....	6,000	7,000
12. Oregon.....	2,000	1,500
13. Maine.....	1,800	1,500
14. New Hampshire.....	2,000	1,000
15. Vermont.....	1,800	1,000
16. Massachusetts.....	4,000	3,500
17. Rhode Island.....	1,800	1,000
18. Connecticut.....	2,000	1,100
19. New Jersey.....	2,000	3,000†
20. Delaware.....	1,000	1,333‡
21. Maryland.....	2,500	3,600
22. West Virginia.....	2,000	2,000
23. Kentucky.....	2,500	2,500
24. Michigan.....	2,500	1,000

The Territories of the United States generally: Governor, \$2,500 and \$3,000; judges, \$1,800 and \$2,500.

\* Judges since reduced to \$2,500.  
† For chief justice a fee of \$2 in each case docketed in addition.

‡ Chancellor, \$2,500; chief justice, \$2,100.  
§ Chief justice, \$1,200.

The average annual salary of these judges is \$2,433 each. Their expenses I know are less than would be incurred in attending the sessions of Congress, but the difference in salaries even before the act of July last leaves a margin for that.

I might cite additional salaries, both official and unofficial, but they are sufficiently familiar and with rare exceptions prove by way of comparison the justice of the measures I am urging.

The return of incomes under the internal revenue law affords additional evidence. The Commissioner of Internal Revenue under date of December 14, 1866, says:

"On the 8th ultimo I addressed a circular letter to the assessors directing them to forward to this office the number of persons on the May annual assessment list of 1866, in each of the three following classes:

1. The number who returned a net income of \$1,000 or less.	209,231
2. The number whose net income was over \$1,000 and not over \$5,000.	179,627
3. The number whose net income was over \$5,000.	33,612

"Six hundred dollars exempted by law was to be included in each case. Returns have been received from 207 of the 240 collection districts. The total number so far returned in each of the classes is as follows:

The bills on this subject have been introduced with the more confidence because the provision sought to be repealed was agreed to by a meager vote in the House, and in opposition to its matured opinion, twice solemnly and almost unanimously expressed.

It was agreed to on the report of a committee of conference in the hurry of the last morning of the session, under the previous question without an opportunity for discussion, by a vote of 51 for to 50 against, with 85 members absent. (Part V, Congressional Globe, Thirty-Ninth Congress, first session, 1865-6, page 4288.) That final vote cannot, therefore, be the deliberate judgment of a majority of the whole House.

Mr. WILLIAMS. Is not the gentleman from Ohio aware of the fact that the decision of the House was confirmed unanimously on the motion to lay the motion to reconsider on the table?

Mr. LAWRENCE, of Ohio. There was no recorded vote on that question.

Mr. WILLIAMS. There were no votes against it.

Mr. LAWRENCE, of Ohio. There was no recorded vote, and it is fair to presume that the result would have been the same as on the passage of the bill.

Mr. RANDALL, of Pennsylvania. Does the gentleman know of a single member who did not take the extra pay?

Mr. LAWRENCE, of Ohio. I do not.

Mr. MAYNARD. I ask the gentleman from Pennsylvania [Mr. RANDALL] to restate his question.

Mr. RANDALL, of Pennsylvania. I asked the gentleman from Ohio, whether he knew a single member of the House who had not taken his pay, and he said he did not know one.

Mr. MAYNARD. I deem it due to myself to say that I did not take it until after the matter had gone before the great body of the American people, in all but six States. When I found that the gentleman who had taken it

were returned here with such unprecedented unanimity, I accepted that as the deliberate opinion of the great body of the American people, and having that indorsement I received it.

Mr. RANDALL, of Pennsylvania. I am happy to find that the action of the gentleman from Tennessee and myself both accord with that of the American people in that regard.

Mr. GRINNELL. I would ask if the gentleman from Tennessee served in the last Congress as a member.

Mr. MAYNARD. Not in the last Congress. I did, however, during a portion of the last session, being admitted to the inside privileges just at the close of the session, whereby the increased pay became due to me and my colleagues, and could have been taken had we chosen to do it. I preferred, however, to wait till the American people had taken action.

Mr. LAWRENCE, of Ohio. The gentleman from Tennessee assumes—

Mr. COBB. Will the gentleman from Ohio yield?

Mr. LAWRENCE, of Ohio. I prefer to go on.

Mr. COBB. For a question?

Mr. LAWRENCE, of Ohio. I would like to answer some of those that have been asked already, but I will yield.

Mr. COBB. The gentleman having yielded, I propose to compromise with him by making a brief statement.

Mr. LAWRENCE, of Ohio. Proceed.

Mr. COBB. I have no disposition to interject a speech into that of my friend from Ohio, and it is with some degree of diffidence that I say anything personal as regards myself or any other gentleman; but the question having been asked by the gentleman from Pennsylvania [Mr. RANDALL] whether the gentleman from Ohio [Mr. LAWRENCE] knew of any member who had not taken his extra compensation, lest silence should be construed into acquiescence on my part, especially while the question is being reiterated to another member, I beg leave to state that I, for one, having conscientiously voted against the increase of pay on the morning of the 28th of July, being of the opinion that it was wrong and that it would have been dishonest in me to have voted for it, have drawn no part of that extra compensation. And I will add that I will wait a little longer than the honorable gentleman from Tennessee has done before I take it; I will wait till this Congress shall by its action or non-action reiterate, in a more deliberate manner and by a larger majority than it gave for the proposition to increase its pay, that it will not reverse its judgment.

Mr. ASHLEY, of Ohio. Better say a majority.

Mr. COBB. Well, perhaps, I may compromise on that.

Mr. MAYNARD. The gentlemen, I suppose, appeals from the decision of the people to this body.

Mr. COBB. I cannot refrain from stating that I very well remember a remark made to me by the gentleman from Tennessee [Mr. MAYNARD] when I gave my vote on that proposition. It was something to this effect: "I thought you had been a soldier, and yet you vote against giving them a bounty."

Sir, in what little effort I made in the canvass last fall I found much more difficulty and embarrassment from the false position that we were forced into by that action of Congress than any other. I believe it is not in order here to say anything about the Senate in fixing the responsibility of that act, but I felt more humility from the ease with which Copperheads and "bread-and-butter" men could call us to account before the people on this subject than from anything else. And I feel some little astonishment at the deliberate attempt to repeal that clause by a gentleman who admits that he accepted the extra compensation.

I am requested by several gentlemen around me, before I take my seat to ask the gentleman from Ohio whether he has or has not accepted the extra compensation, and if so, when? [Laughter.] The gentleman need not answer

the question if it will occasion any embarrassment. [Laughter.] I only wanted to know for my own satisfaction and that of the gentlemen around me. [Laughter.]

Mr. LAWRENCE, of Ohio. Mr. Chairman, this colloquy has interrupted, a little, the course of my remarks and the argument which I was endeavoring to make, but it affords me an opportunity to say some things in a little different form from what I should have said them if I had been permitted to proceed without interruption. I will reply somewhat to the remarks which have been made. And first, the gentleman from Tennessee [Mr. MAYNARD] assumes that the people in the late elections have sanctioned the bill increasing the compensation of members of Congress.

If that had been the great leading question submitted to the people in the recent elections the result which he attempts to deduce from those elections might be legitimate and proper. But I undertake to say to the gentleman from Tennessee and to the members of this committee that if we had gone to the people upon this naked question and asked their verdict of approval upon this bill increasing compensation we would have been buried ten thousand fathoms deep, and no man who voted for it ever would have returned to this Hall. No, sir; the people in the recent elections gave no verdict upon this bill; but they avoided a verdict upon it because there was involved in those elections the great and overshadowing question whether the people should speak in tones of thunder their condemnation of that man who, at the head of the Government, had betrayed the party which placed him in power and betrayed the interests of the people. That was the question they determined in the recent elections, and not the question whether this increase of salaries was proper.

Mr. MAYNARD. Will the gentleman allow me to ask him whether the distinguished leader to whom he alludes did not especially make this issue upon Congress and submit it to the people and ask them to decide upon it. He certainly was so reported. Surely the gentleman was so engrossed in his own canvass as not to observe what was going on in other parts of the country or that could hardly have escaped his attention.

Mr. LAWRENCE, of Ohio. The people paid but very little attention to the questions which that distinguished individual chose to submit for their decision. They had before them the questions which were submitted by this Congress, and they passed their verdict upon those questions. I can say further to the gentleman from Tennessee that there never has been a bill passed through any Congress increasing the compensation of its members which has not been disapproved by the people of this country, and this act of July last is not an exception to this general rule.

And now, Mr. Chairman, one word in reply to the gentleman from Pennsylvania, [Mr. RANDALL,] and the gentleman from Wisconsin, [Mr. COBB,] both of whom by their questions seem to be anxious to know if I have received this additional compensation.

Mr. RANDALL, of Pennsylvania. That was not the way I put my question.

Mr. LAWRENCE, of Ohio. No, I know it was not, but I will say that I have received it; I received a portion of it after I came here at this session, and a portion of it a few days prior to that time. I will say further, that no one member of this House can remedy the evil of the act of July last, by refusing to receive his compensation; that is no remedy for the evil. The evil, if it be one, can only be remedied by a repeal of the law.

Mr. DRIGGS. Did the gentleman feel bad when he received it? [Great laughter.]

Mr. LAWRENCE, of Ohio. I hope gentlemen will not interrupt me without having at least the courtesy to inquire through the Chair if I yield the floor, but I will pay my respects to the gentleman from Michigan in a moment.

Mr. DRIGGS. The gentleman will excuse me. I will not interrupt him again.

Mr. LAWRENCE, of Ohio. I am glad to be interrupted; but I will pay my respects to the gentleman directly. I was proceeding, however, with another branch of this inquiry. I remarked that a refusal on the part of one member to receive the compensation could not and would not remedy the evil of increased salary. I say further, that every member of this House has taken an oath to support the Constitution of the United States. That Constitution declares that "Senators and Representatives shall receive a compensation for their services; to be ascertained by law." When members have taken an oath to obey that Constitution which so declares, I take it that it is the duty of a member to accept the provision which is made by law. And now for the gentleman from Michigan.

Mr. HILL. I would like to ask the gentleman a question.

Mr. LAWRENCE, of Ohio. I prefer to answer one at a time. I will answer all the members of the committee, if they will only give me an opportunity to answer them *seriatim*; or, if they prefer, I will take them in gross. The gentleman from Michigan desired to know if I felt bad when I received the pay. I do not entirely perceive the pertinency of the question. It has nothing to do with this other greater question which I am considering, whether the increase by the act of July last was proper. I have no doubt but that the gentleman felt very good when he received his.

Mr. DRIGGS. I did. [Laughter.]

Mr. LAWRENCE, of Ohio. And I can say further to the gentleman from Michigan, and to every other member of this committee, that if in the recent elections they had gone to the people upon this naked question, they never would have had an opportunity of feeling good by receiving any more of this compensation at any future session.

Mr. DRIGGS. Will the gentleman allow me one word?

Mr. LAWRENCE, of Ohio. Not now; I want to dispose of these other questions first.

Mr. MAYNARD. If the gentleman will allow me, we have been discussing this matter in a spirit of pleasantry, and I would like to say another word in regard to it. We were called upon to vote upon this proposition to increase the pay of members of Congress, and the associated proposition to equalize the bounties of soldiers. I will venture to say to the gentleman that if the result of that vote had been the other way, and the proposition giving bounty to the soldiers had been defeated, even the defeat of the other measure would not have saved from dire condemnation every man found upon the record voting against it. And I will say furthermore, that unless this Congress before it adjourns shall perfect that measure equalizing the bounties to the soldiers, and make it more just and righteous than it even now is, it will fare very badly with some of us who may have occasion hereafter to go before our military constituents.

Mr. LAWRENCE, of Ohio. I agree entirely with the gentleman from Tennessee, [Mr. MAYNARD.] And I am glad to find that he will cooperate with me in an effort to increase the bounties for soldiers. But if the position which he assumes is correct, it only proves that the people demanded bounties for the soldiers of the Republic; it does not prove that they demanded increased compensation for members of Congress.

Mr. MAYNARD. I hope the gentleman will change one word, and say not "increased" bounties, but "equalized" bounties.

Mr. LAWRENCE, of Ohio. Equalized and increased both; that is what I am for.

Mr. HILL. Will the gentleman now permit me to ask him a question?

Mr. LAWRENCE, of Ohio. I will; and I will take up this matter in detail. I am glad to see that my remarks are meeting with such general interest and having such an effect. We seem to be having a sort of class-meeting here, which I hope will be of benefit to some gentlemen.



Mr. HILL. I understood the gentleman to say—and I desire to learn if I understood him correctly—that the clause of the Constitution in relation to the compensation of members contains the word “shall;” that it says “Senators and Representatives shall receive a compensation for their services, to be ascertained by law,” &c.; and that he regards the receiving compensation as a part of the duty of a member, I so understood him; I want to know whether I understood him correctly.

Mr. LAWRENCE, of Ohio. I read that part of the Constitution, and stated the fact that each member was sworn to support the Constitution. The gentleman can draw his own inference.

Mr. HILL. Now, I desire to ask the gentleman a question in reference to a case in point; the case of the gentleman from Wisconsin, [Mr. COBB,] who declares that he has not drawn his pay, has not “received his compensation.” I wish to inquire whether his failure to perform that duty is such a failure in duty as to justify the expulsion of the member? [Great laughter.]

Mr. LAWRENCE, of Ohio. I am in favor of the impeachment of some officers of this Government, but I will reserve my opinion upon the question whether a member ought to be expelled for the reason assigned by the gentleman from Indiana [Mr. HILL] until that question shall arise in a case presented to the House.

I may say this, however, for the benefit of the gentleman from Wisconsin, [Mr. COBB,] that he does not remedy the evil, even so far as he himself is concerned, by refusing to receive this pay, for it stands to his credit on the books of the Government and can be drawn by his administrator after his death. The only mode in which he can make his act effectual is to draw the money and then pay it back to the “conscience fund.” [Laughter.]

Mr. HILL. May I ask the gentleman if he has paid his increase of compensation back to the Government?

Mr. LAWRENCE, of Ohio. I have not, and I do not intend to, [laughter,] unless this Congress shall require by law that it shall be done. If any gentleman will introduce a separate bill for that purpose and it shall be found practicable and constitutional I will vote for it, and if it shall become a law I will comply with it. And I will say further, that I regard every proposition to encumber the bill or either of them which I have introduced by suggestions of this sort as having but one object; I will not say it is an improper object—yes, I will say it is an improper object—to defeat the bills which I have introduced.

Mr. DRIGGS. Will the gentleman allow me a word here?

Mr. LAWRENCE, of Ohio. I will yield, certainly.

Mr. DRIGGS. The gentleman said a few moments ago that if the compensation matter had been made a direct issue before the people I probably would not have “felt good” by being returned here. I say to the gentleman that it was made a direct issue in my district, and I told the people that I voted for it because I thought it was right. I told them that if \$3,000 a year was right before the war, then \$3,000 a year could not be right now, when it costs twice as much to live as it did before the war.

And when the gentleman says that the attention of the people was not drawn to this subject because other and more important issues were presented to them, and that the members who voted for this increased compensation were returned upon the other issues, I cannot see the force of his statement. Had the people believed that we were wrong in this respect and therefore desired to rebuke us, they could and doubtless would have selected other persons who were equally sound upon the important issues and sent them here as their Representatives. My people believed this increase of pay to be right, and gave me an increased vote where I met the question fairly and squarely.

Mr. COBB. I wish to avail myself of the

courtesy of the gentleman from Ohio, to put a question to the gentleman from Michigan, [Mr. DRIGGS.]

Mr. LAWRENCE, of Ohio. Certainly.

Mr. DRIGGS. I will answer the gentleman.

Mr. COBB. I desire to ask the gentleman from Michigan whether at the time the vote was being taken on this bill he did not state to some member—perhaps his colleague from the western district of his State, [Mr. FERRY,] whom I do not now see in his seat—that this money could with propriety be drawn and donated to the use of the soldiers; that members could vote for the extra pay, or ought to vote for it, and give the money to the soldiers?

Mr. DRIGGS. If I understand the gentleman's inquiry, he wishes to know whether at the time this bill was passed I did not intimate that if our pay was increased the additional amount could be given or ought to be given to the soldiers. I will state, in answer to the gentleman, that I never made any such declaration here or anywhere else. I voted steadily every time for the proposition to increase the pay. I hope this statement is definite enough.

Mr. COBB. It is definite enough. It differs, however, from my recollection. I have not referred to the record of the proceedings for some time.

Mr. DRIGGS. The gentleman's recollection is very faulty indeed if he recollects anything different from what I have stated.

Mr. COBB. I do not mean to impeach the gentleman's recollection, but my own.

Mr. DRIGGS. Well, I think the gentleman's recollection is very faulty. [Laughter.]

Mr. LAWRENCE, of Ohio. Mr. Chairman, it may be, as the gentleman from Michigan has stated, that in his particular district this question was directly submitted to the people; and if so, he stands all right with his constituents. In that case I can only say that the opinion entertained by his constituents is not the opinion of a majority of the people of the loyal States.

After this long digression I will now resume the course of remark which I was pursuing when interrupted by the question of the gentleman from Pennsylvania, [Mr. RANDALL.]

The provision now sought to be repealed originated in the Senate by way of amendment to the miscellaneous appropriation bill, (Part V, Globe, pages 4074, 4076, 4143,) where it was agreed to by a vote of 23 to 13, with 14 Senators absent. (Globe, page 4145.) It was disagreed to in the House by a vote of 3 yeas to 114 nays, with 79 members absent. (Globe, 4258.) A committee of conference was appointed, (Globe, 4223, 4261,) who reported in favor of agreeing to it, (Globe, 4237, 4280,) which was rejected in the House by a vote of yeas 14 to nays 101, with 71 absent. (Globe, 4280.) Another committee of conference was appointed, (Globe, 4245,) who for a time disagreed, (Globe, 4246, 4247,) but finally reported in favor of it, (Globe, 4286, 4288,) which was agreed to in the House by a vote of 51 to 50, with 85 members absent, (Globe, 4288,) and in the Senate without any recorded vote, (Globe, 4247, 4248.) It was thus finally carried through, as every member knows, not upon or by virtue of its own merits, but because it was embraced in the report of the committee of conference, and coupled with a proposition to give bounties to the Union soldiers, for which in a more enlarged and liberal form every member of the Union party in the House had again and again voted, (Globe, 2827, 4193, 4259,) but which had been rejected as often by the Senate, (Globe, 3960, 4223, 4245.) Upon the report of the committee of conference we could not reject or vote against the increase of salary without also voting against the provision as to bounties, for the Speaker decided, and correctly, that a report of a committee of conference was not divisible. (Globe, 4287.)

Mr. HARDING, of Illinois. Will the gentleman allow me to interrupt him a moment just here in order to make a statement?

Mr. LAWRENCE, of Ohio. Yes, sir.

Mr. HARDING, of Illinois. I desire to say

that when I voted against the report of the committee of conference at the time of its adoption in this House I did not believe in the view advocated then by other gentlemen, that it was the last opportunity we should have to obtain a bounty bill for the soldiers. I thought there was good reason to expect and believe that another report could be agreed upon which should give to the soldiers their bounty without increasing the pay of members. It was with this conviction that I voted against the bounty and against the increase of pay. I stated this position to my constituents, and I received from them an indorsement, as the gentleman from Michigan did from his constituents. My majority was quadrupled. So that the medicine works differently in different places. [Laughter.]

Mr. LAWRENCE, of Ohio. I agree with the gentleman. I think he is entirely correct. And, Mr. Chairman, I for one would have sat in this House until the expiration of the Congress, without any adjournment at all, in order to compel the Senate and this House to vote more liberal bounties to the soldiers, and to have kept that question entirely disconnected from the question of the increase of the pay of members of Congress.

In this condition of the question, as I was about to remark when interrupted, many, perhaps most of the votes in favor of the bill were so given solely to secure bounties to the soldiers.

The gentleman from Michigan, [Mr. FERRY,] when the vote was taken defined his position, equally applicable to others, by saying:

“Steadily and invariably I have voted against an increase of pay to members of Congress, because I am opposed to any increase in the present condition of our finances. Three times upon this very proposition has my vote been recorded against it. Now, it appears coupled with the increase of bounty to our gallant soldiers, which I heartily favor, but which I cannot vote for without also voting for the increase of congressional pay. The Senate insists upon this increase at the peril of bounty to our soldiers. There is no alternative but to vote for both or vote against both.”

For myself, I regarded the limited bounty provided by that bill as totally inadequate, and much less than justice to our brave soldiers. I preferred to vote against an increase of salaries in the hope that bounties alike liberal and just might thereafter be provided for all the soldiers of the Republic, the “hundred days’ men” of Ohio included.

To accomplish this I will cooperate with my colleague [Mr. SCHENCK] who has introduced a bill to secure that object. And I may add that because I desire to make the bounties liberal I will vote against all other bills which will add to the burdens or taxes of the people, except in those rare cases where justice or the public interests imperatively require it. I will do more than that; I will go with the committee on retrenchment and all others in every measure to reduce all useless expenditures and diminish extravagant salaries.

Our whole revenue system, with its cumbrous machinery of assessors, collectors, distillery inspectors, &c., is exhausting the energies of the people with salaries, some of which are too high in comparison with the wages of the laborers and producers of the country. The expenses of collecting the internal revenue for the last fiscal year, as we learn from the report of the Commissioner of Internal Revenue, were as follows:

Assessors' compensation and expenses.....	\$965,079 09
Assistant assessors' compensation.....	3,088,961 00
Collectors' compensation and expenses.....	2,161,710 14
Superintendents of exports and drawback.....	16,714 00
Revenue agents.....	35,453 79
Special agents assigned to this office.....	11,226 82
Revenue inspectors.....	121,073 70
Special revenue commission.....	22,086 60
Officers and clerks in this bureau.....	277,672 71
Stamps and cotton tags.....	177,089 55
Other incidental expenses of this office.....	40,093 02
Commission on sale of stamps.....	786,536 04
Total.....	\$7,689,700 46

This is nearly two and one half per cent. of the total receipts, exclusive of drawback and sums refunded as erroneously collected.

I submit to the House statistical tables prepared at the internal revenue department, show-

ing the amounts paid in Ohio for the principal assessors and collectors of internal revenue, which show also the necessity for speedy retrenchment:

Statement showing the amount of salary and expenses received by the several assessors of internal revenue for the State of Ohio during the fiscal years of 1864, 1865, and 1866.

No. of District.	Name of Assessor.	Amount received during the fiscal year ending June 30, 1864.	Amount received during the fiscal year ending June 30, 1865.	Amount received during the fiscal year ending June 30, 1866.
1		\$7,019 04	\$9,368 50	\$7,161 89
2		5,505 87	5,645 90	4,434 50
3		4,155 76	5,672 01	6,012 44
4			4,396 68	2,846 96
5		2,509 29	2,541 46	3,942 17
6		2,759 67	4,608 19	2,593 48
7		3,919 74	5,511 76	4,957 72
8		2,277 35	2,302 91	2,016 54
9		3,143 99	4,721 59	4,335 12
10		2,558 07	4,388 81	4,537 15
11		2,499 96	3,680 36	3,737 34
12		2,932 03	5,184 56	4,265 00
13		1,874 39	4,534 46	3,941 03
14		2,381 15	2,325 04	2,179 42
15		3,671 50	2,358 67	4,353 23
16		2,230 32	2,214 16	1,589 95
17		2,494 96	2,211 79	4,649 68
18		6,650 55	6,711 94	6,553 11
19		2,574 56	3,579 75	4,484 73

The average annual salary of each assessor therefore was for fiscal year ending June 30, 1864, \$3,953 20  
For fiscal year ending June 30, 1865, 4,307 03  
For fiscal year ending June 30, 1866, 4,136 39

This does not include the amount paid assistant assessors in the several counties.

No. of District.	Name of Collector.	Amount received during fiscal year ending June 30, 1864.	Amount received during fiscal year ending June 30, 1865.	Amount received during fiscal year ending June 30, 1866.	Amount received by deputy collectors.	Fiscal year of 1864.	Fiscal year of 1865.
1		\$10,345 25	\$12,182 89	\$19,472 00	\$3,099 92		
2		10,692 67	10,521 39	12,983 20	3,723 90		
3		12,233 91	10,622 83	12,948 41	6,000 00		
4		10,308 25	9,301 89	9,031 00	2,036 86		
5		4,970 73	5,217 90	7,833 28	5,412 40		
6		11,001 22	7,421 48	6,839 09	1,371 41		
7		12,012 81	10,254 34	12,960 14	2,458 56		
8		4,218 91	5,361 70	6,107 78	1,493 15		
9		11,187 64	8,453 37	10,466 72	1,043 80		
10		8,574 17	9,175 10	9,633 03	2,583 87		
11		11,344 81	8,564 67	8,732 00	3,632 99		
12		9,522 89	8,808 97	9,063 78			
13		3,095 62	8,060 49	8,154 00			
14		4,848 68	6,124 78	7,444 77			
15		2,600 08	5,650 42	6,087 09			
16		5,392 03	5,639 11	7,999 00			
17		18,993 17	5,186 34	15,999 00			
18		6,314 91	8,272 67	8,389 00			

REMARKS.—The amounts paid deputy collectors come out of the salary of the principal collector.

\*This mark denotes the districts the reports for which are not on file in this office.

But let us begin the work of retrenchment in this Capitol. The recent increase of salary is not justified by the condition of the country or the judgment of those we represent. Prices are not now so high as during the war, when gold for a considerable period was at a much larger premium than now. No man then urged an increase of salary, though the necessity for it then was greater than now. If it be said the war was then upon us, requiring sacrifices alike of Congress and the people, I answer, the burdens of the war are yet upon us in the shape of a national debt of \$2,700,000,000, with State liabilities besides, and obligations yet unperformed to the soldiers whose valor and perseverance saved the Republic in the hour of its greatest peril. Let us first be just before we are generous dispensers of the Treasury, of which we have been made the guardians if not the custodians.

If the policy of this Administration, as advanced in the report of the Secretary of the Treasury, should be speedily carried out, it would be impossible for the people to endure the taxation which they now so patiently bear, while they are permitted to share the benefits of a currency of "United States notes," or as they are generally called, "greenbacks," of \$385,441,849, in addition to national bank notes, \$292,671,758.

The report informs us that—

"The Secretary is of the opinion that the national banks should be sustained, and that the paper circulation of the country should be reduced, not by compelling them to retire their notes, but by the withdrawal of the United States notes"

the "greenbacks," and the Secretary reminds us of—

"the discredit which attaches to the Government by failing to pay the notes according to their tenor."

If more than half of the best currency the people ever had, or can have, should be suddenly withdrawn, our national funded debt would necessarily be augmented to an equal amount, adding more than \$20,000,000 to its interest, and consequently to our taxes, and what is of vastly more consequence, commercial revulsion and bankruptcy must inevitably follow. A general reduction in the prices of produce, the wages of the laborer and the mechanic would speedily follow, diminishing the means of liquidating taxes and the public debt, but at the same time increasing comparatively the load of the debt itself.

I cannot indorse that financial policy that would increase our burdens while diminishing the means of discharging them; yet the fact that this policy is urged, as the Secretary of the Treasury distinctly says, to secure lower prices generally, should admonish us that this is no time to enlarge salaries or expenses. It is not correct to charge upon the Government the "discredit" "of failing to pay its notes."

We learn from the report of the Secretary of the Treasury that the receipts and expenditures of the Government for the fiscal year ending June 30, 1866, were as follows:

#### RECEIPTS.

Balance in Treasury, agreeable to warrants, July 1, 1865.....	\$853,309
To which add balance of sundry trust funds not included in the above balance.....	2,217,732
Making balance, July 1, 1865, including trust fund.....	3,076,041
Receipts from loans.....	712,851,533
Receipts from customs.....	\$179,046,651
Receipts from lands.....	665,031
Receipts from direct tax.....	1,974,754
Receipts from internal revenue.....	309,225,813
Receipts from miscellaneous sources.....	67,119,369
	558,032,620
	1,273,960,214

#### EXPENDITURES.

Redemption of public debt.....	\$620,321,725
For the civil service.....	\$41,056,961
For pensions and Indians.....	18,852,416
For the War Department.....	284,449,701

Carried over, \$344,359,078 \$620,321,725 \$1,273,960,214

Brought over.....	\$344,359,078	\$620,321,725	\$1,273,960,214
For the Navy Department.....	43,324,118		
For interest on the public debt.....	133,067,741	520,750,940	1,141,072,606

Leaving a balance in the Treasury on the 1st day of July, 1866..... \$132,887,548

The receipts for the quarter ending September 31, 1866, were \$465,460,557, and the expenditures were \$323,041,768, and the balance in the Treasury on the 1st day of October last was \$142,418,789.

Here, then, in these receipts the Government redeemed in one year every dollar of the legal-tender "greenbacks," and again paid them out to a people willing to receive them. This currency is thus paid and again put in circulation, answering all the purposes of gold.

Unlike every other currency, it is a legal tender for debts and in payment of taxes, and thus has two values never imparted to any other paper money in our previous history. And now I have sufficiently shown that this increase of compensation was carried through, not on its own merits, but to secure limited bounties to meritorious soldiers deserving much more.

It is high time that this dangerous and vicious practice of coupling together different and distinct measures in one bill should be forever discarded. It secures legislation against the matured judgment of those who are unwillingly driven to give it "aid and comfort." It furnishes an excuse for evil legislation and a shelter from all responsibility. The evil is so apparent and so great that in several of the State constitutions, as in Ohio, it is expressly provided, that—

"No bill shall contain more than one subject, which shall be clearly expressed in its title."

And because this measure was thus passed we should now restore the law so as to conform to the judgment of the House. It is not to be presumed that the opinions twice solemnly expressed in July, before the elections, have since been changed, or that members could entertain one set of opinions before the elections and another after.

[Here the hammer fell.]

Mr. GRINNELL obtained the floor and said: I yield a portion of my time to the gentleman from Ohio, that he may conclude his remarks.

Mr. LAWRENCE, of Ohio. Mr. Chairman, we owe it to the great Union or Republican party of the country to restore the salary as it was before the act of July last. The Union party is not responsible for the increase. The proposition for that purpose originated in the Senate, on motion of the Senator from Delaware, Mr. RIDDLE, a Democrat, (Globe, page 4074,) and was adopted there by a vote as follows:

Union, (Republican,) ayes.....	14
Opposition, (Democratic,) ayes.....	9
Total.....	23
Union, (Republican,) nays.....	11
Opposition, (Democratic,) nays.....	2
Total.....	13

[Globe, 4145.]

In the House the vote stood finally as follows:

Union, (Republican,) ayes.....	35
Opposition, (Democratic,) ayes.....	16
Total.....	51
Union, (Republican,) nays.....	43
Opposition, (Democratic,) nays.....	7
Total.....	50

[Globe, 4238.]

It is one of the merits of the act of July last that it reduces mileage one half. But a still further reduction is demanded alike by every consideration of justice and economy.

When the act of January 22, 1818, (3 United States Statutes, 401,) fixing mileage at forty cents per mile was under consideration in Congress, an effort was made to reduce it upon the ground that it was comparatively higher than the per diem of eight dollars.

But it was shown in the discussion that the mileage was then the least remunerative to members generally. In the discussion Mr. Harrison, of Ohio, (afterward President,) said:

"Gentlemen living on the stage line, whose votes had carried the reduction from nine to six [dollars for every twenty miles,] were perfectly unapprised, he believed, of the expenses and labors of those who were obliged to travel wretched roads with their own horses," &c.

Only a part of the members then enjoyed the luxury of stage-coaches; it was before the period of railways and canals. Now, staging is almost unknown, but railways and ocean, lake, and river steamers furnish speedy modes of travel, saving both time and money in comparison with the early modes of reaching the capital.

But even now, under the reduced mileage of the act of July last, the California and Oregon members will receive for a Congress of two sessions from \$5,000 to \$6,000, that is, from \$2,500 to \$3,000 for each session, while the actual expense of traveling from Portland, Oregon, to Washington, by way of Panama, and return, is less than \$800, and requires about thirty days' time in coming and an equal time in returning.

Mr. BIDWELL. The gentleman will allow me to state the amount of my mileage—a little over \$4,600.

Mr. LAWRENCE, of Ohio. The gentleman from California [Mr. Bidwell] will observe that that is more than I have stated.

These are only examples of a class by no means small.

The act of July 13, 1866, allows to Army "officers traveling under orders where transportation is not furnished in kind," "ten cents per mile." (Laws of 1865-66, page 93.) This is an increase on prior rates, and is sufficient alike for Army officers and for members of Congress.

It is no part of my purpose to disparage the merits or undervalue the services of my associates here who so faithfully represent the interests of the people, of humanity, and justice in these Halls. I would make no appeal to prejudice or passion, but only invoke the deliberate judgment of this House on measures which it is a solemn duty to consider with the utmost candor.

The palpable fact that for almost every office under the national and State governments there are generally many applicants with proper qualifications, and with fortunes by no means ample, is conclusive evidence that the common pursuits of life are rarely ever more remunerative than the rewards of office.

Let us then restore the salary as it was, and retrace the public burdens in all practicable ways, and those we represent—the tax-payers of the land—the millions who by honest and patient toil are earning a support, and seeking a moderate competency, will greet us with the welcome salutation, "Well done, good and faithful servants."

Mr. GRINNELL resumed the floor, and made some remarks which he has withheld for revision. Before concluding his speech he yielded to,

Mr. ASHLEY, of Ohio, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally and particularly the President's annual message, had come to no resolution thereon.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Colonel WILLIAM G. MOORE; also a message informing the House that the President had approved and signed a bill (H. R. No. 876) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1867, and for other purposes.

#### ARREST OF HON. C. V. CULVER.

The SPEAKER stated that N. G. Ordway, the Sergeant-at-Arms of the House of Representatives, made a return to its warrant that he had taken the Hon. C. V. CULVER from the custody of Philander R. Gray, Esq., sheriff of Venango county, in the State of Pennsylvania, delivering to him a certified copy of the warrant, and that now Mr. CULVER was unrestrained in his seat as a member of the Thirty-Ninth Congress.

#### SANTA ANNA.

The SPEAKER also laid before the House a message from the President of the United States, transmitting, in compliance with the resolution of the House requesting information in reference to the attempt of Santa Anna and Ortega to organize an armed expedition within the United States for the purpose of overthrowing the national Government of the republic of Mexico, a report from the Secretary of State and the papers accompanying it; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

#### FREE SCHOOLS IN DISTRICT OF COLUMBIA.

The SPEAKER also announced the following as the select committee on free schools in the District of Columbia:

Mr. STEVENS of Pennsylvania, Mr. PATTERSON of New Hampshire, Mr. WELKER of Ohio, Mr. BOUTWELL of Massachusetts, Mr. MOUTON of Illinois, Mr. ASHLEY of Nevada, and Mr. HUBBELL of New York.

#### COMMISSIONER OF INDIAN AFFAIRS.

Mr. WINDOM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas by a resolution of the House, adopted on the 19th instant, the Committee of Indian Affairs, were instructed to examine into certain acts of the Commissioner of Indian Affairs, and to report the result of their investigation to the House: Therefore,  
*Resolved*, That for the purposes of said investigation the said committee are empowered to send for persons and papers.

#### PRINTING ORDERED.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the Treasury Department three hundred copies of the estimates of the appropriations for 1867-8, and two thousand copies of the report of the Secretary of the Treasury on the state of the finances, and one hundred and fifty copies of the statement of receipts and expenditures for the years 1864-5.

#### CONFISCATED AND ABANDONED LANDS.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select committee on direct taxes and confiscated and abandoned lands in the lately rebellious States be instructed to inquire whether the registers or receivers of the land offices of any of said States, have in any manner hindered or obstructed the execution of the act for the disposal of the public lands for homestead actual settlement in such States, approved June 21, 1866, and whether any persons, white or colored, entitled to the benefits of said act, have been wrongfully prevented from availing themselves thereof by any officer or agent of the Government or any person or persons whomsoever; and that said committee report the facts to this House.

#### EXEMPTION OF TIMBER FOR SHIP-BUILDING.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of exempting from tariff duties timber and lumber for ship-building, and fire-wood for steamers navigating the northern lakes and rivers, when imported by the party using them for such purposes.

#### BARTHOLOMEW AGRICULTURAL SOCIETY.

Mr. HILL, by unanimous consent, introduced a bill for the relief of the Bartholomew County Agricultural Society; which was read a first and second time, and referred to the Committee of Claims.

#### NAVY DEPARTMENT ADVERTISING.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Secretary of the Navy be, and is, directed to report to this House at as early a day

as practicable the names of the newspapers, the proprietors of which are authorized or employed to publish advertisements or to do other printing for the Navy Department, or any agent or officer thereof. Also, whether any and what directions he has given, or orders he has made, during the present year, with-drawing advertising or other printing from newspapers, and if any, from what newspapers, and the reason therefor in the case of each newspaper. Also, if any such advertising or printing has been given or directed to be given to newspapers not having such advertising or printing prior to this year, and if so, the reasons in the case of each newspaper for so giving, or directing to be given, such advertising or printing to such newspapers respectively.

Objection was made.

#### EQUALIZATION OF BOUNTIES.

On motion of Mr. JULIAN, the bill introduced by him for the equalization of bounties was ordered to be printed.

Mr. ASHLEY, of Ohio, moved that the House adjourn.

The motion was agreed to; and thereupon (at twenty minutes before four o'clock p. m.) the Speaker, in pursuance of the concurrent resolution of both Houses, declared the House adjourned until Thursday the 3d of January next.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees: By Mr. DRIGGS: The petition of D. L. Green, Lewis Green, and 60 others, citizens of Wiota, Isabella county, Michigan, praying Congress to propose an amendment to the Constitution abolishing all distinction among citizens on account of race or color. Also, the petition of Rev. Stephen A. Asbury, and 60 others, Union men of Dallas county, Texas, praying Congress to set aside the illegal government of that State, and to pass an enabling act to authorize Union men to organize civil governments therein upon the basis of enfranchising loyal men and disfranchising rebels.

By Mr. ECKLEY: The petition of J. Maxwell, and 31 others, citizens of Columbiana county, Ohio, praying for an amendment of the Constitution of the United States so as to secure the rights of all citizens without regard to race, caste, or condition.

By Mr. KELLEY: A memorial of 1,260 manufacturers and operators, citizens of Manayunk, Philadelphia, Pennsylvania, praying for the repeal of the internal revenue tax levied on all goods manufactured.

Also, resolutions and memorial adopted by the Southern Republican Association on the 8th of December, 1866.

By Mr. O'NEILL: The petition of seamen, firemen, coal-passers, and marines, who entered the service on and after February 15, 1861, asking for a bounty of \$100 per annum or \$3 33 per month for each month's service, all bounties received after July 1, 1861, to be deducted.

By Mr. STOKES: The petition of John Rogers, of Smith county, Tennessee, for a pension.

#### IN SENATE.

THURSDAY, January 3, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Thursday, December 20, 1866, was read and approved.

#### THE REVENUE LAWS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, communicating a report from Mr. David A. Wells, special commissioner of the revenue, together with a bill prepared by him as a substitute for the customs laws now in force; which were ordered to be printed, and referred to the Committee on Finance.

On motion of Mr. FESSENDEN, and by unanimous consent, it was

*Ordered*, That two thousand additional copies of the report and five hundred additional copies of the bill be printed for the use of the Senate.

#### PETITIONS AND MEMORIALS.

Mr. CHANDLER presented the memorial of William Marsh, acting United States consul at the port of Altona, in the Duchy of Holstein, in Germany, praying for compensation for services rendered as acting consul at that port, and that he may be reimbursed for money expended for office rent and clerk hire and for expenses in publishing an emigrant's guide-book, and that the consul at that port may be allowed a salary; which was referred to the Committee on Claims.

He also presented the petition of jurors summoned and now serving in the circuit and district courts of the United States for the east-



ern district of Michigan, setting forth that their compensation is only two dollars per day, which is much less than the compensation of an ordinary laborer and too little for their daily expenses, and praying for an increase of compensation; which was referred to the Committee on the Judiciary.

He also presented the memorial of citizens of Bay county, Michigan, remonstrating against the passage of an act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against any law compelling all national banks to redeem their notes in New York; which was referred to the Committee on Finance.

He also presented the memorial of citizens of Wayne county, Michigan, remonstrating against the passage of an act authorizing the curtailment of the national currency or having in view the return within a limited time to specie payments, and against any law compelling all national banks to redeem their notes in New York, and praying for such an amendment to the national bank act as will permit citizens to organize as many national banks as the demands of industry and trade may warrant; which was referred to the Committee on Finance.

Mr. WILSON presented thirteen petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented the memorial of Peter O. King & Co., Grinnell, Minturn & Co., and others, importers and dealers in sugars, remonstrating against an increase of the duty on imported sugars; which was referred to the Committee on Finance.

He also presented four memorials of manufacturers, consumers of, and dealers in linseed oil, remonstrating against an increase of the duty on foreign linseed; which were referred to the Committee on Finance.

He also presented three memorials of file manufacturers, remonstrating against an increase of the duty on steel as proposed in House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

He also presented the memorial of saw manufacturers, remonstrating against the increase of the duty on steel; which was referred to the Committee on Finance.

He also presented four memorials of consumers of steel, remonstrating against an increase of the duty on steel; which were referred to the Committee on Finance.

Mr. TRUMBULL presented the petition of William B. Mills, and others, of Chicago, Illinois, remonstrating against the passage of any act authorizing the curtailment of the national currency or having in view within a limited time the return to specie payments; which was referred to the Committee on Finance.

He also presented the petition of citizens of Woodford county, Illinois, praying for the abolition of all laws imposing duties on imports; which was referred to the Committee on Finance.

He also presented the petition of citizens of Rock Island, Illinois, praying for the establishment of a post route between Rock Island and Sterling, Illinois; which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented the memorial of the people of Louisiana, signed by William W. Pugh, chairman of levee commissioners, C. Izard, secretary special commissioners, and approved by J. Madison Wells, Governor of Louisiana, praying for aid to enable the State to raise the means to rebuild and repair the broken and dilapidated levees on the banks of the Mississippi and other rivers of that State; which was referred to the Committee on Commerce.

Mr. SHERMAN presented the memorial of General U. S. Grant, Major General George G. Meade, and a large number of other officers of the Army, praying that when old officers of the Army who have honestly and faithfully

served their country are withdrawn from active service and placed on the retired list under existing laws, they may, in addition to the pay now granted to them, be allowed their service or longevity rations, which is one ration per day for every five years' service, as now provided by law for all officers on the active list; which was referred to the Committee on Military Affairs and the Militia.

He also presented the memorial of the Legislative Assembly of the Territory of Arizona, praying for the repeal of the act approved May 5, 1866, by which a portion of that Territory, embracing the chief part of Pah-Ute county and all of Mohave county west of the Colorado river, was ceded to the State of Nevada; which was referred to the Committee on Territories.

He also presented the memorial of Rush R. Slocum, praying for a reduction of the duty on iron and steel used for railroad purposes; which was referred to the Committee on Finance.

Mr. STEWART presented the petition of the Delegates from the Territories of Utah and Arizona, praying for the establishment of assay offices for the melting, assaying, and refining of gold at Great Salt Lake City, in Utah, and the town of Prescott, in Arizona; which was referred to the Committee on Finance.

#### BILLS INTRODUCED.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce the following bills, which were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (S. No. 485) in relation to the appointment of register of wills and register of deeds for the county of Washington, in the District of Columbia; and

A bill (S. No. 486) in relation to the appointment of marshal for the District of Columbia.

#### SALE OF PERSONS INTO SLAVERY.

Mr. SUMNER. I send to the Chair the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on the Judiciary be directed to consider if any action of Congress be needed, either in the way of legislation or of a supplementary amendment to the Constitution, to prevent the sale of persons into slavery for a specified term by virtue of a decree of court.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. SUMNER. Before the vote is taken on the resolution, I desire to call the attention of the Senate to certain facts that have already become more or less familiar to the public. For instance, I hold in my hand an original notice sent to me from Maryland, which is as follows:

**PUBLIC SALE.**—The undersigned will sell at the court-house door, in the city of Annapolis, at twelve o'clock m., on Saturday, 8th December, 1866, a negro man named Richard Harris, for six months, convicted at the October term, 1866, of the Anne Arundel county circuit court for larceny, and sentenced by the court to be sold as a slave.

Terms of sale, cash.

WM. BRYAN,  
Sheriff Anne Arundel county.

December 3, 1866.

But this case does not stand alone. Here is another case on a still larger scale to which my attention has been called by a correspondent, who states that the persons mentioned in the advertisement which I am about to read were sold in his presence, before his very eyes. This is as follows:

**PUBLIC SALE.**—The undersigned will offer for sale at the court-house door in the city of Annapolis, at eleven o'clock a. m., on Saturday, 22d December, 1866, a negro man named John Johnson, aged about forty years. The said negro was convicted at October term, 1866, of the circuit court for Anne Arundel for larceny, and sentenced by the court to be sold in the State for the term of one year from 12th of December, 1866.

Also a negro man, convicted as aforesaid, named Gassaway Price, aged about thirty years, to be sold for a term of two years in the State.

Also a negro woman, convicted as aforesaid, named Harriet Purdy, aged about twenty-five years, to be sold for a term of one year in the State.

Also a negro woman, convicted as aforesaid, named Dilby Harris, aged about thirty years, to be sold for a term of two years in the State.

Terms of sale, cash.

WM. BRYAN, Sheriff.

December 15, 1866.

It seems to me, sir, that these cases throw upon Congress the duty at least of inquiry; and I wish that the Committee on the Judiciary, that reported to this body the constitutional amendment abolishing slavery, would give us their opinion on the validity of these proceedings, and the necessity or expediency of any further action of Congress in order to prevent their repetition. I do not know that the civil rights bill, which was afterward passed, may not be adequate to meet these cases; but I am not clear on that point. At the time the constitutional amendment was under consideration I objected positively to the phraseology there introduced. I thought it was an unhappy deference, if I may so express myself, to an original legislative precedent at an earlier period of our history. I regretted infinitely at the moment that Congress was willing, even indirectly, to sanction any form of slavery. But I presume that the Senate, at the time they passed upon that amendment, supposed that the phrase "involuntary servitude, except for crime whereof the party has been legally convicted," was simply applicable to ordinary imprisonment. At the time I feared that it was not exclusively applicable to what we commonly understand by imprisonment, and that it might be extended so as to cover some form of slavery. It seems now that it has been so extended, and I wish the Committee on the Judiciary to consider whether the remedy can be applied by an act of Congress or whether we must not go farther and expurgate that phraseology from the text of the Constitution itself.

Mr. SAULSBURY. Mr. President, the eastern States, especially Massachusetts—I wish to make no reflection upon the other States—have often furnished examples to the other States of the Union, and many of the other States of the Union have very willingly followed the examples thus set. The advertisements just read are very good copies of advertisements which in former years appeared in most of the eastern States, and especially in the State of Massachusetts, as any one will see who will take the trouble of reading the old files of newspapers or looking into Moore's "History of Slavery in Massachusetts." Now, sir, the Legislature of Maryland, I believe, has not been in session since the adoption of the civil rights bill, and the law authorizing these proceedings was on their statute-book. The Constitution of the United States provides that persons may be sold into slavery or involuntary servitude for crime, and I apprehend that there is nothing in the Constitution to prevent the proceedings in the State of Maryland, whether those proceedings be wise or unwise. We have a similar statute in our State; but since the passage of the civil rights bill, although there have been a number of negroes convicted for crime, they have not been sentenced, simply on account of the existence of that civil rights bill, and a number of them are now in jail. I have just received a copy of the message of the Governor of my State, in which he recommends an amendment of the State laws so as to obviate any difficulty in the administration of the criminal code growing out of the fact that the culprits may be negroes.

Mr. JOHNSON. Mr. President, I have no objection to the reference of the resolution proposed by the honorable member from Massachusetts; but, except by a constitutional change, and that made in more comprehensive terms than has ever yet been adopted or even suggested, I doubt whether the evil, if it be an evil, can be corrected. Maryland has abolished slavery by constitutional enactment; the people of the United States have also abolished it in the same way; but the question whether the abolition of slavery deprives a State of the power of punishing, by a sale of his services, a criminal is quite another inquiry. The constitutional amendment of the United States seems to suppose that there may be slavery or involuntary servitude for crime. The term "slavery" is not used, I believe, but involuntary servitude is abolished, except as a punishment for crime.

If "involuntary servitude" means slavery, it is difficult to see why the exception does not authorize the existence of slavery in an individual if he has committed a crime and the Legislature of the State where the crime is committed makes that a mode of punishment.

There is no immediate necessity, I think, as the honorable member will see, if he does not already know what I am about to mention, for taking any decisive steps in the cases to which he has adverted so far as Maryland is concerned. The parties who have been advertised, as stated by the honorable member from Massachusetts, were tried for the offenses alleged against them in the proper court at Annapolis, the circuit court for Anne Arundel county, convicted by a jury, and the punishment of sale was inflicted under the provisions of a statute which has been upon the statute-book there from the beginning of the State government. It has been supposed, however, that the judge violated the Constitution of the United States, or in some way violated the civil rights bill. That is a question of law. He has been proceeded against under the civil rights bill. He has been, or is about to be, indicted in the circuit court of the United States for that imputed offense, and his case will there be tried—and tried, I suppose, at a very early period—and will afterward be brought to the Supreme Court of the United States. When that decision is pronounced we shall know whether this species of punishment can be inflicted now; and if the court decide that it may be inflicted now, then we shall be able to decide whether it is advisable by constitutional modification or provision to prohibit such punishment in the future. I do not see, therefore, that my friend from Massachusetts will accomplish his purpose more speedily by the measure he proposes than by waiting for the action of the judiciary. The judge of that circuit in Maryland has also been called before the Commissioner of the United States under the civil rights bill, and has given bail for his appearance there. There is a certainty, therefore, that the question will be tried, and speedily tried. There will be no difficulty in getting the Supreme Court of the United States to act upon it, for whatever may be the state of legislation which renders it difficult or impossible to have some classes of cases there tried, that difficulty will not exist so far as relates to an appeal from the circuit court of the United States in Maryland, or from the superior court of that State if the case should go from there, under the twenty-fifth section of the judiciary act, to the Supreme Court of the United States.

I say in conclusion, Mr. President, and the member from Massachusetts I am sure will not be displeased to know that, that perhaps there is no State in the Union in which there is a more fixed determination that slavery, in the common acceptance of the term, slavery of the innocent, slavery on account of color, slavery on any account except for crime, shall not exist than there is in Maryland; but it is possible that the people of Maryland may think there is very little difference between consigning a man to a short term of slavery for an offense and locking him up in the penitentiary for twenty or thirty years or hanging him. I think it very probable that if the party offending was given the choice he might prefer the first instead of the second, and certainly instead of the last; that is, he would prefer serving another for a short time, when he would again become a freeman, to being hung, when of course nobody could tell what would become of him in the future. [Laughter.]

Mr. FESSENDEN. Allow me to ask the Senator if the punishment of which he speaks extends to white persons.

Mr. JOHNSON. I think it does; I am not sure.

Mr. CRESWELL. No, sir; it does not.

Mr. JOHNSON. The whipping did, I know, at one time. They do not whip now. If there is a difference, if that is the state of the law now, the Legislature of Maryland is in session,

and I have no doubt they will change it. I am not for whipping. I have seen it administered upon white men as well as black men, and it is a horrible exhibition, in my opinion. So far as the party charged is concerned, perhaps he would prefer it to the amount of punishment which exists in other States. If there be a distinction between black and white with reference to this kind of punishment, I have no doubt the Legislature will promptly correct it—I am sure they ought to do so—or if they do not, then the question will arise whether it does not fall within the inhibition of the civil rights bill, and whether the courts will enforce that measure.

Mr. CRESWELL. With regard to the evil complained of by the honorable gentleman from Massachusetts, I have a very decided opinion, and that is, that it has already been provided against by the constitutional amendment. I cannot imagine that any reasonable interpretation given to the phraseology used in the constitutional amendment could justify any such practice as has been attempted and acted out in Maryland. Those words have received an interpretation for the last eighty years by reason of their application to the northwest territory, and, so far as I am informed, a case has never been presented where a human being was placed upon the block and sold publicly to an individual to oblige him to perform involuntary service to that individual by way of punishment for crime. I ask my honorable friend from Ohio if that has ever been the case in his State.

Mr. SHERMAN. No, sir.

Mr. CRESWELL. I apprehend and have always understood that a fair interpretation of those words—

Mr. SHERMAN. I have not seen the case, but I understand a case arose either in Indiana or Illinois, and the court there decided that the "involuntary servitude" referred to must be performed under the direction of the State authorities, in the way of punishment, and must be rendered to the State.

Mr. CRESWELL. That is precisely the point I intended to make, that the words "unless for crime" applied to the phrase "involuntary servitude," and signified only that sort of involuntary servitude which a culprit may be obliged to render to the State, and never intended to authorize any individual, by reason of a decree of court or a public sale, to hold any other human being in bondage. That is my acceptance of those words, and I think it is the proper one. Therefore, under my interpretation of them, when the constitutional amendment is enforced by "appropriate legislation," which perhaps the civil rights bill may effect, there will be no difficulty with regard to any of this class of cases. If the civil rights bill is not sufficient to effect that purpose, then certainly it is incumbent on us to provide, under the accompanying clause to the amendment of the Constitution, for all this class of cases. I sincerely trust, therefore, that this resolution will be adopted, and that the committee may report at an early day.

While I am up I desire to say one word in regard to a remark which fell from my honorable colleague. He stated that in Maryland perhaps equally with any other State in the Union, [Mr. CONNESS. More.] more than in any other State in the Union, there was a disposition to dispense with all the ramifications and all the evil influences resulting from the old system of slavery. I trust in God that that is the case; nevertheless, I much doubt it. We shall see very soon what action will be taken by the Legislature, which convened yesterday, in regard to the remains of the black code now standing upon the statute-book of Maryland. We have in some measure reformed it; but the law under which these decrees have been passed, and under which these sales have been made is a relic of that code in its very worst aspect; and I apprehend that the spirit that prompted the selection of that mode of punishment, when there is an option given to the court, is the lingering spirit that the institution of slavery has begotten and cherished during

the long years of the early history of the Government. It has been selected, I say, under this statute, which applies only to the negro race, with a view, as I believe, to test the question as to how far they may go under the constitutional amendment. I hope that that question may be tested to the utmost, and if any further legislation is necessary on the part of Congress, either by bill or by constitutional amendment, that we shall not hesitate a moment to adopt it, in order to eradicate every vestige of this old spirit.

Mr. SUMNER. The remarks of the Senator from Maryland [Mr. JOHNSON] seem to me to justify entirely the proposition which I have made. I have simply called the attention of the committee to what was already notorious, but with a view to action on their part. I am not sure myself that under the constitutional amendment this abuse may not be justified. I do not pronounce any positive opinion, but I desire to have the opinion of the committee after ample consideration.

This, sir, is not the first time, however, in which incidents like this have occurred. I remember that many years ago, when I first came into this Chamber, the people that I represent were shocked very much by reading that four colored sailors of Massachusetts had been sold into slavery in the State of Texas. I did what I could to obtain their liberation, but I did not succeed. I applied directly to the Senator from Texas at that time, who will be remembered by many as a very able gentleman, General Rusk, by whose side I sat on the other side of the Chamber, and he openly vindicated the power of the court to make such a sale, and I have never heard anything of those poor victims from that time to this hour. Under the operation of the constitutional amendment I trust they are now emancipated, but I am not sure of that, since they are in Texas.

The resolution was agreed to.

#### PRINTING OF BANKRUPT BILL.

Mr. POLAND submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five hundred additional copies of House bill No. 538, and the amendments thereto, proposed by the Committee on the Judiciary, be printed for the use of the Senate.

#### LAND GRANTS FOR RAILROADS.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Public Lands inquire into the sufficiency of existing laws to protect the interests of the United States in lands granted for the benefit of railroad companies before patents have issued, and also in lands occupied for homesteads before the title has passed to the claimant, and that they report by bill or otherwise.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of December 17, 1866, reports of the assistant commissioners of freedmen and a synopsis of laws respecting persons of color in the late slave States; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and the Militia.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of July 24, 1866, information touching the probable cost of constructing a railroad on the route mentioned in the charter of the Northern Pacific Railroad Company; which, on motion of Mr. TRUMBULL, was referred to the Committee on the Pacific Railroad.

#### PEONAGE IN NEW MEXICO.

Mr. SUMNER. Mr. President, I offer the following resolution:

*Resolved*, That the Committee on the Judiciary be directed to consider if any further legislation is needed to prevent the enslavement of Indians in New Mexico or any system of peonage there, and

especially to prohibit the employment of the Army of the United States in the surrender of persons claimed as peons.

I ask for the present consideration of the resolution.

The Senate, by unanimous consent, proceeded to its consideration.

Mr. SUMNER. Mr. President, I desire to call the attention of the Senate to important facts under that resolution. I think you will be astonished when you know that the evidence is complete that at this moment in a Territory of the United States there is a system of slavery which a proclamation of the President has down to this day been unable to root out. During the life of Mr. Lincoln I more than once appealed to him to exercise his power as the head of the executive, to root this evil out of the Territory of New Mexico. The result was a proclamation and also definite orders from the Department of War; but in the face of that proclamation and of those definite orders this abuse has continued, and according to the official evidence it seems to have increased. I have in my hand the report of the Commissioner of Indian Affairs, from which I will read a short passage. I read from page 83:

"On the subject of peonage, the qualified slavery still prevalent in New Mexico, authorized by its laws and encouraged and practiced by its people, officials of Government, and natives of the United States as well as those who have been 'to the manor born,' Mr. Graves's statements, with the evidence presented therewith, are such as to leave no doubt of the duty of Congress to take the matter in hand and deal with it effectually. This office has done all that lay in its power by promulgating the order of the President forbidding the practice, and all the other Departments of the Government issued like directions to the officers responsible to them; but in spite of all this it is clear that the practice still continues to a greater or less extent."

Mr. CONNESS. Will the Senator state the date of the report he reads from?

Mr. SUMNER. It is the report of this year just made—the report of the Commissioner of Indian Affairs submitted to Congress at the opening of this session.

Then there is the report of the special agent, J. K. Graves, which is made to the Commissioner of Indian Affairs, in which he expresses himself as follows:

"Upon the subject of peonage I have given considerable thought; and inasmuch as this pernicious system of slavery still exists to an alarming extent in all parts of the Territory of New Mexico Government should at once adopt vigorous measures tending to its immediate abolition."

"The citizens here, although strictly enjoined to give recompense for all service, will nevertheless cling tenaciously to their old customs, and unless the Government, in adopting a definite policy relative to this remaining blot upon the otherwise fair scroll of freedom, sends a special power to the Territory to direct and superintend the practical details of the work of improvement the system will continue for years to come, and be marked with all its present degrading tendencies."

"A practice, sanctioned by territorial law, has obtained by which the whites are encouraged to make volunteer expeditions or campaigns against the Indians. Theoretically those participating in these raids are rewarded with the plunder obtained, but should report at the territorial offices all the captives; while practically, in most cases, the captives are either sold at an average of seventy-five to four hundred dollars, or held in possession in practical slavery. This state of things of course keeps up a state of hostility among the Indians. The intervention of Congress is asked to put a stop to this practice."

Again, in another place he says:

"This system, either in the ordinary Mexican form, that of a state of continual imprisonment or service for debt, or in that of practical enslavement of captive Indians, is the universally recognized mode of securing labor and assistance." No less than four hundred Indians are thus held in Santa Fé alone. Their treatment varies with the whims and feelings of their holders. Sometimes they are doubtless better off than when free. The arguments to sustain the system are the same as those formerly used in behalf of slavery. In spite of the stringent orders of the Government the system continues, and nearly every Federal officer held peons in service. The superintendent of Indian affairs had half a dozen. The practice of Federal officers sustained it."

It is to that that I desire to call particular attention. In the resolution which is now on your table, sir, I specially ask the action of the committee with reference to the employment of the Army of the United States in the surrender of fugitive peons. A correspondence is given in the report of the Commissioner of Indian Affairs which illustrates this. Here, for

instance, is a letter from N. H. Davis, assistant inspector general United States Army:

LAS CRUCES, August 22, 1865.

The commanding officer of Fort Selden will allow, and assist if necessary, the bearer, Don Pedro Garcia, and retain and take in his charge his peon, Antonio Rodriguez, if at said post.

By command of General Carleton:

N. H. DAVIS,

Assistant Inspector General United States Army.

To that we have the following reply:

HEADQUARTERS FORT SELDEN,  
NEW MEXICO, August 22, 1865.

COLONEL: Yours of to-day requiring me to assist in my official capacity in taking or delivering to a citizen a peon is received. I desire to be informed explicitly whether I am to take this as a precedent and to deliver to any person claiming the person of another.

This is directly contrary to civil law. The laws of the Territory, according to my recollection, have made it a penal offense to return a man to another claiming him as his own. The President of the United States has abolished involuntary servitude; it is certainly contrary to the established rules and regulations of the Government under which we live.

I should like some instructions on this point, if you require me to return those who have escaped from involuntary servitude. It is directly contrary to my opinion of law and justice, and I will only do it on positive and unmistakable orders.

I am, colonel, very respectfully, your obedient servant,

J. H. WHITLOCK,

Captain First Veteran Infantry, California Volunteers, Commanding.

Colonel N. H. DAVIS,

Assistant Inspector General, Las Cruces, New Mexico.

Then to that we have the reply of this assistant inspector general of the United States, in which he undertakes to lay down the law and the Constitution; and I am sorry to understand that he is a Massachusetts man:

INSPECTOR GENERAL'S DEPARTMENT,  
DEPARTMENT OF NEW MEXICO,  
CONCORDIA, TEXAS, September 1, 1865.

Your letter of the 22d ultimo has been received, in which your premises taken are wrong and your reasoning fallacious. Peonage is voluntary and not involuntary servitude. The Constitution of the United States or the proclamation of the President does not prohibit it. The statute law of the land expressly recognizes this servitude. It is an apprenticeship, or an agreement between the master and servant, and not only can the master arrest and take his servant peon, but the civil authorities are commanded to arrest and deliver the peon to his master when deserting him. (See Laws of New Mexico, chapter twelve: contracts between master and servant, passed by the Legislative Assembly, 1853 and 1859.)

Mr. CONNESS. Those statutes have been repealed, have they not?

Mr. SUMNER. The Senator from California reminds me that they have been repealed.

Mr. CONNESS. I think so.

Mr. SUMNER. But this learned officer who lays down the law treats them as still existing.

Mr. CONNESS. I will state to the Senator that, if repealed—and it is my impression they have been—it has been only very recently.

Mr. SUMNER. This learned officer then proceeds:

You now hold a civil prisoner arrested by military authority. The question is not whether peonage is a good or bad kind of servitude; it is whether it is recognized by law, and whether when a peon had swindled his master out of a large sum of money and deserted him, taking shelter at a military post, the commander thereof would, by extending the courtesy of aiding or acting for the civil authorities in surrendering the culprit, violate any obligation of law or duty. It seems that in the case in question he would not.

You ask for explicit instructions, and make use of disrespectful and threatening language. The first will be granted, and the latter this time overlooked.

You are hereby directed so far to aid in the rendition of peons when claimed by their masters, or there is a reasonable cause to believe they have deserted them, as not to allow them to remain on the military reservation. These instructions will be faithfully executed, in spirit as well as letter, without evasion.

By command of General Carleton, commanding Department of New Mexico.

I am, very respectfully, your obedient servant,

N. H. DAVIS,

Assistant Inspector General United States Army.

Captain J. H. WHITLOCK,  
Commanding Fort Selden, New Mexico.

The special Indian agent who reports this correspondence very aptly adds:

"The aid of Congress is invoked to stop the practice."

I hope the Department of War will communicate directly with General Carleton, under whose sanction this order has been made, and I hope that our Committee on the Judiciary

will consider carefully if any further legislation is needed in order to meet this case. A presidential proclamation has failed; orders of the War Department thus far have failed; the abuse still continues, and we have a very learned officer in the Army of the United States undertaking to vindicate it.

Mr. CONNESS. I wish to say a single word (as the morning hour is nearly closed and we cannot go to other business) in connection with the pending resolution offered by the Senator from Massachusetts. The officer spoken of and mentioned, Captain Whitlock, is personally known to me, and his communication, which has been read, is but additional evidence to me of his great personal and official rectitude as a public servant. It is also known to me, as it has been for perhaps four years past, that the administration of military affairs in the Territory of New Mexico has been a standing disgrace to this Government. I have made efforts in the direction of a change—all the efforts that I was capable of making; but in all the applications and in all the presentations I have made, both to the President and to the War Department, I have found that at every point the case was, to use a common term, blocked. There was no such thing as even inquiring into the administration of General Carleton in New Mexico. While the war went on I had supposed there was some excuse for this, but now when it is over there is no longer excuse, and this record presented here this morning is but one single additional fact in the whole line of maladministration in that Territory. I think it is a fact. I think I have evidence in my position that this officer, high in command in the United States Army and in the administration of its military affairs, is personally interested at this time, and has been, in leasing and letting to the Government of the United States the houses they use and the posts they occupy upon their own land.

But, sir, I did not intend to more than call attention to the matter. I have failed utterly in all the attempts I have been able to make in getting such attention to the subject as would lead to a correction. I hope that this inquiry will go in that direction and finally be effective.

Mr. TRUMBULL. Mr. President, I have no disposition to resist the investigation the Senator from Massachusetts desires, but it seems to me that, as this is a complaint against the Army and the manner in which its officers are discharging their duties, it more appropriately belongs to the Military Committee, and I suggest to him that he had better send it there. I do not see what the Judiciary Committee can do with it. Military commanders certainly have some authority to meet the case. General Grant or the President can supersede the officer there at any time; the Secretary of War has the means of having his orders enforced. I understand the Senator to state that the Secretary of War has issued orders and that they are not obeyed. I presume that the military laws provide the means of enforcing the orders of the War Department, and I am quite sure that if they do not, his colleague, who is at the head of the Military Committee of the Senate, can very soon provide a law that will give the Secretary the power to enforce his orders.

Really, it is not a matter of which the committee to which the Senator proposes to refer it has any peculiar knowledge. It would be groping in the dark. It is not a subject familiar to the members of the committee; and if it has connection with Indian or military affairs it seems to me it had better go to one of those committees, who are familiar with the manner in which Indian affairs are conducted and are familiar with the conduct of our officers belonging to the Army who are in the Indian country. I suggest that it had better take one of those directions.

Mr. SUMNER. I was not entirely clear as to the committee to which this reference should be made. I at first indeed thought of the Committee on Indian Affairs, and I then thought of the Committee on Military Affairs;



but I finally selected the Committee on the Judiciary on this ground: the constitutional amendment proceeded from that committee, and such legislation as we have since had by virtue of that amendment has proceeded from that committee; and it seemed to me, therefore, that perhaps that was the proper committee to consider whether the constitutional amendment had full application to this case, and whether any further legislation was necessary in order to carry it practically into this Territory.

That was the consideration that governed me when I selected the Committee on the Judiciary. I still think that logically and according to the course of business in the Senate it properly belongs to that committee; but if the Senator from Illinois is not disposed to consider it, if he objects to having it referred to the Judiciary Committee, I am perfectly willing that it should go to either of the other committees. My special object is to bring it before the Senate, and I have occupied the time that I have today very reluctantly; but still from a sense of duty, feeling that it was important that these documents and facts which I have laid before you should be presented. Having presented them, I thought that the committee would have before it the materials on which to begin its inquiry, and that the inquiry would be to a certain extent of a judicial character. It would be whether under the Constitution and existing laws of the United States this abuse was prohibited and whether any further legislation was needed in aid of that which we already had. If the committee on inquiry should consider that the abuse under the Constitution and existing laws is prohibited, such a report would then throw a responsibility upon the executive branch of the Government. However, if the Senator perseveres in his desire that the reference be changed I shall consent.

Mr. TRUMBULL. The Senator does not understand me as objecting to the inquiry at all; but I desire to ask him whether he has any doubt that the law sufficiently provides against this abuse. On his own statement of the case, a subordinate officer disobeys a proclamation of the President and orders of the War Department. Does the Senator from Massachusetts mean to imply a doubt as to whether that subordinate officer has a right to do that by sending it to the Committee on the Judiciary to inquire into it? Is there any doubt about it?

Mr. SUMNER. I have no doubt about it. Mr. TRUMBULL. Then it seems to me that we ought not to let that officer suppose there is any doubt about it by referring the matter to a committee to inquire whether any legislation is necessary. If there is no doubt about it let the Committee on Military Affairs inquire why this officer does not obey the orders of his superior and the laws of the land as they exist. It seems to me that is the proper direction for it.

I make no objection to the inquiry; the Senator must not understand me as objecting; but it does seem to me that it implies a question whether he is not justified in the course he has pursued. I do not understand that a subordinate officer in New Mexico is justified under any circumstances in disobeying a proclamation of the President and orders of the War Department. I understand the case to be, according to the Senator's statement, that an officer in New Mexico has done so.

I merely make the suggestion to the Senator from Massachusetts that the proper committee to make any inquiry in the case would be the Military Committee, for it seems that it is a case of disobedience of orders. The Senator himself has no doubt that the law already sufficiently provides, if it be enforced, for the case.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of the last day's session which is Senate bill No. 456.

Mr. SUMNER. I hope we shall have a vote upon this resolution. I will let it go to the Committee on Military Affairs. ["Agreed."]

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Military Affairs by common consent, no objection being interposed.

#### ADMISSION OF NEBRASKA.

The PRESIDENT *pro tempore*. The unfinished business of the last day's session is Senate bill No. 456, for the admission of the State of Nebraska into the Union, which is now before the Senate as in Committee of the Whole, the pending question being on the motion of the Senator from Indiana [Mr. HENDRICKS] to postpone its further consideration until Monday, the 7th of January, and make it the special order for that day at one o'clock.

Mr. HENDRICKS. I do not care about insisting on that motion. If it is the pleasure of the Senator from Ohio to go on with the consideration of the bill I have no objection to its consideration. I merely suggested that day as being a day after the adjournment.

Mr. SUMNER and others. Let it go over.

Mr. HENDRICKS. I suppose the Senate is so thin that the Senator from Ohio would scarcely desire to go on to-day.

Mr. WADE. The Senate is very thin to-day, and I do not know that it would be right to press the bill in a thin Senate; but I shall insist whenever it is taken up again that both it and the Colorado bill be disposed of, if I am able to do it. I shall have no objection to its going over to Monday with that understanding. I will not resist the motion to postpone until Monday, the 7th, and make it the special order for that day.

The PRESIDENT *pro tempore*. That is the motion as it now stands.

The motion was agreed to.

#### SELECTION OF JURORS IN UTAH.

Mr. WADE. I now move to take up Senate bill No. 404, for the purpose of having an amendment offered by the Senator from Michigan, [Mr. HOWARD.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes.

Mr. HOWARD. I offer an amendment to the bill which has just been taken up, and I desire that it may be printed. The amendment consists of several additional sections. This is an amendment to be offered when the bill is taken up for consideration. I desire to have it printed.

The motion to print was agreed to.

Mr. WADE. I did not have the bill taken up with a desire to go on with it now, but simply that the amendment might be printed so that we may all see it. I shall ask, however, that it be taken up at an early day and pressed to a final decision whenever the Senate will agree to do so. I move now that the bill lie on the table.

The motion was agreed to.

#### TENURE OF OFFICE.

Mr. EDMUNDS. I wish to give notice that I shall to-morrow morning ask the Senate to proceed to the consideration of Senate bill No. 453, to regulate the tenure of office. I think it quite important that the bill should be considered, and I hope Senators will be ready to begin to-morrow its consideration.

#### LAND OFFICE REPORT FOR DISTRIBUTION.

Mr. RAMSEY. There is a resolution on the table offered on the last day of the sitting of the Senate providing for printing an extra number of the report of the Commissioner of the General Land Office. I hope it will be taken up now.

The motion was agreed to; and the Senate proceeded to consider the following resolution, reported by Mr. STEWART on the 20th of December, 1866, from the Committee on Public Lands:

*Resolved*, That there be printed of the report of the Commissioner of the General Land Office, with the accompanying large connected map, five thousand

copies in the German language, five thousand copies in the French language, five thousand copies in the Swedish language, and five thousand copies in the English language, for distribution in foreign countries; and five thousand copies for the use of the Senate; and the Secretary of State is requested to cause the distribution of the aforesaid twenty thousand copies through the commissioner of the Paris Exposition, or such other persons as in his discretion he may deem proper.

Mr. SUMNER. Since that resolution was before the Senate my attention has been particularly called to its character by a gentleman who is very much interested in it, who is himself a foreigner by birth and very familiar with the ways in which foreign population should be approached. He thought that the publication of all the Land Report, with which he was very familiar—he had read it and thought it a very fine report—but he thought that its publication and translation into foreign languages would be entirely unnecessary; indeed, that it would be useless, that there was but one part of it that would be of any essential service in promoting emigration; that was the part relating specially to the homestead law and the sale of public lands; that all the rest would be regarded as irrelevant and out of place, and that it would be a useless expense. He thought that our purpose would be better accomplished if we should provide for the publication of only the part to which I have referred. That would of course be less expensive, and it would be more sure of being read and of attracting attention. I unite with my friend from Minnesota in a desire to put before the people of foreign countries the knowledge to which he refers; but I wish that it should be done in the way the most economical and the most practical, and he knows as well as I that very important facts and information may be lost as it were in an immense mass of published matter, which people will not read. If you wish to produce an effect and to reach people, make your reports short, direct, practical, and print only that which bears directly on the points which you have in hand.

I throw out these remarks now for the consideration of my friend from Minnesota. I do not wish to interfere with the resolution at all. I am in favor of its adoption in such form as after consideration shall be deemed best; but I do submit to him that the resolution in the present form will carry us into a needless expense, and will not in the end accomplish so much good as the publication of a small part of the report.

Mr. STEWART. I have taken some pains to ascertain the cost of the publication proposed by this resolution, and have before me the letter of the Superintendent of Public Printing on that point. The estimate which he makes of the cost is \$27,297 25 for the publication of twenty-five thousand copies, as provided in the resolution. I have read this report of the Land Office, I will say, with great interest, and it is a matter of pride to the American people that there should be there collected together so much valuable information with regard to our agricultural and mineral resources, and the facilities for settlement which our country presents to those who wish to come among us. I have no doubt this publication will bring back many times its expense in inducing that kind of immigration which we need for the development of our country, and I doubt very much whether any condensation of it can be made which will present it in a more readable form. I think the whole report is exceedingly interesting; it is clear in statement and easily understood, and the information which it is desirable to circulate can be found not only in detail, but in condensed form in the report, and I believe it is in as good form for publication as we can possibly get it. I regard it as a matter of great importance that this publication should be made. The Committee on Public Lands were unanimously of the opinion that the whole report ought to be published, and I hope the resolution will pass.

Mr. GRIMES. I desire to inquire of the Senator from Minnesota, who has this resolution in charge, in what language the five thou-

sand copies that are to be published for the use of the Senate are to be printed.

Mr. RAMSEY. The language usually recognized by the Senate—the English language, the language of the Government. The provision is for printing five thousand copies in German, five thousand copies in French, and five thousand in one of the Scandinavian languages, and then five thousand copies for the use of the Senate. But the honorable Senator from Iowa is mistaken; I have not charge of the resolution. It was offered by the Senator from Nevada. I have a great desire to see this publication made. I think it will be of great use in inducing immigration to our Territories in the West. The whole book is of immense importance, and I think it should not be mutilated and scraps published. I say this in reply to the honorable Senator from Massachusetts. Every part of this report is, I think, of direct interest to the people in Europe who propose emigrating to this country.

Mr. GRIMES. I suppose that the people whom I have the honor in part to represent are as much interested in foreign immigration as the people of any other State, and I imagine that I have been about as familiar for the last twenty-five or thirty years with that subject as almost anybody here; and I agree fully with the friend of the Senator from Massachusetts, whoever he may be, that the scheme suggested by him, in order to reach the people who are likely to be emigrants, is the only feasible one that has been proposed. Why, sir, if this book be published in the Scandinavian, German, and French languages, how many people do you suppose it is going to reach who have any idea of ever emigrating to this country? If you want to secure emigration by it, if that is the purpose to be accomplished, you must have a compilation that can be put into the hands of the man who desires to emigrate—not a great book; a statistical volume.

Then I doubt exceedingly whether you have devised here the proper method of distribution. It is proposed that these books, when they shall be printed, with the accompanying maps, shall be sent to this great glorification institution at Paris, and thence be distributed, without any specific method devised as to the manner in which the distribution shall be made. If you had a little compilation of the volume which you could send to your consuls at Bremen, Basle, and other shipping points and interior points whence the emigration comes, for those consuls to put into the hands of those persons who are likely to be emigrants, and if you placed with them money for the purpose of providing for the publication of information in the local newspaper, you would accomplish some good; but you will never accomplish anything by sending out five thousand copies in these different languages to somebody at the Paris Exposition, to be distributed among the sight-seers who may go to the Paris Exposition next summer.

Mr. STEWART. The resolution contemplates other modes of distribution besides that. It is left with the Secretary of State to distribute it otherwise. The reading of the resolution, I think, will relieve the Senator of that difficulty.

Mr. GRIMES. Why not leave the whole subject to the Secretary of State? Why not allow him, through the gentlemen in his Department, who it is supposed are to make the translation of this book, to publish just such parts of it as he believes will be of advantage to the Government? Why do we choose to burden the Government with the expense of publishing this large volume for distribution in Europe? It seems to me we ought to be satisfied that it is not going to be of any benefit in the hands of the emigrant. It may be of some advantage to be placed in some local libraries in Europe, but not for the purpose of securing that which we profess that we desire to secure by the passage of the resolution.

Mr. CONNESS. Mr. President, in circulating intelligence among any people, the modes and channels through which it is to pass are

essentially local in their character and can never be fully understood or known by other peoples. Our duty in this case, as it appears to me, if we propose to send out information of the character proposed in this resolution, is to send out the information through the best instrumentalities that are at our disposal for giving it circulation in the countries to which we desire to send it, and then depend upon those local modes for its distribution. It is in vain that we can expect to put the facts most interesting, no matter what shape we give it, into the hands of each person who desires to emigrate to the United States from any foreign country. We cannot expect that. It is proposed now in this case that we limit the publication to certain parts of this report; and it was stated by the Senator from Massachusetts, who informs me that he has not read the report, that he was told there was but a certain small portion of it which was useful for the purposes in view. I differ very much with the source of the Senator's information. I have read and examined this report, and it is, as I think, one of those complete presentations of the whole subject from which you can take no part without doing it injury. The expense will be as nothing compared to the benefits that must necessarily result. I do not believe that we can make any investment of public money so profitable as the one proposed. I hope the publication will be authorized.

The resolution was adopted.

#### MILWAUKEE AND ROCK RIVER CANAL.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate joint resolution No. 102, construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution, the pending question being on the motion of Mr. TRUMBULL to reconsider the vote by which the Senate passed the joint resolution.

Mr. TRUMBULL. When this matter was up the other day I commenced to make a statement about it. I have called at the Clerk's desk this morning for the papers. In order to arrive at an understanding of the matter it is necessary to state the facts, but the papers do not seem to be with the resolution. It is a matter about which there was a difference of opinion in the Committee on the Judiciary; and in my judgment the claim is not one which the United States ought to pay at all. It is a question whether \$25,000 shall be paid out of the Treasury of the United States to a company formed in Wisconsin to construct a canal. The Senator from Maryland [Mr. JOHNSON] will probably recollect it. We had it before our committee. I think he was in favor of paying it; I am not so sure as to that. There was a difference of opinion in the committee, and a majority were in favor of paying it; but in order to make a statement of the case, as it occurred some time ago, it is necessary that we should have the papers, and I suggest to my friend from Wisconsin to lay it aside until the papers can be found.

Mr. JOHNSON. Permit me to ask if the resolution did not pass.

Mr. TRUMBULL. Yes; it passed without any discussion in the Senate. I was not present when it passed. There being a difference of opinion in the committee, I thought it due to the Senate that the facts should be stated on the question of reconsideration. When that is done, I shall be satisfied if the Senate vote for the payment of the money. In the meantime, however, as the papers are not here and I cannot state as clearly as I would like to do the facts in regard to it without the papers, I suggest that it be laid aside until the Clerk finds them. He will probably get them in a few minutes. In the meantime, if my friend from Wisconsin will consent, I will move that we proceed with the consideration of House bill No. 828, to repeal the thirteenth section of the confiscation act.

Mr. HOWE. This motion rather crowds me. I do not wish to urge the Senator from Illinois forward in the consideration of this particular resolution unless he can put his hands upon the papers which he needs to comment upon the resolution; but this resolution passed at the last session of this Congress, and my friend from Illinois interposed a motion to reconsider the vote by which it passed. It was one of the last days of the session, and I was not enabled to get a vote upon that motion to reconsider during the session. It has gone over until this time, and it is now the second of the three months of the session. I think the Senator, instead of moving to postpone the further consideration of this resolution, if he wants these papers, ought to consent to let it lay aside informally until he ascertains whether he can find the papers and not take up another matter that will lead to debate.

Mr. TRUMBULL. I do not wish to delay action on this joint resolution. It had entirely escaped my recollection, until it was called up the other day, that it stood on my motion to reconsider it. I have no earthly interest in it and will not delay it one moment. These papers that I speak of are not papers in my possession. The Senator from Wisconsin will want them quite as much as I do, or the Senate will. The Senate certainly will not vote \$25,000 out of the Treasury of the United States without knowing what it is about, and the resolution itself does not show anything at all about it. We want the papers. Senators certainly will not just simply vote because somebody brings in a resolution to pay \$25,000. The Senator from Wisconsin will not ask it.

Mr. HOWE. Let it be laid aside informally.

Mr. TRUMBULL. These are papers that are on the files of the Senate and that ought to be here when we consider the resolution. I will say to the Senator from Wisconsin that I will not delay the matter. I have no such intention. I regret that it should have gone over the former session. It was probably inadvertently that it went over; I do not know; the Senator from Wisconsin may have had it upon his mind, but I had not. The only reason why I made the motion to reconsider was that the resolution had passed without consideration in the Senate and had passed when I was not present, and the views of the minority of the committee who disagreed to reporting in its favor were not presented to the Senate. I am willing that it should be laid aside in any way; I do not wish to delay it at all.

Mr. HOWE. Very well; I consent to that.

The PRESIDENT *pro tempore*. It is suggested that the joint resolution before the Senate be laid aside informally. It requires common consent. The Chair hears no objection to that course, and the resolution is laid aside informally. The question now is on the motion of the Senator from Illinois; to proceed to the consideration of House bill No. 828.

The motion was agreed to, and the consideration of the bill (H. R. No. 828) to repeal section thirteen of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, was resumed by the Senate as in Committee of the Whole, the pending question being on the amendment of Mr. SAULSBURY, to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That the act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Mr. HENDRICKS. If I recollect correctly, that amendment was proposed by the Senator from Delaware, [Mr. SAULSBURY.] He is not in his seat now. He was a few minutes since. I think he intended to discuss the amendment briefly. The Senator from Illinois may know the fact. I submit to him whether he desires to press the bill now. The Senator from Delaware was complaining of not having been well during the recess, and perhaps he has gone out on that account; I do not know.

Mr. TRUMBULL. The Senator from Maryland [Mr. JOHNSON] I think had the floor on this bill. The Senator from Delaware was in his seat this morning.

Mr. HENDRICKS. I know he was, and he was complaining of having been unwell, though I did not understand that he was unwell to-day; he may be; I do not know. He offered amendment, I believe.

Mr. TRUMBULL. We must proceed with some business. There are a great many Senators absent. I do not wish to take advantage of the absence of Senators.

The PRESIDENT *pro tempore*. The Chair is advised that the Senator from Maryland [Mr. JOHNSON] was discussing the bill at the expiration of the morning hour, when the bill was last under discussion.

Mr. HOWE. I propose that the Senate resume the consideration of Senate joint resolution No. 102. I find on inquiry at the desk that there are no papers in the custody of the Senate. If there were any papers before the committee they were those used upon the hearing there. I am informed at the desk that this resolution was offered by myself and referred by the Senate to the Committee on the Judiciary and by the committee reported back; and the resolution itself is the only paper in the possession of the Senate.

The PRESIDENT *pro tempore*. That joint resolution having been laid aside informally by common consent, the Chair thinks it is in the power of any Senator to demand its consideration again and to bring the subject before the Senate. The joint resolution (S. R. No. 102) construing and giving effect to the joint resolution entitled "A joint resolution for the relief of the State of Wisconsin," approved July 1, 1864, will be therefore considered as before the Senate, the question being on the motion to reconsider the vote by which this joint resolution was passed.

Mr. TRUMBULL. If the Senator from Wisconsin insists upon going on with this resolution I shall not object, though I think it would be better to wait till we have the papers here. I know the fact that there were papers before the Committee on the Judiciary. I was opposed to this report, and I know the fact that those papers were sent with the resolution. I do not know what has become of them.

The question is a somewhat complicated one; but I will try and make such of the Senators as will listen to me for perhaps ten minutes understand the reason why I think this money ought not to be paid. It is a proposition to take \$25,000 out of the Treasury and give it, I think, to the canal company. I am not quite sure that it gives it to the canal company. I will read the resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the resolution entitled "A resolution for the relief of the State of Wisconsin" dated July 1, 1864, be so construed as to entitle the Milwaukee and Rock River Canal Company to reimbursement, out of the canal land fund therein mentioned, for the amounts which are proved to have been paid out by it for interest in carrying on the work mentioned in said former resolution in the same manner as for other sums by it expended. Also for the amount which is proved to have been expended by it in necessary repairs and management of the canal after the date of said resolution, but before the date of the settlement made thereunder: Provided only, That said company shall not receive more than the amount of the residue of the trust fund arising from the sale of the canal lands charged against said State in said settlement and not heretofore paid over to said company; and the Secretary of the Department of the Interior shall complete the settlement by making said further allowances to said company up to the amount of said residue of said canal lands fund, and the same shall be paid to said company out of any moneys in the Treasury not otherwise appropriated.*

I was under the impression that the resolution limited it to \$25,000, but it seems it does not. It would perhaps appear to do so by construction if we had all the papers here to show how much this trust fund amounted to; but as the Senator from Wisconsin insists upon going on without them, I cannot state the amount at this time. I am not sure whether it is \$25,000.

The case, Mr. President, is about this: some years ago, when Wisconsin was a Territory, this canal company was chartered by the territo-

rial Legislature, and a grant of lands was made by Congress to the Territory of Wisconsin for the purpose of making this improvement on condition that the improvement should be made. It so turned out that the improvement was not made; the proceeds of the lands were squandered. In process of time a dispute arose between the canal company and the State of Wisconsin, the State of Wisconsin being responsible to the United States for the value of the lands in case they were not used to make this improvement, and the improvement failed. The State of Wisconsin and the canal company got into a controversy, and they came to Congress and asked Congress to settle the difficulty between them; and singularly enough, Congress entered in to make the settlement between the canal company and the State of Wisconsin and authorized an officer of the Government—perhaps the Commissioner of the General Land Office, but I cannot state positively, having none of the papers here—to make a settlement between the State of Wisconsin and this canal company. Congress directed that in making the settlement the State should be charged what she had received for these lands, but not less, at any rate, than \$1 25 an acre, which was the minimum price at which the Government sold lands. The Commissioner charged the State with these lands at \$1 25 an acre. In this settlement the State was to have a credit for all the money that the company had expended in undertaking to make their improvement. The Commissioner went on and made the settlement, and allowed a credit for every dollar that the company ever expended, and they have got it.

Now what more is wanted? The Commissioner said they were not entitled to interest on the money they borrowed to make the improvement with, but this canal company say they were. They say, "we were a poor company; we could not make the improvement; it is true we had these lands, but we had to go and borrow money, and we paid extravagant rates of interest—ten per cent.—in order to get money to make the improvement that has never been completed, and now we insist that we shall be paid back the interest that we paid out." The Commissioner decided that the law—there was a resolution passed on this subject—did not authorize him to allow interest to this company. The amount they now claim, my recollection is, is \$25,000. Am I not right about it?

Mr. HOWE. Twenty-four or twenty-five thousand dollars.

Mr. TRUMBULL. Under the law his decision was that they were not entitled to interest. I think his decision was right. I think if any member of this body were to agree to purchase a house in this city and to pay for it what it cost he would not suppose that he had not only to pay the actual amount of money which was paid out for the construction of the building, but also any rate of interest which the constructor had paid for the use of the money which he used in the putting up of the building. I do not think the resolution of Congress intended to refund any interest of this kind.

This statement presents about, as I now recollect it, what the question in controversy is. I think, in the first place, the Government of the United States should have had nothing to do with this settlement between this canal company and the State of Wisconsin; but I am not going back now to complain of the legislation of Congress. Congress thought proper to undertake to settle these accounts and appointed an officer of the Government to do it. That officer has made the settlement. It is not satisfactory to this company because they have not got, as they say, the interest which they paid on the money which they borrowed to make the improvement, and that amount claimed is about twenty-five thousand dollars. I think that the officer of the Government—the Commissioner of the General Land Office I believe it was, but I am not sure—who decided it, decided it correctly, and that nothing more is justly due this company.

The CHIEF CLERK. Here are the papers.

Mr. TRUMBULL. The papers have come to light, I understand.

Mr. HOWE. The recollection of the Senator from Illinois is not entirely accurate in reference to the history of this claim. He is quite correct in saying that many years ago Congress made a grant of land to the Territory of Wisconsin for the purpose of constructing a canal in Wisconsin. He is entirely incorrect in supposing that the State of Wisconsin was charged with any responsibility about that growing out of the failure to construct the canal. The State of Wisconsin was not in existence; the grant was made to the Territory; and the Territory was expressly directed by the terms of the grant to dispose of the land and to pay the money over to a particular agent named in the act, to wit, the Milwaukee and Rock River Canal Company. The only thing possible for the Territory to do in compliance with the act was to sell the land and pay the money over to the company. What the company did with the money was a matter over which the Territory had no control. But it was required that the canal should be built; if not built the Government was entitled to receive the lands back, and the State might make herself liable to pay for the lands if, when the Territory became a State, she by an act of her Legislature accepted the terms of the grant.

The State never did accept the terms of the grant. Long before the State came into existence the work was proved to be a failure. And the State had no controversy with the canal company, none whatever; and we never applied to Congress to settle any difficulty with the canal company. The State claimed that the United States owed her five per cent. of the net proceeds of the public lands disposed of within her limits, and we asked the United States to pay that simple claim which you paid to everybody else. They had an account in the Interior Department showing precisely what it was, but they would not pay it. Why? Because they said the United States had made this grant of lands to the Territory to build the canal; the canal had not been built, and the lands had not been paid for. The State answered that she was not responsible for building the canal, and was only responsible for the right use of the money received from the grant. A portion of the lands granted had been sold by the Territory, and part of the money had been paid over to the company, as the act making the grant directed; another portion had not been paid over; and the State said, "We are undoubtedly responsible for this money which we have received from the lands and which we have not paid over to the company; that money is in our hands; it does not belong to us." The canal company said, "It belongs to us." We rather thought it belonged to the United States. At all events, and inasmuch as we received the lands from the United States, we thought we ought to account to the United States for the lands. The question was a question between the canal company and the Government of the United States, which owned the money in our hands that we had not paid over. That was the question which Congress was called upon to settle and did settle by the resolution of July 1, 1864. That resolution I have. There you decided that that money, to the extent of the expenditures made by the canal company, belonged to the company; that it was a fund put in the hands of the Territory for the express use of that company in the execution of that work; and if they put their own money in lieu of the money derived from those lands they ought to have the money derived from the lands to that extent; you decided that; here is your resolution; you said then this:

"That the Secretary of the Department of the Interior shall, in adjusting the amount due the State of Wisconsin under existing laws as five per cent. of the net proceeds of sales of the public lands within her limits, estimate and charge against her the value of the one hundred and twenty-five thousand four hundred and thirty-one and eighty-two one hundredths acres of land granted to the Territory of Wisconsin to aid in the construction of the Milwau-



kee and Rock River canal, which have been sold by said Territory or said State at \$1 25 per acre, and as much more as the Territory and State received upon the same upon sales of any part thereof at a higher price."—

He was to charge us with this quantity of land at \$1 25 an acre, and if we sold any of it for more than \$1 25, to charge us that extra sum—

"and shall credit said State with the amount that has been legally and properly applied by said State or Territory toward the cost of selling said land and toward the construction of said canal."

That is the way the Secretary was to settle with us; give us credit for the five per cent., charge us with the lands at what we got for them less the amount which it cost to make sale of the lands and the amount which we had paid over to the company. Well, then, about the company:

"And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated, not exceeding in amount, however, the balance charged against the State of Wisconsin upon the sales of said canal lands, as above required, after deducting the sum allowed said State for money paid by her out of the same fund."

That is the way you proposed to treat the canal company. When you had set off against what you owed us on the five per cent. fund the amount of money in our hands derived from the canal grant, that money was then in your hands; it was then in the Treasury of the United States, and you directed here that out of that fund, to the extent of it, should be paid this claim of the canal company; for what?

"Such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair."

Under that resolution the Secretary of the Interior undertook to adjust this account.

Mr. HENDRICKS. The Commissioner of the General Land Office.

Mr. HOWE. The Commissioner of the General Land Office acting under the instructions of the Secretary of the Interior. The Secretary of the Interior is the officer mentioned in the act. The company said that some of the money they expended they had borrowed under the charter which created the company, for it was chartered by the Legislature of Wisconsin; but that charter was sanctioned by the Congress of the United States. In that charter they had authority to borrow money; they did borrow money, and of course when they borrowed money they had to pay the money and had to pay interest on it. The Senator from Illinois says they paid extravagant rates of interest. I never heard that asserted before. The other day I believe the Senator made the same remark when undertaking to open this question; but upon inquiry I am instructed that only seven per cent. was ever paid by the company, except in one instance for a small sum of money, I forget whether \$150 or \$1,500. Lawful interest is all they expect to recover, however. They expect to recover that simply because they paid it. Being authorized to borrow money, they did borrow money; and having borrowed money they had to pay it back, and they had to pay interest on the sum they borrowed. Now to the extent that this fund is unexpended they say they have just as good a right to the interest they paid as they have to the money they put into the work; and the question before the Senate is whether they have that right under the terms of this resolution which I have just read to you, for the only purpose of the present resolution is to explain the resolution that I have just read.

It is not to grant any new right; it grants no dollar of money to anybody; its purpose is to declare what was the meaning of the act you passed in 1864. That did not make a grant. That prescribed what was the right of this canal

company under previous laws of the United States. If this company have the same right to recover the interest they have paid out that they have to recover any other money they paid out in the prosecution of this work, then you ought to vote for the resolution before the Senate, because that is what this resolution declares. If they have not, if there is a distinction to be made between the money they put into a dam directly and interest paid on money that they borrowed and put into a dam, then this resolution ought not to receive the assent of the Senate.

Mr. HENDRICKS. Mr. President, two or three years ago this subject was before the Committee on Claims, and as a member of that committee I investigated it, it having been referred to me for that purpose. I thought that the adjustment between the State and the company ought to be made and ought to be made upon equitable principles. I thought there were principles which were administered in courts of equity peculiarly applicable to the relations between the company and the State in regard to the lands that had been granted by Congress in 1838, and I concur with the Senator from Wisconsin in the opinion that both as a question of law and a question of equity the resolution now before the Senate ought to pass, or rather that the motion to reconsider ought not to prevail.

In 1838 Congress made a grant of land to the Territory of Wisconsin to aid in the construction of this canal. It was held by the Department to be the plain meaning of the law that the Territory was but a trustee for the canal company because of this fact: in the early part of that year the Territory of Wisconsin organized or created the company known as the Milwaukee and Rock River Canal Company, and authorized it to construct a canal so as to connect the waters of the lake with Rock river; in that act of incorporation the territorial Legislature authorized the company to borrow money on interest; and also expressly authorized the company to apply to Congress for a grant of land in aid of the enterprise; and in pursuance of that authority in the act of incorporation the company as a company memorialized Congress for lands, and upon the memorial of the company the lands were granted to the Territory to construct that particular canal. So that it was always held, and very properly, that the Territory became a trustee for the company in the management and disposal of those lands. Some time afterward the territorial Legislature refused further to carry out the trust; having sold part of the lands, refused by a resolution to pay the proceeds over to the canal company, and directed the officers of the Territory not to pay over any money upon future sales. Here, then, was money in the hands of the Territory and afterward in the hands of the State arising out of a trust fund. Because the territorial Legislature and the State of Wisconsin refused to pay over this trust money the canal company found itself out of means and under the power given in the act of incorporation borrowed money. If the money in the hands of the Territory and of the State arising from the sale of these lands had been handed over to the company it would not have needed to borrow money; but it had to borrow money because of the refusal of the State and of the Territory to recognize the trust which the act of incorporation and the act of Congress both recognized. This was a thing that Congress thought ought to be corrected; Congress thought this was wrong; and the Senator from Michigan [Mr. HOWARD] in a report made to the House of Representatives, as far back I think as 1842, clearly laid down the obligation of the State of Wisconsin and of the Territory in regard to this trust fund; and I incorporated that report in the report which I made to the Senate two years ago upon this claim.

When the State of Wisconsin asked to be admitted into the Union she asked that certain lands granted for internal improvement purposes might be made, at the pleasure of the

State, a school fund instead of an internal improvement fund. Congress agreed to that, but upon the express condition that the State should settle this claim with the canal company in regard to this trust fund. That is found in the act admitting the State of Wisconsin into the Union, and made her right to the five per cent. fund depend upon her settlement of this trust fund, so that Congress became in fact a court of chancery in regard to the trust fund by the very act admitting the State of Wisconsin. It was for that reason I thought Congress had to settle this question. For that reason I differed with the Senator from Illinois, who thought that Congress ought not to settle a question between the State and the company. I thought Congress had undertaken to settle it in the act admitting the State of Wisconsin, making it a condition of her right to her five per cent. fund from the sales of public lands that she should settle this equitable claim of the canal company.

Upon this whole case the joint resolution of July 1, 1864, was passed, and it provides how the adjustment shall be made: that the State of Wisconsin shall have her five per cent. fund, but there shall be taken out of it this trust fund; the State shall first be charged with all the lands she has sold, one hundred and twenty-five thousand acres; she shall then be credited with the money she paid over to build the canal; then the company shall have the money it expended in building the canal, in keeping it in repair, building locks, feeders, &c. When it came to be settled the Commissioner of the General Land Office said he would not credit the canal company with the interest which it paid upon money which it borrowed, and which it was compelled to borrow because the trustee refused to pay over the trust money in her hands; and how any Commissioner of the Land Office could decide that I was not able to see.

Mr. JOHNSON. Who was the Commissioner?

Mr. HENDRICKS. Mr. Edmunds. That is just the question here, whether the canal company under this act was entitled to the interest which it paid upon money which was borrowed under an express authority given by the territorial Legislature of Wisconsin to borrow money, and which it borrowed because the State and the Territory refused to pay over the trust fund. It seemed to me too plain to admit of discussion.

The question that the honorable Senator from Illinois suggests cannot come before the Senate now, because this whole subject is under the control of Congress. It comes under its control by the resolution passed two years ago, and by the act admitting the State into the Union. It is a matter that we must control, and we alone. Here is a sum of \$24,000, as I understand, money that was realized by the State from the sale of these trust lands. That money is in the Treasury. It has not been paid over to the State, nor has it been paid over to this company. The company claims that it should be paid over to it under the resolution of two years ago, for interest which it paid upon money which it borrowed to carry on the work. The company was to be indemnified for all moneys expended by it in the construction of the work; and it is a simple question for a lawyer to decide whether a *cestui que trust* who borrows money because the trustee will not pay over money in his hands shall lose the interest, or whether the trustee shall be charged with interest upon that borrowed money. What lawyer could question that? The State of Wisconsin had the money in her hands. By an act of her Legislature she refused to pay it over for the purpose of building this canal and the company had to borrow money. Under an authority in the act of incorporation the company borrowed the money. The Commissioner of the General Land Office says that in a settlement between the trustee and the beneficiary interest thus paid is not to be accounted for. That is the simple asked question.

Mr. TRUMBULL. If one will look over

this Senate I think he will be satisfied that this is a very improper manner to consider claims of this kind. This claim, whatever it may be, ought to go to our Court of Claims or to some place where it would be judicially investigated. There are perhaps a dozen Senators here present, not a quorum certainly; and of those here present, not half a dozen pay any attention to the consideration of this question.

Of course there is little encouragement to attempt to explain it, or to get the views of those who disagree with the Senator from Indiana, or for him to get his views before the Senate, so that the body can vote understandingly.

I have looked into the papers in this case since I was up before. The circumstances had passed out of my mind somewhat when the resolution was called up, and I was then unable to state all the facts about it. I have since looked at the papers carefully; and sitting as a judge on the bench I should no more think of allowing this claim to a party than I could think of handing \$25,000 to any man on Pennsylvania avenue who might come here and ask for it. That would be my view. The Senator from Indiana is equally clear that the claim ought to be paid equitably and legally. It seems otherwise to me, and because it seemed so to me I made this motion to reconsider, in order that the Senate might, if it would listen to it, see what the case was. I think it is very simple. If we leave out these five per cent. funds that have really nothing to do with the case we could get at it.

The Senator from Wisconsin said that the State of Wisconsin had not anything to do with this matter; that it was a matter which affected the Territory of Wisconsin, and that in a part of the statement I had made I was correct and in a part of it I was not correct, and that was one of the respects in which he corrected me. I have referred to the statutes since and I have been enabled to go through the papers, and I think I can now make a statement that will be accurate and succinct and may be understood by those who listen to me.

In 1838, on the 18th of June, Congress passed a law granting to the then Territory of Wisconsin one hundred and odd thousand acres of land for the purpose of making this improvement. The land was not granted to any canal company; it was granted to the Territory of Wisconsin for the purpose of making an improvement. It was provided in that law:

"That whenever the Territory of Wisconsin shall be admitted into the Union as a State the lands hereby granted for the construction of the said canal, or such part thereof as may not have been already sold and applied to that object under the direction of the territorial government, shall vest in the State of Wisconsin, to be disposed of under such regulations as the Legislature thereof may provide."

Then the grant of land was to the State of Wisconsin as well as the Territory.

Mr. HOWE. No, Mr. President, I am even yet more familiar with the history of the case than my friend is.

Mr. TRUMBULL. Undoubtedly.

Mr. HOWE. And I have given it more careful examination. I will say to him here that none of it was vested under that act in the State of Wisconsin. What had not been sold by the Territory and vested in private hands at the time the State of Wisconsin was created was set off to the State as a part of the university lands—a part of the five hundred thousand acres which go to every new State for university purposes.

Mr. TRUMBULL. The State, then, got it. The State was the successor of the Territory.

Mr. HOWE. No, sir.

Mr. TRUMBULL. Yes, sir; the State was the successor of the Territory in all its rights.

Mr. HOWE. No. The fact which I want my friend to comprehend is, not that the State succeeded to the rights of the Territory under this grant, but that the State got this balance of land as an express grant and the United States got the benefit of it because we took it as a part of the five hundred thousand acres. If we had not taken these lands we should have taken just as many acres of other lands.

Mr. TRUMBULL. I do not wish to complicate this matter with the five per cent. fund, with which it has nothing to do. The land was granted by the act of 1838 to the then Territory of Wisconsin to make this improvement, and it was provided in the act that that land should go to the State when the State should be admitted into the Union, and it was provided further:

"That the State of Wisconsin shall be held responsible to the United States, and for the payment into the Treasury thereof, of the amount of all moneys received upon the sale of the whole or any part of said land, at the price at which the same shall be sold, not less than \$2 50 per acre, if the said main canal shall not be commenced within three years and completed within ten years, pursuant to the provisions of the act creating said canal corporation."

What was that? That the State of Wisconsin should be held responsible for these lands provided the canal was not commenced and completed within a certain period. The canal was not commenced and completed within that period, it is admitted. The State of Wisconsin is held responsible for the lands. What then? She does not want to pay for them.

Mr. HOWE. I will just ask my friend to read the following section of the act of 1838 and he will see why we maintain that the State was not liable. Read the sixth section.

Mr. TRUMBULL. The sixth section is the one I have just read. Do you want me to read the seventh section?

Mr. HOWE. Yes, read the seventh.

Mr. TRUMBULL. The seventh section is: "That in order to render effectual the provisions of this act the Legislature of the State to be erected or admitted out of the territory now comprised in Wisconsin Territory, east of the Mississippi, shall give their assent to the same by act to be duly passed."

I do not know what that has to do with it; perhaps the Senator will show. They accepted the lands; they did not complete the work. What then? They are responsible to the Government for this money. They do not want to pay it. They get into a difficulty with their canal company and they come to Congress and ask Congress to settle it, and the Senator from Indiana here gravely rises and says, "Congress is the proper body to enter into a judicial investigation, to resolve itself into a court of chancery to inquire how this canal company expended their money and settle it upon equitable principles." We grant a tract of land to a State to make an improvement on condition that the State shall pay us for the land if the improvement is not made. The improvement fails, and the State modestly comes here and says, "The company we contracted with did not do it, and now we want you to settle between us and them and resolve yourselves into a court and hear the testimony and make a decree." Do you not think we are a competent body to do that? "We understand all about it." Well, but the Senator says we have committed ourselves to do that. It is true that two years ago we passed a resolution that we would undertake to make this settlement; that is, we authorized the Commissioner of the General Land Office to do it. Now I will refer to that law. It is entitled, "A resolution for the relief of the State of Wisconsin;" and what is it?

"That the Secretary of the Department of the Interior shall, in adjusting the amount due the State of Wisconsin under existing laws, as five per cent. of the net proceeds of sales of the public lands within her limits, estimate and charge against her the value of the one hundred and twenty-five thousand four hundred and thirty-one and eighty-two one-hundredths acres of land granted to the Territory of Wisconsin to aid in the construction of the Milwaukee and Rock River canal, which have been sold by said Territory or said State at \$1 25 per acre, and as much more as the Territory and State received upon the same upon the sales of any part thereof at a higher price, and shall credit said State with the amount that has been legally and properly applied by said State or Territory toward the cost of selling said land and toward the construction of said canal. And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company"

Now, the Government of the United States undertakes to settle with that company. What have we got to do with that company? We undertook to settle it and we have got into this difficulty about it; a matter that I do not

think Congress was ever competent to settle, but we undertook to settle it.

"And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company"

We are to decide that here to-day what has been "properly expended." We are the chancellors to determine that question. Have you the evidence before you, Senators, to know whether this money was properly expended, whether it was judicious? I will read in a moment some of the disputed items that you may see—

"properly expended by said company in the survey and location of said canal, in the construction thereof, as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated."

Now we are going to pay money to the canal company out of the Treasury of the United States under this resolution—

"not exceeding in amount, however, the balance charged against the State of Wisconsin."

The second section provides:

"That the Commissioner of the General Land Office be, and he is hereby, appointed Commissioner to adjust the accounts herein provided for, under the supervision of the Secretary of the Interior, and to determine what sum shall be charged to said State of Wisconsin for the lands granted for the construction of said canal, and what sums shall be credited respectively to said State and to said company for the moneys expended by them in the construction of said locks and canal, as herein provided."

There is your court. The Commissioner of the Land Office, under the direction of the Secretary of the Interior, is constituted a court to determine what sums should be allowed. The Commissioner of the General Land Office, under the direction of the Secretary of the Interior, has carefully examined and determined what sums shall be allowed, and they appeal from the decision of the tribunal erected at their own instance for the relief of the State of Wisconsin and come here now to this Senate and ask you to overturn the judgment of the tribunal that was created to settle the claim at their own instance. Are you prepared to do it? I ask you, Senators, if you are prepared to do it. Are you prepared to say that the Commissioner of the General Land Office decided wrong? that the Secretary of the Interior decided wrong? What evidence have you got to predicate it upon? There is no report accompanying this resolution. Tell me now upon what you are going to vote \$25,000 out of the Treasury, as it is said; but I will show you in a moment the claim is \$77,133 09, when we come to get the papers. That is the claim. On what ground are you going to vote that the Commissioner has decided wrong and that the Secretary of the Interior has decided wrong? You must do it on the ground that you, as a court of appeals, have looked into the testimony, have seen what was properly expended, and have become satisfied that the tribunal created at the instance of Wisconsin has done injustice. As I said before, I think we are a very poor tribunal to do that.

But if we must decide it, let us see now what the points of difference are. Here is the report of the Commissioner of the General Land Office, approved by the Secretary of the Interior, in which he states that he has examined and adjusted an account between the United States and the Milwaukee and Rock River Canal Company under the resolution which I have just read for the relief of the State of Wisconsin. He goes on to charge them with the lands, and credits the canal company with the moneys they expended, and then he makes up this statement of the difference. I wish every Senator would take this paper and read it. What is the first item? He has allowed \$76,492 77; the company claims \$153,625 86, leaving a difference of seventy-seven thousand and odd dollars; and this difference consists in these items:

"The amounts charged on account of expenditure for repairs, &c., subsequent to the date of the resolu-

tion, and consequently in no way can be held to fall within its scope—twenty-nine hundred and odd dollars.”

It was right certainly to disallow that. I will not read all these items, but I will read another:

“Account charged January 11, 1855, as due and payable to D. H. Richards, special agent of the company, for general management of the company business. Disallowed, because for the same period Mr. Richards was paid periodically a stipulated salary as president and superintendent for a large portion of the time, was also allowed and paid for extraservices from time to time, traveling and other expense incurred, all of which were no doubt intended to complete his full compensation. This is not, then, a proper expenditure under the terms of the resolution, having been wholly unknown to Congress when the matter was under consideration, it not having appeared in the accounts of the company until after the resolution of July 1.”

Are you prepared, Senators, to vote to have that paid? There is a claim of \$11,174 for extra pay for managing this business by a man who has been paid a stipulated salary all the time, and also extra compensation for mileage and traveling. Your Commissioner disallowed it.

Mr. HOWE. We do not ask for it.

Mr. TRUMBULL. You do not ask for it? You did ask for it.

Mr. HOWE. We never asked for it.

Mr. TRUMBULL. It is in your account.

Mr. HOWE. Not our account.

Mr. TRUMBULL. The account presented to the tribunal created at your instance and sent finally here.

Mr. HOWE. Not at our instance.

Mr. TRUMBULL. I should like to know who presented the account if you did not.

Mr. HOWE. The canal company.

Mr. TRUMBULL. Well, it is the canal company that wants this money; it is the canal company that is after it.

Mr. HOWE. Not the State.

Mr. TRUMBULL. I am sorry that the State of Wisconsin is being dragged into it. Now, if the State of Wisconsin wants to pay the canal company \$11,000 or any other sum for the services of this Mr. Richards, about whom I know nothing—he may be entitled to it for aught I know—let the State of Wisconsin do it. Then comes this interest item; let me read it.

“The fifth item in this account is the amount charged on account of sums paid out from time to time by the company for interest. Disallowed, because interest forms no part of the cost of the survey.”

Do you think it does?

“Disallowed because interest forms no part of the cost of the survey, location, construction, or management of any such public work, and is never charged in these accounts, the same being a liability of the company and not an expenditure on the work. Its payment is not provided for in the resolution, and is against the policy of the Government and Congress, unless expressly provided for in the statute.”

That item amounts to \$21,000, and it was very properly disallowed in my judgment.

There is this case. I do not think we ought to open it; but if it is to be opened anywhere let it be opened in the Court of Claims. If this is a just claim let it be referred there; I should have no objection to that course. Let it go to the Court of Claims and if, under the resolution we have already passed, whereby Congress undertook to settle this matter, this company or the State of Wisconsin is entitled to this money, let them have it. The amount of the claim here, as I have stated, is some \$77,000. The resolution does not state the amount that is to be allowed, but it provides that it shall not exceed the value of the lands, and by a computation I understand that will reduce it to about twenty-four or twenty-five thousand dollars. I have not made the computation, but the Senator from Wisconsin says that the extent of the claim will not exceed \$25,000. I think that it ought to be stated in the resolution.

Mr. HOWE. Twenty-four thousand eight hundred dollars.

Mr. TRUMBULL. I think it should be stated in the resolution, if it is to pass, that the amount shall not exceed that; but I trust we shall either refer it to the Court of Claims or

refuse to pass it. I shall take up no more time with it.

Mr. JOHNSON. Mr. President, I am always unwilling to differ with my friend, the chairman of the Judiciary Committee, and it was with deep regret that I was compelled to differ with him when this subject was before the committee and the resolution which he proposes to have reconsidered was recommended. The amount which he mentions as calculated to awaken the attention of the Senate, \$77,000, is not now the question before us. The balance of the proceeds of the lands (which alone is to be used for the purpose of meeting this claim of the canal company) in the Treasury is only some twenty-four or twenty-five thousand dollars. The limitation in the original resolution was that the allowance should not exceed that amount. The same limitation is to be found in the resolution which we passed at the last session. If, therefore, the resolution should not be reconsidered, all that could be paid to the canal company would be the balance in the Treasury, which as I have said does not exceed twenty-four or twenty-five thousand dollars.

Mr. TRUMBULL. They will come for the rest afterward, I suppose.

Mr. JOHNSON. My friend now proposes to remit it to the Court of Claims. The result of that might be, and would be, if the claim be a just one, that instead of having to pay \$25,000 we should have to pay \$77,000, provided the Court of Claims thought the claim was a just one. But I wonder that the honorable member did not see that the argument against interfering with the claim now founded upon the fact that it had been passed upon by a tribunal constituted by Congress for the very purpose of acting finally is equally powerful against the suggestion to refer it to the Court of Claims; but there is nothing, as I think, with due deference to the member, in his suggestion. We are just as competent as the Court of Claims to pass upon a legal question, that legal question simply being the construction of a resolution which we have antecedently passed.

Whether that resolution does or does not entitle these claimants to this fund depends upon the meaning of that resolution. That meaning is in no manner to be affected by any fact about which there is any dispute. It has not been denied, and is not now denied, that it was the duty of the Territory in the first instance, and of the State in the second, to contribute out of the fund in question toward the construction of the canal. That they declined to do. It was not denied then, and cannot be denied now, that it was the duty of the company to construct the canal, and it being their duty to construct it it was of course a part of their duty to get the means with which to construct it. The means supplied by Congress were the proceeds of these lands. Those means were placed in the hands, first of the Territory, and then of the State, and each of them in their order was directed to pay over as much as might be necessary to the canal company to enable the company to complete the canal. That they refused to do. Now, as between individuals, I should suppose there would be no doubt that this would be the law when they came to adjust the transaction as between themselves: A has placed in his hands by his principal a sum of money to be held in trust for B to enable B to transact a certain business; A keeps the money; B being obliged to do the business for which the trust is created, uses his own money, or he goes into the market and borrows, and in either case he is, as between himself and A, entitled to be paid interest; if he uses his own money, because he allows the use of that money which is interest and compensated for only in the way of interest; if he borrows, he is to be paid the interest because he has been compelled himself to pay the amount of interest; and I suppose no judicial or other tribunal of any description would hesitate to say that when the account came to be settled between A and B it would be right to charge as against A the interest which B

had been compelled to pay because of A's default, and that it would be the right of the principal from whom the fund came, by whom it was placed in the hands of A for the specific purpose, to call on this trustee of his to perform his trust, to pay over the money, if it was in his hands, if he had not paid anything, or to indemnify the *cestui que trust* if the *cestui que trust* had sustained loss because of A's default.

That is just this case, exactly this case. There was conveyed to the State of Wisconsin a large number of acres of public land out of which Wisconsin was allowed a five per cent. fund. Afterward, at her own instance, it was agreed that that should be disposed of either for the use of schools or for the construction of internal improvements. The lands were sold and the money came, according to the trust, into the possession of the Treasury, and there it was in 1864. The United States refused to pay over the whole amount because as she said she had a right to charge as against Wisconsin certain disbursements which Wisconsin herself should have met when the necessity for making them occurred. We therefore directed, with the consent of Wisconsin, that the Interior Department should settle the account, and provided that it should charge the State with the whole amount of the sales of these lands and credit the State with whatever sum she might be entitled to in the way of credit as against that fund; but that was not all. There was as against the fund another claim which, in the judgment of Congress, it was but just should be taken into consideration in making the adjustment as between the State and the United States. That other claim was the amount the canal company had been compelled to expend, in consequence of being forced to borrow money, in the payment of interest upon the loans; and we directed therefore, not that any extra compensation paid to officers of the company, which the honorable member mentioned just now and got from the claim as it stood before the Land Office, but that the amount of interest which the company had been compelled to pay should be first paid out of the fund in the hands of the Treasury before anything was paid to the State of Wisconsin.

It seems to me that we are just as competent to decide the question which the resolution presents as any other tribunal, and that it is clearly just and right that the amount of this claim should be allowed as it is allowed by the resolution we have already passed.

Mr. DOOLITTLE. Mr. President, in relation to the claim I will briefly state according to my recollection how the case has stood from time to time. This land was granted to the Territory of Wisconsin, it is true, to aid this company in the construction of this canal. After a little time the canal project was abandoned by the Territory as a chimera, a thing that was impossible to be done, and the whole project failed. But the company claimed to hold against the Territory of Wisconsin a claim for the amount of money which it had expended in the prosecution of the work as far as it had progressed. That claim was pending before I became a citizen of Wisconsin, and has been pending probably for more than twenty years.

On my entering the Senate I found that the United States Treasury, under the direction of the Secretary of the Interior, refused to pay over to the State of Wisconsin the five per cent. to which it was entitled of the proceeds of the sales of public lands within the State. There was a large sum of money retained in the Treasury of the United States which belonged to the State of Wisconsin which the State of Wisconsin steadily struggled during a course of years to obtain, but struggled in vain. The reason was that this canal company claimed to be one of three parties to an arrangement which involved not only the State of Wisconsin but the United States, the United States having made the grant, and made the Territory in the first instance the trustee of the grant, and, upon the admission of the State of Wisconsin into the Union, made the State take the place of



the Territory as trustee in disposing of this grant for the benefit of the company. One of the resolutions passed at the time of the admission of the State of Wisconsin required the State of Wisconsin to assume and pay all obligations which were imposed upon the Territory in consequence of this land-grant. We found this company preferring its claim to the State of Wisconsin, the State of Wisconsin refusing to pay, and the State asserted that the claim was not a just one. Whenever Wisconsin applied to the United States for the money in its Treasury belonging to the State of Wisconsin we met this company insisting that the money should not be paid to the State until they were settled with, and the struggle went on for a course of years. Whenever on the part of the State of Wisconsin the Senators representing that State presented the claim of the State and endeavored to have a resolution passed by Congress which would direct the payment of this money by the Secretary of the Interior, we were met by this company.

The question was referred to the Committee on the Judiciary and the Committee on the Judiciary reported in favor of the resolution which was passed some two years ago. That resolution assumed that it was the duty of the United States, before coming to a settlement with the State of Wisconsin, to see that the rights or equitable rights of this company were in some way or other disposed of. We who represented the State of Wisconsin were compelled from necessity to yield to the view which was taken by the committee; and although we did not urge that view, for we urged that the money should be paid over to the State of Wisconsin and that the State of Wisconsin should be allowed to settle with this corporation, the Judiciary Committee and the Senate thought it wise to pass the resolution in its present shape. They referred it to the Commissioner of the General Land Office to settle the whole matter; and now, as it seems to me, the only question is, whether the Commissioner in settling it has given the true construction to the resolution which was passed by Congress. It is a simple question of law on the construction of the resolution itself, whether interest ought or ought not to be allowed to the company. That is the whole question.

Although I struggled against the resolution of 1864 as it passed in its present shape, although I struggled to have a resolution passed which would give the money over to the State of Wisconsin and allow Wisconsin to deal with the company and Congress have nothing to do with it, although I used very much the same argument which my honorable friend from Illinois has used to-day, that this matter of settlement was not a thing for Congress to look into at all, still Congress did decide that they would do equity among all the parties, and appointed the Commissioner of the General Land Office as the tribunal to settle the equities. Now if he has given a wrong construction to this instrument when he has decided that the company is not entitled to interest, I think that is a question upon which the Senate can properly pass. If it were upon a question of fact and we were asked to go through the account and see whether he allowed a proper amount for services rendered or for salaries or any of those questions of fact that might involve the calling of witnesses, I would say at once with my honorable friend from Illinois that is a thing we should not look into; but is it a mere construction of the resolution of 1864 we are asked to make, whether they are entitled to interest or not. We are asked to pass on that and give our judgment as to a question of law, not a question of fact. This is all I desire to say, Mr. President, on the subject. The motion to reconsider was rejected.

#### POWER OF AMNESTY AND PARDON.

Mr. TRUMBULL. I move to take up the bill (H. R. No. 828) to repeal section thirteen of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,"

approved July 17, 1862. It was called up before and laid aside.

Mr. JOHNSON. When this subject was before the Senate, prior to the recess, I submitted some remarks to the Senate, but had not concluded what I purposed to say when another subject was brought before the body. If the honorable member from Illinois will permit the bill to go over until to-morrow it will be an accommodation to me, for I am not ready to go on to-day; I did not expect that the discussion would be resumed to-day. If he will let it go over until to-morrow I can very readily in a comparatively short period say what I intended to have said when the subject was before us prior to the recess.

Mr. TRUMBULL. The bill was called up, I would state to the Senator from Maryland, when he was out some two or three hours ago, and in consequence of his not being present it was then laid aside. I certainly have no disposition to inconvenience the Senator from Maryland. I have been struggling to get action upon this bill on several occasions.

Mr. JOHNSON. It has not been delayed at my instance. I had the floor and was discussing it when the Nebraska bill was called up. If it goes over until to-morrow or whenever the Senate meets again, I will then state what I desire to say.

Mr. TRUMBULL. The Senator desires to address the Senate upon it, I understand.

Mr. JOHNSON. I do.

Mr. TRUMBULL. With that understanding I will call it up to-morrow.

Mr. HENDERSON. I move that the Senate adjourn.

Mr. SUMNER. I hope the Senator will withdraw that motion to let me put a bill on its passage.

Mr. HENDERSON. I withdraw the motion.

Mr. SUMNER. I move that the Senate take up Senate bill No. 475.

The PRESIDING OFFICER, [Mr. EDMUNDS in the chair.] Does the Chair understand the Senator from Illinois as withdrawing his motion?

Mr. TRUMBULL. Yes, sir.

#### FALSE REPRESENTATIONS TO EMIGRANTS.

On motion of Mr. SUMNER, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 475) to prevent and punish false and fraudulent representations to induce emigration to a foreign country. It provides that if any person shall, within the jurisdiction of the United States, make false and fraudulent representations to any negro, mulatto, or other person, for the purpose of inducing such negro, mulatto, or other person to emigrate to a foreign country where such negro, mulatto, or other person would be liable to be sold as a peon, so called, or otherwise reduced to virtual servitude, the person so offending shall be punished on conviction by a fine of not less than \$500 nor more than \$5,000, or by imprisonment not exceeding five years, or by both punishments. If the master or owner or person having charge of any vessel shall, within the jurisdiction of the United States, receive on board or shall allow to be received on board any negro, mulatto, or other person, with the knowledge that such negro, mulatto, or other person has been induced by false and fraudulent representations to embark in such vessel to proceed to a foreign country, State, or place where such negro, mulatto, or other person would be liable to be sold as a peon or reduced to virtual servitude, such master, owner, or other person offending shall be punished by a fine not exceeding \$5,000 nor less than \$500, or by imprisonment not exceeding five years, or by both punishments, and the vessel on board of which such negro, mulatto, or other person was received to be carried away shall be forfeited to the United States.

Mr. SUMNER. I move to amend the bill by striking out in the eighth line of the first section the word "virtual," and inserting "involuntary;" so as to read, "reduced to involuntary servitude."

Mr. HENDRICKS. I think it is very evident that there is not a quorum of Senators here; and I rise therefore to move an adjournment.

Mr. SUMNER. I think there can be no question about this bill. If the Senator were opposed to the bill I should expect him to object; but I think I shall have his concurrence.

Mr. HENDRICKS. I did not make the motion with any view to the merits of the bill. I was not thinking about it.

The PRESIDING OFFICER. Does the Chair understand the Senator from Indiana to move an adjournment?

Mr. HENDRICKS. If the Senator is very anxious without a quorum to proceed with the consideration of his bill I shall not insist on the motion.

Mr. SUMNER. I thought the bill would take very little time, and by passing it there would be one bill struck off the Calendar.

The amendment was agreed to.

Mr. SUMNER. I move also that the same word "virtual," in the tenth line of the second section, be struck out and "involuntary" substituted therefor.

The PRESIDING OFFICER. That amendment will be made to conform to the preceding one, if no objection be interposed.

Mr. SUMNER. Now, Mr. President, that the bill may be understood before the vote is taken upon it, I will call attention first to its title "A bill to prevent and punish false and fraudulent representations to induce emigration to a foreign country." I will then ask the attention of the Senate to a very short dispatch which has been communicated to me by the Department of State from our minister in Peru. It is as follows:

LEGATION OF THE UNITED STATES,  
LIMA, PERU, November 28, 1866.

SIR: I have been positively informed that Mr. Antonio Millan left Peru on the last steamer for New York for the purpose of bringing out a cargo of negroes from the United States to this country. I fully concur in the views expressed in your order to prevent the immigration of that race to Peru; their condition would certainly not be improved, and they would share the fate of the coolies, who are now meeting with very harsh treatment in some localities.

I have the honor to be, with great respect, your obedient servant,

ALVIN P. HOVEY.

Hon. W. H. SEWARD,  
Secretary of State of the United States.

There is other evidence that has been communicated to me by the State Department, showing that this person has actually arrived in New York, and that in conversation with some of his associates he has boasted that he would successfully carry out his plans. In short, he has commenced the work of obtaining these negroes in order to use them practically as coolies in foreign countries. It was thought by the committee to whom the subject was referred that we owed it to ourselves to provide by legislation as far as we could against any such conduct. I think the bill has been carefully drawn, and that it meets the case.

Mr. HENDRICKS. I move to strike out the words "negro, mulatto, or other" wherever they occur in the bill, so as to read "any person," so as not to be legislating with a view to any particular class. I suppose they are persons. We might just as well say "negro, mulatto, or white persons." If the words I propose are stricken out, it will read, "make false representations to any person," so as not to seem to be legislating for any class.

Mr. SUMNER. That very point was carefully considered by the committee, and after consideration it was thought advisable that these words should be introduced precisely as they now stand in the bill. In introducing them we have but followed the practice of legislation which is to repeat, not to stop merely with one word, but to repeat, so as on the very face of the legislation if possible to point out the evil which you intend to remove. If you simply adopt the language "any person," though that of course would be applicable to any negro or mulatto, it would not so completely as the text of the present bill put the

reader on his guard as to the evil that Congress had in view when it passed the bill. It was that view which influenced the Committee on Foreign Relations after a careful consideration of the bill, to the conclusion that it was better to keep it as it now is. Nothing was lost by introducing these words; something of clearness and positiveness, it was thought, was gained by having them there; and beside that we followed in so doing the precedents of Congress, the habits of legislation. I hope they will not be struck out.

Mr. HENDRICKS. I do not know what precedents the Senator could have followed other than those that are to be found in the legislation when slavery was an institution of the country. It was then, I suppose, understood to be necessary to distinguish between negroes, mulattoes, and other persons; but under the constitutional amendment and the civil rights bill and other legislation of that class, I will ask the Senator if in the eye of the law he understands there is any difference among persons now as a question of law. I understand the argument of the Senator to be that it is necessary in this bill to admonish the country that negroes and mulattoes are persons.

Mr. SUMNER. No.

Mr. HENDRICKS. To give emphasis to it, something of force, as he expresses it. The only purpose can be to say that they are persons. If he thinks that in the eye of the law they are persons, unquestionably persons, then in framing a law he ought to use the most exact phraseology possible, and not confuse it by going into detail which is covered by general language. As a matter of taste in the framing of the bill, I think the words which I move to strike out are objectionable. If he intends to legislate for all the people of this country; if he intends to protect the white person, ignorant and unwary, who may be induced to leave his country by false representations, legislate for him by the use of such language as includes him. If he attempts also to legislate for negroes and mulattoes who are likely to be imposed upon and carried away from their country by false representations, let him use just such language as applies to them, but not go into detail which adds nothing to clearness, as I think. I think it confuses. I have understood the Senator to be laboring to wipe out all distinctions because of race and color, and to say that under the laws of the United States all persons are alike and equal. If so, how can he defend himself in using language such as this in a bill of his own framing, a bill that comes from his own committee, keeping up a distinction in the bill which he himself draws? If he intends to protect all alike, and to legislate for all, then there is a propriety in his using language that applies alike to all.

Mr. SUMNER. Mr. President, the argument of the Senator is ingenious, but I doubt whether he himself has much confidence in its soundness. He is too good a lawyer not to know that constantly in legislation and also in professional documents, several words are used in order to cover a given case, words that are general and words that are specific. Sometimes we content ourselves with the general term, sometimes we content ourselves with the specific term, and sometimes we are not contented without both the general and the specific terms. Now, sir, that is just the object of the committee in the present bill. The general term is used and the specific, and it was not supposed that there was any inconsistency in using them; and the two were used, borrowing a professional expression, for greater caution, *ex majori cautela*, so that we might be sure that in the statute we had met the case.

Then again it was felt desirable in the statute to exhibit on its face what its object was. Had the language been general, had it been simply "any person," one reading the statute whose attention had not been called to this grievance would be at a loss perhaps to imagine what the grievance was; but the introduction of these specific words would indicate to any

intelligent reader the character of the grievance. However, this discussion is verbal rather than substantial, and I hope the Senator will not press his objection.

Mr. DOOLITTLE. In relation to the section of the bill which constitutes this new offense, I suggest to my honorable friend from Massachusetts that there are some amendments which I think ought to be made.

Mr. SUMNER. I have made an amendment.

Mr. DOOLITTLE. I know that one amendment has been made, but there are other amendments which I think are necessary in order to define properly the offense which is aimed at. The language as it now stands, it seems to me, does not cover it. I think it certainly ought to be required that these false and fraudulent representations, which are the basis of the offense, should have been made knowingly and willfully. The section now provides that the offense shall be the falsely making of these representations "to any negro, mulatto, or other person, for the purpose of inducing such negro, mulatto, or other person to emigrate to a foreign country where such negro, mulatto, or other person would be liable to be sold as a peon, so-called, or otherwise reduced to involuntary servitude." There certainly is some amendment needed there, it seems to me, in order to charge the person guilty of the crime with a *scienter* that he knows that the person would be liable to be reduced either to involuntary servitude or to peonage. A person might hold out representations to another to emigrate with him to a foreign country, not knowing what the laws of that country were, and not knowing whether he would be liable to be sold to peonage or reduced to involuntary servitude or not.

Mr. JOHNSON. The vessel is forfeited too.

Mr. DOOLITTLE. I suggest to my honorable friend from Massachusetts in relation to that section, before I should be quite willing to vote for it as defining this new statutory offense I should like to see its language changed in several particulars. I suggest to my honorable friend that perhaps he had better let this bill pass over and let us adjourn.

Mr. SUMNER. The Senator is a member of the committee from which this bill came. He was invited to its meeting. I believe that he was not with us on that occasion. I regretted it very much; but the Senator knows very well how the business of that committee is conducted. He knows that a bill like this is not reported from that committee except after very careful consideration. I will say to the Senator that it was read carefully in committee and considered section by section.

Now, as to the criticism of the Senator, he wishes that there should be something introduced here requiring what is called technically the *scienter*. I ask him if that is not here adequately. The offense is the making false and fraudulent representations. Surely there is in that alone a *scienter*—"false and fraudulent representations to any negro, mulatto, or other person." For what? "For the purpose of inducing such negro, mulatto, or other person to emigrate to a foreign country where such negro, mulatto, or other person would be liable to be sold as a peon, so called, or otherwise reduced to involuntary servitude."

Mr. JOHNSON. Must he know that the involuntary servitude exists there?

Mr. SUMNER. That is not required by the statute, and I think if the Senator will reflect one moment he will find that if that were required it would make the statute, I was going to say, good for nothing. You would be requiring too much. You require by the bill now before you that the representation should be "false and fraudulent." You then require that it should be "for the purpose of inducing" a "negro, mulatto, or other person to emigrate to a foreign country where such negro, mulatto, or other person would be liable to" slavery. Surely there is an offense. There is a moral offense which the conscience of every man must recognize; and the object of this bill is simply to reach that moral offense, a false

and fraudulent representation for the purpose of inducing certain persons herein mentioned to emigrate to a country where they will be exposed to slavery. Now that you should introduce a second *scienter*—I use the technical language of the Senator—and require that this person should actually know the character of slavery in the country to which the emigrant is to go is to require too much. If you require that, you will require more, probably, than could be proved against the man. You require enough to make an offense by the existing bill. It surely is an offense by the existing bill, even if he did not know the character of the institutions to which this emigrant would be exposed in the foreign country. Such a bill as this would put any person seeking emigrants on his guard; and such a bill surely is needed when we are warned that there are persons here now with a view of getting up such emigration. I hope the Senator from Wisconsin will not persevere in his objection. Indeed I think, if he gives a better attention to the bill, he will see that it does meet a grievance, and though there may be something more, yet this bill is good as far as it goes. It does something to punish an offense which certainly is well worthy of the judgment of Congress.

Mr. DOOLITTLE. It is true I have the honor of being a member of the Committee on Foreign Relations, of which the honorable Senator from Massachusetts is chairman. That committee's sessions are usually on the same day that the Committee on Indian Affairs meet, and sometimes between both I am not as prompt in my attendance perhaps as I ought always to be upon either. It struck me when this bill was first introduced into the Senate that it should have been referred to the Committee on the Judiciary, because the Committee on the Judiciary are much more familiar from habit with the defining of offenses; but still, upon the suggestion of the honorable Senator from Massachusetts, who thought it concerned foreign affairs, and who, having some communications on the subject, preferred it should go to that committee, it was referred to the Committee on Foreign Relations. Although I am a member of that committee, I feel at perfect liberty to look into the provisions of the bill as it stands.

I am not hostile to the bill nor to the object of the bill. My sole purpose is to have the offense so defined that when we come to pass the bill into a law we shall actually create an offense in the language which is usually known to the law in the definition of offenses, so that it may be clear, and if a man is guilty he may be punished. It did seem to me in reading the bill over cursorily—I have not given very much attention to it—that what is denominated the *scienter* ought to be charged more specifically against a person in order to make out the offense. It is true, the words are used:

"If any person shall, within the jurisdiction of the United States, make false and fraudulent representations to any negro, mulatto, or other person," &c.

A man may innocently make false representations. There is nothing in the language of the bill which requires that these representations shall originate with him. They may be false and fraudulent pretenses concocted by other persons and he be the innocent instrument which is used to put them in operation; and therefore it seems to me the statute should clearly require him to be charged that he knowingly and willfully made these false and fraudulent representations. It seems to me further that if the representations be made "for the purpose of inducing such negro, mulatto, or other person to emigrate to a foreign country for the purpose of being sold as a peon or reduced to involuntary servitude," that purpose should also be charged upon the person making these representations, or else it should be charged upon him that he knowingly and willfully made these false and fraudulent representations to induce him to emigrate to a country where he knew that by the laws of that country the person emigrating would be liable to be sold as a peon or reduced to involuntary servitude

in order to constitute a valid offense. It strikes me that this section of the bill needs amendment.

Beside, an important question is raised by the pending amendment proposed by the Senator from Indiana to strike out the words "negro, mulatto, or other person," and let the bill stand, "that if any person shall within the jurisdiction of the United States make false and fraudulent representations to any person" for the purpose of inducing him to emigrate where he would be liable to be sold as a peon or reduced to involuntary servitude. I have no hostility to the object of the bill. I certainly agree with the Senator from Massachusetts in condemning the offense as severely as he can condemn it. I only desire that the bill should be so drawn as to define an offense in the ordinary language of criminal proceedings. It seems to me that something more is necessary than is contained in that section.

Mr. HOWARD. I agree entirely with the honorable Senator from Massachusetts in the object of this bill; but after reading the first section with some little care it strikes me that the language may be improved. As the section now reads, no offense will be committed if the representations made by the offender had been made directly to the negro, and the negro told that the object of his exportation was to have him sold as a slave, and they might therefore make perfectly true representations to the negro and induce him to leave the country for the purpose of being sold as a slave, and no offense would be committed. I suppose that was not the intention of the honorable Senator from Massachusetts. The object of the bill is to prevent absolutely the exportation of this class of persons or of any persons for the purpose of having them sold as slaves or peons. Now, I would suggest, with great respect to the honorable Senator from Massachusetts, that the language would be improved if he should strike out the words "false and fraudulent," and insert instead of them the word "any," and also in lines seven, eight, and nine to strike out the words "where such negro, mulatto, or other person would be liable to be sold as a peon, so called, or otherwise reduced to virtual servitude," and to insert in lieu of those words the words "and with intent to sell or cause to be sold such person as a peon or slave." Then the clause would read as follows:

That if any person shall, within the jurisdiction of the United States, make any representations to any negro, mulatto, or other person for the purpose of inducing such negro, mulatto, or other person to emigrate to a foreign country, and with intent to sell or cause to be sold such person as a peon or slave, the person so offending shall be punished on conviction thereof by a fine, &c.

I think that change would meet the case exactly; it strikes me that it would; but as it stands now the Senate will see at once that if false and fraudulent representations, or any representations, were made to a negro with a view to induce him to leave this country and go to another country where slavery did not exist and where he could not be treated as a slave, and if after he had reached that place he was then transported to some other place by the wrong-doer and sold as a slave, the wrong-doer would not be guilty of any crime under the bill as it is drawn. This, it strikes me, will make it more specific.

Mr. TRUMBULL. I think it is quite apparent from the discussion we have had that we had better take a little more time to word this bill precisely right. There is no quorum present, as would be disclosed if a division should be called, as doubtless there would be on a bill like this. I therefore suggest to my friend from Massachusetts—and I hope we shall have his consent—that we now adjourn.

Mr. SUMNER. I will make simply one remark before the adjournment.

The PRESIDENT *pro tempore*. Does the Senator from Illinois move an adjournment?

Mr. TRUMBULL. I will withdraw it to enable the Senator from Massachusetts to make a remark.

Mr. SUMNER. I will merely make one remark, and the remark I make I will address at once to the Senator from Wisconsin and also to the Senator from Michigan. Each has the same object in view; but I fear that if I should follow the suggestion of either the bill would be impaired in its efficacy. Already, as it is reported by the committee, I fear that it may become inoperative because it requires too much; it requires more than could be proved in court, and I fear, therefore, that the bill would be but another instance of *brutum fulmen*. Even in that respect it might have a certain efficacy. It would have this effect: to put people on their guard, and possibly to frighten offenders away; but still I should like to have the bill in such form as would make it something more than *brutum fulmen* to give it complete efficacy. It is on that account that I deprecate the amendments of the Senators from Wisconsin and Michigan. I fear that they are going to require so much that the bill will actually be destroyed in its efficacy. I now yield to the Senator from Illinois.

Mr. HENDRICKS. Before the Senator from Massachusetts takes his seat I wish to inquire of him whether it is his purpose to punish the party who makes the representation alone, or those who make representations and thereby induce emigration. Is it his purpose to make the offense a complete one simply by the representation? I suggest to him that I think that would be introducing a new feature in legislation.

Mr. SUMNER. The purpose of the bill, as I think the Senator will see by reading it, was to make an offense which had several elements in it; the first would be the false and fraudulent representation; the other would be the purpose of the false and fraudulent representation.

Mr. HENDRICKS. Then the purpose of the Senator is to punish the man who shall make the representation, although the fraudulent representation shall result in no harm to anybody.

Mr. SUMNER. If he does it for a criminal purpose, then I would punish him even though the person on whom he operated escaped. Even though he did not suffer from the false and fraudulent representation, the offense is complete.

Mr. HENDRICKS. I called the Senator's attention to it because I wanted to know what was the purpose of the bill.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 3, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Thursday, December 20, 1866, was read and approved.

Hon. W. A. BURLEIGH, Delegate for Dakota Territory, appeared in his seat.

### ORDER OF BUSINESS.

The SPEAKER stated as the first business in order the bill pending at the adjournment on the 20th of December last, in regard to reconstruction, on which the gentleman from Pennsylvania [Mr. STEVENS] was entitled to the floor; but prior to that he would ask leave to lay before the House several communications.

### TARIFF AND REVENUE.

The SPEAKER laid before the House a letter from the Treasury Department, dated January 3, 1867, communicating a report from Hon. David A. Wells, appointed special commissioner on the revenue, accompanied by a tariff bill prepared by the same commissioner.

On motion of Mr. WENTWORTH, the communication was ordered to be printed, and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I move that ten thousand additional copies be printed.

The motion was referred to the Committee on Printing.

### DAKOTA TERRITORY.

The SPEAKER laid before the House a memorial from the Legislature of Dakota Territory, asking that the secretary of the Territory be authorized to use what has been saved out of the appropriation made for legislative expenses of the Territory for the purpose of codifying the laws; which was ordered to be printed, and referred to the Committee on the Territories.

### MONTANA TERRITORY.

The SPEAKER laid before the House a joint resolution of the Legislature of Montana Territory asking Congress to amend the organic act of the Territory so as to increase the pay of the Federal officers, as also the per diem of the members of the Legislative Assembly of the Territory; which was ordered to be printed, and referred to the Committee on Appropriations.

Also, a memorial to Congress asking for appropriations for surveys and the establishment of a surveyor general's office, and also for a land office in Montana Territory; which was ordered to be printed, and referred to the Committee on the Territories.

### ASSASSINS OF THE PRESIDENT.

Mr. WENTWORTH. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to report what measures, if any, can be taken to prevent the Supreme Court from releasing and discharging the assassins of Mr. Lincoln and the conspirators to release the rebel prisoners at Camp Douglas, in Chicago, under color and pretense of the law of 1863; and also to inquire into the expediency of repealing said law.

Mr. ELDRIDGE. I object.

### LOSS OF THE EVENING STAR AND COMMODORE.

Mr. WASHBURN, of Illinois, offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to communicate to the House the result of the investigation made by his Department into the causes of the loss of the steamer *Evening Star*, and also that he be requested to institute an investigation into the causes of the loss of the steamer *Commodore*, lately wrecked on Long Island sound, and that he transmit the result thereof to this House, together with his opinion as to what additional legislation, if any, be necessary for the further protection of the lives of passengers on vessels propelled in whole or in part by steam.

### MILITARY ACADEMY APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868; which was read a first and second time, referred to the Committee of Ways and Means, and made the special order for Monday next, after the morning hour, and from day to day until disposed of.

### REPORTS OF GENERALS RUSHING AND HAZEN.

Mr. BIDWELL offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to the House the reports of the tour of inspection made the past season by Generals Rushing and Hazen, the former to the Quartermaster General, the latter to Brigadier General P. St. George Cook, commanding the department of the Platte, or so much thereof as relates to affairs in Utah Territory.

### PAYMENT FOR WAR LOSSES.

Mr. HUBBARD, of Connecticut. I ask leave to offer the following resolution:

*Resolved*, That this House will not consent to the appropriation of the first dollar for the payment of property destroyed by the Union armies while engaged in putting down the rebellion.

Mr. NIBLACK. I object.

Mr. STEVENS. I hope the resolution will be referred to a committee.

Mr. HUBBARD, of Connecticut. I will move its reference to the Committee on Appropriations.



Mr. NIBLACK. I have no objection to that. The resolution was received and referred to the Committee on Appropriations.

EDWIN E. WOODMAN.

Mr. COBB, by unanimous consent, introduced a bill for the relief of Edwin E. Woodman; which was read a first and second time, and referred to the Committee on Military Affairs.

#### APPOINTMENTS TO OFFICE.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill to prescribe the qualifications of officers and attorneys-at-law, and to regulate appointments to office; which was read a first and second time, and referred to the Committee on the Judiciary.

#### THE MILITIA.

Mr. PAINE, by unanimous consent, introduced a bill to provide for organizing, arming, and disciplining the militia, and for other purposes; which was read a first and second time, referred to the Committee on the Militia, and ordered to be printed.

#### PURCHASERS ON THE SOSCOL RANCHE.

Mr. JULIAN. I ask the unanimous consent of the House to offer the following resolution:

Whereas the act of 3d March, 1863, entitled "An act to grant the right of preemption to certain purchasers on the Soscol Rancho, in California," was not intended to interfere with the rights of any actual settlers not purchasers under Vallejo, who were then resident on said lands and entitled to preemption under the act of 3d March, 1863: Therefore,

Resolved, That the Secretary of the Interior be requested to inform the House how many such claimants have applications for preemption pending in his Department contested by claimants under the act of March 3, 1863; and what, if any, decisions have been made by him on such applications.

The SPEAKER. This is a call for executive information, and it requires unanimous consent for its consideration on this day.

Mr. UPSON. I object.

#### REDEMPTION OF TREASURY NOTES.

Mr. MAYNARD. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to inquire into the expediency of redeeming the compound-interest Treasury notes, so called, and the bonds known as five-twenties, with Treasury notes to be issued for that purpose, of denominations from five to one thousand dollars, a legal tender for their face value, bearing interest at a rate not less than three per cent. nor more than five per cent. per annum, redeemable in five years, and convertible at the pleasure of the holder into four per cent. bonds, payable, principal and interest, in gold, redeemable at the pleasure of the Government after five years and due in twenty years, and subject to State taxation.

Mr. ELDRIDGE. I object.

#### TERRITORIAL GOVERNMENTS FOR TEXAS.

Mr. BUNDY, by unanimous consent, introduced a joint resolution for the establishment of four territorial governments within the so-called State of Texas; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

#### PAYMENT FOR HORSES.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs are hereby directed to inquire into the propriety of so amending the law providing for compensation to owners of horses killed in battle, &c., that it shall be made to extend to and include all horses lost, killed, or disabled while in actual service and in the line of duty.

JAMES M. BISHOP.

Mr. HARDING, of Illinois, by unanimous consent, introduced a bill for the relief of James M. Bishop; which was read a first and second time, and referred to the Committee of Ways and Means.

#### RECONSTRUCTION.

Mr. SCOFIELD. I now call for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 543, to

provide for restoring to the States lately in insurrection their full political rights, which was under consideration on the 19th of December last. The pending question is upon the substitute then offered by the gentleman from Pennsylvania, [Mr. STEVENS,] upon which that gentleman is entitled to the floor.

Mr. STEVENS. I ask that the substitute be read in full, as it has not yet been read.

The substitute was read, as follows:

Strike out all after the word "whereas" in the preamble, and insert in lieu thereof the following:

The eleven States which lately formed the government called the "confederate States of America," have forfeited all their rights under the Constitution, and can be reinstated in the same only through the action of Congress: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the eleven States lately in rebellion, except Tennessee, may form valid State governments in the following manner:

Sec. 2. And be it further enacted, That the State governments now existing *de facto*, though illegally formed in the midst of martial law, and in many instances the constitutions were adopted under duress, and not submitted to the ratification of the people, and therefore are not to be treated as free republics, yet they are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers shall be recognized as such.

Sec. 3. And be it further enacted, That each of the ten States which were lately in rebellion, and have not been admitted to representation in Congress, shall hold elections on the first Tuesday of May, 1867, to choose delegates to a convention to form a State government. The convention shall consist of the same number of members as the most numerous branch of the Legislature of said State before the rebellion. It shall meet at the former capital of said State on the first Monday of June of said year, at twelve o'clock noon, with power to adjourn from time to time, and shall proceed to form a State constitution, which shall be submitted to the people at such time as the convention shall direct, and if ratified by a majority of legal votes shall be declared the constitution of the State. Congress shall elect a commission for each of said States, to consist of three persons, who shall select, or direct the mode of selecting, the election officers for the several election districts, which districts shall be the same as before the rebellion, unless altered by said commission. The officers shall consist of one judge and two inspectors of elections, and two clerks; the said officers, together with all the expenses of the election, shall be paid by the United States, and said expenses shall be repaid by said State or Territory. Each of said officers shall receive five dollars per day for the time actually employed. Each of the members of said commission shall receive \$3,000 per annum, and their clerk \$2,000. The commission shall procure all the necessary books, stationery, and boxes, and make all regulations to effect the objects of this act. The President of the district shall furnish so much military aid as the said commissioners shall deem necessary to protect the polls and keep the peace at each of said election districts. If by any means no election should be held in any of said late States on the day herein fixed, then the election shall be held on the third Monday of May, 1867, in the manner herein prescribed. Returns of all such elections shall be made to the said commissioners, whose certificates of election shall be *prima facie* evidence of the fact.

Sec. 4. And be it further enacted, That the persons who shall be entitled to vote at both of said elections shall be as follows: all male citizens above the age of twenty-one years who have resided one year in said State and ten days within the election district.

Sec. 5. And be it further enacted, That the word citizen, as used in this act, shall be construed to mean all persons (except Indians not taxed) born in the United States, or duly naturalized. Any male citizen above the age of twenty-one years shall be competent to be elected to act as delegate to said convention.

Sec. 6. And be it further enacted, That all persons who on the 4th day of March, 1861, were of full age, who held office, either civil or military, under the government called the "confederate States of America," or who swore allegiance to said government, are hereby declared to have forfeited their citizenship and to have renounced allegiance to the United States, and shall not be entitled to exercise the elective franchise or hold office until five years after they shall have filed their intention or desire to be reinvested with the right of citizenship, and shall swear allegiance to the United States and renounce allegiance to all other governments or pretended governments; the said application to be filed and oath taken in the same courts that by law are authorized to naturalize foreigners: *Provided, however,* that on taking the following oath, the party being otherwise qualified, shall be allowed to vote and hold office:

I, A. B., do solemnly swear, on the Holy Evangelists of Almighty God, that on the 4th day of March, 1861, and at all times thereafter, I would willingly have complied with the requirements of the proclamation of the President of the United States, issued on the 8th day of December, 1863, had a safe opportunity of so doing been allowed me; that on the said 4th of March, 1861, and at all times thereafter, I was opposed to the continuance of the rebellion, and to the establishment of the so-called confederate government, and voluntarily gave no aid or encouragement thereto, but earnestly desired the success of the Union, and the suppression of all armed resistance

to the Government of the United States; and that I will henceforth faithfully support the Constitution of the United States, and the Union of the States thereunder.

Sec. 7. And be it further enacted, That no constitution shall be presented to or acted on by Congress which denies to any citizen any right, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial, without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void, and said State lose its right to be represented in Congress.

Sec. 8. And be it further enacted, That whenever the foregoing conditions shall be complied with, the citizens of said State may present said constitution to Congress, and if the same shall be approved by Congress said State shall be declared entitled to the rights, privileges, and immunities, and be subject to all the obligations and liabilities of a State within the Union. No Senator or Representative shall be admitted into either House of Congress until Congress shall have declared the State entitled thereto.

The question was upon agreeing to the substitute.

Mr. BINGHAM. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BINGHAM. I submit that the eighth section of this substitute is one which provides for the representation in Congress of the insurrectionary States; therefore, under the order adopted by the House at the last session, and renewed this session, this should be referred to the joint committee on reconstruction without debate. The provision of this substitute to which I refer is as follows:

Sec. 8. And be it further enacted, That whenever the foregoing conditions shall be complied with the citizens of said State may present said constitution to Congress, and if the same shall be approved by Congress said State shall be declared entitled to the rights, privileges, and immunities, and be subject to all the obligations and liabilities of a State within the Union. No Senator or Representative shall be admitted into either House of Congress until Congress shall have declared the State entitled thereto.

That section has relation to representation in Congress, and provides the terms and conditions upon which the States lately in insurrection shall be entitled to representation in Congress. I therefore make the point of order that under the existing rule this subject should be referred to the joint committee on reconstruction without debate.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] is correct in his statement of facts. But he overlooks this fact, that on the 30th of April, 1866, the House of Representatives waived the rule to which he has referred, so far as the original bill under consideration is concerned, and allowed it to be introduced; when of course it became subject to amendment and action as any other bill. The section the gentleman has read is from the substitute offered by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. BINGHAM. I would inquire if the original bill contains any provision in relation to the representation from the lately insurrectionary States?

The SPEAKER. The title of the original bill is "A bill to provide for restoring to the States lately in insurrection their full political rights."

Mr. BINGHAM. The title may be properly recited by the Speaker, but the question I make is, does the original bill, introduced on the 30th of April last, provide the conditions I have just recited from the eighth section of the substitute?

The SPEAKER. It may not have provided for those specific conditions, but it provides "for restoring to the States lately in insurrection their full political rights." And having been introduced it is subject to amendment. The Chair therefore overrules the point of order.

Mr. STEVENS. I desire to modify the third section of the substitute by striking out the words "Congress shall elect" and inserting in lieu thereof the words "the supreme court of the District of Columbia shall appoint" before the words "a commission for each of said States."

The question was upon the substitute, as modified.

Mr. STEVENS. Mr. Speaker, I am very anxious that this bill should be proceeded with until finally acted upon. I desire that as early as possible, without curtailing debate, this House shall come to some conclusion as to what shall be done with the rebel States. This becomes more and more necessary every day; and the late decision of the Supreme Court of the United States has rendered immediate action by Congress upon the question of the establishment of governments in the rebel States absolutely indispensable.

That decision, although in terms perhaps not as infamous as the Dred Scott decision, is yet far more dangerous in its operation upon the lives and liberties of the loyal men of this country. That decision has taken away every protection in every one of these rebel States from every loyal man, black or white, who resides there. That decision has unsheathed the dagger of the assassin, and places the knife of the rebel at the throat of every man who dares proclaim himself to be now, or to have been heretofore, a loyal Union man. If the doctrine enunciated in that decision be true, never were the people of any country anywhere, or at any time, in such terrible peril as are our loyal brethren at the South, whether they be black or white, whether they go there from the North or are natives of the rebel States.

Now, Mr. Speaker, unless Congress proceeds at once to do something to protect these people from the barbarians who are now daily murdering them; who are murdering the loyal whites daily and daily putting into secret graves not only hundreds but thousands of the colored people of that country; unless Congress proceeds at once to adopt some means for their protection, I ask you and every man who loves liberty whether we will not be liable to the just censure of the world for our negligence or our cowardice or our want of ability to do so?

Now, sir, it is for these reasons that I insist on the passage of some such measure as this. This is a bill designed to enable loyal men, so far as I could discriminate them in these States, to form governments which shall be in loyal hands, that they may protect themselves from such outrages as I have mentioned. In States that have never been restored since the rebellion from a state of conquest, and which are this day held in captivity under the laws of war, the military authorities, under this decision and its extension into disloyal States, dare not order the commanders of departments to enforce the laws of the country. One of the most atrocious murderers that has ever been let loose upon any community has lately been liberated under this very decision, because the Government extended it, perhaps according to the proper construction, to the conquered States as well as to the loyal States.

A gentleman from Richmond, who had personal knowledge of the facts, told me the circumstances of the murder. A colored man, driving the family of his employer, drove his wagon against a wagon containing Watson and his family. The wagon of Watson was broken. The next day Watson went to the employer of the colored man and complained. The employer offered to pay Watson every dollar that he might assess for the damage that had been done. "No!" said he, "I claim the right to chastise the scoundrel." He followed the colored man, took out his revolver, and deliberately shot him dead in the presence of that community. No civil authority would prosecute him; and, when taken into custody by the military authority, he is discharged by order of the President under this most injurious and iniquitous decision.

Now, sir, if that decision be the law, then it becomes the more necessary that we should proceed to take care that such a construction as that shall not open the door to greater injuries than have already been sustained. Thus much I have said at the outset of my remarks, which shall not be very long.

The people have once more nobly done their duty. May I ask, without offense, will Congress have the courage to do its duty? Or will

it be deterred by the clamor of ignorance, bigotry, and despotism from perfecting a revolution begun without their consent, but which ought not to be ended without their full participation and concurrence? Possibly the people would not have inaugurated this revolution to correct the palpable incongruities and despotism provisions of the Constitution; but having it forced upon them, will they be so unwise as to suffer it to subside without erecting this nation into a perfect Republic?

Since the surrender of the armies of the confederate States of America a little has been done toward establishing this Government upon the true principles of liberty and justice; and but a little if we stop here. We have broken the material shackles of four million slaves. We have unchained them from the stake so as to allow them locomotion, provided they do not walk in paths which are trod by white men. We have allowed them the unwonted privilege of attending church, if they can do so without offending the sight of their former masters. We have even given them that highest and most agreeable evidence of liberty as defined by the "great plebeian," the "right to work." But in what have we enlarged their liberty of thought? In what have we taught them the science and granted them the privilege of self-government? We have imposed upon them the privilege of fighting our battles, of dying in defense of freedom, and of bearing their equal portion of taxes; but where have we given them the privilege of ever participating in the formation of the laws for the government of their native land? By what civil weapon have we enabled them to defend themselves against oppression and injustice? Call you this liberty? Call you this a free Republic where four millions are subjects but not citizens? Then Persia, with her kings and satraps, was free; then Turkey is free! Their subjects had liberty of motion and of labor, but the laws were made without and against their will; but I must declare that, in my judgment, they were as really free governments as ours is to-day. I know they had fewer rulers and more subjects, but those rulers were no more despotic than ours, and their subjects had just as large privileges in governing the country as ours have. Think not I would slander my native land; I would reform it. Twenty years ago I denounced it as a despotism. Then, twenty million white men enchained four million black men. I pronounce it no nearer to a true Republic now when twenty-five million of a privileged class exclude five million from all participation in the rights of government.

The freedom of a Government does not depend upon the quality of its laws, but upon the power that has the right to enact them. During the dictatorship of Pericles his laws were just, but Greece was not free. During the last century Russia has been blessed with most remarkable emperors, who have generally decreed wise and just laws, but Russia is not free.

No Government can be free that does not allow all its citizens to participate in the formation and execution of her laws. There are degrees of tyranny. But every other government is a despotism. It has always been observed that the larger the number of the rulers the more cruel the treatment of the subject races. It were better for the black man if he were governed by one king than by twenty million.

What are the great questions which now divide the nation? In the midst of the political Babel which has been produced by the intermingling of secessionists, rebels, pardoned traitors, hissing Copperheads, and apostate Republicans, such a confusion of tongues is heard that it is difficult to understand either the questions that are asked or the answers that are given. Ask, what is the "President's policy?" and it is difficult to define it. Ask, what is the "policy of Congress?" and the answer is not always at hand.

A few moments may be profitably spent in

seeking the meaning of each of these terms. Nearly six years ago a bloody war arose between different sections of the United States. Eleven States, possessing a very large extent of territory, and ten or twelve million people, aimed to sever their connection with the Union, and to form an independent empire, founded on the avowed principle of human slavery and excluding every free State from this confederacy. They did not claim to raise an insurrection to reform the Government of the country—a rebellion against the laws—but they asserted their entire independence of that Government and of all obligations to its laws. They were satisfied that the United States should maintain its old Constitution and laws. They formed an entirely new constitution; a new and distinct government, called the "confederate States of America." They passed their own laws, without regard to any former national connection. Their government became perfectly organized, both in its civil and military departments. Within the broad limits of those eleven States the "confederate States" had as perfect and absolute control as the United States had over the other twenty-five. The "confederate States" refused to negotiate with the United States, except upon the basis of independence—of perfect national equality. The two powers mutually prepared to settle the question by arms. They each raised more than half a million armed men. The war was acknowledged by other nations as a public war between independent belligerents. The parties acknowledged each other as such, and claimed to be governed by the law of nations and the laws of war in their treatment of each other. On the result of the war depended the fate and ulterior condition of the contending parties. No one then pretended that the eleven States had any rights under the Constitution of the United States, or any right to interfere in the legislation of the country. Whether they should ever have all men of both sections, without exception, agreed would depend on the will of Congress, if the United States were victorious. The confederate States claimed no rights unless they could conquer them by the contest of arms.

President Lincoln, Vice President Johnson, and both branches of Congress repeatedly declared that the belligerent States could never again intermeddle with the affairs of the Union, or claim any right as members of the United States Government until the legislative power of the Government should declare them entitled thereto. Of course the rebels claimed no such rights; for whether their States were out of the Union as they declared, or were disorganized and "out of their proper relations" to the Government, as some subtle metaphysicians contend, their rights under the Constitution had all been renounced and abjured under oath, and could not be resumed on their own mere motion. How far their liabilities remained there was more difference of opinion.

The Federal arms triumphed. The confederate armies and government surrendered unconditionally. The law of nations then fixed their condition. They were subject to the controlling power of the conquerors. No former laws, no former compacts or treaties existed to bind the belligerents. They had all been melted and consumed in the fierce fires of the terrible war. The United States, according to the usage of nations, appointed military provisional governors to regulate their municipal institutions until the law-making power of the conqueror should fix their condition and the law by which they should be permanently governed. True, some of those governors were illegally appointed, being civilians. No one then supposed that those States had any governments, except such as they had formed under their rebel organization. No sane man believed that they had any organic or municipal laws which the United States were bound to respect. Whoever had then asserted that those States had remained unfractured, and entitled to all the rights and privileges which they enjoyed before the rebellion, and were on a level with their

loyal conquerors, would have been deemed a fool, and would have been found insane by any inquisition "*de lunatico inquirendo*."

In anarchical Governments, where the sovereign power rests in the Crown, the king would have fixed the condition of the conquered provinces. He might have extended the laws of his empire over them, allowed them to retain portions of their old institutions, or, by conditions of peace, have fixed upon them new and exceptional laws.

In this country the whole sovereignty rests with the people, and is exercised through their Representatives in Congress assembled. The legislative power is the sole guardian of that sovereignty. No other branch of the Government, no other Department, no other officer of the Government, possesses one single particle of the sovereignty of the nation. No Government official, from the President and Chief Justice down, can do any one act which is not prescribed and directed by the legislative power. Suppose the Government were now to be organized for the first time under the Constitution, and the President had been elected and the judiciary appointed: what could either do until Congress passed laws to regulate their proceedings?

What power would the President have over any one subject of government until Congress had legislated on that subject? No State could order the election of members until Congress had ordered a census and made an apportionment. Any exception to this rule has been a work of grace in Congress by passing healing acts. The President could not even create bureaus or Departments to facilitate his executive operations. He must ask leave of Congress. Since, then, the President cannot enact, alter, or modify a single law; cannot even create a petty office within his own sphere of duties; if, in short, he is the mere servant of the people, who issue their commands to him through Congress, whence does he derive the constitutional power to create new States; to remodel old ones; to dictate organic laws; to fix the qualification of voters; to declare that States are republican and entitled to command Congress to admit their Representatives? To my mind it is either the most ignorant and shallow mistake of his duties, or the most brazen and impudent usurpation of power. It is claimed for him by some as the Commander-in-Chief of the Army and Navy. How absurd that a mere executive officer should claim creative powers! Though Commander-in-Chief by the Constitution, he would have nothing to command, either by land or water, until Congress raised both Army and Navy. Congress also prescribes the rules and regulations to govern the Army. Even that is not left to the Commander-in-Chief.

Though the President is Commander-in-Chief, Congress is his commander; and, God willing, he shall obey. He and his minions shall learn that this is not a Government of kings and satraps, but a Government of the people, and that Congress is the people. There is not one word in the Constitution that gives one particle of anything but judicial and executive power to any other department of Government but Congress. The veto power is no exception; it is merely a power to compel a reconsideration. What can be plainer?

"All legislative powers herein granted shall be vested in a Congress of the United States. Such shall consist of a Senate and House of Representatives."—*Constitution United States*, art. 1, sec. 1.

To reconstruct the nation, to admit new States, to guaranty republican governments to old States are all legislative acts. The President claims the right to exercise them. Congress denies it and asserts the right to belong to the legislative branch. They have determined to defend these rights against all usurpers. They have determined that while in their keeping the Constitution shall not be violated with impunity. This I take to be the great question between the President and Congress. He claims the right to reconstruct by his own power. Congress denies him all power

in the matter, except those of advice, and has determined to maintain such denial. "My policy" asserts full power in the Executive. The policy of Congress forbids him to exercise any power therein.

Beyond this I do not agree that the "policy" of the parties are defined. To be sure many subordinate items of the policy of each may be easily sketched. The President is for exonerating the conquered rebels from all the expense and damages of the war, and for compelling the loyal citizens to pay the whole debt caused by the rebellion. He insists that those of our people who were plundered and their property burned or destroyed by rebel raiders shall not be indemnified, but shall bear their own loss, while the rebels shall retain their own property, most of which was declared forfeited by the Congress of the United States. He desires that the traitors (having sternly executed that most important leader, Ricketty Weirze, as a high example) should be exempt from further fine, imprisonment, forfeiture, exile, or capital punishment, and be declared entitled to all the rights of loyal citizens. He desires that the States created by him shall be acknowledged as valid States, while at the same time he inconsistently declares that the old rebel States are in full existence, and always have been, and have equal rights with the loyal States. He opposes the amendment to the Constitution which changes the base of representation, and desires the old slave States to have the benefit of their increase of freemen without increasing the number of votes; in short, he desires to make the vote of one rebel in South Carolina equal to the vote of three freemen in Pennsylvania or New York. He is determined to force a solid rebel delegation into Congress from the South, and, together with Northern Copperheads, could at once control Congress and elect all future Presidents.

In opposition to these things, a portion of Congress seems to desire that the conquered belligerent shall, according to the law of nations, pay at least a part of the expenses and damages of the war; and that especially the loyal people who were plundered and impoverished by rebel raiders shall be fully indemnified. A majority of Congress desires that treason shall be made odious, not by bloody executions, but by other adequate punishments.

Congress refuses to treat the States created by him as of any validity, and denies that the old rebel States have any existence which gives them any rights under the Constitution. Congress insists on changing the basis of representation so as to put white voters on an equality in both sections, and that such change shall precede the admission of any State. I deny that there is any understanding, expressed or implied, that upon the adoption of the amendment by any State, that such State may be admitted, (before the amendment becomes part of the Constitution.) Such a course would soon surrender the Government into the hands of rebels. Such a course would be senseless, inconsistent, and illogical. Congress denies that any State lately in rebellion has any government or constitution known to the Constitution of the United States, or which can be recognized as a part of the Union. How, then, can such a State adopt the amendment? To allow it would be yielding the whole question and admitting the unimpaired rights of the seceded States. I know of no Republican who does not ridicule what Mr. Seward thought a cunning movement, in counting Virginia and other outlawed States among those which had adopted the constitutional amendment abolishing slavery.

It is to be regretted that inconsiderate and incautious Republicans should ever have supposed that the slight amendments already proposed to the Constitution, even when incorporated into that instrument, would satisfy the reforms necessary for the security of the Government. Unless the rebel States, before admission, should be made republican in spirit, and placed under the guardianship of loyal men, all our blood and treasure will have been

spent in vain. I waive now the question of punishment which, if we are wise, will still be inflicted by moderate confiscations, both as a reproof and example. Having these States, as we all agree, entirely within the power of Congress, it is our duty to take care that no injustice shall remain in their organic laws. Holding them "like clay in the hands of the potter," we must see that no vessel is made for destruction. Having now no governments, they must have enabling acts. The law of last session with regard to Territories settled the principles of such acts. Impartial suffrage, both in electing the delegates and ratifying their proceedings, is now the fixed rule. There is more reason why colored voters should be admitted in the rebel States than in the Territories. In the States they form the great mass of the loyal men. Possibly with their aid loyal governments may be established in most of those States. Without it all are sure to be ruled by traitors; and loyal men, black and white, will be oppressed, exiled, or murdered. There are several good reasons for the passage of this bill. In the first place, it is just. I am now confining my argument to negro suffrage in the rebel States. Have not loyal blacks quite as good a right to choose rulers and make laws as rebel whites? In the second place, it is a necessity in order to protect the loyal white men in the seceded States. The white Union men are in a great minority in each of those States. With them the blacks would act in a body; and it is believed that in each of said States, except one, the two united would form a majority, control the States, and protect themselves. Now they are the victims of daily murder. They must suffer constant persecution or be exiled. The convention of southern loyalists, lately held in Philadelphia, almost unanimously agreed to such a bill as an absolute necessity.

Another good reason is, it would insure the ascendancy of the Union party. Do you avow the party purpose? exclaims some horror-stricken demagogue. I do. For I believe, on my conscience, that on the continued ascendancy of that party depends the safety of this great nation. If impartial suffrage is excluded in the rebel States then every one of them is sure to send a solid rebel representative delegation to Congress, and cast a solid rebel electoral vote. They, with their kindred Copperheads of the North, would always elect the President and control Congress. While slavery sat upon her defiant throne, and insulted and intimidated the trembling North, the South frequently divided on questions of policy between Whigs and Democrats, and gave victory alternately to the sections. Now, you must divide them between loyalists, without regard to color, and disloyalists, or you will be the perpetual vassals of the free-trade, irritated, revengeful South. For these, among other reasons, I am for negro suffrage in every rebel State. If it be just, it should not be denied; if it be necessary, it should be adopted; if it be a punishment to traitors, they deserve it.

But it will be said, as it has been said, "This is negro equality!" What is negro equality, about which so much is said by knaves, and some of which is believed by men who are not fools? It means, as understood by honest Republicans, just this much, and no more: every man, no matter what his race or color; every earthly being who has an immortal soul, has an equal right to justice, honesty, and fair play with every other man; and the law should secure him those rights. The same law which condemns or acquits an African should condemn or acquit a white man. The same law which gives a verdict in a white man's favor should give a verdict in a black man's favor on the same state of facts. Such is the law of God and such ought to be the law of man. This doctrine does not mean that a negro shall sit on the same seat or eat at the same table with a white man. That is a matter of taste which every man must decide for himself. The law has nothing to do with it. If there be any who are afraid of the rivalry of the



black man in office or in business, I have only to advise them to try and beat their competitor in knowledge and business capacity, and there is no danger that his white neighbors will prefer his African rival to himself. I know there is between those who are influenced by this cry of "negro equality" and the opinion that there is still danger that the negro will be the smartest, for I never saw even a contraband slave that had not more sense than such men.

There are those who admit the justice and ultimate utility of granting impartial suffrage to all men, but they think it is impolitic. An ancient philosopher, whose antagonist admitted that what he required was just but deemed it impolitic, asked him: "Do you believe in Hades?" I would say to those above referred to, who admit the justice of human equality before the law but doubt its policy: "Do you believe in hell?"

How do you answer the principle inscribed in our political scripture? "That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed?" Without such consent government is a tyranny, and you exercising it are tyrants. Of course, this does not admit malefactors to power, or there would soon be no penal laws and society would become an anarchy. But this step forward is an assault upon ignorance and prejudice, and timid men shrink from it. Are such men fit to sit in the places of statesmen?

There are periods in the history of nations when statesmen can make themselves names for posterity; but such occasions are never improved by cowards. In the acquisition of true fame courage is just as necessary in the civilian as in the military hero. In the Reformation there were men engaged as able and perhaps more learned than Martin Luther. Melancthon and others were ripe scholars and sincere reformers, but none of them had his courage. He alone was willing to go where duty called though "devils were as thick as the tiles on the houses." And Luther is the great luminary of the Reformation, around whom the others revolve as satellites and shine by his light. We may not aspire to fame. But great events fix the eye of history on small objects and magnify their meanness. Let us at least escape that condition.

Mr. ASHLEY, of Ohio. I move to amend the substitute of the gentleman from Pennsylvania [Mr. STEVENS] by striking out all after the enacting clause and inserting in lieu thereof the following:

That it is hereby declared that the State governments which have been organized in that portion of the territory of the United States in which "the rebellion in its revolutionary progress has deprived the people of all local civil governments," to wit: in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, are not valid constitutional State governments, having been established without authority of law, under the duress of military power, and without the voluntary cooperation and ratification of the loyal citizens of the United States residing in said States; and all laws enacted in pursuance of authority derived from such State governments, and all acts done by any officer thereof, are hereby declared void, except so far as the laws and acts of said governments may be approved and ratified by the constituted authorities of the State governments organized as hereinafter provided.

SEC. 2. And be it further enacted, That all male citizens of the United States above the age of twenty-one years, residents for six months in either of the States above named, and ten days next preceding any election within the election district in which they shall offer to vote, and who will take the oath hereinafter prescribed, are hereby authorized and invited, in the name and on behalf of the people of the United States represented in Congress, to organize constitutional State governments in each of the States aforesaid; and the term "citizens of the United States," as used in this act, shall be taken and held to include all persons, irrespective of race or former condition of servitude, born in the United States, or naturalized in pursuance of its laws.

SEC. 3. And be it further enacted, That constitutional State governments may be organized and established in each of the States named in the first section of this act, as follows:

First. All male citizens of the United States above the age of twenty-one years shall be qualified to vote for delegates to the conventions herein authorized, and none other, who will first take the following oath: "I, A. B., do solemnly swear (or affirm) that on the 4th day of March, A. D. 1864, and at all times thereafter, I would willingly have complied with the re-

quirements of the proclamation of the President of the United States, issued on the 8th day of December, A. D. 1863, had a safe opportunity of so doing been allowed me: that on the said 4th of March, 1864, and at all times thereafter, I was opposed to the continuance of the rebellion and to the so-called confederate government, and voluntarily gave no aid or encouragement thereto, but earnestly desired the suppression of the rebellion and the reestablishment of the Union and the authority of the Government of the United States; that I will, at all times hereafter, use my best endeavors to perpetuate the Union of these States, and maintain in any State of which I am an inhabitant a government completely republican, in which all men shall enjoy equal protection and equal rights; that I am not now, nor have I been since the 4th of March, A. D. 1865, a member of any organization, secret or otherwise, inimical to the peace and unity of the Government of the United States and the rights of loyal citizens thereunder; that I have never treated officers or soldiers or sailors of the United States captured during the late war otherwise than as lawful prisoners of war; and that I will henceforth bear true faith and allegiance to the Government of the United States and to the constitutional State government which shall be organized and established by the people of this State in pursuance of this act. So help me God."

Second. A convention for each of the States hereinbefore designated, to be composed of as many delegates as each were entitled to members in the most numerous branch of their respective State Legislatures under their old State governments, shall be selected at a mass convention in each representative district by those qualified to vote under the provisions of this act.

The delegates thus selected shall assemble at the late State capitol, or at such point as may be agreed upon, within thirty days after their election, and, before organizing, shall each take and subscribe, in a book to be provided for that purpose, the following oath:

"I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I became a citizen thereof; that I have voluntarily given no aid, counsel, or encouragement to persons in armed hostility thereto; that I have never held any office, civil, military, or naval, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile thereto; that I will, at all times hereafter, use my best endeavors to perpetuate the Union of these States, and maintain, in any State of which I am an inhabitant, a government completely republican, in which all men shall enjoy equal protection and equal rights; that I am not now, nor have I been since the 4th of March, A. D. 1865, a member of any organization, secret or otherwise, inimical to the peace and unity of the Government of the United States and the rights of loyal citizens thereunder; that I have never treated officers, soldiers, or sailors of the United States captured during the late war otherwise than as lawful prisoners of war; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution and Government of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same, and to such State government as may be organized and recognized by the Congress of the United States, as the constitutional government of this State; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Third. The delegates who take and subscribe the above oath, and they only, shall then organize the convention, and proceed to determine whether they are willing to adopt the terms herein proposed by the Congress of the United States, and recommend their acceptance to the people of their respective States.

If the convention vote affirmatively, they shall then proceed to select five citizens, distinguished for their loyalty and fidelity to the Constitution and the Union of these States; and the persons thus selected shall act as a provisional committee of public safety for the State until a constitutional State convention shall assemble and elect a provisional governor for the State, as hereinafter provided. Any three of this committee shall constitute a quorum for business. The duty of said committee shall be to see that the provisions of this act, and the orders of the convention appointing them, are faithfully executed. Before entering upon the discharge of their duties they shall take and subscribe the oath above prescribed to be taken by members of the convention.

The provisional committee thus selected for each State shall, within thirty days after the adjournment of the respective conventions which appointed them, meet and organize by selecting one of their own number for president, and one to act as secretary and treasurer, after which they shall issue an address to the electors qualified to vote under the provisions of this act, notifying them that they have accepted the trust committed to them by the convention, and that they are ready to cooperate with all good-disposed citizens, who are willing to take the oath herein prescribed for electors, and in good faith enter upon the work of reorganizing loyal State governments.

The provisional committee thus appointed for each of the States shall, as soon as possible after organizing, appoint sub-provisional committees for each county in the State, to be composed of three electors of undoubted loyalty, who, before acting under such appointment, shall take and subscribe the oath above prescribed, and in addition, "that they will faithfully perform all lawful duties imposed upon them by the provisional committee for the State."

The provisional committee for each State shall also appoint a suitable number of competent loyal

citizens to act as judges and clerks of elections, who, in addition to the oath above prescribed, shall take and subscribe such an oath as the provisional State committee may prescribe, faithfully to perform the duties of judges and clerks of the elections herein provided for.

The provisional committee for each State shall, as soon as practicable after appointing the committees and judges and clerks of election herein provided for, issue a call inviting all citizens of the United States entitled to vote under the provisions of this act to elect delegates to a constitutional convention, who shall be charged with the duty of forming a constitution of State government, subject to the Constitution of the United States and the provisions of this act.

The provisional committee for each State shall designate the time and manner in which delegates to the respective constitutional conventions shall be elected, giving at least sixty days' notice of such election. They shall also apportion the State into as many districts as there are delegates to be elected, taking care to secure an equitable representation as near as may be to those entitled to vote in the State under the provisions of this act: *Provided*, That said delegates shall be elected in single districts, and all voting shall be by ballot. *And provided further*, That the number of delegates in each State shall not exceed the number of members to which such State was entitled under their old government in the most numerous branch of its Legislature.

The judges and clerks of elections herein authorized to be appointed shall make and keep two poll-books at each place of voting, in which the name of each voter shall be registered, and within three days after the election transmit one of them, duly signed, sealed, and certified, to the president or acting president of the provisional State committee, and the other to the provisional committee for the county in which the election is held, which committee shall open and publish the result in said county; and the provisional State committee shall, within thirty days after the election, open and inspect the election returns for the State in the presence of at least three loyal citizens; and they shall declare the person having the greatest number of votes in each district duly elected a member of the convention; and the certificate of the president or acting president of the provisional State committee shall entitle the holder to a seat in the convention.

Immediately after canvassing the returns of said election the provisional State committee shall issue a public call appointing a time and a place for the meeting of said convention, which time shall be within sixty days after said election.

SEC. 4. And be it further enacted, That the members of the said convention thus elected in each State shall assemble at the time and place designated in the call of the respective provisional State committees; but before entering upon the discharge of their duties the president or acting president of the provisional committee for the State shall administer to each delegate the oath hereinbefore prescribed for the members of the first convention, and no delegates shall be permitted to act in such convention who refuses to take and subscribe said oath; and a majority of the delegates thus elected shall constitute a quorum of said convention. Each convention after organizing shall first declare its assent on behalf of those whom they represent that the people of said State adopt the Constitution of the United States and accept it as the supreme law of the land; whereupon the said convention is authorized to select a provisional governor and all necessary officers for the said State, including State, district, and county judges. And the governor and all officers thus provisionally appointed shall discharge the duties imposed upon them under such rules and regulations as the convention may prescribe until a governor and such officers as may be authorized by law for said State are elected and qualified; after which the said convention shall be, and it is hereby, invested with full power and authority to form a constitution of State government for said State: *Provided*, That the constitution when formed shall be republican and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence; *And provided further*, That said convention shall provide by an ordinance forever irrevocable without the consent of Congress—

First. That all persons in this State are free and equal before the law, so that no man can hold another as a slave; and all laws enacted by this State shall be impartial, without regard to race or former condition of servitude.

Second. That this State shall never assume or pay any debt or obligation contracted in aid of insurrection or of war against the United States, or any claim for the loss or emancipation of any slave.

Third. That this State will establish and maintain a well-organized system of free schools for all children in the State between six and twenty years of age, from which no child shall be excluded because of race or color.

Fourth. That no person who has held office, civil, military, or naval, under either of the recent revolutionary governments, State or confederate, shall be allowed to hold any office of honor or profit under said State government until the Legislature thereof, by special act in each case, and by a two-thirds vote, shall have granted a full and unconditional pardon to such person.

Fifth. That whenever the constituted authorities of this State, aided by a sufficient number of the people thereof, shall attempt to dissolve the constitutional relations of this State with the Government of the United States, or shall attempt to form alliances with other States or with foreign Powers, or shall levy war against the United States, such acts or either of them shall at once operate to dissolve this State of its right to representation in Congress; and the Congress of the United States, which represents the sovereignty of the nation, is hereby recognized as hav-

ing power and authority to do any act not inconsistent with the rules of civilized warfare to protect the lives and property of citizens of the United States residing in this State, and for the restoration of this State to its constitutional relations with the national Government upon such terms and conditions as they may prescribe.

SEC. 5. *And be it further enacted*, That in case any convention hereby authorized shall form a constitution of State government for the people of said State in compliance with the provisions of this act, the convention forming the same shall provide by ordinance for submitting said constitution and ordinance to the people of said State for their approval or rejection at an election to be held at such time and place and under such regulations as the convention may prescribe; at which election the electors qualified to vote for delegates to the convention and none other, shall vote directly for or against said constitution. And the returns of said election shall be made to the provisional governor, who shall open and canvass the same in the presence of at least three loyal citizens of the State within thirty days after said election, and if a majority of legal votes shall be cast at such election for said constitution and ordinance, the provisional governor or acting provisional governor shall certify the same to the President of the United States, to the President of the Senate, and Speaker of the House of Representatives, together with a certified printed copy of the proceedings of said convention and of the constitution and ordinance adopted. Whereupon the Congress of the United States shall determine whether the foregoing conditions have been complied with by the citizens of said State, and if Congress shall approve the constitution and ordinance submitted to them said State shall be declared entitled to all the rights, privileges, and immunities and be subject to all the obligations and liabilities of a State in the American Union.

SEC. 6. *And be it further enacted*, That the convention may authorize the election of all State, county, or other officers provided for in the State constitution, and for Representatives in Congress, at the same time the question of ratifying or rejecting the proposed constitution and ordinance is submitted to the people: *Provided*, That no Senator or Representative shall be admitted as such until Congress shall have declared the State entitled thereto.

SEC. 7. *And be it further enacted*, That if in either of the States above named the conventions herein authorized shall decline to accept the terms proposed in this act as conditions precedent to the restoration of said State to its constitutional relations with the national Government, and shall refuse to form a constitution of State government, subject to the conditions and limitations herein prescribed, the convention thus refusing may, and it is hereby invited to, submit to the Congress of the United States for their approval, modification, or rejection such plan of restoration as they may agree upon: *Provided*, That such plan shall declare: first, that the Constitution of the United States is the supreme law of the land; second, that the constitution of said State shall guaranty the freedom and equality of all persons before the law; third, that all voting in said State shall be by ballot, and suffrage shall be impartial, without distinction of race or color. That no debt or obligation contracted by this State in aid of insurrection or of war against the United States, or claim for loss of property during the war, or for compensation for loss or emancipation of any slave, shall ever be made by said State upon the United States, or be assumed or paid by said State.

SEC. 8. *And be it further enacted*, That in the several States wherein a provisional governor is authorized by this act to be appointed the judges provisionally appointed as herein provided shall have such jurisdiction, both civil and criminal, of all cases whereof the State courts of such State had cognizance on the day when it renounced its obedience to the Constitution of the United States, and said laws not inconsistent with the provisions of this act shall continue to be rules of judgment of said courts in such State until a State government is formed and recognized as above provided. And said courts shall have such additional jurisdiction as the said convention appointing them may prescribe: *Provided*, That all laws, judicial decisions, or usages of said State which recognize or sustain any form of slavery, or which exclude the testimony of persons of color, or which deny them the right of trial by jury, or which make any distinction because of race or color or former condition of servitude, shall be utterly void within said State.

SEC. 9. *And be it further enacted*, That if any person shall falsely take either of the oaths herein prescribed he may be indicted and prosecuted for the crime of perjury in any court or district court of the United States having jurisdiction of the person, and upon conviction thereof shall be imprisoned in the penitentiary at hard labor not less than three nor more than ten years, and pay the cost of prosecution; and in the trial of any person for perjury under the provisions of this act, or for any offense against the laws of the United States in either of the States named in the first section of this act, no person shall be qualified to sit upon the jury until he shall have taken the oath herein prescribed to be taken by members of the constitutional convention, and the court may require any juror to take it unless he shall swear that he cannot truthfully do so.

SEC. 10. *And be it further enacted*, That the President of the United States is hereby authorized, and it shall be his duty, to furnish so much military aid as the provisional committee or provisional governor selected in pursuance of this act for either of the States hereinbefore named shall deem necessary to protect the polls and keep the peace at the elections herein authorized; and he shall so dispose and employ the military and naval forces of the United States as to enforce the prompt and efficient execu-

tion of the provisions of this act, and to secure order and obedience to the laws of the United States in said State.

SEC. 11. *And be it further enacted*, That if in any of the States above named any person or persons shall conspire together or attempt forcibly to obstruct or prevent the peaceful assembling of the loyal citizens of said States to petition the Congress of the United States, in pursuance of the provisions of this act, the person or persons so offending shall be deemed guilty of a misdemeanor, and upon trial and conviction before any court or district court of the United States having jurisdiction of the person shall be punished by imprisonment in the penitentiary not less than three nor more than ten years, at the discretion of the court.

SEC. 12. *And be it further enacted*, That if any provisional governor appointed as herein provided shall be unable because of forcible resistance to his authority to administer the State government over which he is called to preside, with the aid of such military and naval force as the President of the United States may be able to furnish as above provided that he be, and he is hereby, authorized to organize, arm, and equip such military force as he may deem necessary to keep the peace and enforce the laws and such ordinances as the constitutional convention in such State may require said governor or any officer appointed by them to execute.

SEC. 13. *And be it further enacted*, That if the provisional governor or the judge of any court, or any officer appointed or authorized to be appointed by either of the constitutional conventions organized as hereinbefore prescribed, is unable because of forcible resistance to execute civil process, the provisional governor of such State may proclaim martial law and suspend the writ of *habeas corpus* in the county or district in which such resistance is made, and may order the arrest and imprisonment during the continuance of martial law of any person or persons who shall resist, or conspire to resist, by force the establishment of such governments as are herein authorized; and if the persons combined to resist the civil and military power of the provisional government herein authorized are too numerous to be arrested and imprisoned by the ordinary process of law, the provisional governor shall call on the President of the United States, and it shall be his duty to furnish such military aid as the said Governor may deem necessary to cooperate with the militia force of the said State, which he is hereinbefore authorized to call into service to keep the peace, protect the courts, and execute the laws.

SEC. 14. *And be it further enacted*, That when the constitutional convention for the State of Texas shall have assembled and organized, as provided in this act, said convention may divide the State into two States: *Provided*, That said convention shall first cede to the United States all right and title of said State to any part of the territory hereinafter described and not included within the proposed boundaries of either State, to wit: all that part of the territory of said State lying west and north of the following boundaries: commencing at a point formed by the intersection of the Rio Grande with the twenty-fourth degree of longitude west from Washington; thence northward along said twenty-fourth degree of longitude to its intersection with the main branch of Red river; thence eastward down the main channel of said river to its intersection with the twenty-third degree of longitude west from Washington; thence the present boundary line between Texas and the Indian Territory; thence northward along said twenty-first degree of longitude to the northern boundary line of Texas; thence westward along said northern boundary line of Texas to its intersection with the present eastern boundary of the Territory of New Mexico; and said convention shall cause such cession to be so made to the United States so as to include all right and title to the soil not disposed of by the State of Texas prior to the 4th day of March, A. D. 1861, and from the date of such cession the title to all the territory thus ceded shall vest in the United States, and the territory so acquired shall be attached to and thereafter form part of the Territory of New Mexico.

The said convention may then divide the State, either by beginning at the mouth of the Colorado, where it empties into Matagorda bay, or at the mouth of the Brazos, and following up the main channel of either river until its intersection with the twentieth degree of longitude west from Washington; thence northward along said twentieth degree of longitude to its intersection with the Red river; and all east of said boundary line shall constitute the State of Texas, and the remainder may be erected into a new State with such name as the convention may select and Congress approve.

After the dividing line shall have been agreed upon, the members of said convention residing within the limits of the proposed States shall assemble in separate conventions and organize as hereinbefore provided, and proceed as directed in this act: first, to select a provisional governor and all other officers for the State, whereupon each convention shall be, and they are hereby, vested with power and authority to form a constitution of State government for the State of Texas and the proposed new State, in accordance with the conditions and limitations prescribed for the States named in this act.

SEC. 15. *And be it further enacted*, That if any person shall be elected a delegate to any constitutional convention herein authorized who cannot take the oath above prescribed because he has held some subordinate civil or ministerial office under either of the revolutionary governments, State or confederate, but who is able and willing to take said oath, except so far as to swear that he has never held any office under either of said pretended governments, the convention, after having been duly organized, may, by a two-third vote, if they are satisfied of the loyalty and fidelity of the person asking for admission, permit

him to take the oath, omitting the clause, "that I have never held any civil office," and admit him to a seat in the convention, if he is otherwise qualified.

SEC. 16. *And be it further enacted*, That acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

MR. PIKE. Mr. Speaker, in the remarks which I propose to make at the present time I shall not speak particularly upon the substitute presented this morning by the gentleman from Pennsylvania, [Mr. STEVENS,] because I have had no opportunity to examine it; but I shall rather occupy the attention of the House in giving my opinion upon the present state of affairs with regard to the insurrectionary States than to enforce it by a recital of the facts and arguments upon which it is based. It has got to be time now for action if we are to fulfill the reasonable expectations of the country during the life of this Congress, and for one I am quite ready to act.

Three modes of dealing with those States have been proposed and are now before us for consideration and decision:

1. The President's plan of admission at once to a full participation in the Government, treating them as if they had never been in rebellion;

2. The let-alone policy, which would merely refuse them representation in the General Government until they had adopted the constitutional amendments proposed at the last session of Congress, with perhaps the addition of negro suffrage;

3. The immediate action by Congress in superseding the governments of those States set up by the President in 1865, and establishing in their place governments founded upon loyalty and universal suffrage.

It is not worth while to waste words upon the President's "policy." It is *res adjudicata*. He explained it at length to the people before the election, and the better they understood it the more emphatically they condemned it. What little life his plan had during the last session of Congress was crushed out of it by the weight of the popular avalanche at the polls; and now that the Democratic party has deserted the Administration—as rats do a sinking ship—there are no mourners at its grave. It and its cognate, "universal suffrage and universal amnesty," are laid out of the question. We are not to allow the rebels to participate in the Government they sought to destroy without being somewhat shorn of their capacity for mischief; nor are we to purchase of them good conduct toward the loyal men in their midst by entire condonation of crime. We cannot afford to ignore all distinction between rebellion and loyalty just yet. Neither the past nor the future demand such action at our hands.

The second plan stands in a somewhat peculiar position. The constitutional amendments should be adopted and will be. They have been sanctioned by the popular judgment in the most decided manner. There are no reasons why loyal men should object to them.

But the question of their acceptance or rejection is quite outside of these States. It is one with which they have nothing to do.

Should they persist in their desire to be admitted to representation, it is quite certain they cannot succeed during this Administration unless they each of them adopt these amendments. No State can have representation here that does not itself subscribe to them. Such an adoption would constitute a badge of loyalty that is indispensable.

Whether having adopted the amendments they shall be admitted is another and different matter. As yet there is no agreement to that effect. A bill was prepared at the last session providing for their admission under certain contingencies; but it failed, and its failure indicates an indisposition on the part of Congress to hamper itself with pledges.

Undoubtedly there were expectations on the part of many of the voters that those States would be admitted upon the adoption of the amendments. The national committee of the Union party issued an address to that effect. The constitutional amendments were called



the "congressional plan" and antagonized against the President's "policy." It is not improbable that many members in the canvass declared themselves willing to vote for the admission of every State that should adopt these amendments. If so, they should fulfill their pledges. That should always be done. But it is matter of individual concern. There is nothing binding me, either as a member of this Congress or a member of the Union party. I have made no agreements here or elsewhere to admit the representation from any of those States upon such contingency, and do not propose to do so.

Undoubtedly they would have been admitted had they or any of them adopted the amendments. It may not be too late now. I should not undertake to say what would be the action of the two Houses if they should at once accept the amendments.

Furthering this idea, it is said that a proposal is to be made that the House shall make a direct promise to those States in the shape of a resolution pledging admission to any State that shall ratify the constitutional amendments. But such a resolution ought not to pass. A ratification of the amendments by any of the rebel States is at most but an indication of loyalty on the part of the State ratifying. It has no legal significance. The amendment was submitted only to the States recognized by Congress as States, and their action alone should govern the question of its adoption or rejection. If one of those States should give such indication of loyalty as an adoption of this amendment would certainly be, and should accompany it by a grant of suffrage to all loyal men, of whatever color, I should cheerfully vote for her admission. But let them adopt it grudgingly and under protest, as Alabama did the great anti-slavery amendment, determined to give it in practice as little significance as possible, and refuse to colored citizens their rights, and I would not vote for the admission of such a State, for I should deem the Union better without her than with her. In any event I shall retain to myself the privilege of judging in each particular instance whether or not the State applying shall be admitted to representation.

I am in no hurry about the admission of any of them. It is better they should come in gradually. They are incongruous elements at best; let them be absorbed by degrees and assimilate with the other States and thus do the least possible harm to the body-politic. I protest against any action here which shall bind the House to admit all these States to representation upon going through the formality of adopting the constitutional amendment. They might do it as the rebels took the oath in Maryland, declaring it unconstitutional and not binding in conscience or law. They might declare themselves under legal duress and appeal to the Supreme Court for such protection as a majority of that body seems to be in the way of granting to rebels. I beg the House to commit itself to no such folly. "Every tub on its own bottom." Let us judge each State by itself, and let us make up that judgment in the light of facts as they exist at the time we act.

But there seems little probability that any of the rebel States will comply with the terms and seek admission through such channels. We shall adopt the amendment by means of three fourths of the loyal States, and then the question will come back on us in full force, what shall be done with the ten States not now represented?

The fact that the amendments have become part of the Constitution by means of the action of the other States will make little difference in our action toward them. They should not be allowed to come back into the Union under the implied protest which the non-acceptance of the amendments by all of them would itself be. They went out on what they called constitutional grounds. Let them come back with no unsettled questions between us. Let them come like the new States of the West—in harmony in feeling and interest with the

States now comprising the Government. The Union is certainly stronger in all desirable elements as it now is than it would be with the other States in it as they used to be. We want no more nominal union with them. Let us make a clean thing of it, and settle everything that is to be settled between us. We shall never have a better opportunity in the whole tide of time.

The third plan I have mentioned is for Congress to act at once affirmatively, and, gathering up the elements best fitted for the purpose, proceed to constitute a State government which shall take the place of that now in operation under the sanction of the President.

The present governments seem to have been the offspring of the military authority of the Executive. I see by the newspapers that Judge Ruffin, of North Carolina, pronounces the present government of the State illegal because the President's authority over the States has ceased by the advent of peace, and also because the conventions were called by him for special purposes, and when these things he required were done they were *functus officio*. Neither rebels or loyal men or even the Democratic party indorse the President's action.

It is clear that the President has no authority to create a State. If, as he says, he found the rebel States "destitute of all civil government," he should have appealed to the law-making power to carry into effect that great clause of the Constitution guarantying governments to the States.

And the governments so established have failed. Complaints are made to us from loyal men in all those States, and we are urged to interpose and protect the property and persons of citizens of the United States not now safe or rather entirely at the mercy of the prevailing lawlessness. The memorial of the loyal men of those States exhibits a state of things which should call for the intervention of Congress if the statements are true.

The reports of officers in charge of the departments in which those States are situated confirm the statements. General Sheridan in his report to General Grant last month says:

"But justice is not done. To give you an instance of this, two soldiers were shot at Brenham, Texas, about two months ago; they were unarmed and offered no provocation. The grand jury could find no bill against their would-be assassins, but found a bill against Brevet Major Smith, seventeenth infantry, for burglary, because he broke into the house of some citizen in his attempt to arrest these men."

"My own opinion is that the trial of a white man for the murder of a freedman in Texas would be a farce, and in making this statement I make it because truth compels me, and for no other reason."

"During the last six months Indian depredations have taken place on the remote frontier. Their extent is not defined as yet, but they are not very alarming, and I think that the Governor has to some extent been influenced by exaggerated reports gotten up in some instances by frontier people to get a market for their produce, and in other instances by army contractors to make money."

"I have ordered two regiments of cavalry to the frontier and placed a regiment of infantry at Austin, to be moved if necessary."

"It is strange that over a white man killed by Indians on an extensive frontier the greatest excitement will take place, but over the killing of many freedmen in the settlements nothing is done. I cannot help but see this, and I cannot help but tell it to my superiors no matter how unpleasant it may be to the authorities of Texas."

His statement of the murder of soldiers is paralleled by that in South Carolina, where the murderers of three soldiers on the Savannah river in 1865 go at large and no attempt is made to punish them. The court has decided that military commissions have no authority, and the civil authorities are indisposed.

General Sickles gives a better account of South Carolina, but he says of some parts of it:

"In some parts of Barnwell, Edgefield, Newberry, Chester, Laurens, and Richland districts, (counties,) in South Carolina, a freedman has little security for life, limb, or property apart from the presence and protection of a garrison of United States troops. There are other districts in the western part of South Carolina where the same insecurity exists. The truth is, that in certain localities of these States personal encounters, assaults, and difficulties between citizens, often resulting in serious wounds and death, have for years occurred without the serious notice or action of the civil authorities; and in those neighborhoods where it has heretofore seemed to the population officious to arrest and punish citizens for

assault upon each other they can hardly be expected to yield with any grace to arrests for assaults and outrages upon negroes. It is precisely in these localities that the most impatience is displayed at the presence of a garrison, because people who have long violated civil law with impunity dislike martial law or any other law that is enforced."

I am informed at the Freedmen's Bureau that in Georgia during the last year there have been about one hundred and fifty murders of freedmen and not a single punishment. The Watson case in Virginia indicates the state of public opinion there.

It is useless to go into details. The statements could be duplicated almost everywhere in the rebel States.

Besides this insecurity of life and property, these present governments have ostracised a large fraction of the loyal citizens of those States. In two States and perhaps more a majority of the whole population is so ostracised. Black men are in the same condition politically, now that they are citizens, as they used to be when they were slaves.

Certainly, if ever the "United States," in the language of the Constitution, were called upon to intervene, it would be for the relief of American citizens so situated. That clause in the Constitution is but a dead letter if it will not apply now.

And I should hardly be willing to wait for a decision of the Supreme Court affirming the authority of Congress before we act. I notice that a decision is threatened against such action. I do not know that it is improbable. But the court should recollect that it has had bad luck with its political decisions. The people of this country thus far have preferred to govern the country themselves and let the court attend to its law business. Both its great political opinions have been reversed upon appeal to the ballot-box, and the general opinion of the bar of the country follows the popular verdict rather than the judicial decisions. The Constitution, by furnishing Congress with a mode of getting rid of both President and court, evidently intended to make it "master of the situation." Of course its ultimate powers are not to be exercised upon slight occasions. But the questions with which we have now to deal embrace in their scope the well-being of a large portion of the country and one fourth the entire population. As an industrial and political question we shall have none more important before us during this Congress. Having determined the proper thing to be done, it is the manifest duty of Congress to take all the constitutional methods within its power to compass it.

And I know nothing that promises so good a result as to reorganize one or more of the insurrectionary States. Perhaps it would be wise now to make the attempt in such States as offer the best opportunities for success: a general bill, embracing the whole present difficulties in its execution, which would bid fair to shipwreck the attempt. Better allow a part to await future developments, getting along meantime as best they may.

Nor do I see the wit of establishing territorial governments, as is proposed. Why create a territorial organization in a State of a million inhabitants? Appoint a Governor from Washington, and provide that a delegate may be sent here to speak, but not to vote? It looks like a farce. It will serve no good purpose whatever. Certainly for domestic government it is not needed, nor to prepare the machinery to become a State. Such an organization would be a laughing-stock to the people in the State and out of it.

But let Congress provide at once for a convention to frame a constitution, to be submitted to Congress for its approval. The principal question in such a case, upon which there would be division of opinion, would be as to the qualification of voters. All who would favor such organization would of course insist upon ignoring color as a basis for suffrage; but should there be any other restriction?

Both education and property have been at times insisted upon; but I have hoped that, since the prompt action on suffrage in the Dis-



trict of Columbia, we had come to the sensible conclusion that "man was superior to his accidents," and go at once to a result, which will be arrived at finally, delay it as long as we may. If men all over the country may safely be trusted with the ballot when it is in white hands, I know of no reason to apprehend danger when it is in colored hands. Let us have no adjourned or unsettled questions about this matter. Organize a government, give universal suffrage without regard to color; in other words, duplicate the suffrage bill in the District of Columbia, and then our friends across the way may begin to congratulate themselves that they are in a fair way to see the end of the "negro question." The negro has been a hard antagonist for them. He has destroyed the Democratic party; and the only way now for any party to deal with him successfully is to do the fair thing by him and give him his rights! Let him have the same rights as the white man, and be subject to the same disabilities. Then he will help to pay your debt and bear his share of the burdens of the Government. But restrict him, hamper him, and you make trouble for the future. It is only when the stream is vexed with dams and its natural course impeded that you have care and anxiety. If we will but strike out boldly and rest the governments of the States we are to reorganize upon manhood, and not upon caste, I have entire faith we shall be successful and the "negro question" be finally settled. I confess I see no other course that promises the blessing of good government to this generation.

Having done this, the present Congress may well leave the completion of this great business to its successor. Make the attempt with two or three of the States, I care not which, and the next Congress will, I have no doubt, so far approve your course as in time to bring in all the States in the same manner.

Mr. BINGHAM. Mr. Speaker, I wish to enter a motion to refer to the joint committee on reconstruction the bill introduced by the gentleman from Pennsylvania, together with his substitute and the amendment of my colleague [Mr. ASHLEY, of Ohio] to the substitute.

Mr. MILLER. I desire to move an amendment by adding to the ninth section of the substitute of my colleague, [Mr. STEVENS.]

The SPEAKER. That would not be in order. The original bill can be amended. The substitute cannot be, because there is already pending an amendment to the substitute, which is as far as any amendment can go. In addition to that, the motion to refer while pending precludes any motion to amend.

Mr. BINGHAM. I do not wish to proceed with my remarks this evening, and therefore will yield to the gentleman from Pennsylvania, to move that the House resolve itself into the Committee of the Whole on the state of the Union.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union and proceed to the consideration of the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Urson in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. GRINNELL was entitled to the floor.

Mr. GRINNELL. I understand the gentleman from Pennsylvania is ready to proceed this evening, and I therefore yield the floor to him.

Mr. KELLEY. Mr. Chairman, within an hour of the opening of the present session I introduced the following resolution, which was adopted without dissent:

"That the Committee of Ways and Means be instructed to inquire into the expediency of immediately repealing the provisions of the internal revenue law whereby a tax of five per cent. is imposed on the products of the mechanical and manufacturing industry of the country."

On the succeeding Monday, having in the mean time examined the report of the Secretary of the Treasury, I submitted the following:

*Resolved*, That the proposition that the war debt of the country should be extinguished by the generation that contracted it is not sanctioned by sound principles of national economy and does not meet the approval of this House.

I hoped that this resolution would also receive the immediate assent of the House, but it thought proper to refer it to the Committee of Ways and Means. I am, however, not without an assured hope that with the sanction of that committee it will at an early day meet the approval of the House and relieve the country from the profound anxiety and depression created by the unprecedented propositions of the Secretary. With these resolutions in view I propose, Mr. Chairman, to detain the committee for a little while by an examination of that budget of inaptitudes, incongruities, and non-sequiturs—the report of the Secretary of the Treasury.

This report is indeed a noticeable document. It abounds in phrases and propositions of doubtful meaning; its abstract propositions, many of which as mere abstractions are true, and should be considered by the founder of a new and independent community, are not only inapplicable but are contravened by the inextinguishable peculiarities of our condition; its astounding facts do not sustain but with emphasis gainsay the conclusions they are marshaled to support; and the means by which it proposes to return to specie payments and extinguish the national debt within given periods would, by virtue of laws as fixed as that of gravitation, produce bankruptcy, individual, corporate, State, and national, and postpone the permanent resumption of specie payments for a quarter of a century. There is nothing in this report to gratify one's national pride. As we read it we seek excuses for its author and hope we may be able to say for him that he confided its preparation to a subordinate who dealt unfairly by him. It may, however, be that Mr. McCulloch, like an oarsman, rowed one way and looked another, and was too modest to announce his real purpose. He may have improved the occasion to repair a neglect in the education of the people; for Rev. Mr. Nasby tells us that the Secretary was present at the Cabinet meeting convened to consider the "onparallelled loosening of the Nashua-Union-Johnson-Dimecratic party in the various States which held elections on the 9th of October last," and that he attributed it "to the limited knowledge the masses had of 'Ingany banking.'" But, be this as it may, I am sure the country will sustain the assertion that whatever commendation the report may deserve or receive from "Ingany" or other bankers it is marked by no leading suggestion adapted to the existing exigencies of our country.

The Secretary's wisdom is that of a man owning a thousand fertile acres, who by the aid of a loan on mortgage had fenced them in and built barns and all requisite outbuildings, and gathered live stock and the many implements by which genius has lightened the labors and increased the profits of the farmer, and who withal had able-bodied sons to share his labors, and of these agencies was accumulating a fund with which in a few years he could extinguish his indebtedness; but who when a fire consumed his barns and implements and choice stock would not use his savings to renew his stock and implements, but though his creditor was not anxious for his money would sell his interest-bearing bonds and hand over the proceeds, his working capital, as part payment of the mortgage debt.

He who under such circumstances would come to such a conclusion and execute it would find but little sympathy among his neighbors. Eager as they might be to repair his losses they would not be likely to make him county treasurer or confide the township funds to his administration. They would probably deem him inadequate to the management of his own property, and feel that their neighborhood was well rid

of one who could thus stupidly sacrifice his resources and doom his sons to idleness or to earn laborers' wages on the land of strangers. Yet, disavowing all disposition to exaggeration or caricature, I present such an one as the prototype of our Finance Minister, as he discloses himself in this report.

Witness the exultation with which he announces that during the brief period of fourteen months, namely, from August 31, 1865, to October 31, 1866, the principal of our debt was reduced \$206,379,565 71. I wonder whether in his exultation Mr. McCulloch remembered that this immense sum of more than \$206,000,000 had been added to the cost and market price of the product of but fourteen months of American labor and that by its addition to the cost and price of our home productions those of the underpaid labor of Europe had been given the advantage over the American laborer in our own markets and those of the world. I wonder whether in his pride he perceived that he was announcing the needless abstraction of more than two hundred and six millions of active working capital from the business men of this country, many of whom were struggling to maintain infant industries which had been called into existence by the war and needed the fostering care of the Government to give them prosperity and permanence. Unfamiliar as he appears to be with the laws of social science and the history of their development, it is possible he did not know the advantage he was giving to British monopoly over competing American enterprise and industry by recommending the continuance of the excessive taxation which enabled him to pay those hundreds of millions. England is the foe of the laborer in every land. To maintain her monopoly she must undersell other nations in their own markets, and to effect this must depress the wages of labor to the lowest possible point and use shoddy or other base material whenever it can be done without immediate detection. Her capitalists are, we are assured, accumulating £100,000,000 or \$500,000,000 surplus capital per annum; and for more than a century it has been their policy to apply a portion of this surplus to the destruction of the industries of other nations by underselling them, though for a time it involved loss on certain kinds of goods. We have often been the victims of this unscrupulous policy, and if the suggestions of the Secretary prevail it will again prostrate us.

The war of 1812 developed our productive power very considerably; but in two years after the war closed the capitalists of England, by the express advice of her leading statesmen and in pursuance of a deliberate combination, swept our young manufactures out of existence. In the course of a speech in Parliament in 1815, Henry Brougham, exulting over our wide-spread bankruptcy, said:

"It is well worth while to incur a loss upon the first exportation in order by the glut to stifle in the cradle those rising manufactures in the United States which the war has forced into existence."

History, so far as that chapter is concerned, is repeating itself, and our market is glutted with British woolen goods which until our factories shall discharge their work-people and suspend operations will be sold at less than cost. The assessment of extraordinary taxes for the extinguishment of the war debt while such a contest is waging will make the victory of our enemy an easy one. The policy is suicidal, and will prove fatal to our revenues by paralyzing the productive power of the country and diminishing the ability of the people to consume either dutiable or taxable commodities. This is not the language of declamation. It has high official sanction, among which is that of the revenue commission appointed by the Secretary himself, as will appear by the following extract from the last annual report of the secretary of the National Association of Wool-growers.

Before presenting this extract I should remark that the tax on manufactures has been reduced from six to five per cent. since the

preparation of the official reports to which it refers:

"The internal revenue tax paid in the year 1865 upon woollen fabrics and all manufactures of wool amounted to \$7,947,094, being 3.79 per cent. upon the whole of the internal revenue collected. How heavily this tax bears upon our manufactures is shown by facts presented in the report of the Secretary of the State of Massachusetts upon the industrial statistics of the State for the year 1865. The capital invested in woollens proper is shown to have been \$14,775,830, and the value of the woollen product to have been \$48,430,671. Six per cent. upon the latter sum, the amount of the revenue tax, is \$2,905,836, being 19.66 per cent., or in round numbers 20 per cent. upon the capital invested in woollens. This tax has been paid cheerfully under the impulses of patriotism. But it cannot be borne long. In the language of one of the special reports of the revenue commission, 'It has no parallel, probably, in the fiscal regulations of any civilized nation. It would utterly destroy in ten years two thirds of the various kinds of production subject to its operations.'

Gentlemen will not fail to observe how perfectly the views of the commission are supported by the facts above cited in relation to the woollen manufactures of Massachusetts. But I recur to the revenue report:

"A very large proportion of the manufacturing establishments in the United States sell products yearly to two or three times the amount of their invested capital; and in many departments of production their sales yearly amount to more than three times the cost of their establishments. If the capital invested be \$100,000 the sales may amount to two or three hundred thousand dollars, and the tax on that business will range from twelve to eighteen thousand dollars; that is, from twelve to eighteen per cent. on the cost of the manufacturing establishment."

And again:

"In every point of view in which it is presented it seems clear that the six per cent. tax upon manufactures will destroy productive power in an increasing progression; that it will in a few years, if not removed, furnish a sad monument to perpetuate the memory of a great mistake."

The Secretary's time and attention have probably been so absorbed by his official guillotine that he has not been able to examine the reports submitted to him by the revenue commission. I will, in the hope of bringing them to his attention, add to the foregoing the following brief extract from their preliminary report of last year, submitted to him by Mr. Commissioner Wells:

"The remedy, therefore, for the difficulties above pointed out and illustrated, save in a few striking instances which have probably resulted from oversight in the framing of the law, must, in the opinion of the commission, be sought for in such a revision of the present internal revenue system as will look to an entire exemption of the manufacturing industry of the United States from all direct taxation, (distilled and fermented liquors, tobacco, and possibly a few other articles excepted.) This the commissioners are unhesitatingly prepared to recommend."

These grave considerations, though specially reported to him by his own agents, do not seem to have attracted the attention of Mr. McCulloch; for while exulting over the rapid payment of the debt, without seeming to detect the cause of the popular emotion, he says:

"Nothing in our history has created so much surprise, both at home and abroad, as the reduction of our national debt. The wonder excited by the rapidity with which it was created is exceeded by the admiration of the resolution of the tax-payers themselves that it shall be speedily extinguished."

It is true, Mr. Chairman, that surprise and wonder agitate the practical men of the country. These emotions are not, however, excited by the fact that we were able to bear extraordinary taxation while the development of our boundless productive power was stimulated by the exigencies of the war, and our own market was secured to our own producers by the difference between our lawful currency and gold, in which payment of duties on imports was required. The taxes under which those hundreds of millions accumulated were assessed while war was raging and for war purposes, and could have been borne as long as the conditions I have indicated were maintained. Wise men know this, and that the war terminated abruptly and earlier than was expected, and do not hold the Secretary accountable for the results of this contingency. No matter what sacrifices it involved, the people would have cheerfully borne them rather than yield the questions put at issue by the war. But these questions have been happily settled by war's arbitrament. Peace is restored, our currency approxi-

mates the specie standard, and it is discovered that by aid of our inordinate internal taxes foreign manufacturers are monopolizing our home market. Our publishers buy their paper and print and bind their books in England or Belgium; our umbrella-makers have transferred their workshops to English towns; our woollen and worsted mills are closed or closing, and the laborers in these branches are not only wasting their capital, which consists in their skill and industry, but drawing from the savings-banks or selling the Government bonds in which they had invested their small accumulations to maintain their families during the winter; and our enlarged importations of foreign goods are swelling the balance of trade against us and preparing us for general bankruptcy. The surprise of which Mr. McCulloch speaks is excited by the fact that in view of this condition of things the Secretary of the Treasury should urge the maintenance of extraordinary taxes sufficient to enable him to apply not less than \$50,000,000 per annum to the extinguishment of our debt by the rapid absorption of the only portion of that debt which bears no interest. Wonder amounting almost to awe does possess our people, and it is excited as was that of the unsophisticated sailor who, in the midst of an exhibition of magical illusions, was blown into the air by the accidental explosion of powder, and in his damaged condition wondered what would come next in the order of exercises.

That the tax-payers have resolved that the principal of our debt "shall be speedily extinguished" I deny. They regard the attempt as Quixotic, as destructive of our industrial interests, and beneficial only to money-lenders, speculators in Government securities, and foreign manufacturers. Sir, if the Secretary is accessible to the voice of remonstrance he must by this time be satisfied that there is no tax-payer in the country who is not engaged in importing foreign goods or in shaving notes, or who, having bought bonds at low rates in a depreciated currency, hopes to have them redeemed at an early day in specie, who does not dissent from the assessment of extraordinary taxes for the extinguishment by the generation which created it, of a debt, the security of which is undoubted and which was incurred for the benefit of posterity. The opinion of the people on this question is modestly expressed by the editor of the ablest and most instructive of our industrial journals, the Iron Age. He says:

"We are glad to see that a resolution for the entire removal of the manufacturers' tax of five per cent. has been introduced, and hope it will be adopted. As an independent proposition, outside of any other amendment of the tax or tariff laws, this will commend itself to the good sense of the country as one so manifestly just that we should expect there would be a very general expression of public feeling in its favor. All classes can heartily unite in this effort to untrammel the industry of the country and to cheapen production. The free-trader and protectionist can at least here agree; the workman is quite as directly interested in this matter as the employer, for the effect of the tax is only to restrict the demand for the products of his labor. As a war necessity we cheerfully accepted this burden which the manufacturers of the country have borne with such uncomplaining loyalty; but now that the necessity is past, and that the national exchequer is in such a condition that it can easily and safely dispense with the revenue it produced, we think we are entitled, on behalf of manufacturers and their workmen, to demand its repeal. England, with all her load of taxes, has no such impost as this; her uniform policy is in every way possible to cheapen the production of her wares, and in the unequal contest which we are called to wage with her it is in the last degree unwise to put ourselves under this additional and unnecessary disability."

Sir, this generation embraces the widows, orphans, and maimed soldiers of the contending parties in a civil war, each of which parties had armies numbering more than a million men in the field. They at least are in no condition to welcome excessive taxation, especially those of the South, who are without even the poor pittance we give to ours as pensions. The folly of the dull farmer I have supposed—a case of stupidity scarcely probable, though possible within the range of human dullness—is the wisdom by which the Secretary proposes to guide the finances of this country and extricate them from embarrass-

ments which in this report he depicts as almost overwhelming. Let us hear him. He says that—

"He has been clear in his convictions that specie payments are not to be restored by an accumulation of coin in the Treasury to be paid out at a future day in the redemption of Government obligations; but rather by quickened industry, increased production, and lower prices, which can alone make the United States what they ought to be—a creditor and not a debtor nation."

And as if to illustrate his want of sincerity, or the confusion of his ideas, proceeds to speak of "certain branches of industry that are now languishing under the burdens which have been imposed on them;" and to tell us that though "the people of the United States are naturally a commercial and maritime people, fond of adventure—bold, enterprising, persistent"—

"The disagreeable fact must be admitted, that with unequal facilities for obtaining the materials and with acknowledged skill in ship-building, with thousands of miles of sea-coast, indented with the finest harbors in the world, with surplus products that require in their exportation a large and increasing tonnage, we can neither profitably build ships nor successfully compete with English ships in the transportation of our own productions. Twenty years ago it was anticipated that ere this the United States would be the first maritime power in the world. Contrary to our anticipations, our foreign commerce has declined nearly fifty per cent. within the last six years."

And as if to impress us more profoundly with our present inability to bear excessive taxation, he sets forth the following statistics:

"The tonnage of American vessels engaged in the foreign carrying trade which entered United States ports was—

In 1860.....	5,921,285 tons.
In 1865.....	2,943,661 "
In 1866.....	3,372,000 "

"The tonnage of such vessels which were cleared from the United States was—

In 1860.....	6,165,924 tons.
In 1865.....	3,025,134 "
In 1866.....	3,383,176 "

"The tonnage of foreign vessels which entered our ports was—

In 1860.....	2,353,911 tons.
In 1865.....	3,216,967 "
In 1866.....	4,410,424 "

"The tonnage of foreign vessels which were cleared was—

In 1860.....	2,624,005 tons.
In 1865.....	3,535,123 "
In 1866.....	4,438,384 "

While admitting that something of the diminution of our shipping must be attributed to the effects of the war, the Secretary, as if to prove that high taxes have been more destructive than war, says:

"The scarcity of American vessels ought to have produced, and but for a redundant currency and high taxes would have produced, activity in our ship-yards and a rapid increase of tonnage; but this has not been the case. The prices of labor and materials are so high that ship-building cannot be made profitable in the United States, and many of our ship-yards are being practically transferred to the British Provinces. It is only a few years since American ships were sought after on account of their superiority and cheapness; and large numbers of vessels were built in Maine and other States on foreign account or sold to foreigners, while at the same time our own mercantile marine was being rapidly increased."

"It is an important truth that vessels can be built very much cheaper in the British Provinces than in Maine. Nay, further, that timber can be taken from Virginia to the Provinces, and from these Provinces to England, and there made into ships which can be sold at a profit; while the same kind of vessels can only be built in New England at a loss by the most skillful and economical builders."

"The same causes—a redundant currency and high taxes—that prevent ship-building tend to prevent the building of houses and even of manufactories. So high are prices of every description that men hesitate to build dwellings as fast as they are required, and thus rents are so advanced as to be oppressive to lessees, and the healthy growth of towns and cities is retarded. So it is in regard to manufactories. Mills which were built before the war can be run profitably, but so expensive are labor and materials that new mills cannot be erected and put into operation with any prospect of fair returns upon the investment, unless upon the expectation that taxes will remain as they are and prices be sustained, if they are not advanced. The same causes are injuriously affecting agriculture and other interests which it is not necessary to particularize. It is everywhere observed that existing high prices are not only oppressing the masses of the people, but are seriously checking the development, growth, and prosperity of the country."

What remedies does our sagacious Secretary propose for the evils he so truthfully de-

picks? One, and apparently in his judgment the most efficacious, is that which I have been considering, namely, to add not less than four or five million dollars per month to the price of American products by taxing them to that amount for the express purpose of extinguishing so much of our national debt! If gentlemen doubt my statement I beg them to give the report an attentive reading. This mad policy pervades all its suggestions. Nor is it to be temporary. It is to be the fixed policy of the Government, and he says our debt which, according to his statement, was on the 31st of October last \$2,551,424,121 20, "can be paid by the generation that created it."

Sir, if my suspicion that the preparation of the Secretary's report was committed to a treacherous subordinate be correct gentlemen will be able to estimate the wantonness of that person's cruelty by the fact that in further illustration of the absurdity of its leading proposition he proceeds to tell us that "between the years 1848 and the 1st of July, 1860, the product of the gold and silver mines of the United States was about \$1,100,000,000," but that "it is not probable that the amount of gold and silver now in the United States is very much larger than it was eighteen years ago." And as if to give greater effect to what, were it not gravely trifling with the prosperity of the American people, might be regarded as a huge joke, adds the fact that beside exporting all our bullion we have, in exchange for perishable foreign commodities which we might have fabricated from our own raw materials, given to foreign capitalists, who now hold them, interest-bearing evidences of debt to the amount of \$600,000,000, as follows:

United States bonds.....	\$350,000,000
State and municipal bonds.....	150,000,000
Railroad and other stocks and bonds.....	100,000,000
Total.....	\$600,000,000

Nor does he yet stay his hand in presenting reasons why we should not adopt his proposition, for he informs us that the reports of the custom-houses show that though we exported specie during the fiscal year which ended June 30, 1866, to the amount of \$82,643,374, the balance of trade, as shown by those reports, was still against us in gold values \$8,009,577. And with a measure of candor for which I award him full credit, adds:

"But these figures, taken from the reports of the custom-houses, do not present the whole truth. For many years there has been a systematic undervaluation of foreign merchandise imported into the United States, and large amounts have been smuggled into the country along our extended sea-coasts and frontiers. To make up for undervaluations and smuggling, and for cost of transportation paid to foreign shipowners, twenty per cent. at least should be added to the imports, which would make the balance for the past year against the United States nearly \$100,000,000. It is evident that the balances have been largely against the United States for some years past, whatever may have been the custom-house returns."

Mr. Chairman, I confess my ignorance of "Ingeany bankin'," and will proclaim my gratitude to any of its disciples who will so far admit me to its mysteries as to enable me to reconcile the Secretary's premises and conclusions.

Meanwhile I ask who but he, unless it be bankers and shavers of notes, importers of foreign goods, and holders of our bonds who desire to get two dollars for every one they invested in them, who but these does not see in this fearful array of evidences of our tendency to universal bankruptcy a necessity for developing our productive power by diminishing the internal taxes of the country to the lowest possible amount consistent with an economical administration of the Government? And who but these does not see that by continuing the course we are pursuing we are retarding the permanent resumption of specie payments and postponing the day when we shall be able to enter judiciously upon the extinguishment of our debt?

Mr. Mculloch does not seem to perceive that this fearful array of facts is but so many concurrent items of evidence that notwith-

standing our freedom, enterprise, and energy, and our infinitely diverse, easily-accessible, and inexhaustible stores of natural wealth, our extended sea-coast, fine harbors, broad lakes, and far-rolling rivers, which invite us to manufacturing and maritime effort and preëminence, we are but a mere commercial dependency. Like all other debtors we are at the mercy of our creditors. Though richer in natural resources than all of them combined the continuance of our prosperity is dependent upon the caprices or necessities of England and the nations of Europe, which, by protecting their industry and importing only raw material or commodities but slightly wrought and exporting products as much manufactured as possible, practice economies unknown to us, and by diversifying their industry provide remunerative employment for all their people.

Manufactures and agriculture are each the handmaid of the other, and the successful practice of both is prerequisite to profitable and sustained commerce. That sea-board nation which most diversifies its productions and best protects its skilled labor against unequal competition will ever be foremost in the race for commerce.

No, sir; the Secretary does not see the proper application of the facts he cites, and while dilating upon them illustrates his profound ignorance of the progress social science has made by reiterating trite maxims from English handbooks of political economy to prove that international trade-balances are settled with gold and silver and that the flow of specie "indicates the condition and results of trade between different nations." In the light of these laws I point him and the country to the fact that the trade between us and foreign nations has carried them our cotton and wool, our beef, pork, grain, and other staples, and \$1,100,000,000 of our bullion with \$600,000,000 of our bonds to pay for wines, silks, laces, cloths, &c., and iron rails to stretch across the coal and iron beds which underlie our country from the Atlantic coast to the Pacific and from the lakes to the Gulf, and ask them if the facts do not indicate bankruptcy as the "result" if the present and past "condition" of that trade be maintained. And whether, when as now we are compelled to look to our internal taxes for the bulk of our receipts, when duties on foreign imports could under no possible system provide us with adequate income, it would not be well as a pure question of revenue to so adjust our taxes as to relieve American labor and land from every possible exaction and by every possible device to stimulate the development of our productive power and the immigration of skilled laborers into the country? Thus, and thus alone, can we check the flow of specie and bonds to Europe and retain among us as capital the production of our gold and silver mines with which to redeem the \$600,000,000 of bonds now held by foreigners. This the Secretary professes to desire, but how the imposition of extraordinary taxes upon our industry to the amount of \$50,000,000 per annum is to promote it he has not condescended to inform us.

The scheme of the Secretary is as unprecedented as it is unwise. It is without a single historical example. The first Federal debt was funded in 1791, and for sixteen years no effort was made to reduce it. In 1807 the receipts of the Government from ordinary sources were in excess of current expenses, and the surplus was applied to the debt. This easy and natural process of extinguishment continued till 1812. The average rate of payment per annum from 1807 to 1812 was about \$6,000,000, and at the breaking out of the war with Great Britain the debt had been reduced from \$75,000,000 to \$45,000,000. It was swollen by that war to \$127,000,000; but no extraordinary taxes were imposed for its redemption. The revenues of the Government were derived from ordinary sources, and such balances as remained after paying current expenses were applied to its absorption. No statesman of either period proposed to cripple

industry and retard the development of the country by the imposition of extraordinary taxes as a means of extinguishing its debt. They wisely stimulated both by imposing higher duties upon foreign importations, and under the avowedly protective tariffs of 1824 and 1828 paid it off. Such a spectacle had never been witnessed before, for no other nation had ever liquidated its entire debt.

The American people will rather follow the successful example of the statesmen of those days and foster our industry than accept the crotchets of our present Secretary of the Treasury and cripple labor and diminish production by extraordinary taxation. They freely lent their substance to the Government and hold more than eighty per cent. of our national securities, and none of them are demanding payment. Nor need we be specially anxious about that part of our bonds that are held in Europe. They who hold them bought them as investments or as matter of speculation. As investments they pay better interest than the holders can elsewhere obtain with equal security, and we are not required to prostrate our industry by a vain attempt to hasten the day on which foreign speculators shall realize anticipated profits. England has never been guilty of such stupidity. When the Napoleonic wars closed the governing class of England held her bonds, and like the money-changers and "Ingeany" bankers of our country clamored for the resumption of specie payments that they might get par for the bonds which they had bought during those wars at such prices as our own sold for and in paper as irredeemable and depreciated as ours has been. By this operation they would have made an average of one hundred per cent. on their investments. But governing class as they were, it was not until seven years after the close of the war that the statesmen who controlled the financial affairs of Great Britain attempted the experiment of a resumption, or till the suspension had endured for well nigh a quarter of a century. And only within a few years—I think I may say within the present decade—has England made serious effort to reduce the principal of her debt, nor has she yet imposed an extraordinary tax for the purpose. Her statesmen knew that her population was increasing and her productive power in process of rapid development, and they knew also that so long as the interest is ready at maturity and the creditors of the nation see that its taxes are steadily diminishing and its population and resources increasing, they will regard the investment as safe.

Thus has England, while permitting her debt to increase, by showing her steady ability to diminish the taxes upon her people and provide for interest and current expenditures been able to reduce the interest on her debt from war rates to the low rates at which she now holds it; and that debt which by its immense volume seemed to overshadow her whole future, is now not in the proportion of ten per cent. per man, per dollar, and per acre to what it was at the date of the treaty of Paris. So will it be with us if we shun the nostrums of the Secretary of the Treasury. The estimated wealth of the loyal States at this time is \$17,428,000,000 and their annual product \$4,685,000,000. But thirty years hence, if the progress of our growth is not retarded by financial chicanery, the wealth of those States will be \$90,000,000,000, and the annual product amount to \$23,000,000,000, and the now prostrate but naturally richer South will then rival the people of the North in prosperity and tax-paying power.

Let me, Mr. Chairman, as it is due to the Secretary I should say, that he does not rest this urgent demand for the speedy extinguishment of the debt upon principles of social science or national economy. In this matter his head yields to his heart. He is guided by a sentiment. He prides himself upon his magnanimity, and would ruin the industry of the North and retard the development of our country for a century if need be rather than wound the sensibilities of our "erring southern brethren."



ren." Thus, after indulging in some trite reflections upon the evil of public debt in general, he tells us that—

"To the perpetuation of the existing debt of the United States there are also, it may be proper to remark, serious objections growing out of the circumstances under which it was created. Although incurred in a great struggle for the preservation of the Government, and therefore especially sacred in its character, its burdens are to be shared by those to whom it is a reminder of humiliation and defeat. It is exceedingly desirable that this, with other causes of heart-burnings and alienation, should be removed as rapidly as possible, and that all should disappear with the present generation, so that there may be nothing in the future to prevent that unity and good feeling between the sections which are necessary for true national prosperity."

To others than the Secretary it is known that the country is no longer divided into hostile sections. That which made the South sectional was slavery and pride of caste. Slavery, thank God, has been forever abolished and pride of caste is vanishing. Yes, sir, the decree, sustained by a majority of nearly half a million of the voters of the northern States and enduring as the fiat of Heaven, that pride of caste must disappear from American politics has gone forth. Henceforth he who breathes the air of our country, let his color or fatherland be what or where it may, may by his own volition invest himself with the attributes of American citizenship. Everyone born on the soil is a citizen, and our naturalization laws are henceforth of universal application.

I fear the southern people after reading the Secretary's report will regard him rather as a man of sentiment than of affairs. They may applaud the delicacy of his sensibilities, but while doing so will probably wish that a well-informed statesman presided over his Department. Destructive to our interests, as the attempt to provide for the payment of our debt by extraordinary taxes on this generation would be, the southern people are less able than we to endure the mad experiment. Among them are, as I have said, the widows, orphans, and maimed soldiers of their armies, whose poverty is not relieved even by the pittance we give as pensions to the same classes; their industrial system has been overthrown and is not yet reorganized; their cities and towns by their dilapidation tell how their trade and commerce have suffered, and their lands to a great extent lie waste; their banks, insurance companies, and other moneyed institutions have gone into liquidation; their railroads are in ruins and almost bare of rolling-stock; and they are making daily appeals to the people of the North, whose presence among them the baser sort of Southerners will not permit, for capital with which to open and work mines of gold, silver, copper, lead, iron, and coal, in which their land abounds. Scourged by the results of their own folly they are awakening to a knowledge of the value of their possessions, and are proposing to make them available. They desire if they can obtain the requisite capital to locate the factory near the cotton-field and the forge and furnace near the mine and ore bed.

A brief extract or two from southern papers of very recent date will show how cruel Mr. McCulloch is to those to whom he wishes to be so kind. Says the Petersburg Index:

"The variety of schemes devised for the relief of that numerous and unfortunate class of persons who are now laboring under pecuniary embarrassment evinces the necessity, as well as the difficulty, of providing an adequate remedy for the mischief sought to be prevented. A further extension of the stay law, a total or partial repudiation of private indebtedness, and the exemption of specified property from involuntary alienation are some of the expedients now brought forward to meet the pressing exigencies of the occasion."

The Nationalist, Mobile, Alabama, says:

"Reliable planters from Mississippi say that not one half dozen, on an average, in each county in that State, can pay their debts. Large tracts of valuable land are selling at nominal rates."

And the Richmond Times says:

"If the tide of immigration continues to flow by us, and we make no energetic and intelligent effort to secure it, taxation will speedily devour what little the war left, and a few years hence when the pine, the persimmon, and the sassafras have made a wilderness of many a broad and once fertile field, some inauspicious day the tax-gatherer or the sheriff will hang out his red flag over the ruins of the old family man-

sion, and then, alas for the paternal acres, and the dear, sacred old homes of our boyhood! for everything, even the dear old graveyard, where repose the honored dust of our forefathers and the bones of many a noble soldier, son, and fair daughter will pass into the hands of some codfish-eating Puritan from Boston or Nantucket."

How incapable the people of North Carolina are of enduring extraordinary taxation is shown by reference to facts which occurred anterior to the war by a writer in the Newbern Times of September 8. After saying with truth that "the old North State is inferior to none of her sisters in the combined advantages of situation, climate, agricultural and mineral riches," he proceeds to make the following exhibit:

"In 1860 North Carolina ranked as twelfth among the States, containing a population of 992,622, of whom 331,059 were slaves. The free population are distributed according to places of birth, as follows:

Born in North Carolina.....	634,220
Born in other southern States.....	21,446
Born in northern States.....	2,399
Born in foreign countries.....	3,299
Born at sea and not classified.....	201

"While North Carolina was thus receiving from without her limits about twenty-seven thousand immigrants, she sent as emigrants to other States no less than 272,606 of her free-born offspring who are scattered throughout the western and southwestern States, of whom Tennessee received 55,000, Georgia 29,000, Indiana 27,000, Alabama 23,000, Arkansas 18,000.

"She was ninth among the States in her contribution to the population of the Union; seventh in contributing to the population of other States; behind all, save little Delaware and South Carolina, which ranks last of all, in the reception of citizens from other States.

"Of the vast foreign immigration, numbering upward of four millions, which has built up the manufactures and the internal improvements of the northern and western States she received only about three thousand, standing in that respect behind every State in the Union and behind three of the Territories."

But how capable the future people of North Carolina will be is well shown by the editor of the Old North State, published at Salisbury. In an article entitled "The Future of North Carolina," he says:

"The questions present themselves, how is all this to be done, and can the Government promote the great object by a proper policy? We shall endeavor to answer these questions to the best of our poor ability.

"The abolition of slavery has, in our opinion, changed the destiny of the State. The negro cannot be entirely relied upon as a laborer, and he must be assisted by or his place be supplied with white laborers sooner or later. These, except in a small portion of the State, cannot be profitably employed in agricultural pursuits until other interests are brought prominently forward and partially developed. This cannot be done without an influx of capital from abroad.

"The greatest of these interests, and those which we shall notice on this occasion, are the mining and manufacturing interests. It is perfectly useless for us to speak of the vast mineral wealth of North Carolina; it is known to all the world to be inferior to that of no country on the globe, both in quantity, quality, and variety of minerals, but we have no capital to render them available.

"And to the capitalist who desires to engage in manufacturing, no country in the world presents more inducements than North Carolina. Her water power is unsurpassed. As a general thing steam is useless in the State for manufacturing purposes; for the face of the country is intersected by water courses such as abound in few other lands. If we look at the map we shall see that there is a perfect network of streams, showing that it is one of the best watered portions of the earth, and the structure of the country is such that every one of these streams can be made to drive machinery. All this magnificent provision of nature has thus far been permitted to waste, in a great measure at least.

"It is scarcely necessary to refer to these facilities more in detail. Every reader knows the vast capacity of our larger rivers for these purposes. That of the Roanoke, the Neuse, the Haw, the Deep, the Main, the Yadkin, the South Yadkin, the Little Yadkin, the Catawba and other rivers of the State for driving machinery is scarcely equaled by any in the world, while we have many other smaller streams of very great capacity.

"And when all this water power is turned to account for manufacturing purposes, as it will be at no great distance of time, when we have thousands of furnaces in full blast turning the ores from the bowels of the earth into the richest marketable commodities, and when our vast deposits of coal shall be used for these and other purposes for which nature intended them, what a country we will have! What vast amounts of wealth must then flow into our laps. Our State will then be dotted over with the most flourishing manufacturing towns and villages and our now barren fields will teem with the richest verdure.

"This must necessarily be so. We stated at the outset that until the mining and manufacturing interests were at least partially developed imported white labor could not be profitably employed in agricultural pursuits. But when these interests become to be a power in the State the thing changes. All the thousands, if not hundreds of thousands, of factory

operatives and miners must find a support, and the result will be that vast home markets will be created. The soil will be heavily taxed for their sustenance and consequently vast improvements will be made in our system of agriculture—and nothing needs improvement more. But we will not pursue this line of remark further—we have presented the general outlines, and we leave it to the imagination of our readers to fill up the picture. In the course of time the farms of our State will rival those of the Dutch Pennsylvanians; our lands will become equally productive, while our system of internal improvements will become equal to theirs."

More gladly, sir, than the people of the North will those of the South welcome release from every dollar of taxation from which sagacity can exempt them. And I assure the Secretary that the people of no part of the country have shared so largely as those of the South the surprise and wonder to which he alludes.

Mr. McCulloch says:

"We have but touched the surface of our resources; the great mines of our national wealth are yet to be developed."

This is specially true as to the southern portion of our country, and in the name of the impoverished people of that section I ask, is it well to tax a generation the surface of whose resources has not been touched by the transmuting hand of labor, and the mines of whose wealth are yet to be developed, in order to pay the principal of a mortgage the holder of which neither needs nor desires his money? and would not wisdom or state craft suggest the propriety of enabling the owners of these mines of wealth to accumulate the capital with which to work them and by the magic touch of labor to convert them into current gold? The taxing process maintains our exhausting dependence on foreign nations, while the developing process would make us as free commercially as we are politically; and enable us, by our example of liberal wages and freedom from their exhausting hours of toil, to influence the commercial and manufacturing usages of European States, as our political example is influencing their political and social institutions.

The Secretary, however, has other prescriptions than that of excessive taxation by which to restore the country. In his opening paragraphs he says:

"With proper economy in all the Departments of the Government, the debt can be paid by the generation that created it, if wise and equal revenue laws shall be enacted and continued by Congress, and these laws are faithfully enforced by the officers charged with their execution."

Again, he tells us that he "has mainly directed his attention to measures looking to an increase of efficiency in the collection of revenues, to the conversion of interest-bearing notes into five-twenty bonds, and to a reduction of the public debt." "Efficiency in the collection of revenues," forsooth! "The faithful enforcement of laws by the officers charged with their execution!" These are brave words to fall from the lips of one whose faithless exercise of official functions in this very matter has during the past year cost the Government more than \$50,000,000. Brave words, indeed, are these from one who in a wicked attempt to subvert the popular will by the corrupt use of official patronage has removed hundreds of well-trying, capable, and experienced officers of the revenue and customs departments and substituted for them men deficient alike in capacity, experience, and character. There is not a congressional district in the country whose people are not grieving over the fact that the Secretary of the Treasury, who embodies in his report reiterations of these fine phrases, has wantonly and wickedly aggravated the onerous taxation under which they groan. Let who will speak of the necessity of a faithful administration and due enforcement of the revenue laws, for which every patriot will pray, becoming modesty would constrain the Secretary of the Treasury to avoid the topic. This is a matter on which Congress should take early action; and if it means that the customs and internal revenue laws shall be faithfully and impartially enforced it must see that another than the author of the report I am considering shall have the selection of officers for their enforcement.

Some of the Secretary's suggestions are embodied in distinct—no, not in distinct, but in numerical propositions. To one of these I invite the attention of the committee. It is as follows:

"2. That the duties upon imported commodities should correspond and harmonize with the taxes upon home productions; and that these duties should not be so high as to be prohibitory, nor to build up home monopolies, nor, to prevent that free exchange of commodities which is the life of commerce. Nor, on the other hand, should they be so low as to seriously impair the revenues, nor to subject the home manufacturers, burdened with heavy internal taxes, to a competition with cheaper labor and large capital which they may be unable to sustain."

"There's wisdom for you!" I venture to assert that Jack Bunsby throughout his intellectual career never uttered a more characteristic proposition than that; and all will agree that since the celebrated Kane letter of James K. Polk our political literature has embodied no utterance more shrewdly Delphic.

This ingeniously inexpressive proposition does not embody the Secretary's only allusion to "home monopolies." He seems to hold them in special dread; and it is to be deeply regretted that he has not indicated the argument by which his apprehensions are sustained, as they are not to be found in the works of the disciples of any school of political economy or social science.

The teachers of free trade do not agree with him in believing that high duties "build up home monopolies." They assert that protection secures undue profits to certain branches of production and tempts capitalists to ruin themselves by so overdoing the business as to glut the market and have to sell their goods at small profits or at a loss. Their theory proceeds upon the want of judgment in capitalists and business men—but by asserting that high duties beget undue domestic competition denies that they promote local monopolies.

Nor does Mr. McCulloch agree with the school of protectionists, for they say that assured protection against unequal competition gives capitalists confidence and induces them to open mines and build furnaces, forges, and factories, whereby constant employment and ample wages are secured to the otherwise idle people of the country. This theory proceeds on the assumption that the American manufacturer is competent to measure the contingencies of our own markets and of the natural course of foreign trade, but is not competent to resist the gigantic efforts which were commended by Lord Brougham, and one of which is now making by the Cressus-like capitalists of England "to stifle in the cradle those rising manufactures in the United States which the war has forced into existence."

Our present condition resembles very closely that of the States of Europe at the close of Napoleon's wars, and the following passage from the admirable address of John L. Hayes, Esq., entitled "The Fleece and the Loom," embodies illustrations of fixed laws applicable enough to dispel even the Secretary's dread of "home monopolies:"

"What would have been the future industrial condition of continental Europe if at the time when peace restored the nations to labor the textile manufactures had been left to their own free course and no legislation had intervened to regulate their progress? Can there be any doubt that they would have become the exclusive occupation of England? Alone in the possession of steam power and machinery; alone provided with ships and means of transport; alone endowed, through her staple legislation, with capital to vivify her natural wealth, she had absolute command of the markets of the Continent. The question was presented to the continental nations whether they should accept the cheap tissues of England, or at some sacrifices repel them, to appropriate to themselves the labor and profit of their production. The latter course was successively adopted, with some modifications, by each of the continental nations; and with what results to their own wealth and the industrial progress and comfort of the world? Instead of a single workshop Europe has the workshops of France, Russia, Austria, Prussia, Belgium, Sweden, Denmark, Spain, each clothing its own people with substantial fabrics; each developing its own creative genius and peculiar resources; each contributing to substitute the excellence of competition for the mediocrity of monopoly; each adding to the progress of the arts and the wealth and comfort of mankind."

The fifth of the Secretary's propositions is

"the rehabilitation of the States recently in insurrection." Referring to the conquered territories, which notwithstanding the President's usurpations await the action of the law-making power, Mr. McCulloch says:

"Embracing as they do one third part of the richest lands of the country, and producing articles of great value for home use and for exportation to other countries, their position with regard to the General Government cannot remain unsettled, and their industrial pursuits cannot continue to be seriously disturbed, without causing such a diminution of the production of their great staples as must necessarily affect our revenues, and render still more unsatisfactory than they now are our trade relations with Europe." "There will be no real prosperity in these States, and consequently no real prosperity in one third part of the United States, until all possess again equal privileges under the Constitution."

If it be true, as it undoubtedly is, that "one third part of the richest lands of the country" are by reason of temporary causes not producing "articles of great value for home use and for exportation to other countries" would it not seem to suggest the idea that this unhappy state of affairs should be permitted to pass away and these lands be made productive before they should be burdened with taxes not demanded by imperious necessity? And whether before these lands shall be able to bear taxation for that purpose the people of the North, whose sacrifices during the war saved the integrity of the Union, should be called upon to extinguish the debt created by the crimes of the possessors of this broad and rich territory? The people of the northern States have certainly arrived at this conclusion, and I have shown that schooled by suffering the people of the South, while antagonizing them on many points, agree with them on this.

Pursuing this branch of his subject, Mr. McCulloch asks, "Can the nation be regarded as in a healthy condition when the industry of so large a portion of it is deranged?" And the people, North and South, answer "No; and in our enfeebled condition we pray you not to rob us of our working capital in order to extinguish a debt which was contracted for the benefit of mankind and future ages."

He asks again, "And can the labor question at the South be settled as long as the political status of the South is unsettled?" And the country answers "yes, there is no inseparable connection between the labor question and the political status of the conquered territories;" and adds that the "political status" of the South cannot be settled until its rebellious leaders discover that the loyal people of the country are able to defend its institutions against the usurpations of Andrew Johnson, accept the constitutional amendments already adopted and which are in process of adoption by three fourths of the States which now constitute the Union, and submit to Congress constitutions republican in form upon which the people shall have set the seal of their approval. The people of the loyal North cannot restore those of the conquered territories to their "political status." We can only consent to their restoration when they shall be willing that it shall take place on terms which will render the future peace of the country secure, and for this we are and have been ready. The leaders of the South now we are the dog in the manger. It is they who by refusing to abandon the dogmas that evoked the war and the oligarchic institutions that sustained it resist the influx of the tide of immigration that would fertilize their lands and republicanize their institutions.

The imminent want of the people of the South is not "political status." That would not enable them to settle the "labor question." What they want is capital and currency and a willingness to permit loyal men, whether white or black, native or foreign, to dwell among them, and by their labor quicken into commercial value the boundless and varied natural wealth of the land they occupy, but which they will neither work themselves nor permit others to work in peace and safety. When in obedience to a healthy national sentiment or the promptings of their own interests they will make capi-

tal secure, opinion free, and give peaceful scope to enterprise within their borders, the immense deposits which profitless to their owners now lie in bank, because under the hammering process of the Secretary of the Treasury judicious men are afraid to embark in new enterprises will be transferred to the South to develop her productive and taxable power, and make her populous and prosperous beyond the wildest dream of the visionary theorists who involved her in a war as causeless as it was disastrous.

Mr. Chairman, time will not permit me to answer all the Secretary's interrogatories or examine each of his numerical propositions.

But his friends may complain that I have not alluded to that which they regard as his chief specific. It is set forth in the second of another series of propositions as follows: "a curtailment of the currency to the amount required by legitimate and healthful trade." On this point, though not condescending to indicate what amount of currency is in his judgment required by "legitimate and healthful trade" in the present abnormal condition of the country, the Secretary is peculiarly coherent and luminous. He is clearly a disciple of Dr. Sangrado. He recognizes the circulating medium as the life-blood of commerce, and as Sangrado attempted to restore his patients by withdrawing blood and injecting warm water into their veins he proposes to assist extraordinary taxation in the work of rehabilitating the southern States, whose great want is currency and working capital, and in invigorating the languishing interests of the North by contracting the currency, and especially by withdrawing that portion which is of equal and unquestioned value in every part of the country—the United States notes, commonly called "greenbacks." He says:

"He regards a redundant legal-tender currency as the prime cause of our financial difficulties and a curtailment thereof indispensable to an increase of labor and a reduction of prices to an augmentation of exports and a diminution of imports, which alone will place the trade between the United States and other nations on an equal and satisfactory footing."

And that—

"He is of opinion that the national banks should be sustained, and that the paper circulation of the country should be reduced, not by compelling them to retire their notes, but by the withdrawal of the United States notes."

Mr. Chairman, had I been properly instructed in the mysteries of "Injeany banking" I might be able to comprehend and appreciate these suggestions; but in the blindness of my ignorance I cannot see what there is to commend his theory to the Finance Minister of our country. The greenbacks are, it is true, part of our debt, and must therefore at some day be redeemed; but they are the only part of our immense debt which bears no interest; and while there are outstanding, as the Secretary's statement of December 1, 1866, shows, \$147,387,140 of compound-interest notes which are currency and used as such by the national banks, and \$699,933,750 of three-years' notes bearing seven and three tenths per cent. interest, all of which were purchased in a greatly depreciated currency, I cannot comprehend the philosophy which proposes to let the interest on these run, while absorbing a non-interest-bearing loan which the people cherish as furnishing the best currency except specie they have ever had.

The experiment if attempted as a means of hastening specie payments will prove a failure, but not a harmless one. It will be fatal to the prospects of a majority of the business men of this generation and strip the frugal laboring people of the country of the small but hard-earned sums they have deposited in savings banks or invested in Government securities. It will make money scarce and employment uncertain. Its object is to reduce the amount of that which in every part of our country and for the hundreds of thousands of millions of dollars of domestic trade is money and to increase its purchasing power; and by unsettling values it will paralyze trade, suspend production, and deprive industry of employment. It will make the money of the rich man more valuable and

deprive the poor man of his entire capital, the value of his labor, by depriving him of employment. Its first effect will be to increase the rate of interest and diminish the rate of wages, and its final effect wide-spread bankruptcy and a more protracted suspension of specie payments. Anxious as the people are to relieve the country of the evils entailed upon it by the war, and willing as they have proven themselves to be to endure any privations or make any sacrifices required by the exigencies of the country, they will not consent to an experiment involving such terrible consequences for the purpose of paying the "Injeany" and other banks which hold and use as part of their reserve our compound-interest notes two dollars for every one they invested in this interest-bearing portion of our "lawful money." Much as banks, bankers, and speculators in Government securities may approve this policy, the people earnestly and indignantly protest against it.

Does Mr. McCulloch forget that the compound-interest bearing notes are part of the "legal tender currency" against which he declaims, and that by absorbing them he will be contracting the currency and reducing the volume of interest that is compounding against the Government? The banks are required, those of certain cities, to maintain a reserve of "lawful money" equal to twenty-five per cent. of their circulation and deposits, and the balance of them a like reserve of fifteen per cent., and as he well knows they have absorbed and hold not greenbacks, but compound-interest notes as that reserve. He should keep his non-interest-bearing notes afloat till these are redeemed. They will mature in 1867 and 1868, and by redeeming them he will contract the currency at the rate of \$6,000,000 per month and relieve the Government of one of its most exhausting interest accounts. By this process he will keep five-twentieths above par and promote the conversion into them of seven-thirtieths, and reduce the interest on that portion of our debt from seven and three-tenths to six per cent. But by his process of contracting the volume of greenbacks and imposing extraordinary taxes on our industry he will delay the redemption of the one and the conversion of the other, and may deprive us of the ability to redeem either the seven-thirtieths or compound-interest notes at maturity.

The people do not regard greenbacks and the notes of national banks with equal favor, but have a well-grounded preference for the former. They know that the ultimate redemption of the bank notes is secured by deposits of Government securities and the maintenance of a reserve of greenbacks; and as the substance is more solid than its shadow, they prefer that which secures to that which requires to be secured. Several national banks have failed; and though the ultimate redemption of the notes was secured, there was no provision for their immediate redemption, and the laboring people who held them had to sell them at great loss to "Injeany" or other bankers, who could afford to hold them till the Government was ready to redeem them. Having sustained no such losses by greenbacks they naturally prefer them. Adequate as these reasons are for the popular preference, there are others which I will state, in the language of the Secretary's report.

Mr. HOOPER, of Massachusetts. If I understand the gentleman from Pennsylvania, he asserts that when national banks fail their notes cease to circulate. Has the gentleman ever heard of any such instance? The Government is still responsible when the bank fails, and these notes are redeemed when presented at the Treasury. I understand they circulate, therefore, as well after as before the suspension of the bank. It may be remembered that the Treasurer of the United States was recently somewhat criticised by the press for his statement that the national bank notes were better after the bank failed than before.

Mr. KELLEY. I have recognized the ultimate responsibility of the Government for

them, but I know that traders, and traders in money especially, take advantage of all contingencies, and I have known laboring men to sell to brokers the notes of a broken national bank at considerable loss. The announcement that a bank has failed depreciates the notes in the market, for the people, and especially laboring people, are not as familiar as the gentleman from Massachusetts with all the minute provisions of the law by which the ultimate redemption of these notes is secured; and when a bank fails those poor people, who cannot carry them to the Treasury for redemption, are compelled to sell them at a heavy loss. But, as I was proceeding to show, the Secretary of the Treasury more than sustains my position on this point, for he deliberately argues that legislation is required "to make them throughout the United States a par circulation." He says:

"The solvency of the notes of national banks is secured by a deposit of bonds with the Treasurer at Washington; but as the banks are scattered throughout the country, and many of them are in places difficult of access, a redemption of their notes at their respective counters is not all that is required to make them throughout the United States a par circulation. It is true that the notes of all national banks are receivable for all public dues, except duties upon imports, and must be paid by the Treasurer in case the banks which issued are unable to redeem them; but it will not be claimed that the notes of banks, although perfectly solvent, but situated in interior towns, are practically as valuable as the notes of banks in the sea-board cities."

These depreciatory remarks are not applicable to greenbacks. They are of equal value throughout the country, and the people cherish them for this reason more than from the fact that they are the evidence of a patriotic loan made by the people to the Government without interest. Had Mr. McCulloch suggested that the national bank notes, for holding bonds to secure which we pay the banks \$18,000,000 per annum, should be supplanted by greenbacks, and that a sum equal to the interest on the bonds should be applied to the creation of a sinking fund for the redemption of the national debt, the people would have applauded his wisdom and patriotism, and not questioned his motives as they are now constrained to.

Had such been the Secretary's suggestion he might have omitted this one of his propositions, namely, to compel "the national banks to redeem their notes at the Atlantic cities, or, what would be better, at a single city," which, in plain language, is a recommendation that we increase the power and profits of the banks of New York by compelling every national bank outside of that city to deposit a portion of its funds with them. The gambling tendencies of the New York speculators in stocks and provisions need no such stimulant as this; and recent experience has shown that leading banks of that city are managed more recklessly than any others in the country, and would therefore be an unsafe depository for so large a trust. Less than a month ago the Secretary tested their management and produced a perturbation in prices throughout the country by which fortunes were lost and won by calling upon them for a small portion of the Government deposits, which were mistakenly supposed to be represented by a reserve of greenbacks in their vaults. He has not given the facts to the country, but it is known in well-informed circles that some of them were compelled to ask for a "brief extension" because they were unable to pay the checks of a depositor. Practical men may therefore be excused for speaking of the proposal of such remedies as charlatanism.

Mr. Chairman, as I have said, the Secretary has not ventured to indicate what, in his judgment, is the amount of currency "required by legitimate and healthful trade" in the present condition of the country. That condition is abnormal, though not entirely peculiar, and certainly not unprecedented. By unwise and unpatriotic legislation, which was dictated by the magnates of the South, millions of our poor people were doomed to the simplest and least remunerative forms of agricultural labor, or to enforced idleness, in which they were

tending to barbarism; while our raw materials were being wrought into fabrics for our use in the workshops of transatlantic nations, and we had thus been drained of specie and had become largely a debtor nation before the war begun. Those same magnates plunged us into a war of unprecedented proportions, which we were unable to maintain with a specie or convertible currency. In the hour of our need we discerned the fact that ours is one of the two countries to which, in the language of Gortschakoff, the enlightened prince who is guiding the destinies of the other, "God has given such conditions of existence that their grand internal life is enough for them," and determined that until the war and its consequences should have passed away we would give the world an example of our ability and self-reliance, and use a currency based, not on the international standard, gold and silver, but on our faith in the resources of our country and the integrity of its Government. We thus furnished the Government \$3,000,000,000 with which to create, arm, feed, clothe, and pay our Army and Navy.

How this prompt supply of money quickened industry and developed the productive power of the country I need not pause to say. I will, however, remind the committee that though it was "irredeemable legal-tender currency," it restored the credit of the nation, which had been unable to borrow \$5,000,000 at twelve per cent., and lifted the people from the bankruptcy of 1857 to a degree of prosperity unequaled in our history. From 1857 to 1861 the rate of interest was high and that of wages low, and neither capital nor labor could find profitable and permanent employment. But with a safe, though perhaps somewhat redundant, currency, by the use of which our people were compelled to look to our own workshops for supplies, prosperity, in the midst of war, succeeded the adversity of contracted and stagnant peace with magic speed. And if we now adopt a tariff law that will protect our industry as faithfully as did the difference between our paper and gold, in which we required the duties on foreign imports to be paid during the war, we will soon discover that there is ample and profitable employment for all the currency authorized by law; and that if we resolutely refuse to increase its volume it will approximate the standard of convertibility more rapidly by the development of the productive power of the country and the diversification of employment for the people than it can by the process of contraction at any rate. Protection and development will insure a prosperous future; but rapid contraction will reproduce the stagnation, bankruptcy, and suffering of 1837 and 1857.

The question presented to the mind of practical statesmen is not what would be the best currency if we were founding a new community, or how far we might with advantage add paper to a purely metallic currency, but is, what under existing conditions do the true interest of the country require. And on this question I again take issue with the Secretary of the Treasury and deny that the country will find in a rapid or material contraction of its currency, or in extraordinary taxation, a remedy for any of the evils that afflict it. If, as some of his friends have done, the Secretary should point me to the high prices which many articles command, or to the immense deposits which, unproductive to their owners, are enhancing the present profits and future liabilities of the banks, I will reply to him, as I have to them, that these are not proofs of the redundancy of the currency, but of his mistaken policy and inveterate mismanagement.

Though the use of those immense deposits is lost to their cautious proprietors, the money does not lie idle in the vaults of banks; it is lent on call in large sums to adventurers, who by its use enhance the price of such commodities as they can monopolize or control. Those who could make their own capital productive are afraid to use it, and reckless gamblers riot in its use. Yes, sir, the Secretary's policy is



calculated to diminish production and stimulate speculation, which symptoms have been the twin precursors of all our commercial crises and eras of bankruptcy. Under his fatal policy—

"The native hne of resolution  
Is sicklied o'er with the pale east of thought;  
And enterprises of great pith and moment,  
With this regard, their currents turn awry,  
And lose the name of action."

The sagacious but prudent owners of those deposits grieve that the money with which they would gladly open coal-mines and ore banks and build forges and furnaces and factories and import skilled laborers from Europe to increase and diversify our productions, enlarge our home market, and swell the revenues of the Government, lies dead and profitless to them. They justly charge their loss and that of the country to Mr. McCulloch, who, from his Fort Wayne speech forward, has lost no opportunity, official or unofficial, to warn the energetic men of the country against embarking in any new enterprises or accumulating any considerable stock of goods, or otherwise enlarging their arrangements for the future; and who, in his last utterance—the report which I am considering—notifies them of the near approach of the fatal collapse by assuring them that though the banks are without specie, the balance of trade is vastly against us and the Treasury has nearly one billion dollars of temporary loan to provide for, he is "confident that specie payments may be resumed by the time our interest-bearing notes are retired, which must be done in less than two years, and probably will be in a much shorter period."

What the effect of an effort at early resumption under such circumstances would be every experienced business man in the country knows. They know that it can by any possibility be but a spasmodic movement, which will literally vomit forth from the country the little gold and silver left in it. They know that it will bankrupt individuals, corporations, States, and, alas, it may be, the national Government itself. The avowed object of the Secretary in contracting the currency is to increase the purchasing power of money; and they know that the rapid decline in prices pending this mad experiment will sweep away the garnered capital of those manufacturers whose stock largely exceeds their working capital, exclusive of buildings and machinery, that mechanical and manufacturing production must be wholly suspended till the blighting tornado shall have spent its power, and that while it rages the receipts of the Internal Revenue Bureau must fall to zero.

But, sir, if by thus returning to the wretchedness of 1857 and 1857 we could resume specie payments, how long could we maintain them? The Secretary tells us that \$350,000,000 of our bonds are held abroad. The average rate at which they were bought, when gold for long periods was above two hundred per cent., was less than fifty cents on the dollar, nor was that small amount paid in specie; for he also tells us that—

"The opinion that the country has been benefited by the exportation of its securities is founded upon the supposition that we have received real capital in exchange for them. This supposition is to a large extent unfounded. Our bonds have gone abroad to pay for goods which without them might not have been purchased. Not only have we exported the surplus products of our mines and our fields, with no small amount of our manufactures, but a large amount of securities also, to pay for the articles which we have purchased from other countries. That these purchases have been stimulated and increased by the facility of paying for them in bonds can hardly be doubted. Our importations of goods have been increased by nearly the amount of the bonds which have been exported. Not one dollar in five of the amount of the five-twenties now held in England and upon the Continent has been returned to the United States in the form of real capital. But if this were not a true statement of the case, the fact exists, as has been already stated, that some three hundred and fifty millions of Government bonds—not to mention State and railroad bonds and other securities—are in the hands of the citizens of other countries, which may be returned at any time for sale in the United States, and which being so held may seriously embarrass our efforts to return to specie payments."

Thus by Mr. McCulloch's own statement it appears that our bonds were bought at half

their nominal value and paid for in commercial products which should have been created by our own industry from our own raw material by setting "our unemployed and poor people at work on the growth of our own lands;" and, if we may believe the Secretary's statement to which I have referred, a large portion of which commodities were brought into the country in fraud of our revenue laws by "undervaluations and smuggling." For what purpose, let me ask, were those bonds bought by their foreign holders? How long will they be held? When and under what contingencies are they likely to be returned to this country? And a more pregnant question still: what effect would be produced by the early return to specie payments threatened by the Secretary of the Treasury?

That I may do Mr. McCulloch no injustice, I answer those momentous questions in the language of his report:

"A large portion of these bonds have been bought on speculation, and will be likely to be returned whenever financial troubles in the countries in which they are held shall make it necessary for the holders to realize upon them, or whenever satisfactory profits can be made by returning them, which will be when they nearly approach their par value in coin."

Here at least he is right. Those bonds, having been bought at half the value expressed on their face, will be returned "when they nearly approach their par value in coin," and that will be when we resume specie payments. But as Mr. McCulloch has failed to pursue this operation to its inevitable result, the committee will pardon me for attempting the duty, though in doing so I may deepen the shades in the melancholy picture of our future which I have presented.

When those foreigners who bought our bonds on speculation perceive that by returning them they can convert them into gold and double their investment they will assuredly avail themselves of the literally golden opportunity. Questions as to how they can reinvest the proceeds advantageously need not deter them. They know how limited our stock of specie is, how heavy the balance of trade is against us, and consequently that by selling their bonds in our markets they would compel us to suspend specie payments again. Nor are they strangers to the fact that during that suspension they would be able to repurchase their bonds for half the gold received for them. Thus the experiment of the Secretary would inevitably terminate in the impoverishment of the citizen and the disgrace of the country by a renewed and more protracted suspension of specie payments.

Mr. Chairman, neither the Secretary of the Treasury nor Congress know whether our currency is in excess of the amount required by legitimate and healthful trade, or if it be, how long it will remain so if undisturbed by legislation. Nor can we settle these points by an appeal to experience, for many of our conditions are novel. That would be a curious and instructive calculation which would show the country the precise demand for currency created by the operation of the Bureau of Internal Revenue, or by the enlargement of the Army and Navy and clerical force of the Government.

Under the discipline of Providence the southern people will, before many years glide away, consent to permit their fields to be tilled, their mines to be worked, and their cities to be rebuilt and expanded; and who can tell the amount of currency that will then be required by the four million enfranchised slaves and the two million poor whites, who did not in the past, but are henceforth to earn wages and buy and sell commodities, or for handling the crops and mineral productions of the South? Since we last adjourned the iron horse has crossed Nebraska on one of the routes to the Pacific, and his snort has been heard in the neighborhood of Fort Riley on another; and during the last year three hundred thousand industrious people, who had been fed and clothed through unproductive childhood at the cost of other nations, came and cast their lot among us to till our fields, smelt our ores, work our

metals, and manage our spindles and looms; and I cannot guess what amount of currency these energetic people and the westward-marching column of our civilization will require. But, sir, of one thing I am certain, and it is that had the Secretary of the Treasury not destroyed all sense of security in the future, the demand for currency to purchase, especially in the South, mineral and other lands and develop their productive power would have prevented the accumulation of the immense deposits which now lie paralyzed in bank or are loaned on call to speculators in the necessities of life. We unsettled values and made or scattered fortunes by the rapid expansion of the currency; and the people implore us to avoid another violent change fraught with like consequences, and to stay the work of contraction till we shall have ascertained, at least proximately, the amount of currency required by healthy and legitimate trade.

Mr. Chairman, the Secretary of the Treasury is not a philosopher—

"A primrose by a river's brim  
A yellow primrose is to him,"

And the thing that has been in his belief, the thing that shall be forever. Neither his experience as an "Injeany" banker nor his official connection with the Government has disclosed to him the real relation of currency in detail or in volume to the business of a community. Throughout his report he assumes that the currency is redundant, and ascribes to its alleged redundancy consequences which are directly attributable to another cause but remotely connected with the question of the amount of currency. I refer to the prevailing and traditional vice in our banking system, that of building credits upon credit, of banking on deposits, or lending money by a bank to one man because it owes a like amount to another who has intrusted his funds to it for safe-keeping and convenience. To this vice in our banking system, which Mr. McCulloch has done much to aggravate by leaving stupendous balances of the public funds in favored banks, is to be ascribed nearly all the evils he mistakenly attributes to a "redundant legal-tender currency." If the corporations and private bankers of the country were prohibited from lending on call the deposits intrusted to them or using them in discounting paper, the doubling of the volume of currency would not produce a material advance in the price of commodities in general. This vice in our banking system, this banking on deposits or lending that which the banks owe, and to calls for the payment of which they are constantly liable, aggravates from four hundred to one thousand fold every modification of our currency, whether it be by contraction or expansion.

Neither the price of gold nor of other commodities is regulated nor materially influenced by the amount of currency; nor is the difference between gold and our currency evidence that the latter is inflated. If the Secretary controverts these propositions, I will remind him that gold commanded a premium of 185 in 1864, and ask him to let us know how much he had contracted the currency before it went down to 25, as it did in June, 1865; and again, how much he expanded the currency to put the premium on gold up again to 50, at about which figure it stood so long before dropping to 29 and ascending again to its present price. During all these fluctuations the volume of currency was not essentially modified. What a commentary these facts are upon the theories of the Secretary and his costly but vaunted attempts "to keep the business of the country as steady as possible." On this point he says:

"He has regarded a steady market as of more importance to the people of the country than the saving of a few million dollars in the way of interest."

And elsewhere, that—

"The Secretary has also deemed it to be his duty to use such means within his control as were, in his judgment, best calculated to keep the business of the country as steady as possible, while conducted on the uncertain basis of an irredeemable currency. To accomplish this he has thought it necessary to hold a handsome reserve of coin in the Treasury."

But, sir, assuming that the volume of currency

does not regulate prices, and that apart from the often fatal vice in our banking system to which I have alluded it has but little influence on them, I appeal from the judgment of Mr. McCulloch to that of the people; and ask whether, if the volume of currency regulated prices, it would not affect every species of property equally or nearly so?

If prices are regulated by the volume of currency, how is it that American wool is as cheap in the Philadelphia market now as it was before the war? How is it that corn is unusually low and wheat is commanding a higher price than ever before in the history of our country? How is it that during last month one variety of cotton goods, those known as brown or unbleached goods, advanced twenty per cent., or two cents per yard, and another variety, bleached goods, declined twenty per cent., or from five to seven cents per yard? How is it that mess pork commands but about half last year's prices, while the decline in beef has been little more than nominal? And how is it that in 1865, with gold at 25, Lehigh coal commanded at the shipping point from five to six dollars per ton; and in 1866, with gold ranging from 32 to 40, the same qualities of coal at the same points will not bring three dollars to three dollars and a quarter per ton?

But I will not weary the committee with further illustrations of the absurdity of the Secretary's postulate. It is, however, proper that before leaving this point for the present I should admit that a violent and sudden contraction of the currency at a time when the loans of our banks are extended by lending their deposits does work an inevitable and often ruinous reduction of prices. It is thus: under the influence of contraction depositors draw upon their reserve, and the banks to meet the demand call upon their debtors, and they to protect their credit must sell, no matter at what sacrifice, at such prices as they can get. I need not follow the movement to its consequences. A tight money market, causing a few failures, has more than once begotten panic and widespread bankruptcy, and would now extinguish the revenues of the Government. Had the Secretary of the Treasury ascribed the fluctuations in business and the inordinate prices at which many of the necessities of life are held to their real cause, our habit of banking on accumulated credits, and not pressed the purpose of contracting the currency, the country would not be depressed as it is. Threatened contraction has hung like the sword of Damocles over the heads of our producing classes.

Let me ask, what is currency and what is its function? Currency is that which a people have agreed to accept and use as money. It is the medium by which the small transactions of daily life are settled. Its sphere is that of personal use and retail trade. Except in the final settlements between banks and their customers, it is not commonly used in large transactions. We carry currency upon our persons to meet current demands. You find it in the till of the retail dealer and the hands of workmen, who, when currency is abundant, are paid in it, and not in orders on stores at which they are compelled to select articles from a small stock of inferior goods and pay high prices, as they did when currency was scarce. It is possible that Mr. McCulloch does not know that the abundance of currency has redeemed our laboring people from the burdensome taxation inflicted upon them by the order system and payment in the depreciated paper of distant and unknown banks. Currency in its legitimate use has no wider sphere than I have indicated. Like all other blessings, it may be perverted, as it is when it accumulates as deposits in banks and is used as the basis of large loans to adventurous operators or speculators. In the heavy operations of business currency finds no place. These are settled by checks, drafts, and bills of exchange. Before the war currency was scarce, and the deficiency was supplied by the promissory notes of individuals who, by indorsing the notes of those who bought from them or those of their factors or commission

merchants, became debtors to the amount due them from others. It is said that when the war began the amount represented by the promissory notes of individuals was more than \$200,000,000; but now that the supply of currency is adequate, few men take such notes, and none propose to give them but the people of the South, who have no currency. The contraction of the currency insisted upon by Mr. McCulloch would revive the credit system, with its orders, for work people, and its periodical returns of wide-spread bankruptcy to the community at large.

I do not think the Secretary is entirely ignorant of the simple truths I have been enunciating. It would be pleasant to know that he is, for it is not agreeable to be constrained to doubt the motives of one to whom we have given our confidence. But in view of the communication made by Mr. Nasby and the fact that the Secretary's theories, if carried into execution, will promote speculation, I cannot help thinking that he regards banking and stock operations as the interests to which all others should be subordinated. He recommends the withdrawal of the greenbacks that the national banks may supply the circulating medium of the country, and he wishes each national bank to be compelled to deposit in one of the Atlantic cities a sufficient amount of its capital to justify the redemption of its notes at that point. The Atlantic city to which he points is the great center of banking and speculation; and compliance with these suggestions would aggravate the speculative power of New York by the proportion such deposits would bear to its general fund. His theories are in perfect accord with his practice, for I find that he is in the habit of furnishing the banks, and through them speculators, an average loan of about twenty-five million dollars. Thus by an official statement which lies before me it appears that the balances in the hands of the national banks was—

June 1, 1866.	\$26,335,725 59
July 1, 1866.	34,124,171 21
August 1, 1866.	36,931,415 22
September 1, 1866.	32,590,274 53
October 1, 1866.	30,976,793 85

I am, however, informed officially that there was during those months a liability to draft on these balances distributed through not less than three months amounting in all to \$14,000,000 by coupons *in transitu* or in the hands of the holders; so that the banks could with safety lend on call during the whole period \$25,000,000 to those engaged in speculating in food and increasing its price. Had \$20,000,000 of the sum been applied to the absorption of seven-thirties or compound-interest notes speculation would have been less rife, our interest account would have been materially diminished, and a slight approximation have been made toward specie payments and the ultimate redemption of the public debt. Doubtless Mr. McCulloch's desire "to keep the business of the country as steady as possible" alone prevented this happy consummation.

Sir, it is within our memory that the establishment of the sub-Treasury—the divorcement of the public Treasury from the banks and banking system of the country—overthrew the Administration and party that inaugurated it; but it is also remembered that so beneficent were its operations that no succeeding administration of any party dared assail it. It had not been in operation a year till it had vindicated its wisdom in the estimation of every judicious business man. Nor would it probably ever have been interfered with in time of peace. The great convulsion which threatened to divide our country interrupted its action which should forthwith be restored. It acted as a regulator, a natural regulator, of the trade of the country. When enterprise ran into excesses and unduly increased the public revenues, it withdrew from circulation and locked up a portion of the currency, and by the stringency it thus created admonished banks and business men to pause; and when, having given an early check to rash operations and diminished the current revenues of the country, it gently, as by

a process of nature, restored vigor to the circulation by the fact that its payments were in excess of its receipts, as its receipts had just been in excess of its payments. As a safeguard for the public funds, if for no other reason, the Secretary should have recommended its full restoration, for during the entire period of its existence, as far as I know, the Government did not lose by any of its officers as much as it did by the failure of the Merchants' National Bank of Washington alone. It was a safe depository for the public money, as well as a healthful influence in the business operations of the country. Had the Secretary suggested that it would answer as well for a mixed currency as it did for the era of specie payments, and recommended its immediate reestablishment he would have done much to give steadiness to the business of the country, diminish speculative prices, quicken production, and increase the revenue of the country. And I trust that Congress before it rises will pass a law prohibiting the deposit of any portion of the Government funds in any bank, or, in other words, divorce the Treasury from the banks by reorganizing the sub-Treasury.

It was perhaps too much to hope for such a recommendation from the Secretary. He enjoys the control he now exercises over the business of the country, and would not willingly surrender it. But for the maintenance of an average deposit of more than \$30,000,000 could the National-Union-Johnson party have extorted from the banks—perhaps not directly as corporations, but from their stockholders and officers, to be accounted for in the item of incidental expenses—the large contributions which the newspapers told us certain banks were forced to make in aid of the recent effort of the President and the Secretary of the Treasury to subvert the popular will. But this was but an occasional incident, probably never to occur again; for I believe that the future can produce to our country no second Andrew Johnson, or that should it contain within its womb another like unto him he will be unable to find creatures to sacrifice their own convictions and the interests of the country for the poor privilege of unworthily filling high places in a great Government. That of which I speak is the influence these deposits, coupled with his exclusive control of the gold in the Treasury, averaging about one hundred million dollars, which he complacently calls a "handsome reserve of coin in the Treasury," give the Secretary over the business of the country.

Under the action of the sub-Treasury, as I have shown, a payment of money by the Government relieved a stringent money market; but how is it now? When the Secretary of the Treasury is sacrificing such immense amounts of interest in order to give steadiness to business the Government deposits are loaned by the banks on notes of short date or on call; and if the current revenues of the Government be in excess of its current expenses, as they have been throughout his administration, its deposits accumulate and swell the volume of such loans. The receipts of the Government thus aggravate the tendency to undue expansion; and what is the effect when it is required to use any considerable amount of its deposits? It is this: the Secretary notifies the banks that he is about to call for ten or twenty million dollars; and the banks, not knowing which of their debtors will be ready and who may be utterly unable to pay, notify not alone borrowers of the precise amount demanded by the Secretary, but holders of five, six, or ten times the amount. Thus that which should give relief to the market becomes an exaggerated cause of contraction, and the payment of \$10,000,000 by the Government is made to interfere with business operations to the amount of \$100,000,000. We have all observed this and know that instead of being a natural operation the effects of which should be felt beneficially, each payment of any considerable sum of money by the Government, after a long line of deposits has accumulated, produces a perturbation through all commercial circles.

The payment of but \$15,000,000 in the early part of last month came near producing a national panic and damaged the credit of leading banks. This system gives the Secretary despotic control over the markets of the country, and his favorites may have ascertained practically, as did Voltaire, who was given to stock speculations, that "it is a good thing to have a friend at court" through whom they may learn when it is well to sell, because things have reached their highest price, as Government is about doing that which should establish confidence, but which, owing to the Secretary's efforts to insure steadiness to business, will produce consternation if not panic and a general decline in prices; and when it is well to buy, because it suits the convenience of the Government to make another large and long loan to the banks. Such a power over the business of the country should be vested in no man; and I challenge the world to point to any fact in the official career of the present Finance Minister of the country which would induce any judicious man to vest it in him. There certainly is nothing in the suggestions of the report which I am considering to indicate that he is a safe depository for so useless, so wide-spread, and so dangerous a power.

But, Mr. Chairman, I am admonished that I should hasten to a conclusion. I must, however, beg the committee to bear with me while I examine briefly another of Mr. McCulloch's suggestions. It is offered as a specific remedy, because it is said it will diminish the rate of interest on our loans and protect us against the direful contingency of the bonds bought on speculation at depreciated rates coming home to exhaust our specie within a month of the day on which we are, by the magical agencies suggested by Mr. McCulloch, to resume specie payments within two years. It is characterized by the candor and wisdom which pervade his other suggestions. To a shrewd man of mere practical business habits, one not skilled in the mysteries of "Ingeany bankin'," it might seem to be somewhat impracticable; and the country regards it with humiliation and disgust. It is this: that after having carried on the war without an appeal to foreign nations or capitalists and without their sympathy; after having by our patriotic sacrifices put our credit so high that the people of Europe have voluntarily come and carried away, with great profit to themselves, \$350,000,000 of our bonds; that now, when peace is restored, when we again possess the custom-houses, post offices, forts, and arsenals of the country, and when our taxes are not divided between our Treasury and that of a hostile confederacy, but all flow to our own, we shall issue "bonds payable in not over twenty years and bearing interest at the rate of not over five per cent., payable in England or Germany, to an amount sufficient to absorb the six per cent. bonds now held in Europe and to meet the demand there for actual and permanent investment."

If this scheme were practicable, I for one would spurn it. With their pirate ships on every sea, their ship-yards and factories busy in fabricating implements of war for our enemies, and in the face of their hatred, with self-reliance, of which posterity will be proud, we marched steadily on to conquest and final victory. And now, in the hour of our triumph, or in the calm season which should succeed so grand and successful an exhibition of power, with a continent beneath our feet abounding in raw material for the profitable employment of every art, trade, and mystery known to ingenious man; with India decimated by famine, Europe disturbed by wars and rumors of war, Ireland in incipient rebellion; and when we offer to the people of Europe established peace, political equality, public schools, a free church, and briefer hours of labor with better wages than those known to the artisans of any other country, this suggestion is as degrading as it is inopportune. Sir, nothing but some such folly as this official proclamation, as it would be regarded by the people of Europe, that our struggle exhausted

us, and that with victory came premature decrepitude, can prevent us from compelling the nations of the world, by the tide of skilled workmen that will flow from their shores to ours, to follow our example and give those who produce their wealth culture, leisure, and the consciousness of free manhood. In such an hour and in view of such a prospect I am sure that Congress will not degrade the country by asking the money-changers of Europe to lighten its burdens or help us bear them.

But the scheme is hopelessly impracticable. Mr. McCulloch may see advantages in it which others fail to detect. It would serve, I doubt not, by what he calls "the trifling commissions to the agents through whom the exchanges might be made," to found a great American banking-house in London with continental branches, and might bless the country with the hope of large gratuities from some future George Peabody whom the Secretary would designate as the agent for making transfers and paying interest; but it would not accomplish the purpose its author suggests. With such knowledge of human nature as we possess let us consider the proposition. Those who hold our bonds bought them either as an investment or on speculation, and the interest upon them ranges from six to seven and three tenths per cent. Is it probable that those who bought them as an investment will change them before maturity for bonds bearing but five or four and a half per cent.? Or will those who bought them as matter of speculation, in view of the Secretary's assurance that in less than two years we will resume specie payments and enable them to convert them into gold at par, hasten to make such a conversion? When the leopard shall change his spots, the vulture protect the dove, and hungry mice abstain from eating unguarded crackers and cheese, I will be prepared to regard the Secretary's proposition as practicable.

Nor need we grieve that it is not practicable. Our destiny is written. Unwise legislation or such reckless maladministration as now prevails may retard it, but it will be achieved. It is written in the sublime doctrine of human equality, which gives vitality and stability to our institutions, and more perceptibly though not more enduringly in the geographical position, the continental proportions, and the unequaled resources of our country. Bounded by both oceans, with a larger area than all the nations of Europe, including Great Britain, which lie between the same distant parallels of latitude that mark our limits, and embracing mineral, agricultural, manufacturing, and commercial resources greater than they combined possess, the United States must be the foremost, richest, and most powerful nation of the world. However blind our Finance Minister may be to this fact, others perceive it, and our affairs will yet be administered in accordance with the sublime assertion of Gortschakoff, who, in an utterance to which I have already referred, when speaking of Russia and our country, said: "God has given to the two countries such conditions of existence that their grand internal life is enough for them."

Yes, the capitalist of Europe will yet be eager to lend us money as cheaply as they now loan it to England; but it will be when, by the conversion of our now profitless raw material into fabrics, by the skill and industry of our now unemployed citizens and the millions of industrious people who are coming to us from abroad, we manufacture more than we consume, and by rivaling England, France, and other continental nations in tropical markets, and those of other non-manufacturing regions, shall have turned the balance of trade in our favor. Then Americans will be able to compete with foreigners in bidding for our loans; and in exchange for cotton, tobacco, and other staples, our bonds will be returned to us instead of woolen goods and various other textile and metallic fabrics, which we now receive but ought to manufacture for ourselves. But foreign capitalists will not take bonds from us at four and a half or five per cent. in exchange for those which pay six

per cent., while the balance of trade is against us to the amount of \$100,000,000 per annum, and with compound-interest and seven-thirty notes afloat to the amount of nearly \$1,000,000,000, with more than Gascon vanity we promise the almost immediate return to specie payments.

During the above speech, Mr. KELLEY's hour having expired, on motion of Mr. ASHLEY, of Ohio, by unanimous consent, his time was extended till he had concluded.

Mr. HOLMES. Mr. Chairman, in "swinging around the circle" the President is again brought face to face with the Thirty-Ninth Congress. Professing similar views upon the grave questions growing out of the war, owing their election to the same political party, it was anticipated that the President and the Republican or Union members of this Congress, when called upon to act officially, would be found acting in concert and harmony.

Prior to the presidential election of 1864, the President had won the confidence of the Union party by the most lavish professions of loyalty and the most pointed denunciations of treason. With him no language was too strong to express his sentiments upon these subjects, and upon the question of reconstruction his creed was of the most radical stamp. Treason was to be made odious, traitors punished, impoverished, and banished from the ballot-box and legislative council, while loyalty was to have exclusive control of the work of reorganizing the governments of the States in rebellion, and was to be reimbursed for all losses during the war from the confiscated property of wealthy traitors. From uncomfortable back seats the disloyal were to look on without interfering with the process of reconstruction. No wonder that, with such professions upon his lips, the people were slow to believe that it was possible for their author to forget or repudiate them.

The first session of this Congress had hardly commenced before it became apparent to a majority of the Union members of this body that there could be no harmonious action between them and the President unless they proved recreant to their principles; and the close of the session found them not only in conflict with him upon every important measure of legislation relating to the States lately in rebellion, but the power and patronage of the General Government were being wielded with all the energy that disappointed and enraged ambition could stimulate to weaken or destroy the confidence of the people in their Representatives, upon the avowed and shameless principle that the public offices were "the bread and butter of the President," to be eaten only by those who would blindly follow him in his erratic course.

The "congressional plan of reconstruction" and "the President's policy" were diametrically opposed to each other, and were submitted to the people at the recent election for their approval or condemnation. Each had its advocates; each was fully canvassed before the people. The President in person discussed, explained, and illustrated, as few but him could illustrate, the internal and external workings of his "policy;" and after a patient hearing the verdict of the people has been pronounced. Everywhere has loyalty decided in favor of the "congressional plan," and against the "President's policy;" in favor of the power of Congress and against the power of the President to control or prescribe the terms of reconstruction. Emphatic and overwhelming has been the verdict. The people have answered the question so arrogantly propounded to them, "Will you have Andrew Johnson for President or King?" and the waning seer of the Administration can read and profit by the response.

In but three of the States that did not enact the rôle of secession can any claim be made that the "President's policy" has been sustained. Kentucky, that did not go through the form of secession, because she could better protect slavery in than out of the Union, and, failing in that, would be in a better condition to claim payment for her emancipated slaves;



Delaware, that sympathized with the rebellion, and Maryland, where the voice of loyalty has for the time been smothered and suppressed by returned and disfranchised rebels, alone sustain the President. But one of these—Maryland—contributed to his election; the other two cast their votes against him, as they had given their influence to the rebellion. Every other State that voted for Lincoln and Johnson sustains Congress and repudiates the President; and yet he has had the assurance, in a carefully prepared speech, to denounce this Congress in such language as the following:

"We have seen hanging upon the verge of Government, as it were, a body calling itself and assuming to be the Congress of the United States, when it was, in fact, but a Congress of a part of the States; and we have seen such a Congress pretending to be for the Union when every single step it took was to perpetuate dissolution and to make disruption permanent."

What portion of the States, let me ask, does he and his "policy" represent? When his administration commenced he had the same constituency and represented the same States as the Republican or Union members of Congress. Now, twenty-one of the twenty-two States that contributed to his election have repudiated him. The place made vacant in the Union ranks by the compulsory defection of Maryland has been filled by the accession of New Jersey, entitled to an equal number of electoral votes, so that twenty-two of the twenty-five States that participated in the election of President and Vice President in 1864, and casting two hundred and twelve out of an aggregate of two hundred and thirty-three electoral votes then given, condemn the "policy" of the President.

In the light of these results may we not ask if there is not another "body hanging on the verge of the Government calling itself and assuming to be the" President of the United States, when, in fact, upon the theory above applied to Congress, it is the President of a part only of the States, and that a very small part if those only are included that support "my policy" and are entitled to representation in Congress? What a constituency is this! What a stand-point from which to assail the Thirty-Ninth Congress as wanting in legality or popular support! No wonder the Secretary of the Treasury is anxiously waiting for the "rehabilitation" of the States lately in rebellion, ostensibly for the purpose of regulating the disturbed and nervous finances of the country, but really to enable the Administration, in theory if not in fact, to claim to represent as many States at least as there are Cabinet ministers.

So overwhelming has been the defeat of the Administration, so thoroughly have the people become disgusted with the "President's policy," that the Democratic party, through one of its ablest Representatives on this floor, was forced to disown all connection with or responsibility for the Administration, and to declare that the President was too heavy a load for any party to carry and expect to survive.

Even John Tyler never sunk as low as this during his official term. He was flattered and caressed by the Democratic party so long as he had offices to bestow; and it was not until he again became a private citizen that he realized how thoroughly he had forfeited the confidence of all parties. But the head of this Administration is not permitted to enjoy the hallucination that he has the confidence of any party, even during the continuance of his short and inglorious official career. The "ground swell" of public indignation followed fast upon the retreating footsteps of the presidential caravan; and the gentleman from Ohio [Mr. Le BLOND] but echoed the opinion of all candid and disinterested men when he characterized the President as too heavy a burden for any party to carry. And when an Administration has become so obnoxious and impotent that the Democratic party is constrained to reject its proffered support and embrace, it must be poor indeed. It has reached the lowest point indicated by any political thermometer yet invented. Repu-

diated by the people, shunned by the Democratic party, the Administration party is but an association of political lepers, wandering outside of any responsible organization, and upon whom the people have written the word unclean in blazing capitals; so that the honest and upright of all parties may shun their demoralizing association.

The President, in his assumed meekness, claims to be willing and anxious at all times to conform to and carry out the popular will. In the speech already referred to he says:

"I acknowledge no superior except my God, the author of my existence, and the people of the United States. The commands of the one I try to obey as best I can compatible with poor humanity. As to the other, in a political and representative sense, the high behests of the people have always been and ever will be respected and obeyed by me."

And yet, in the face of the overwhelming popular verdict against him, he renews in his message the oft-repeated recommendations of his "policy," insists that the governments of these States are entirely restored, and that it is the duty of Congress to admit them to representation here.

The unrepresented States also revive and intensify the agitation of this subject by rejecting or refusing to accept the constitutional amendment, leaving Congress released from any implied pledge to adopt their governments and declare them entitled to representation if they had accepted the amendment and conformed their institutions, laws, and governments to its provisions.

We may therefore begin this work *de novo*, and it is the duty of this Congress to review the whole subject, especially as the States most directly interested have shown a determination not to accept the very liberal terms proposed by this amendment.

I do not speak of a ratification by these States of the constitutional amendment as an act that can have any influence whatever upon its adoption or rejection as a part of the organic law of the land. I regard their action upon this subject only in the light of evidence as to the existence of loyalty or disloyalty in the people of these States. The question of its adoption as a part of the Constitution is to be decided by the States represented in Congress, and by those alone.

It is apparent that these State organizations have been and will be used in all cases to defeat or prevent the acceptance of this amendment, and to prevent the realization by the loyal people of the fruits of victory, to which they are entitled by their success in the war.

We may with propriety, then, inquire into the legitimacy of these governments to see what claims they have for recognition by Congress.

I will not go over the arguments on this subject so often adduced at the last session. It is sufficient to say that, agreeing with the President in the statement made in his proclamations appointing provisional governors, "that the rebellion had deprived the people of these States of all civil government," his subsequent proceedings to reorganize or reconstruct them find no warrant in the Constitution; and the fruits that they have produced are not such as appeal to the patriotism of the people for support, or to the well-settled power of Congress over the subject for toleration or longer forbearance.

On the other hand, from suffering and oppressed loyalty throughout these States, groaning under the most intolerant despotism and proscription, comes the earnest and persistent appeal that Congress will now speak the word that shall number these governments with the things that have been; that shall send them back to the prolific hot-bed of treason in which they were generated, and in the interest of which they have been mainly administered, and shall recognize as the people of those States capable of establishing governments therein those only, without distinction of color, who were true to the Government in the time of its weakness and trial.

While we might have winked at the gross irregularities in the reorganization of these

States by the Executive or under his direction, or even have assented to and adopted them if they had been administered in the interest of freedom, no excuse can be given for such recognition when they are used to depress loyalty and exalt treason. The mandate of the Constitution, which requires the United States to guaranty to every State in the Union a republican form of government, contains ample authority for the overthrow of these governments and the erection of republican governments in their places, and it is time that its provisions were enforced.

The great objection the constitutional amendment encountered in the loyal States was on account of its extreme liberality. The people are far in advance of their Representatives upon this subject, and would have sustained with equal unanimity more stringent terms. And yet these terms, mild as they are, are denounced by the reconstructed governors of some of these States as an insult to their people that requires only to be read to be rejected.

The power of Congress to exact these or any other terms that may be deemed necessary having been affirmed by the people by so large a majority, should be considered settled and not open to discussion. It is *res judicata*, so far at least as this Congress is concerned.

The gentleman from Kentucky, [Mr. HISE,] who appears here as counsel for the Administration after its defense has been abandoned by the Democratic party, made a heroic attempt to justify and sustain the "President's policy." Had his speech been brought down in point of time to the present generation, it might have been pertinent to the subject when the question was an open one and under discussion at the last session; but it is now too late, even if stripped of its antediluvian flavor, to be of benefit to his client, or to have the least influence upon the verdict already rendered. He is excusable, of course, because he was not present to hear the arguments and positions of the message, so often repeated on this floor at the last session, as often answered and refuted. He cannot now even secure an arrest of judgment in the case. He is like the lawyer who, on making a motion to set aside a judgment against his client in a criminal case, where the punishment was public whipping, was informed by the court that the penalty had already been inflicted, and that if he succeeded in obtaining a new trial his client would undoubtedly be again convicted, and the court would be compelled to resentence him and increase the punishment, as it would be a second conviction. He wisely concluded, under the circumstances, to waive his application for a new trial; and I commend his discretion to the consideration of the gentleman from Kentucky and all others who are like-minded.

I shall regard the question of the power of Congress over this subject as settled, and ask that the judgment of the people be enforced. They have decided that, as a condition precedent to the admission of Representatives from the States lately in rebellion, each of them shall accept the terms presented in the constitutional amendment and conform their laws and governments, both in letter and spirit, in practice as well as theory, to those terms. This those States are refusing to do, and their refusal is made in the most offensive manner. Can we waive or modify these conditions? "One jot or one tittle shall in no wise pass from the law till all be fulfilled." The only change that can be made in them will be to increase their stringency. We must not dilute or waive a single condition intended as "security for the future." This much, at least, the people will require at our hands. If those terms and conditions are rejected, they will demand that we advance instead of retreat; that we do now what, with propriety, might have been done before.

The governments that stand in the way of the acceptance of these conditions, and which have not even the shadows of regularity or popular approval, must be set aside and new ones organized in their places based upon impar-

tial suffrage to trusted and confiding loyalty, and recognizing the equal rights of all men before the law.

As fast, then, as these States, through their pretended Legislatures or otherwise, reject the constitutional amendment in a manner indicating a settled purpose to prevent its acceptance or adoption, or neglect promptly to accept its terms and conditions, it is, in my opinion, the duty of Congress to declare their governments usurpations, and pass an enabling act authorizing the loyal people only in those States, without distinction of color, to take the necessary measures to establish therein governments, republican in form, that shall be entitled to and shall receive the recognition, protection, and support contemplated by the Constitution. In this way only will treason be rendered powerless, loyalty encouraged, and republican governments for those States established upon a firm and an enduring basis. If we do less than this we shall fail to meet the just expectations of the people, and shall receive, as we shall deserve, their censure and condemnation, and the condemnation of the friends of justice and impartial liberty through all coming time.

Mr. MERCUR obtained the floor, but yielded to Mr. MYERS, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. URSON reported that the Committee of the Whole on the state of the Union, having had under consideration the President's annual message, had come to no resolution thereon.

#### ENROLLED JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate joint resolution No. 123, in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine; when the Speaker signed the same.

#### PROTECTION OF OVERLAND ROUTES.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, information respecting the protection of the routes across the continent to the Pacific from molestation by hostile Indians; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### CHICAGO HARBOR.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, the report of the chief of Engineers respecting the improvement of Chicago harbor; which, on motion of Mr. WENTWORTH, was referred to the Committee on Commerce, and ordered to be printed.

#### WESTERN MILITARY POSTS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House, portions of General Babcock's report of the inspection of military posts on the western frontier; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### ADDITIONAL COMPENSATION.

Mr. GARFIELD, by unanimous consent, from the Committee of Ways and Means, reported a joint resolution giving additional compensation to certain employes in the civil service of the Government; which was read a first and second time, ordered to be printed, and made the special order for Tuesday next, after the morning hour.

The SPEAKER. The question now pending is the proposition in reference to reconstruction, on which the gentleman from Ohio [Mr. BINGHAM] is entitled to the floor.

#### ORDER FOR FRIDAY AND SATURDAY.

Mr. NIBLACK. I move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. ASHLEY, of Ohio. I suggest to the gentleman from Indiana that we had better meet here to-morrow, and go into the Committee of the Whole on the state of the Union, with the understanding that no business shall be done. There are many members who wish to make speeches.

Mr. NIBLACK. I would like to have some general understanding on the subject.

Mr. ASHLEY, of Ohio. I think there will be a general understanding that there will be no vote taken to-morrow.

Mr. NIBLACK. If that is so, I will withdraw my motion.

Mr. ASHLEY, of Ohio. I now move that by unanimous consent to-morrow and the next day (Friday and Saturday) be devoted to debate, and that no vote be taken on those days.

No objection being made, it was so ordered.

#### J. B. M'FARLAND AND OTHERS.

Mr. STOKES, by unanimous consent, presented the petition of J. B. McFarland, E. B. Turner, A. G. Buddington, S. B. Reid, and others; which was referred to the Committee of Claims.

#### DISLOYALTY.

Mr. ELDRIDGE. I ask unanimous consent to offer the following resolution:

*Resolved*, That the following resolution, introduced into the House of Representatives December 4, 1862, by Hon. THADDEUS STEVENS, expresses the convictions and sense of this House, to wit:

"*Resolved*, That if any person in the employment of the United States, in either the legislative or executive branch, should propose to make peace or should accept or advise the acceptance of any such proposition on any other basis than the integrity and entire unity of the United States and their Territories as they existed at the time of the rebellion he will be guilty of a high crime.

And that the bill (H. R. No. 543) is clearly in violation of the spirit of said resolution, and that the same does in fact assert or at least admit that secessionists and rebels were successful in the dividing of the Union and destroying certain of the States of the United States as such in the Union and degrading them into Territories; and that Hon. THADDEUS STEVENS, in and by the introduction and advocacy of the said bill, has manifested a mind and heart disloyal to the Constitution and the Union of the States as they existed at the time of the rebellion, and is guilty of the crime specified in the resolution, and therefore deserves the reprobation of this House.

Mr. ASHLEY, of Ohio. I object.

Mr. ELDRIDGE. I insist that this is a question of privilege.

The SPEAKER. When the committee rose the House resumed the consideration of another bill which was already before it. The pending question is on House bill No. 543, which takes precedence.

Mr. ELDRIDGE. I do not, however, wish to press the resolution at this time, as I see the gentleman from Pennsylvania [Mr. STEVENS] is not in his seat.

#### JOHN COTTER.

Mr. FARQUHAR, by unanimous consent, introduced a joint resolution for the relief of John Cotter, of Franklin county, Indiana; which was read a first and second time, and referred to the Committee of Ways and Means.

#### LINE OFFICERS IN THE NAVY.

Mr. FARQUHAR, by unanimous consent, introduced a bill to amend an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### AMOS HOPPER.

Mr. HARDING, of Illinois, by unanimous consent, submitted a resolution in relation to the claim of Amos Hopper and others for pensions; which was referred to the Committee on Invalid Pensions.

#### MILITIA.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That three thousand extra copies of the bill to provide for organizing, arming, and disciplining the militia, and for other purposes, referred to

the Committee on the Militia, January 3, 1867, be printed in pamphlet form for the use of the said committee.

#### NEW EXECUTIVE MANSION.

Mr. NIBLACK. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on Public Buildings and Grounds be instructed to inquire into the practicability and expediency of providing for the erection of a new Executive Mansion for the use of the President of the United States. And in case such committee shall deem it practicable and expedient to provide for the erection of such new Executive Mansion then that said committee be further instructed to inquire into the propriety of setting apart the present Executive Mansion for the use of the Department of State, and to report by bill or otherwise.

Mr. BAKER. I object.

#### RIVER SURVEYS IN ILLINOIS.

Mr. WENTWORTH offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to this House what progress has been made in the surveys of the Rock and Illinois rivers ordered at the last session of this Congress, and the names of the officers to whom said surveys have been intrusted.

#### CLERK TO A COMMITTEE.

Mr. HARDING, of Illinois. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Committee on the Militia be authorized to appoint a clerk, who shall receive the compensation allowed to the clerk of the Committee on Commerce for the time of actual service.

Mr. SPALDING. I object.

And then, on motion of Mr. ASHLEY, of Ohio, (at half-past three o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. COBB: The memorial of William Blake, of Wisconsin, an old soldier of the war of 1812, for back pension.

By Mr. CULLOM: A petition from citizens of Bloomington, Illinois, remonstrating against the withdrawal of national legal-tenders.

By Mr. FARQUHAR: The petition of John W. Hitt, Fielding Berry, and 36 others, of Brookville, Indiana, against the curtailment of the national currency and too hasty resumption of specie payments, and protest against requiring national banks, wherever located, to redeem their notes in the city of New York and against the policy of prohibiting national banks from paying or receiving interest on bank balances.

By Mr. GARFIELD: The memorial of Major George Arnold, of Cleveland, Ohio, praying Congress to pass a law to equalize the bounties of soldiers.

By Mr. GOODWIN: The petition of George M. Willing, asking Congress to pass an act authorizing the raising a regiment of mounted rangers for service in Arizona.

By Mr. HARDING, of Illinois: A petition from citizens of Rock Island county, Illinois, for a mail route from Rock Island to Sterling.

Also, the petition of Solomon Sturges & Sons, and numerous business men of Chicago, Illinois, against the curtailment of the national currency and against a law requiring national banks to redeem in New York.

By Mr. HART: The memorial of Milo D. Coddington, of Rochester, New York, in relation to Defrees University.

By Mr. JULIAN: The memorial of the American Equal Rights Association, praying Congress to adopt such measures as will remove all discrimination founded on race or sex in the exercise of political power.

Also, the petition of 90 citizens of the State of Indiana, praying the impeachment of the President of the United States for high crimes and misdemeanors.

By Mr. KERR: The petition of J. M. Hains, J. J. Brown, A. S. Burnett, and W. C. De Parew, against making certain specified changes in the national banking law.

By Mr. LAWRENCE, of Ohio: The petition of citizens of Piqua against a reduction of the national currency and against requiring all banks to redeem their notes in New York.

Also, from citizens of Bellefontaine, to the same effect.

By Mr. LYNCH: The petition of Susan D. Small, for pension.

By Mr. NIBLACK: The memorial of John Ingla, Jr., president of the Evansville and Crawfordville railroad, of Indiana, praying for a reduction of the tariff on railroad iron and railroad steel.

By Mr. PRICE: Petition of James Westfall, and 112 others, citizens of the State of Iowa, asking for the impeachment of Andrew Johnson for reasons therein set forth.

By Mr. RITTER: The petition of John S. Jackson, asking compensation for furnishing provisions for men guarding Lock and Dam No. 2, on Green river, by order of General Anderson.

By Mr. SCOTFIELD: A petition from the citizens of McLane, Erie county, Pennsylvania, asking the impeachment of the President.

Also, from citizens of Brookville, Pennsylvania, remonstrating against a reduction of the currency and against compelling the banks to redeem their notes in New York.

By Mr. TAYLOR, of New York: The petition of William Feyh, William Stengel, F. Guth, and others, praying for the amendment of section fifty-eight of an act entitled "An act to reduce internal taxation and to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,'" approved June 13, 1864, and acts amendatory thereof approved July 13, 1866.

By Mr. UPSON: The petition of J. D. Zimmerman, S. M. Youngs, William A. Mosely, and 136 others, citizens of Branch county, Michigan, praying for the impeachment of the acting President of the United States for high crimes and misdemeanors.

By Mr. WASHBURN, of Illinois: The petition of sundry citizens of Illinois, asking Congress to propose an amendment to the Constitution of the United States providing against any inequality on account of birth, race, color, previous inequality, or previous non-residence beyond the preceding year in any portion of the United States.

## IN SENATE.

FRIDAY, January 4, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Legislative Assembly of the Territory of Montana, in favor of an appropriation for the purpose of executing the public surveys, and the establishment of a surveyor general's office and a land office in that Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

The PRESIDENT *pro tempore* also presented a resolution of the Legislative Assembly of the Territory of Montana, in favor of an amendment to the organic act of the Territory, so as to increase the pay of the Federal officers, and also the per diem of the members of the Legislative Assembly in that Territory; which was referred to the Committee on Territories, and ordered to be printed.

The PRESIDENT *pro tempore*. The Chair has also received a memorial from Cyrus Memmerlyn, a freedman resident in Cheraw, in the State of South Carolina, showing that soon after the town of Cheraw was garrisoned by United States troops, in July, 1865, he was employed by Lieutenant Lloyd, acting quartermaster of the fifteenth Maine volunteers, as teamster in that regiment, and promised the same compensation that other teamsters should receive; that he served for eight months; that the compensation received by the other teamsters was twenty dollars a month, but he has been unable to get his pay; and he asks Congress to interfere and procure the pay for him. This memorial will be received and referred to the Committee on Military Affairs and the Militia, if there be no objection.

Mr. WILSON presented the memorial of Brevet Major General Lorenzo Thomas, Adjutant General United States Army, praying that he may be allowed the double rations provided by the act approved March 7, 1847; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of officers in the United States Army, praying that when such officers are withdrawn from active service and placed on the retired list under existing laws they may be allowed to retain their service or longevity rations; which was referred to the Committee on Military Affairs and the Militia.

He also presented two petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. EDMUNDS presented the memorial of the Vermont State Agricultural Society and Wool-Growers' Association, praying for an increase of the duty on all importations of foreign wool; which was referred to the Committee on Finance.

Mr. HENDRICKS presented the petition of David Macy, president of the Indianapolis,

Pern, and Chicago Railroad Company, praying for a reduction of the duty on iron and steel used for railroad purposes; which was referred to the Committee on Finance.

Mr. MORGAN presented five memorials of railroad companies in the United States, praying for a reduction of the duty on iron and steel intended for railroad purposes; which were referred to the Committee on Finance.

He also presented the memorial of the National Academy of Design and of seventy-three artists, in favor of a specific duty of \$100 on imported oil paintings, with an addition of ten per cent. on the excess of value above \$1,000 each; which was referred to the Committee on Finance.

He also presented the memorial of C. L. Goddard, of New York city, remonstrating against the extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845, and now expired; which was referred to the Committee on Patents and the Patent Office.

He also presented the petition of Sweet, Barnes & Co., manufacturers of steel, praying for the passage of the House tariff bill or some equally protective measure; which was referred to the Committee on Finance.

He also presented eight memorials of file manufacturers, remonstrating against the increase of the duty on steel, as proposed by the House tariff bill; which were referred to the Committee on Finance.

Mr. CATTELL presented the memorial of the Artists' Fund Society and artists of Philadelphia, praying for a specific duty of \$100 on imported oil paintings, with an addition of ten per cent. on the excess of value above \$1,000 each; which was referred to the Committee on Finance.

Mr. SHERMAN presented a petition of citizens of Erie county, Ohio, praying for the imposition of a specific duty on imported wine; which was referred to the Committee on Finance.

### BILLS INTRODUCED.

Mr. ROSS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 487) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 488) to authorize the construction of a bridge across the Missouri river at Fort Leavenworth, Kansas; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 489) to provide for giving the right of preemption to settlers in the Cherokee neutral lands in Kansas, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

### FRENCH INTERVENTION IN MEXICO.

Mr. HOWARD. I beg to present the following resolution, and I ask the consent of the Senate to consider it at the present time:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire and report to the Senate the present relations between France and the republic of Mexico; the extent, both with respect to population and territory, of the successes of Maximilian in his endeavors to overthrow that republic; the amount and character of his military force, including his French auxiliaries; the action of the executive branch of the Government of the United States in reference to the intervention of France in the affairs of Mexico, including any treaty or project of treaty proposed, assented to, or recommended by our minister to France, with a view to a settlement of the difficulties between France and Mexico; the present prospect of the withdrawal of the French troops from Mexican soil, and the probability in the case of such withdrawal of Maximilian being able to maintain his standing there; and that for the purpose of such inquiries said committee be authorized to send for persons and papers.

Mr. SUMNER. I think that resolution had better lie over to-day.

The PRESIDENT *pro tempore*. It lies over under the rule, objection being made.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 227) authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers, in which the concurrence of the Senate was requested.

### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 123) in relation to the settlement of the accounts of William P. Wingate, collector of the port of Bangor, Maine; and it was thereupon signed by the President *pro tempore*.

### POWER OF AMNESTY AND PARDON.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of Senate bill No. 453, to regulate the tenure of offices.

Mr. TRUMBULL. I desire the bill which the Senator from Vermont has in charge to come up, but I do not suppose he expects to get through with it before the hour of one o'clock, and I am anxious to dispose of the bill which I called up yesterday and upon which the Senator from Maryland [Mr. JOHNSON] had the floor. He was unwilling to go on yesterday and asked to have it go over. Perhaps we can dispose of that to-day. As this bill of the Senator from Vermont will take some time, and the other bill has been up several times, and the Senator from Maryland is now in his seat, if the Senator from Vermont has no objection, I should like to call up that bill to repeal section thirteen of the confiscation act and dispose of it. We have had it up several times, and it has been put off to accommodate different parties. It was put off yesterday at the instance of the Senator from Maryland.

Mr. EDMUNDS. I am quite willing to assent to that, for I am in favor of the measure my friend from Illinois has in charge; but the bill which I have moved to proceed to the consideration of has been reported for a considerable length of time, and is of very considerable importance, and I should dislike to have it go over unless with the understanding that when this measure is disposed of it may then be proceeded with. With that understanding I shall have no objection.

Mr. TRUMBULL. Certainly I am as much for the bill the Senator has in charge as the others; but as we have progressed with the other I thought we had better finish it to-day if we could.

Mr. EDMUNDS. I will waive my motion, then, for the time being.

The PRESIDENT *pro tempore*. The motion of the Senator from Vermont is withdrawn.

Mr. TRUMBULL. I will then move that we now proceed to the consideration of the bill which I have indicated, to repeal section thirteen of the confiscation act, upon which the Senator from Maryland [Mr. JOHNSON] has the floor.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 828) to repeal section thirteen of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; the pending question being on the amendment of Mr. SAULSBURY, to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That the act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Mr. JOHNSON. Mr. President, if the measure upon your table, which proposes to repeal the thirteenth section of the law to which it refers, was supported by its friends upon the ground that that section gives no additional power to the President and is consequently simply void, I should not trouble the Senate with the remarks I am about to submit;



but I understand it to have been the opinion of the friends of the original measure, and of course of the friends of the bill which is now upon your table, that that section is operative and does give the President powers which he has not under the Constitution. I propose, first, to examine the constitutional question; and secondly, assuming that that question should be decided as I suppose the friends of the measure upon your table think it should be decided, to examine into the expediency of adopting this bill at this time.

When the subject was before us prior to the recess, I asked my friend from Illinois, the chairman of the Judiciary Committee, if he proposed to repeal the section upon the ground that it gave powers to the President which he had not or whether he supposed it was within the authority of Congress to take from the President any powers which he has with reference to the subject by the Constitution. The latter question he of course answered in the negative. He told us, and told us correctly, as he always means to do, that the power of pardon vested in the President by the Constitution cannot by legislation be taken from him; and for the same reason I have no doubt he would admit that it cannot be in any way limited or qualified. It is vested in him alone in his official capacity as President.

The Senate are not to be told that in the deliberations of the convention by which the Constitution was framed this particular clause in it was the subject of some contrariety of opinion. Some of the members of the convention believed that if the power of pardon should exist at all (and most of them did think that it should exist, contrary to the opinion, I think, of Montesquieu or some of the European writers that the power should not exist in a republic because there is no necessity for it) it should be vested not in the President alone or in any of the departments of the Government alone, but that it should be given to the President, if given to him at all, in connection with some of the other departments or some branch of one of the other departments. They, however, came to the conclusion, and I believe that conclusion received the unanimous assent finally of the convention, that it was much more desirable to give it to the President alone, and so it was given. From the nature of the power it must, I think, be very evident that it is not only in the President but in the President exclusively.

The power of pardon cannot be under the same Government well given to any two departments of such Government. It must be given to one to the exclusion of all others, and if given to one to the exclusion of all others the decision of one, whether to grant the pardon or to refuse the pardon, must be conclusive. In our Government the only possible control that Congress can have over offenses created by statute is after the offenses have been committed, if they shall be committed, and they desire that they shall not be prosecuted, or after they have been prosecuted and prior to final judgment, to repeal the statute. The statute being repealed, no prosecution can be instituted if none has been instituted, and every prosecution that has been instituted necessarily falls. That has been decided over and over again. But that is not the exercise of the pardoning power—it is the mere exercise of the legislative power of Congress. Being alone authorized to pass the law which creates the offense and imposes the penalty, they are alone the judges to determine whether that law should continue or not, and if they resolve that it shall not continue and repeal under that opinion the law antecedently passed no prosecution can be made under it in the future and all pending prosecutions at once fall.

The power, then, of the President to pardon is not only comprehensive of every variety of offense which may be subject to prosecution unless pardoned, but is granted to him in terms as comprehensive as the English language permits. How he is to execute the power is not

stated. Whether he is to execute it at all is necessarily not stated. When he is to execute it is also not stated. Now, in the absence of any particular specification of the mode in which the power is to be exerted, it would seem to follow that it may be exerted in any mode by which the President can make known to the public or to the Government what his opinion is in relation to the offenses which he professes to pardon.

I understood my friend from Illinois the other day as stating that he supposed when Congress passed the section which we are now asked to repeal, some doubt was entertained whether, in the absence of any congressional authority, the President could pardon by proclamation, or whether he could grant an amnesty by proclamation. I answered that the other day by suggesting that in the absence of any particular specification of the mode in which the power to pardon was granted, it might be exercised in any mode by which the President could make known his will. The usual mode in which it is exercised is by granting to each individual offender a pardon: that is issued under the great seal, and unless the party pardoned thinks proper to accept it and after accepting it, in the event of prosecution thinks proper to plead it, he stands, as far as the prosecution is concerned, as an unpardoned offender; but that is only because a pardon of that description is in the nature of a conveyance, a deed of which the courts can have no notice. The courts cannot take notice what pardons there are, if any, in the State Department. Like every other fact, therefore, existing *in pais* it must be brought to the attention of the tribunal before whom the question may be raised by evidence *in pais*. That evidence in cases of this description is, as I have stated, the pleading and the production in support of the plea of a pardon under seal.

That is not applicable to a proclamation of the President. All proclamations which the President is authorized to make, no matter what may be the subject of the proclamations, operate as laws, and the courts are bound to take notice of them. It was upon that principle that the Supreme Court in the prize cases and all the circuit courts before whom cases of that kind arose noticed the proclamations which from time to time were issued by the President in relation to the rebellion. The act of 1861 authorized the President by proclamation to proclaim certain ports of the States in insurrection in a state of blockade. The courts said that that proclamation was a matter of which the courts were bound to take notice without any pleading, just as they would be bound to take notice of a law passed by Congress on a subject over which Congress has jurisdiction. When, therefore, a pardon or an amnesty is granted by proclamation every court in the land and every department of the Government is bound to know of its existence and to give the party the benefit of it, provided the President is authorized to grant pardon by proclamation.

Now, what doubt can there be about that? In the case of Wells, to which my friend from Illinois referred, reported in 18 Howard, (where the immediate question before the court was whether the President under the power to pardon had a right to pardon conditionally, and the court came to the conclusion that he had that right;) they came to it in part upon the ground that the extent of the power was to be ascertained by recurring to the power and the manner in which it was executed in England at the time the Constitution was adopted; and as in England it appeared that from time to time the King had granted a pardon upon condition; and as the Constitution in no manner restrained the exercise of the power by the President, but contented itself with vesting in him the entire power, he could, as the King could, exert that power conditionally.

The same reasoning evidently applies to the case before us, because as the Senate must be apprised—I am sure nobody knows it better than my friend from Illinois—the English mon-

arch from time to time has granted pardon and granted amnesty by proclamation; and the passage which I read from the seventy-fourth number of the Federalist the other day shows that one of the reasons for vesting the power in the President was that it might be important at certain stages of an insurrection in order to the quelling of the insurrection to proclaim pardon to all the parties who might be engaged in it; and that could only be done, not by granting a pardon to each individual insurrectionist, for they could not be found out, but by a general statement on the part of the President in the form of a proclamation that all who should turn out to have been involved in the insurrection were to be considered as pardoned.

I am at a loss, therefore, to imagine, as far as the legal question is concerned, upon what plausible ground the necessity for passing the section which it is proposed to repeal was then placed, and of course I am at a loss to imagine upon what possible ground the repeal of that section can be placed consistent with the doctrine that, independent of that section, the whole power which the section proposes to give is already in the Executive.

I do not know, for he did not use it in connection with this particular question, whether my friend from Illinois is under the impression that what he supposes to be an absence of implied power in the Executive has any bearing on the question before us. In presenting some days since a memorial from certain persons claiming to be almost the exclusive loyalists of some of the southern States I understood the honorable chairman of the Committee on the Judiciary, in contesting the authority of the President to organize governments in the States that had been in insurrection, to do it upon the ground that there was an absence of any implied power in the President, and that the only department of the Government which is clothed with a power of that kind is the legislative department, and that that department possesses it by virtue of the general clause which gives to Congress the power to pass all laws which may be necessary and proper to carry into effect the powers specifically delegated.

In this, as I think, the honorable chairman is clearly in error. The clause to which he refers has no operation whatever. It was so considered by the authors of the Federalist in one of the numbers by which they endeavored to satisfy the people of the country that the Constitution should be accepted. It has been held to give no additional power to Congress by every commentator upon the Constitution who has written upon the subject since, and by the unanimous opinion of the Supreme Court in the case of *McCulloch vs. the State of Maryland*, reported in 4 Wheaton. Mr. Justice Story, in his Commentaries, third volume, section twelve hundred and thirty-two, in dealing with the meaning of this clause, says, in so many words that the authority of Congress without this provision would have been the same as it is with it. He tells us—and we can all see the force of the proposition—that the power to do anything vested in any body of men, whether governmental or otherwise, is the faculty to do the particular thing, the right to choose any means proper to accomplish the end not expressly inhibited. A mere power without the means to execute the power would be an absurdity; and consequently, as the power to pardon, or any other power conferred on the President, or any power conferred upon Congress to do anything without the authority in each to carry out the particular object for which the power was created, would be a gross absurdity.

But my friend from Illinois is mistaken, as I think, on another ground, in supposing, if he does suppose, that with reference to this question there is a difference between Congress and the Executive. The powers conferred upon Congress in the very first section of the first article are stated to be only such as are therein delegated. The power conferred upon the President is stated in the very first section of the third article to be "the executive power;" and

if I am not mistaken, upon every occasion when the power of the Executive was called in question because trenching upon that of Congress, or when Congress claimed for itself a power which was supposed to trench upon that conferred on the Executive, the difference in the terms in which the powers conferred upon the Legislature were conferred, and those in which the powers conferred on the President were conferred, has been relied upon as conclusive for the purpose of showing, first, that in the one case no power can be exerted except such as is delegated expressly or by fair implication, and in the other that all power executive in its nature, necessary to carry out the objects of the government as far as they are to be carried out through the instrumentality of the Executive, is vested in the Executive. That is stated with his usual felicity of language (and not contradicted by Mr. Madison in his reply) by Mr. Hamilton in the first number of his celebrated *Pacificus* letters. I will read a sentence or two from that letter. The question which he was discussing was the authority of the President by proclamation to announce to the world as well as to ourselves the determination of the United States to remain neutral in the war then being waged abroad. The authority of the President to issue that proclamation was at that time assailed with as much violence—I will not say scurrility, for that is never used anywhere in these days—as has been the action of the President of the United States or the Supreme Court of the United States; and Mr. Hamilton, in meeting the objection that the power was not one which the President had the authority to use, said:

"The difficulty of a complete enumeration of all the cases of executive authority would naturally dictate the use of general terms, and would render it improbable that a specification of certain particulars was designed as a substitute for those terms, when antecedently used. The different mode of expression employed in the Constitution in regard to the two powers, the legislative and the executive, serves to confirm this inference. In the article which gives the legislative powers of the Government the expressions are, 'All legislative powers herein granted shall be vested in a Congress of the United States.' In that which grants the executive power the expressions are, 'The executive power shall be vested in a President of the United States.'

"The enumeration ought therefore to be considered as intended merely to specify the principal articles implied in the definition of executive power, leaving the rest to flow from the general grant of that power, interpreted in conformity with other parts of the Constitution and with the principles of free government.

"The general doctrine of our Constitution, then, is that the executive power of the nation is vested in the President, subject only to the exceptions and qualifications which are expressed in the instrument."

In the very able letters published by Mr. Madison in reply to the letters of *Pacificus*, he not only does not question the correctness of that doctrine, but almost in words admits it. And to refer to a judicial decision, not because any name could add to the name of Hamilton upon a subject of this description, in a judicial decision pronounced by Mr. Justice Nelson, since the war closed, in a case which was tried in the southern district of New York, the learned judge said that the authority which the President had exercised in the organization of governments in the southern States by means of provisional governors with authority to call Legislatures around them was justified by virtue of the executive power with which he was clothed, and that that continued until the war terminated; that occurring, that is to say on the termination of the war, the Constitution was replaced in all its integrity, and the States where insurrection had prevailed before and which had been under the supervision of those governments were thereafter to be governed exclusively by the people under State constitutions framed by themselves. And in substance such is the result to which, logically considered, the recent decision of the Supreme Court in the case of *Milligan* leads us. In the opinion of the majority of the court—not to be surpassed, in my judgment, by any opinion pronounced by any judge in any former case in that tribunal—it is stated that the Constitution was made as well for war as for peace; that there was no

power whatever conferred upon the Executive or upon Congress during a state of war which would authorize them to transcend any of the specific guarantees contained in that instrument of the rights of the citizen or the rights of the States. *Flagrante bello* it might be in the power of the military commander, whoever he might be, leading the armies or of the President of the United States, to declare martial law; but it must be confined to the necessity existing at the time and limited to the area covered by that necessity. That learned tribunal, speaking through Mr. Justice Davis, gets rid of the doctrine, as far as a judicial opinion can do so, which has been so much in vogue during the existence of the war, that Congress and the Executive obtain power during a war from necessity, independent of constitutional obligation. As well might it be contended, I think, that the judiciary of the United States could claim upon the ground of necessity a jurisdiction which the Constitution of the United States does not confer upon them.

That being the case, the President of the United States having the power to pardon, and that power from its very nature being exclusive of any authority over the same subject by Congress, or if the power to pardon is not supposed to be in words given so as to authorize its exercise by means of a proclamation or so as to authorize the President to grant by proclamation what is called an amnesty, he possesses (at least as implied under the power conferred upon him to pardon) the power to do it by proclamation or to do it in the form of an amnesty. That there is any impropriety in granting a pardon or an amnesty in that form will hardly be pretended by Congress. The very section which you propose to repeal professes to give to the President that very power. Congress, therefore, at that time, assuming as they did assume that it was with them to give the power, supposed that the exigency of the country at the moment required that the power should be exerted in the way in which they in terms authorized the President to exert it—by proclamation or by amnesty.

I would, therefore, as I said in the beginning, not for a moment question the propriety of repealing this section, if the friends of the measure supported it upon the ground that it conferred no power, because the whole power was already in the President. I have no doubt that the power is in the President, and if the Attorney General or his predecessor had listened to my opinion or advice, or if the present incumbent of the executive chair had done so, he would have exerted the power long ago. My opinion then was—and I communicated it to the President, but with no avail, although he apparently agreed to its propriety—that the true interest of the country demanded that he should declare a general amnesty, of course by proclamation, excepting, however, one or more cases as he might think proper in order to have the two questions tried which a trial of any parties who were engaged in the rebellion will necessarily present, namely: First, whether there exists in a State a right to secede; and second, if there does not, whether in the case of the particular rebellion which culminated into a gigantic war, a war of such dimensions that the United States were obliged to consider the insurrections as public enemies, to deal with them as such, to treat with them as such, to exchange prisoners with them as such, persons engaged in it did not after such recognition in all respects with reference to the offense of treason stand in the same situation in which parties would be placed if charged with that offense who were warring against the United States when they had done so as the subjects of another nation in an international war.

I thought then, and I think now, for that was my own individual opinion, that upon the first of these questions the opinion of the Supreme Court would be unanimous. I have seen no reason to change that impression. Upon the second I thought it quite doubtful what the opinion of the court might be. Some of the best jurists in the country, many of them

members of the Republican party, some of the ablest jurists in England having no particular hostility to the United States of which I am aware, have expressed the opinion that the moment belligerent rights were acknowledged to belong to the confederacy the commission of treason became impossible. Some of the public men who belong to the Republican party, and who perhaps have been very instrumental in building it up, have so expressed themselves; among others, Mr. Gerritt Smith, whose honesty of purpose nobody who has considered his conduct and examined what from time to time he has given to the public can doubt, has expressed the same opinion in I believe more than one well considered and ably written letter. I am not, therefore, prepared to say what the opinion of the Supreme Court upon that question will be if it shall ever be presented to them; but upon the first question, which I deem it very desirable should be settled by the judicial determination of the highest court in the land, I entertain no doubt that that judgment will be against the right to secede as not only not reserved to the States, but as necessarily fatal to any union of States in which the right of a State to secede from it may be reserved. And the history of this bygone confederation illustrates that that must be the result of such a provision.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 476.

Mr. JOHNSON. I am in the hands of the Senate.

Mr. DOOLITTLE. If the Senator desires to go on, I move that that bill be postponed for the present.

Mr. JOHNSON. I would rather go on. I shall not speak more than half an hour.

Mr. SUMNER. There is no objection to the postponement of the bill, which is the unfinished business.

The PRESIDENT *pro tempore*. It is moved that the special order of the day, being the unfinished business of yesterday, be postponed for the present.

The motion was agreed to.

Mr. JOHNSON. But, Mr. President, from some cause, of which I know nothing, whatever I may suspect, that advice of mine was not taken. A general amnesty has not been proclaimed and nobody has been tried. The failure to proclaim the amnesty, if it be censurable at all, is to be visited upon the President. The failure to obtain a trial of any of these offenders is not to be attributed to him. He has no power to enforce a trial. The party must be indicted. That depends upon the grand jury. After indictment, he must be tried; that depends upon the court before whom the indictment is pending. If from any cause the court cannot be held, the fault is not with the President; it is either with the legislative department of the Government, or with the judicial department. But I cannot help saying here, for it has wounded my sensibility as an American citizen, that I think it is a reproach to American justice that there should have been incarcerated now for nearly two years, whatever may have been his offense, a man of a delicate frame, selected by six or seven millions of people to take charge of this rebellion, upon a charge of treason. That he should be indicted for it, invoke a trial, not only challenge but pray for a trial, and still be immured, is a reproach to American justice that if existing in any nation of Europe would call down condign punishment upon the parties concerned in it.

Mr. HOWARD. Will the honorable Senator allow me to ask him a question?

Mr. JOHNSON. With pleasure.

Mr. HOWARD. I wish to ask the honorable Senator from Maryland whether it be not a fact that Jefferson Davis, to whom he alludes, was captured as a prisoner of war, and has, since the time of his capture, been held under the orders of the President of the United States as a prisoner of war; and if he be a

mere prisoner of war, detained as such, what power has the district court of the district in which he may have committed the crime to bring him to trial without the consent and order of the President of the United States handing him over to the court which is to try him; and how could that court try him unless the proper prosecuting officer of the court was willing to undertake the task and did undertake the task?

Mr. JOHNSON. I can answer the inquiries of my honorable friend from Michigan without any great difficulty. If Mr. Davis was a prisoner of war merely, he was entitled when the war ended, by all the usages of war, to be discharged. Who ever heard of prisoners of war in any civilized country being held in prison after the war's termination? That is one of the grounds on which his immunity from trial is placed. As to the parties who should bear the blame, if any blame is to be attached, I say to the honorable member what, before he put to me his questions, I had supposed he knew, that the President of the United States from time to time has expressed his willingness to surrender the party into the custody of the civil magistrates at once, and that they have declined to receive him, not upon the ground that they were not willing to try him, but upon the ground that between getting possession of him and his trial his custody would not be insured.

Mr. HOWARD. Surrender him to whom, to what officer?

Mr. JOHNSON. Surrender him to the marshal of the district who has had placed in his hands, or should have had placed in his hands, a warrant issued upon the authority of the indictment. From time to time we have been told that he was to be tried, but from time to time the trial has been postponed, and at the latter occasion it was postponed upon the ground that Congress by changing the circuits had rendered it impossible for the Chief Justice of the United States or any circuit judge of the United States to preside at the trial.

Mr. HOWARD. Can the honorable Senator inform us whether a *capias* for the arrest of Davis has been actually issued and placed in the hands of the marshal at any time?

Mr. JOHNSON. Whose business was it to issue the warrant? Was it the business of the President of the United States to issue the warrant?

Mr. HOWARD. It was the business of the court.

Mr. JOHNSON. The court before whom the indictment was pending was bound to issue the warrant, and I assume that the warrant was issued.

Mr. HOWARD. Undoubtedly it was the business of the court to issue the warrant, but upon the request of Mr. Johnson's prosecuting officer, whose business it was to press the prosecution and accomplish it.

Mr. JOHNSON. Why did he not? I have told the honorable member what I suppose to have been the reason, for it is the only reason I have seen assigned, that there was no place in which he supposed the party could be safely kept; and the President has said, and said properly, "he may be kept where he is until you are ready to try him;" but I say, without reference to whoever may be the cause of the detention, it is a reproach to American justice that he should be suffered to remain in prison undried upon a charge of that description.

Sir, in the moment of a struggle which threatened to involve the English empire in ruins, when what were called revolutionary societies were filling London and filling the kingdom, the insignificant men, such as Hardy and others, were taken up, imprisoned, indicted, and tried without delay. The whole power of the Crown was exerted for the purpose of producing a conviction, but exerted in vain. The jury upon pronouncing a verdict of not guilty received the acclamations of the thousands who surrounded the tribunal, and the unsurpassed and eloquent man by whom they were defended was carried, through the

enthusiastic patriotism of his fellow-subjects, into his own home in the form of an ovation. And the English Crown submitted. I am not the apologist of the President of the United States. If I had been President of the United States I would have paroled that prisoner long since or have bailed him. I would have said to the world and said to my countrymen—and I have no doubt as to what would have been the judgment of every civilized and enlightened man within our country's limits—"I will not keep in prison a man who may die under my hands unless I can bring him to trial." If an event very likely to have happened—the prisoner had died, or if he were to die now, the responsibility which would rest upon the Executive, or upon the nation if the nation is responsible, would not be less than that responsibility which was visited upon the head of Napoleon when he had executed in the dungeon the Duc d'Enghien. But willing as I am to refer all these mistakes—if mistakes they be, as I think they are—to an honest intention, what I maintain is that looking to the present condition of the country—and a few words on that subject and I shall have done—if the section which you propose to repeal does give the President a power which he is otherwise without and cannot possess without the authority of Congress, this is not a time to take it from him.

Mr. President, the apparent purpose and the one to which the country and the world will attribute the pending measure is, that in the future hard, inexorable justice is to be meted out to our southern brethren; that generosity, forgiveness, mercy, pardon are no longer to be our policy. These, the greatest virtues which adorn humanity, it will be said, a nation claiming to be magnanimous and known to be all-powerful is resolved hereafter to disregard in respect to subdued enemies notoriously in no condition to resist its authority, and universally disavowing any such design, present or prospective. That this latter is true, an incident of a recent date strikingly illustrates. At a dinner in a neighboring southern city, at which Colonel Lee, a son of the commander-in-chief of the late confederate forces, was present, some one proposed to toast "the fallen flag." Promptly placing his hand upon the glass he rose and is stated to have said: "Gentlemen, this will never do; we are paroled prisoners; we now have but one flag, and that is the flag of our whole country, the glorious old Stars and Stripes. I can recognize no other, fight for no other, and will drink to no other." These patriotic words touched the hearts of all who were present, even the one who had proposed the sentiment; and with the universal approval the toast went unpledged. Are not such men to be trusted? If not, who are? If not, may we not well even distrust ourselves? They are enemies no longer, but soliciting to be received as friends, not in a debasing, cringing spirit which would dishonor our common descent, but as brave and honorable men—men whose gallantry is attested by hundreds of hard-fought battles and whose ability and willingness to serve the country were exhibited in times past on the land and the sea, greatly contributing to our military and naval renown, winning for themselves the gratitude of the whole country, and challenging for themselves and their equally brave and skillful northern brethren the admiration of the world.

Toward such citizens is the mere power of a conqueror to be used? Are their past services to be wholly forgotten, their willing obedience to be contumeliously overlooked, all political rights to be denied them, and as long as their conquerors please are they to be the mere serfs and slaves of brethren whose equals they are by descent, manhood, and intelligence? If peace and prosperity be of value (and who can doubt it?) this is not the mode to attain them. If it is, all history will be reversed. If it is, men now are not what they have been from the first of their political associations. The dullness brought about by despotism its authors have at times fancied to be peace; but in the end

they discovered the fatal mistake. Man chained is a man still. The moment the opportunity offers (and Providence sooner or later is sure to offer it) he will cast off his fetters and assert the rights which nature gives him and be free.

And such a policy is at variance with our own history. In the civil commotions which have heretofore occurred the opposite policy has been pursued, and with the happiest results. In the unprovoked rebellion in Massachusetts in 1786, after its actual suppression by force, clemency toward the offenders was shown, and all soon became peace, and the Government because of its clemency was placed upon a firmer foundation than it had before. At the termination of our Revolutionary war, while the land was filled with many dissatisfied spirits and State laws of a stringent character had been passed by most of the States, laws of confiscation, &c., Congress in January, 1784, passed a resolve "earnestly recommending to the several States to reconsider and revise all their acts and laws" so as to render them "perfectly consistent not only with justice and equality, but with that spirit of conciliation which on the return of the blessings of peace should universally prevail." The same policy was pursued by Washington in the instance of the whisky insurrection with the like happy consequence. Not an offender was executed; a few only were tried and none seriously punished.

The history of the European world furnishes even still more striking examples of the impolicy of mere force or power and of the policy of kindness and conciliation. The Netherlands in the sixteenth century were lost to Philip II by the ferocious conduct of Alva; and in that land, under him, the historian tells us that "the ax, the stake, the rack, the dungeon knew no rest." His boast was that he had executed eighteen thousand six hundred persons. But these executions, his council of blood, his devastation of the land ended as in the judgment of God such conduct has ever ended, in defeat. The invader was driven off and the country lost to the inhuman Philip.

Poland, because of a policy nearly as inhuman, is now but an expense to Russia. She dreads insurrections; she has vainly endeavored to prevent or guard against them by force. Kindness, conciliation, mercy would long since have achieved there what they have never failed to achieve everywhere.

Austria, because of a like stern policy, has lost her German possessions, and is soon, unless her treatment of Hungary is changed, to lose that country, which might be made the source of wealth and power.

All these examples should lead us to a policy of kindness, to a proclamation of peace and amnesty, to a cheerful reception into our political homestead of the brethren who having strayed from it are anxious to return. This done—and the sooner it is done the better—the desolations the war has caused will be removed, the power of the country be greatly enhanced, its prosperity enlarged, and its ability to meet the expenses the war has entailed upon us placed beyond all doubt, its credit consequently be put upon as high if not a higher footing than that of any other nation in the world, and we be again what God I trust designs us to be, brethren forever, having but one flag, "the glorious old Stars and Stripes," to fight for.

Mr. HOWE. Mr. President, about the question pending before the Senate I know very little and care but very little; I have given very little attention to it; but I made up my mind some time since that while I had the honor of a seat on this floor no man should arraign the Government which has been charged with the conduct of this war and which is now charged with the settlement of it with inhumanity without an attempt on my part to defend it against the accusation. I care not how often the Senator from Maryland or any other Senator entertains or instructs us by the lessons which his large reading has furnished him with of examples of generosity or of magna-



nimity or of humanity practised in other times and in other places and under other circumstances and by other Governments; but when study shall have enabled the ablest or the most industrious of them to bring here before the Senate the example of a Government so tried, so tempted, so wronged as this has been, and yet answering such wrongs by such magnanimity as we have answered ours with, when any such example has been produced to me I shall think better of the past history of the world than I think to-day. Of what inhumanity is this Government thought to be guilty? What is the crime with which we have had to deal? No, Mr. President, there is a question preliminary to that: have we any crime to deal with or not?

This great question in all its bearings in so often dragged before the Senate and so often debated as if we were dealing with the innocent and with the angels of the earth instead of with the guilty and with the criminals that I sometimes begin to doubt myself whether I have not been mistaken all along in supposing that rebellion was a wrong or a crime. But I do believe, if my memory has not failed me, writers on international law, writers I think on Gospel and on morals, all writers who are fit to write at all, tell us that when war is employed for the correction of any but the direst wrongs the guilt of that war and all the enormities that follow in its train rest upon the souls of those who waged the war. We have been engaged in war, have we not? This Government did not commence it, did not inaugurate it, was not guilty of one act which could provoke it. The men who made it were the men who had administered the Government, went right out of your midst, went from these seats, from your Cabinet, to make war upon the people of the United States. Were they provoked? Were they wronged? Were they outraged? Were they oppressed? Put your finger upon the statute; put your finger upon the official act that had touched the rights or the interests of any one of them.

I know, sir, the people of the United States had, in accordance with the Constitution, in 1860 elected a man to be President whom the rebels did not think was the best man for President. The rebels were not agreed among themselves as to who was the best man for President. Let history note the fact, let honest and truthful men acknowledge the fact that the only pretense there was for making this war in 1860 was the fact that the people of the United States had selected Abraham Lincoln to be President instead of another man. Was that an intolerable wrong? Was that an unendurable oppression? That was the pretense for the war. In that war I trust we have not forgotten yet how much blood was poured out, how much treasure was spent, how much life was sacrificed. You cannot go into the streets anywhere but what you are confronted with the wreck of some brother of yours and of mine whom the storms of this war have tossed out into your midst. You cannot relieve your aching sight anywhere from such spectacles as these.

I tell you the law is, the Gospel is, that the responsibility for every one of those wrecked lives still passing among us, as well as every one of those lives which have been taken in the progress of the war, the guilt of all this rests upon the souls of those men whom we are arraigned to-day for treating inhumanly. And for all this guilt what recompense have we sought; what penalties have we enforced?

A war was waged upon the people of the United States for no offense in God's world, as I tell you, but for having elected Abraham Lincoln President instead of another man. That war was prosecuted for years. It was prosecuted just as long as by purchase or by power a man could be brought into the ranks of the rebellion. And when the last vestige of force was crushed and there was nowhere an armed rebel to resist the authority of the United States, so outraged as it had been, what did we demand of them? What tortures did we inflict; what scaffolds did we erect; who

were paraded upon them; what necks were broken; what throats were cut; what treasures were exhausted as a recompense for this crime?

We had laws upon our statute-book, if I am not mistaken, which did declare that the estates of those guilty men might be confiscated because of the crime they had committed. We had laws upon the statute-book which provided that their lives were forfeited by their crimes. They asked the Government to remit them their lives, and their lives were remitted. Who has been executed because of the guilt incurred in this rebellion? Nay, but they said "our lives are of no use to us unless we can have our estates also; give us back our forfeited estates;" and their estates were flung to them. Whose estate has been taken by the Government as a penalty for the guilt incurred in this rebellion? Tell me, Mr. President, where the personal freedom of any single individual has been restrained because of his guilt? I know that Jefferson Davis may be cited in answer to this demand. It is a fact, I believe, that there is one man out of millions who were engaged in this rebellion yet held in custody. It is said he has not been tried. I believe that is a fact. God knows I am not responsible for his not having been tried. I never issued a stay of proceedings in the cause; and I do not know that any responsibility rests upon any one of my friends about me for the fact that he has not been tried. But there is the fact; there is one man held in custody. If I were charged myself with the execution of the laws of the United States I am almost inclined to think that I should concur with the Senator from Maryland in the opinion that I should have had him tried long ago or I would have him out of prison. I would never have kept him there to experiment on until this time.

There is one man in custody. The Government is responsible, some portion of it. Whatever of inhumanity there is in that is justly chargeable upon the Government; but no life has been taken; no property has been sacrificed; nay, these men who have had their lives remitted to them and their estates remitted to them say, "Give us our political rights," and they have them. Every man of them is enjoying all the freedom that you do in Connecticut or that I do in Wisconsin; all the political rights that we have in the States to which we belong they have in the States in which they live. Where is the inhumanity? They have demanded some other things. They wanted not merely their forfeited lives given back to them, not merely their forfeited estates given back to them, not merely their forfeited political rights given back to them, but they wanted some exclusive privileges and prerogatives, to wit, the prerogative of exercising a certain share in the power which is delegated to the Government of the United States and the right to exercise all the power which is reserved to the several States under the Constitution of the United States. The Congress of the United States has not assented to these last two demands, and so it happens that you do not see any of them filling seats in this House or in the other. This deed is chargeable to the Congress of the United States undoubtedly.

Whatever of inhumanity there is in that rests upon the Congress of the United States. But I know of no other penalty which has yet been imposed upon them, and I think, Mr. President, they can endure life a short time longer even if they continue to be excluded from these seats. That the possession of seats here is very necessary to their comfort I do not suppose I am justified in denying; but I do think they can live if they do not fill them. They thought they could live better by resigning them, and it was their voluntary act taking themselves out of them. They found in the course of an arduous and protracted struggle that they could not live at all in the way they had chosen to themselves, and now I have no doubt they are anxious to get back here. I shall not occupy the time of the Senate in speaking this afternoon of the terms and of the times in which they may, in my judgment, properly be received

back. That they are coming, or that representatives from those communities are coming very soon, I do not suffer myself to doubt. I speak this afternoon these few words simply to repudiate this and all attempts which are made here or elsewhere to arraign the Government of the United States for inhuman treatment of the men who have been engaged in the guilt of this rebellion.

Mr. CONNESS. It is said Davis may die.

Mr. HOWE. Mr. President, Davis may die. I do not suppose there is anything in the decrees of Providence which forbids the consolation of death to such men as Mr. Jefferson Davis. I have no doubt he may die. He may possibly die at Fortress Monroe. I think myself if I had been President of the United States he probably would have died in that neighborhood before this time, but I should not have felt that any guilt rested upon my soul because of that event even if it had happened.

Mr. President, a few years ago I read in the newspapers that there was an attempt to overthrow, not the Government of the United States, but the government of Virginia; an armed attempt. It was led by a man by the name of Brown, John Brown, who invaded that redoubtable Commonwealth at the head I think of twenty-two men. I am not sure that I am correct as to the number, but I believe at the head of twenty-two men. He was unsuccessful in that demonstration upon the government of Virginia, as Mr. Davis was unsuccessful in his demonstration upon the Government of the United States. Mr. Brown was arrested as Mr. Davis was. Mr. Brown, however, was arrested in his own proper garments and his own proper garments alone, as I believe Mr. Davis was not. All Mr. Brown's followers were arrested; I believe every man of them; the whole army of invasion was arrested, as was not the case in this rebellion. They were all thrown into prison. If I am not mistaken in my recollection, they were all tried by the government of Virginia, and, if I am not mistaken in my recollection, every man of them was executed by the government of Virginia.

Mr. Brown was held I believe to be a traitor against the government of Virginia. I suppose upon that question the judgment of the court which tried him, never having been appealed from, was final and conclusive and imports absolute verity, and therefore it does not become me to dispute it, and I guess I shall not dispute it. If I had never heard of that judgment, however, I should have supposed there was not a particle of evidence in the world to impeach Mr. Brown of any hostile design against the government, the sovereignty of Virginia. I always supposed he went down there with the desire of freeing some of their slaves, transferring them from a state of bondage to a state of freedom, undoubtedly a great crime in the judgment of that day, but after all, not the crime of treason I suspect against the State of Virginia, because the Commonwealth of Virginia would have existed even if quite a number of her slaves had been run off. But the court found him guilty of treason, and that court pronounced the penalty of treason upon him and upon his followers, and that penalty was executed.

If I am not mistaken in my recollection, Mr. Henry A. Wise was Governor of the Commonwealth of Virginia at the time. Mr. Wise I remember to have been a very active participant in the late rebellion and in the guilt of that rebellion, if there were any guilt attending it. I saw in the newspapers that the man who executed inexorably the penalty of death upon every one of those poor deluded men who moved into Virginia during his administration was in the city of Alexandria but a few months since, within five or six miles of this Capitol, and told his fellow-citizens there in Alexandria that he had asked no pardon of the Government of the United States, and would accept no pardon of the Government of the United States, and that he defied the Government of the United States still. That was the substance of it; and he has not been interfered with; he is still at large;

his head is still on his shoulders; at the last accounts I had his neck was still unbroken, and no part of his estate had ever been confiscated.

**Mr. WILSON.** Some of his property was taken by the Government for temporary use, but it has been restored.

**Mr. HOWE.** It is said that his estate has by the act of the Government been restored to him. And yet this Government is the one which is arraigned before the civilized world as a model of inhumanity! Sir, the charge rests lightly upon me, lightly upon my convictions; not so lightly upon my feelings. Whenever I have heard it, I have rarely heard it with my ears; I have read it often in the prints; it has always struck me as so monstrously unjust that I certainly never expected to hear it from the lips of the Senator from Maryland; and I have rarely heard it, as I said before, anywhere. It is often urged in newspapers, but I have rarely heard it pronounced in debate.

**Mr. JOHNSON.** I have but a word to say, sir. I am very sorry that I have touched the feelings of the honorable member from Wisconsin, who is a great deal more sensitive than I had supposed he was from his general exhibition. He has charged me with having assailed the humanity of the Government during the war. Why, sir, that is a charge which exists for its foundation exclusively in his own very fruitful fancy. I said no such thing. What I alleged to be in my judgment hard and inhuman was the keeping in prison a man for two years without trial. During the war, permit me to say to the honorable member, the Government had no more zealous supporter, not as able as he was of course, than it found in my humble self. From the beginning to the close of it I stood by the Government and aided it in every way that I could; I do not know that the honorable member did more; of course what he did he did more effectually, because he is the member from Wisconsin, and I am only a member from Maryland, a southern State.

Now, the honorable member tells us, or rather intimates, that I may have forgotten the acts of one John Brown, which he supposed may not perhaps be fresh in the memory of the Senate. I have not forgotten John Brown; never can I forget him; nor can I forget—I do not know that the honorable member was a member of that convention—that at the convention which met at Chicago in 1860, and nominated for the Presidency Mr. Lincoln, the proceedings of John Brown and all such proceedings were in the strongest terms denounced. That convention declared in its resolutions:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of powers on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

Nor have I forgotten the fact that John Brown was executed. I wish it had occurred to me when I was reciting the instances to show the impolicy of harsh measures. I would have instanced that; and permit me to say to the honorable member that Virginia never committed a greater fault against true policy, to say nothing of the mercy with which a brave man should have been treated, than she committed when she executed him and one or two of his associates. If she had spared them perhaps the war would not have occurred. It was because she pursued the inexorable course of visiting upon them what she supposed to be the judgment which the law pronounced that she lost the hold which she had upon the humanity of her sister States; and I might therefore have very well appealed to that instance for the purpose of showing that mercy, pardon, as contra-distinguished from mere power, is the true policy of men as of nations.

**Mr. HOWE.** Mr. President, I protest. The honorable Senator from Maryland has so many positive, always reliable sources in debate, that he of all men should be compelled to rest upon them; and I have a right to com-

plain when, as in the present instance, he rises to repel a charge which has not been made against him and places his opponent in the attitude of making points entirely different from what he has made. Let me correct the honorable Senator so far as to say first, that I did not understand him at all as having arraigned the Government for inhumanity committed in the course of the war or in the prosecution of the war. I knew just as well as the Senator himself did that during all the terrible years he did sustain the Administration, did aid in the prosecution of the war, and I think it all the more marvelous and extraordinary because of that fact that he who did not agree that the rebellion was right, but who did affirm that the rebellion was a monster wrong which demanded the expenditure of all our treasure and of all our means to punish that wrong, and he who has seen the magnanimity with which the Government has treated these criminals since they have been in its power, should have stepped forward to prosecute the Government for inhumanity practiced, not during the war, but since the war toward those criminals who carried it on.

And now, Mr. President, what pretext had the Senator from Maryland for saying that I charged him with having forgotten the case of John Brown? I made no allusion to him in connection with the case of John Brown. I cited it for purposes of my own. I cited it because I thought it was pertinent to the line of remark that I was making; and in neither of these respects do I think the Senator found any warrant whatever for calling the attention of the Senate to any difference, actual or supposed, between the position on this floor of a Senator from Wisconsin and a Senator from Maryland. I thank my God that both these States have yet the right to send Senators here. I wish the State of Wisconsin were more ably represented than she is, but she is represented in accordance with the Constitution; she has sent just the men that she selected for that purpose. She consulted her own wishes, not the wishes of any other State. Maryland did the same. I do not think I shall ever be heard to taunt the State of Maryland with having sent here the honorable Senator who sits on the other side, and I hope that Senator never will again taunt the State of Wisconsin with having sent me here.

**Mr. HOWARD.** Mr. President, in the remarks made by the honorable Senator from Maryland, he made allusion to the case of Jefferson Davis, now in confinement in Fortress Monroe; and, according to him, the Government of the United States, or some branch or officer of it, has been guilty of flagrant neglect and injustice in omitting to bring that prisoner to trial. I do not know upon whom the honorable gentleman seeks to cast the blame of this long detention of Davis without a trial. What we know about the facts, however, is this: that upon the assassination of President Lincoln, on the 14th of April, 1865, a proclamation was issued by the present incumbent of the Presidential chair offering large rewards for those who had participated in that crime, and among other accomplices naming Jefferson Davis, for whose apprehension the President offered the sum of \$100,000. Before his seizure, and before any notice of this offer came to the military party who arrested Davis, that party had seized him, and Colonel Pritchard, of my own State, a very gallant and meritorious officer, had the honor of being his captor and of taking him from the State of Georgia to Fortress Monroe, under the orders of the War Department.

The Secretary of War, in a communication to this body in December a year ago, informed the Senate that Davis had been captured and was then held as a prisoner of war, and also that he was held responsible under the proclamation of President Johnson offering a reward for his apprehension as one of the parties engaged in the assassination of President Lincoln; and he has been held in confinement from that time to this, first in his capacity of a prisoner of war, and secondly as being subject

to the charge of participating in that atrocious murder. I am told, but I do not know except from public rumor what the fact is, that an indictment has been found against Davis in this District charging him with treason against the United States, and that another indictment has been found against him in the district of Virginia charging him with the same offense; but I have not heard that he has been indicted for a criminal connection with the assassination of Mr. Lincoln. If he has been the fact is not within my knowledge; but that he has been held in custody on these joint charges from the time of his capture to the present time is beyond all doubt.

The honorable Senator did not see fit to allude to the fact that Davis stands charged with a participation in the murder. Other accomplices in that most heinous and flagrant crime have been brought to trial before a military commission and after undergoing a most thorough trial at the hands of a very intelligent military commission were found guilty and by the order of President Johnson were executed; and it seems for more than a year past efforts have been made by the Secretary of State and other employés of the Government to apprehend another accomplice in that great crime, John H. Surratt, who has lately been arrested in the far off and ancient country of Egypt, among the pyramids, and is in process of being brought to the United States. Does the honorable Senator from Maryland look upon it as cause of complaint that Davis has been detained in custody with a view to hold him to his responsibility as a murderer; as one of the slayers of Lincoln? If it shall turn out upon further and future investigation that he is justly amenable to the law for that murder, can the honorable Senator reproach his own Government with detaining that high prisoner for the length of time necessary to arrive at the truth of the matter?

Who then, sir, is to blame for the non-trial of Davis? He is indicted for treason in Richmond. The President has appointed a prosecuting attorney for the district where that indictment is pending whose duty it was and is without delay to take out a proper warrant for his arrest and to bring him to trial for that crime, and yet we have never heard of any effort being made to bring him before the court. Sir, he might have been tried in almost any other place in the United States legally and constitutionally for the crime of treason. I hardly think the honorable Senator from Maryland will hold that Jefferson Davis, the president of the confederate States, the commander-in-chief of all the armies and navies belonging to the confederate States during the war, has not by the very position he held made himself amenable for the crime of treason in any State or district of the United States within which any overt act of war was perpetrated during the rebellion.

**Mr. JOHNSON.** If the honorable member desires an answer now I can give it.

**Mr. HOWARD.** I will hear the honorable Senator.

**Mr. JOHNSON.** I certainly think that he can be; but the honorable member I suppose has not forgotten that the late Attorney General of the United States gave an opinion to the President that he could only be tried in Virginia. I think in that he was mistaken.

**Mr. HOWARD.** I am quite aware that the late Attorney General did give such an opinion; but what is the opinion upon that subject of the present Attorney General of the United States I do not know, and I am not sure that the honorable Senator from Maryland knows.

**Mr. JOHNSON.** I do not.

**Mr. HOWARD.** If there has been a neglect to bring Davis to trial it has, in my judgment, arisen chiefly from the mistake which has been made in regard to the doctrine of his legal presence at the commission of the acts of war. I hold, as I held at the last session, that in the case of the commander-in-chief of the rebel army, the person who held in his hands the entire control of the rebel army was as much guilty of treason, as much present at an act of

war committed in the State of Ohio by John Morgan, or even in the State of Vermont by the raiders who came over the border, who were subject to his orders, as if the act of war had been committed in the district of Virginia where Davis himself, the commander-in-chief, resided at the time.

A remark fell from the learned Senator from Maryland which not a little surprised me. When I asked him whether Davis was not arrested and held as a prisoner of war I understood him to answer in the affirmative, and at the same time to add that if he were a prisoner of war he was not guilty of treason. If I misunderstood the honorable Senator I shall be glad to be corrected. He does not correct me.

Mr. JOHNSON. I said that if he was a prisoner of war in the ordinary sense of that term, he could not be held to be guilty of treason. He ought to have been handed over to the civil authorities and condemned as a traitor or hung on the spot. But, as I said before, if merely held as a prisoner of war he should not have been held after the termination of the war.

Mr. HOWARD. I understood the honorable Senator to say that if he was held as a prisoner of war he could not on account of being so held, on account of being invested with certain mysterious privileges as a prisoner of war, be held amenable for treason in a civil court. I believe that I did not misunderstand the honorable Senator. If such be the immunity of Jefferson Davis, why has not my learned friend, profound as he is in the knowledge of the law, industrious and enlightened as he confessedly is, exerted himself heretofore to relieve Davis from his imprisonment by suing out a writ of *habeas corpus* and testing the question whether he is amenable to the indictment found against him for treason? Why have not the learned counsel of Davis, who entertain the idea that because a man is held as a prisoner of war he cannot be convicted of treason, exerted themselves in behalf of Jefferson Davis and liberated him upon *habeas corpus*? If he is shielded by his character as a prisoner of war from a prosecution for treason, he has but to show that to a proper court on a proper application to be relieved from his imprisonment; or if he is tried for treason, all he has to do is to set up that defense on the trial, and he must be at once acquitted.

But, sir, the doctrine itself is entirely unfounded. I do not profess to be profoundly learned in the law, and I would not place myself in competition with the honorable Senator from Maryland in this respect; but I feel quite safe in defying him to find a warrant in any of the accredited writers upon the law of nations that a legitimate Government may not try a rebel who has been captured as a prisoner, also a traitor, and inflict upon him the penalty of treason. This doctrine leads inevitably to the conclusion (if it be sound) that none of the multitudes of rebels who have been captured and held as prisoners of war by the troops of the United States, during the whole of the recent conflict, can be held for treason upon an indictment; that the very fact that they have been captured and acknowledged as prisoners of war stands as their defense and excuse for the crime of treason they have committed. I do not wish this discussion to close and leave that point of law, pressed upon us so earnestly by the honorable Senator from Maryland, without a reply. Sir, the doctrine is entirely false. It is contradicted by Vattel, it is contradicted by Kent, it is contradicted by Grotius, and by all the accredited writers upon the law of nations and the law of war; and I believe in the end the honorable Senator will find that it is entirely unsupported by principle, as it is unsupported by authority from the books.

Now, sir, I shall not undertake to predict when Jefferson Davis will be tried either for treason or murder; I do not know; I am not in the secrets of the Cabinet; I know nothing of the undisclosed motives which may operate upon persons in authority to prevent the speedy trial of Jefferson Davis; but that he ever will be tried for treason I have not the slightest

belief. That he will ultimately be liberated, and that unconditionally, by the President of the United States from all responsibility on account of the crime of treason which he has committed I entertain no doubt. Sir, will a Chief Magistrate who has pardoned rebels by wholesale, pardoned them by thousands and tens of thousands, proceed to try Davis, their chief, condemn him, and execute him? Will a Chief Magistrate who, during the last year and more, has been exerting all his official influence in favor of the rebels and of the rebel communities, taking them under his especial protection and guardianship, who treats them so tenderly and so considerably as to hold them up to the world almost as a persecuted people, be expected to punish the head and chief of that community whose favor he has been so long courted? No, sir, it is not to be thought of. Like the rest of them, Jefferson Davis, the head and front of the rebellion, who might and ought to have been tried in Pennsylvania, in Ohio, in even Vermont, and convicted, sentenced, and executed for treason, will never be tried under this Administration.

The bill immediately before us, Mr. President, proposes to repeal the thirteenth section of the confiscation act of 1862. That section authorizes the President of the United States by proclamation to extend pardon and amnesty to such persons and such portions of the rebels as he may see fit. What it extends besides pardon is amnesty. I hold that the Congress in passing the act of 1862 granted to the President some power, in the thirteenth section, beyond what he possesses under the naked Constitution; that is, the power of pardoning officers. By the thirteenth section he is authorized to grant amnesty to such portions of the rebels as he may see fit—not mere pardon, but amnesty. Amnesty is a military term. It applies to belligerent parties, operates as an eternal oblivion of all the causes of the war, and is the basis of peace; it is a burying, a putting out of mind and memory the war itself and of the causes that led to it; and it necessarily restores the belligerent parties to whom it is granted to all the rights they possessed before the war broke out; it places them, in other words, *in statu quo ante bellum*.

I do not believe the President of the United States under the naked Constitution authorizing him to grant pardons possessed the power of pardoning by wholesale an army of rebels and all those who had aided and assisted them. The power of granting this amnesty is a power which cannot be exercised by the President in virtue of his executive functions merely, nor in virtue of his capacity as Commander-in-Chief of the Army, because in its very nature it must rest upon the sovereign power of the nation that grants it. Amnesty is peace, and the President of the United States, whether in case of rebellion and insurrection within our own limits or of foreign war, has no power to grant a permanent amnesty, which is peace, without an act of Congress. He is not vested with authority to declare and establish peace between this nation and a foreign nation when war has once supervened. That peace can only take place by the consent and by the legislation of Congress. It requires the legislation of the two Houses in order to change the condition of the country from a state of war to a state of peace. The power of making war belongs to Congress, and the power of making peace belongs to Congress and not to the President.

If this view be correct, it follows that we did grant to the President in 1862 a power which he had not under the Constitution, to wit: the power of granting amnesty, and it is that power which I think, so far as I have been able to inform myself, has been greatly abused by the present Executive that we now seek to take from him by the bill before us. I hope, sir, the bill may pass.

Mr. SAULSBURY. Mr. President, when I offered the pending amendment it was not my intention to say a word in reference to the propriety of its adoption. When the confiscation bill was before the Senate in 1862 I took oc-

casión to present, as fully as I deemed proper, my views in reference to it, and to state my objections to its enactment as a law. Those objections were twofold; first, arising out of what I conceived to be certain unconstitutional provisions in the bill; and second, because, in my judgment, the measure as a measure of policy was unwise. I have seen no occasion since, although I do not now intend to discuss the question, to change the opinions then formed. Although it was very unpopular then, as I doubt not it is very unpopular now, to express the opinion which I then expressed, and which I still entertain, yet the unpopularity of the utterance will not prevent its repetition. I deny as a question of law that this doctrine which has been asserted here to-day is true, or that it has any warrant of authority in the history or example of nations situated or circumstanced as we were during the late civil war. I asserted then, and I maintain now, that the duties of allegiance and protection were reciprocal, and that a Government, however rightful it might be, has no right to punish any one of its citizens for disobedience to its authority unless that Government at the same time affords to that individual protection; and that where an individual is so circumstanced that he is subject to a Government *de facto* having power to punish him for disobedience to its commands and to protect him against the consequences of his obedience to its commands, and another Government, claiming to be the Government *de jure* over him, has not the power to protect him against the consequences of disobedience to it, or is unwilling to afford him that protection, that individual commits no crime and is guilty of no treason.

In my judgment this original act of confiscation was misnamed. The title it bore upon its face was "An act to punish treason," and it was applied to the whole mass of the southern people of this country. Will you tell me, sir, that you can frame a bill of indictment like this against eight million people? Such a thing is unknown in the history of the world. When our revolutionary fathers assumed to secede, if you please, from the Government of Great Britain and to establish an independent government for themselves, the House of Commons rang with the cry of "rebels" and "traitors," just as the Halls of Congress have rung with the cry of "rebels" and "traitors" since; but what said the master minds of the British Parliament then? They proclaimed the very doctrine which I proclaim here to-day, that you could not indict a whole people, millions of men, for the crime of treason when they were acting under the power and authority of a government which had been erected over them—a government having the power to protect them, and where Great Britain could not afford protection in case they disobeyed the American governments which had been set up over them. And, sir, however mad and foolish it was—and I have always considered it to have been madness and foolishness—on the part of the southern people to have entered upon the recent struggle, I say that the great mass of them did not incur thereby the crime of treason nor subject themselves to its penalties; and I assert no new doctrine. I assert a doctrine which has been maintained in the Federal courts of the United States. I assert a doctrine which your revolutionary fathers asserted, and which the tribunals of the country which they established asserted and maintained.

Why, sir, any one who will take the trouble to look into Dallas's Reports will find a number of cases. I will refer to a single one, the case of *Republica vs. Samuel Chapman*, to be found in 1 Dallas, where this very doctrine was judicially decided; and there cannot be found in any American authority since that day a single dictum, much less a decision, overruling that authority. What was that case? Pennsylvania had established an independent government for itself, and in less than six months after the establishment of that government a man by the name of Chapman, an adherent of



King George, did an act which was, in the judgment of the courts of Pennsylvania, treason against that government. He was a subject of King George, as all our fathers were, but he committed the act after the people of Pennsylvania had established for themselves an independent government. He was brought to trial, not, to be sure, in a Federal court, because there was not then any such tribunal, but in the courts of Pennsylvania, charged with the crime of being guilty of treason against that State; and, after a long and able trial, was convicted and executed. There, sir, is judicial precedent, showing that when a government *de facto* is established an individual citizen not yielding his obedience to it, but attempting to make war upon it, has, within the limits of this country and by the judgment of a learned legal tribunal, been found guilty and executed for the crime of treason against that government, although he claimed protection on account of what he asserted to be his superior allegiance to the Crown of Great Britain.

But, sir, the doctrine which I maintain is older than the case in Dallas. It is the recognized doctrine of England, and has been for hundreds of years. The student even of Blackstone is at no loss to know what is the true doctrine on this subject. Turn, sir, if you please, to the fourth volume of Blackstone, page 221, and you will find the following:

"A usurper who has got possession of the throne is a king within the meaning of the statute, as there is a temporary allegiance due to him for his administration of the Government and temporary protection of the public; and therefore treasons committed against Henry VI were punished under Edward IV, though all the line of Lancaster had been previously declared usurpers by act of Parliament. When, therefore, a usurper is in possession the subject is excused and justified in obeying and giving his assistance. Otherwise, under a usurpation no man would be safe if the lawful prince had a right to hang him for obedience to the powers in being, as the usurper would certainly do for disobedience."

And, sir, the doctrine is found in a principle of common justice which must ever regulate the relation of the citizen to the Government. It is utterly impossible, where there are two Governments claiming obedience from the individual citizen, that he shall be liable to be hanged by the one for disobedience and liable to be hanged by the other for obedience. It is contrary to reason; it is contrary to justice; it is contrary to that reason which Coke says is the perfection of the law, not such reason as every individual man hath, but such a reason as if all the heads of the world were put together they could not form more perfect reason.

But, sir, there is authority for this doctrine from him who has been called the father of the Constitution. I refer to Mr. Madison. I presume it will not be contended by any one that a citizen of any State of this Union owes any higher or more paramount allegiance to the Government of the United States than did an inhabitant of one of the thirteen colonies of King George to the Government of Great Britain. That our fathers owed allegiance to the Crown and King of Great Britain no one questions now, or ever did question; but how did they owe it? What was the doctrine of the fathers on this subject? They did not owe it on account of that old doctrine of allegiance, which has no application at all to this Government. I speak now of allegiance in the principles in which it exists and in reference to the circumstances out of which it grew. What is the origin of this doctrine of allegiance? It was founded upon the land and had reference to nothing else. When the conqueror won the land by his sword, he parceled it out among his followers, and in consideration of this parceling out the lands among his followers they became his liege subjects, and by virtue of that bestowal of lands, and nothing else, they came to owe him personal allegiance. But, sir, that is not the doctrine of American allegiance; it is not the doctrine that has ever been contended for in this country; it is not the basis of the American doctrine of allegiance. That arises, not from any distribution of the domain, the territory, but simply and solely from citizenship; it springs from citizenship and nothing

else. When a man becomes a citizen then his duty as a citizen imposes upon him the obligation of discharging with fidelity every office incumbent upon him as such citizen. In the sense, therefore, of citizenship we owe allegiance to the Federal Government.

But, sir, you must recollect that our system of government is very complex indeed, however simple it may appear to be to some. Here is a Federal Government; and what is it? A Government of limited, delegated powers; a Government owing its existence to whom? I know it has been contended by some that "we, the people of the United States" made this Government, and that the people of the whole United States are the authors and founders of the Federal Constitution. Not so, sir; they are no such people; in a strict sense they are the people of the several States united together for common, specified objects; and within the scope of the power thus delegated to the Federal Government by, not the whole people of the United States, but by the people of the States respectively, the authority of the Federal Government is supreme. But, sir, that same Constitution, which is the evidence of delegated authority by the States to the Federal Government, also recognizes the existence of those States and reserves to those States or to the people thereof every power not by the Constitution delegated. Now, here is a State. You, sir, are a citizen of the State of Connecticut; I of Delaware. How did you ever come to owe allegiance to this Federal Government, or how did I ever come to owe allegiance to the Federal Government? By virtue of any act of the whole American people? No, sir. Born on the soil of my State, I owe allegiance to her, and through her act, and through her act alone, I owe fidelity, citizenship, allegiance, if you please to call it so, to the Federal Government within the scope and to the extent of its limited and delegated powers; and I owe it in no other wise, by no other means, and to no other extent.

Then, sir, I assert the doctrine of Mr. Madison to have been, and I assert that to have been the settled doctrine of this country until a very recent period, that when the authority of the particular government to which the citizen owes allegiance and the authority of the Federal Government shall become antagonistic, irreconcilable, if the citizen, in obedience to the command of the particular Government to which he owed primary allegiance yields to that authority, and the Federal Government has not the power and will not protect him, he does not incur the crime of treason and is not subject to its penalties.

Now, sir, although I did not intend to say anything on this subject to-day, inasmuch as I have referred to it I cite you the authority of Mr. Madison; and it is to be found in no obscure, out-of-the-way place, in no private letter. They were his utterances in the first Congress of the United States, and received the action of the House of Representatives of that Congress in approval of them; and they would have continued, in my judgment, to be the doctrine of the present day had not madness and frenzy seized the hour: had not the southern people, yielding to the counsels, the advice, aye, sir, and to the power of many of the leading men among them, fired upon Fort Sumter and thus incensed the whole nation. But for that, reason would never have so far forgotten the American people as to have charged the whole mass of them as guilty of crime because they yielded obedience to authority that they could not resist.

I stated that I supposed it would not be contended by any one that the allegiance which a citizen of any State in this Union owes to the Federal Government is any greater or any more binding than the allegiance which our fathers, as subjects of Great Britain, owed to the Crown and Government of Great Britain. Assuming that to be the fact, I call your attention to a case which occurred in the early history of this Government and cite to you the opinion of Mr. Madison, whose opinions are

authority with the American people and have always been so considered.

Before the Revolutionary war broke out, before the Declaration of Independence, there was a young man who had not arrived at the age of twenty-one in South Carolina, by the name of William Smith, who was sent to England and the Continent to be educated. The Declaration of Independence was proclaimed. War was raging in the country. Mr. Smith desired to return to South Carolina and share the fortunes of her people. He made an attempt, but was taken upon the ocean and carried back to Great Britain. About the close of the war, however, he returned to South Carolina and was elected to the House of Representatives as a member from that State and was sworn in, and he became one of the most distinguished members of that body. In a short time afterward a Dr. Mitchell, of South Carolina, presented a petition to Congress praying them to eject Mr. Smith from his seat as a member of Congress, on the ground that he had not been a citizen of the United States for seven years, as the Constitution of the United States required, and it was in the discussion upon that subject that Mr. Madison uttered the following opinions. As the portion I desire to read is short, I will read the whole of it:

"What was the situation of the people of America when the dissolution of their allegiance took place by the Declaration of Independence? I conceive that every person who owed this primary allegiance to the particular community in which he has been born retained his right of birth as a member of a new community; that he was consequently absolved from the secondary allegiance he had owed to the British sovereign. If he was not a minor he became bound by his own act as a member of the society who separated with him from a submission to a foreign country. If he was a minor, his consent was involved in the decision of that society to which he belonged by the ties of nature. What was the allegiance as a citizen of South Carolina he owed to the king of Great Britain? He owed his allegiance to him as a king of that society to which as a society he owed his primary allegiance. When that society separated from Great Britain he was bound by that act and his allegiance transferred to that society or the sovereign which that society should set up, because it was through his membership of the society of South Carolina that he owed allegiance to Great Britain."

This reasoning will hold good, unless it is supposed that the separation which took place between these States and Great Britain, not only dissolved the union between these countries, but dissolved the union among the citizens themselves; that the original compact which made them altogether one society being dissolved, they could not fall into pieces, each part making an independent society, but must individually revert into a state of nature; but I do not conceive that this was of necessity to be the case. I believe such a revolution did not absolutely take place. But in supposing that this was the case lies the error of the memorialist. I conceive the colonies remained as a political society, detached from their former connection with another society, without dissolving into a state of nature; but capable of substituting a new form of government in the place of the old one, which they had for special consideration abolished. Suppose the State of South Carolina should think proper to revise her constitution, abolish that which now exists, and establish another form of government: surely this would not dissolve the social compact? It would not throw them back into a state of nature? It would not dissolve the union between the individual members of that society? It would leave them in perfect society, changing only the mode of action, which they are always at liberty to arrange. Mr. Smith being then, at the Declaration of Independence, a minor, but being a member of that particular society, he became, in my opinion, bound by the decision of the society with respect to the question of independence and change of Government; and if afterward he had taken part with the enemies of his country, he would have been guilty of treason against that Government to which he owed allegiance, and would have been liable to be prosecuted as a traitor."

Sir, there has been no friend of the much-derided doctrine of State rights that has ever uttered language stronger than that to show that their citizens in following the fortunes of the State, especially that portion of their citizens who only yielded obedience to a power which they were incapable of resisting, and yielded obedience to a power against whose authority there was no Government able or willing to protect them—I say there has been no authority cited anywhere stronger than this to show that such men have not incurred the crime of treason; and, sir, I thank God it is so. I thank God that I do not believe in my heart that there are eight million American people that to-day have the sin and stain of

treason upon their souls. I know that a large portion of my countrymen have acted madly and unwisely and raised the standard of revolution; but, sir, the noblest spirits to which the world ever gave birth have done so in times before. Men may act unwisely, men may act madly, but they may act conscientiously; and though they may act unwisely and madly it does not follow that thereby they have incurred the guilt of the greatest crime known among men. There may be, and there are, bad men and bad citizens in every State of the Union, but they are not confined to any one State nor to any one section of this country. Tell me not, sir, that north of the Potomac and the Ohio there resides all the love of country and all the spirit of patriotism to which this country has given birth. Tell me not that north of those streams all are perfect angels in purity and the devoted admirers and lovers of civil and constitutional liberty, and that south of those streams, down to the Rio Grande and the Gulf, there are none but traitors. Sir, I believe in no such inhuman doctrine; neither does the law countenance any such doctrine; neither do the teachings of the fathers support any such doctrine. That in that struggle there may have been individual men who incurred the guilt of treason I am not going to question; but that the great mass of the people over whom these governments *de facto* were established, by yielding obedience to the authority of the particular government under which they lived incurred the guilt of treason I never have believed, and I do not believe to-day.

I regret as much as any man the attempt they made to sever their connection with the Federal Government. It not only brought ruin and wretchedness upon themselves; it not only wasted and desolated their fair habitations, depriving them of the comforts, to say nothing of the elegancies of life, but, sir, to us of the border States, who did not follow their example, but who remained true and firm to the old Government, it brought distress and misery. It gave the pretexts to a party which had lately come into power to invoke necessity as the great law of government, to arrest by the strong arm of power, and to drag into forts and bastilles innocent and unoffending men for the gratification of party spirit and to perpetuate the political party in power. But, sir, though it brought more distress upon the people of my State than it did upon the States of gentlemen further removed, yet I should be ashamed of myself if I could on that account harbor any resentment or any indulgence of malice, charging millions of my countrymen with the crime of treason. It is true they have no representative on this floor to speak for them. I come, it is true, from my own State to join in the public councils; but when I cast my eye across yonder stream and know that there are not only brave and honest men, but women and innocent children inhabiting its soil, I will not remain silent when I hear the whole mass of that people, or any great portion of them, charged with being guilty of treason.

Mr. President, it is time, high time, that wholesale accusations like these had ceased to be made. They can subserve no public good. They will not rekindle and renew the warmth of affection which ought to exist between the people of this whole country. God knows we have had strife enough, suffering enough, misery enough, wretchedness enough. And now, when the country is dissevered by your acts, or kept dissevered at least, I hope that the utterances of such wholesale denunciation will cease. No, sir; rather throw open your legislative halls to the representatives of a people who are anxious to get back under the protection of the old national flag and in communion with their brethren of other States. Instead of these denunciations let it go forth, "You are not to be taxed without representation, but taxing you we open our doors to your people," and one shout of joy will go up throughout the length and breadth of this land from every true Union and conservative man. Even

the little children will join with their fathers and mothers in invoking the blessings of Almighty God upon your heads. Do it, sir, and where the war has caused desolation there shall spring up flowers of loveliness and beauty; the aching heart shall be made glad; the desponding soul will take hope; and hereafter we will march on together to a common destiny of national glory and renown, a united, prosperous, and happy people. Thus united we need fear no enemy from without, and if we be true to ourselves we shall have no enemy from within.

Mr. President, I have made these remarks more extended than I intended, because I offered the amendment proposing to repeal the whole bill of 1862. That bill treats the whole of these people as traitors, and proposes to confiscate the property of every man among them on the ground that he is a traitor from having been engaged either actively or submissively in the late civil war. Entertaining the opinion as I do, that such is not the fact, that such is not their condition, I have offered the amendment. I refer to no individual cases; I refer not to the case of Mr. Jefferson Davis, because I have always held that the mention of his case in the Senate of the United States, he being under arrest, and subject to trial, is improper, that he ought to have an opportunity, if he should be brought to trial, to go before a jury of his own country without prejudice, and without the jury and the judge being told beforehand what the legislative department of the Government expects them to do in the case. I have confined my remarks to the great mass of the southern people. I say that law, justice, humanity, every noble consideration which can promote or control the action of wise legislators should lead to the repeal of this act.

Mr. HENDRICKS. When this bill was first brought to the attention of the Senate the Senator from Michigan [Mr. CHANDLER] demanded its passage upon a charge which he made against the executive department of selling pardons in this city, and he expressed himself very strongly indeed upon that subject. He said:

"Mr. President, it is a notorious fact, as notorious as the records of a court, that pardons have been for sale around this town, for sale by women, and more than one woman. The records of your court in the District of Columbia show this."

And he then went on to say that he spoke upon the authority of one of the judges of the court in this District. After that statement had been so deliberately made by him the Senator from Connecticut [Mr. DIXON] gave it a very emphatic and square denial. The Senator from Michigan stated that it was necessary to repeal the section in order to take away from the President the power of pardon, and thus to remove a reproach from our Government. I could not see in the law the reason for his position. I could not see, after the denial of the statement made by him and on the question of his authority that the facts justified him. But certainly he owed it to himself, he owed it to the judges of the court, to say precisely upon what authority he made the statement, for it was a very grave one.

This section only authorized a pardon by proclamation. Now, I think, when the Senator reflects a moment, he will not assume that any pardon by proclamation has been procured by any improper means. I suppose he referred to individual pardons, and meant to suggest that persons had received compensation for their services in procuring the pardon of individuals. I hardly suppose that the Senator intended to be understood as charging that any proclamation had been procured by bribery. I never heard anything of the sort intimated, and I never heard that any question of the kind was before any court in the District of Columbia. If any such question was before the court, then, sir, I think we ought to know in what case, upon what record, upon what evidence it is stated that the President of the United States, under this thirteenth section, ever issued a proclamation upon improper and cor-

rupt considerations. This section simply provides for pardon by proclamation, with a view to the adjustment of the troubles in the country, so as to hold out to the southern people an inducement to return to their allegiance to the Government and their obedience to the laws, certainly a very proper purpose, justifying the action of Congress in its enactment; but what bribery can be charged as having been committed under this section? I think it is due to the other judges of the court that we should know what judge has undertaken to make such a charge against the executive department of the Government. But, sir, I am not going to discuss that at length. I had supposed the Senator would have produced the evidence, and I think it would fail—I cannot but believe it would fail—to establish that under this section of the law any improper motive had ever governed the President of the United States.

I object to the repeal of this section for but one reason. It will be understood in the country as an expression by Congress against a conciliatory course toward the southern States. It will be understood as an expression by Congress of its opinion that there ought not to be pardon extended to the people of the South, and that the policy which was understood to have been adopted by Mr. Lincoln before his death, and the policy which was subsequently pursued by Mr. Johnson as President of the United States in extending pardons was an improper policy. I do not wish to have it understood that Congress shall express any such opinion. My judgment is, that amnesty is the proper course and policy to be pursued with a view to the permanent restoration of the Union and of the relation of the States to the Union.

What is accomplished by repealing this section? Nothing in law. The Senator from Illinois, able as he is, has been unable to show that in law anything is accomplished by the repeal of this section, for the simple reason that the section does not enlarge the powers of the President. As has been so elaborately and so ably shown by the Senator from Maryland, the President possesses the pardoning power generally, and can exercise this power by such means as to him may seem proper, not inconsistent with the other provisions of the Constitution. He has the power to pardon generally, whether by a special grant to an individual, or by proclamation, if, in his judgment, the circumstances of the country shall require such a proclamation. I do not understand the Senator from Illinois to question now the power of the President to pardon by proclamation; and is it not the better way? Is it not better that the President shall pardon by classes rather than that the executive office shall be besieged by individuals who seek special pardons?

Mr. TRUMBULL. As it is not my intention to speak upon this subject, and an inference might be drawn from the remarks of the Senator from Indiana, that I conceded the authority of the President to pardon by general proclamation, I desire simply to say that I do not concede it. I did not intend entering upon the discussion to-day of that question; I had previously said all I desired to say upon it; but the Senator from Indiana is not warranted in assuming that I do not question the authority of the President in that regard to the same extent which I questioned it the other day. I have heard nothing to change the views which I expressed when this bill was called up some days since.

Mr. HENDRICKS. I did not hear all that the Senator said the other day on this subject, but I had understood him not to dispute the power. Perhaps I stated his position too strongly. I think it cannot well be questioned, as one of law, that the President does possess the power to pardon classes of citizens by proclamation. If that be conceded—and I will not undertake to add to the argument of the Senator from Maryland on that subject—then why repeal this section? The repeal of the section will not take from the President any

power which he possesses under the Constitution. His power under the Constitution we cannot in any way impair. Then the only effect of the repeal will be an expression, as it may be understood by the country, of the will of Congress against the policy that is pursued by the Executive. I think that policy is the wise one, and therefore I shall regret to have any expression made by Congress against that policy, or any expression which may be so construed.

A singular subject has been introduced into the debate, Mr. President: the responsibility for the failure to bring Mr. Jefferson Davis to trial. I am not able to see exactly how it connects itself with this bill. The President of the United States has not pardoned him. I understand the Senator from Michigan, who addressed the Senate a few minutes ago, [Mr. HOWARD,] to lay any responsibility there may be upon that subject to the charge of the President of the United States. I am not able to see in what way the President of the United States can control the action of the courts. The Senator suggested that he had undertaken at a former time to prove that Mr. Jefferson Davis could be tried in any of the States into which the war was carried. I do not propose to discuss that question now. I understand that the late Attorney General of the United States, Mr. Speed, gave an opinion adverse to that view. But, sir, suppose that Mr. Jefferson Davis could be tried in the State of Pennsylvania because of the invasion of that State by one of the southern armies, is it within the power of the President of the United States to bring him to trial within the State of Pennsylvania? If in fact he can be tried there, how, and what power of the Government is to bring him to that trial? Has the grand jury of either of the districts in Pennsylvania preferred an indictment against him? Is there a pending case in Pennsylvania which would justify the President of the United States in sending him into that State for trial? Although the position of the Senator were conceded, how does that show any fault as against the Executive on this question? If the judiciary in Pennsylvania have taken no steps to bring him to trial, how can the Executive bring him to trial in that State?

As I understand, an indictment has been found against him in but one court, and that is in the circuit court of the United States for the district of Virginia. The Chief Justice of the United States presides in that court. Is he responsible for the failure to bring Mr. Davis to trial? I do not choose to discuss that. The Chief Justice has given to the country the reasons which have governed him in not bringing him to trial in Richmond. I think his reason a year ago or more was that martial law prevailed in the State of Virginia, and therefore he would not undertake to hold a civil court where the power was divided between the military and the civil authorities; that he would not be justified in trying him in a civil court while the military courts had any authority in the State. Whether that was a sufficient reason or not I do not choose to discuss. That was the reason assigned by him. I do not understand that the Chief Justice said that the fault was with the President or that there was any fault about it, but simply that at that time martial law prevailed in Virginia and it was not proper for him to hold a court there. I do not know authoritatively from himself what reason governs him now. There is no pretext that martial law divides the sway with the civil authority in that State. For months past the civil authority has been supreme in the State of Virginia. Why is Jefferson Davis not brought to trial upon an indictment the finding of which is known to all the country? I understand, as has been suggested by the Senator from Maryland, the last reason assigned is that under the adjustment of the districts and circuits by the law of the last session the judges cannot hold their courts in the circuits.

Mr. JOHNSON. Until there is an assignment.

Mr. HENDRICKS. Yes, until there is an assignment of the judges by legislative authority. I am not able to see how that will apply

to the circuit in Virginia for the reason, as I understand, that the limits and number of that circuit have not been changed by the legislation, but that the number of the circuit and its extent is now what it was before the legislation spoken of.

Mr. JOHNSON. The circuit is extended in its jurisdiction.

Mr. HENDRICKS. The Senator from Maryland informs me that the circuit is extended in its jurisdiction; but I will ask the Senator whether the number of the circuit has been changed; whether the number is not the same?

Mr. JOHNSON. The number is the same, I suppose. If the Senator will permit me, I will say in justification, if it requires justification, of the opinion of the Chief Justice, that the change of the circuits takes from the judges the authority to hold courts in the circuits that they before presided over. That view was concurred in by nearly all the judges of the court. They supposed that that must be the state of things until the judges themselves, as they are authorized to do under the old law, shall assign the circuits over again. There are one or two judges who think differently; but they all think that so far as the districts are concerned in the circuits the district judge should hold the court, and that the district judge is also competent to hold the circuit court. The case, therefore, of Mr. Davis in the circuit court of Virginia might be tried by the district judge; but I suppose that the Chief Justice and the counsel for the prisoner, too, would be unwilling to have the case tried before a district judge, because there is some doubt whether in a capital case a district judge is competent to try the cause without the presence of the circuit judge. That was the opinion of the late Chief Justice of the United States. My impression at the time was, and still is, that it was an erroneous opinion; but still the opinion of such a man as Mr. Taney was entitled to all weight, and certainly entitled to more weight than any opinion I could give; and our district judge does decline and has always declined to try any cases the punishment of which is death.

Mr. HENDRICKS. I do not suppose any considerable sentiment in the country would desire the trial of Mr. Davis by any judge other than the judge of the Supreme Court assigned to that circuit, so that the questions of law, when they come to be decided on that trial, shall have weight and influence in the country. I was not myself able to see why the circuits should require a new assignment when the number of the circuit itself had not been changed. But I care nothing about that. It is a question—

Mr. TRUMBULL. If the Senator from Indiana will permit me, while he is on that question, I should like to inquire if there is any difficulty under the law as it stands in the Supreme Court assigning themselves to the respective circuits.

Mr. HENDRICKS. I believe not; until recently they have not been in session since the passage of the law. I believe the law that changed the circuits was approved since the adjournment of the court last spring. Therefore since its passage they have not been in session till recently. Whether they have made a reassignment I do not know.

Mr. TRUMBULL. The Senator from Indiana will pardon me for interrupting him; but I should like to inquire—I have not looked at the law—if it is not in the power of the judges to assign themselves? Is it done by an order of the court? My impression was that the judges possessed authority under the law to assign themselves to the respective circuits. I have not looked at the law; but it seems to me there can be no doubt about that.

Mr. HENDRICKS. I do not intend to enter upon a question like that in this debate. I know that the judge of the circuit in which I practice, who is a very able man indeed, Judge Davis, hesitated to hold the circuit court until there was a reassignment by the Supreme Court *in banc*. He did not understand that he could hold the court in his circuit at the last term

because of this difficulty. If that is a sufficient excuse for the Chief Justice, let it be so. I shall be very much gratified if it is; but it is not right, it is not fair to charge upon the Executive that which is exclusively under the control of the judiciary. Is there any Senator who would desire to see the Executive undertake to control the action of the judiciary, to say what causes shall be tried and when they shall be tried?

But, Mr. President, I rose simply to say that my objection to this bill is not that it would take from the President any power which I think he possesses under the Constitution, but that it will be made to be understood in the country as the expression of Congress against the policy which I think for the good of the country.

Mr. CHANDLER. Mr. President, the Senator from Indiana has erected a windmill, and then leveled his lance and charged Don Quixote like upon it. I made no charge against the President of the United States; none whatever. I neither charged him with selling individual pardons nor with selling proclamations of pardon. I made no charge at all. I will read what I did say:

"Mr. President, it is a notorious fact, as notorious as the records of a court, that pardons have been for sale around this town, for sale by women, and more than one woman. The records of your court in the District of Columbia show this."

Again, I said:

"This is a matter of public record, a matter that every man knows who has read the newspapers or examined the records of your courts, and I have it from one of the judges of the court of this District that such is the fact."

I made no charge that the President had sold pardons or even knew that pardons were sold; but I stated the fact that they were sold and gave the authority on which I made the statement. Again, I said:

"If the President has these powers under the Constitution let him exercise them; but in God's name give him no greater power than he possesses under the Constitution."

I did not say that the section which this bill proposes to repeal either diminished or increased his powers; but if it did increase his powers I desired to restrict him to his constitutional powers. But I will now say, sir, that when these disgraceful facts were brought to the knowledge of the President he denounced the man who brought them to his knowledge, and the nefarious business went on for months afterward; and the intimacy of those individuals who had been selling pardons continued at the White House for months after it had been brought to his knowledge that pardons were being sold. I did not make this statement before, but I make it now.

Mr. HENDRICKS. I am glad to hear the Senator disclaim an intention to make the charge against the President. I had not been able to understand his language otherwise, but I am glad now of his statement upon the subject. He said:

"The records of your court in the District of Columbia show this. Any Senator who desires that disgraceful business to go on, of course desires that this clause shall remain; any Senator who desires to stop that disgraceful business, desires that the clause shall be instantly repealed."

That was the Senator's language. The only authority given in this section was to issue a proclamation of pardon, and I was not able therefore to understand the Senator's language, and I am very glad of his explanation on this occasion.

Mr. CHANDLER. If the Senator will look at the remarks made by me a few moments before he will find this language which I just now read:

"If the President has these powers under the Constitution, let him exercise them; but in God's name give him no greater power than he possesses under the Constitution,"

which is of itself a sufficient explanation of my position.

Mr. TRUMBULL. As something has been said about the question of the allotment of judges, and an impression seems to have prevailed in some quarters that there was an inadvertence on the part of Congress in not pro-



viding at the last session for an allotment of the judges of the Supreme Court so that the circuit courts could be held, I desire to say that it seems to me that the law is very specific on that point, and I beg leave to read it.

"That on every appointment which shall be hereafter made of a chief justice or associate justice, the said chief justice and associate justices shall allot themselves among the aforesaid circuits as they shall think fit, and shall enter such allotment on record. And in case no such allotment shall be made by them at their session next succeeding such appointment, and also after the appointment of any judge, as aforesaid, and before any allotment shall have been made, it shall and may be lawful for the President of the United States to make such allotment as he shall deem proper, which allotment made in either case shall be binding until another allotment shall be made."

Then a subsequent section provides that the attendance of two justices of the Supreme Court may be required to hold a circuit court by an order of the court. It seems that the court would have to be together and enter upon the record their allotment, but in case no allotment is made then the President of the United States has authority to allot the judges, which holds good until a new allotment is made by the court. It seems to me that there is no obstacle whatever in the way of the judges assigning themselves to the respective circuits under the law as it stands, and in case of a failure of the judges to do it, the authority in the President to do it is ample.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Delaware as a substitute for the bill. The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. JOHNSON. Upon the passage of the bill I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 7; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Fowler, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, Williams, and Wilson—27.

NAYS—Messrs. Dixon, Doolittle, Hendricks, Johnson, Noron, Patterson, and Saulsbury—7.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cowan, Davis, Fogg, Frelinghuysen, Grimes, Guthrie, Harris, McDougall, Nesmith, Nye, Pomeroy, Riddle, Sprague, Van Winkle, and Yates—18.

So the bill was passed.

#### ADJOURNMENT TO MONDAY.

On the motion of Mr. RAMSEY, it was Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 227) authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### PRINTING OF BANKRUPT BILL.

Mr. ROSS, from the Committee on Printing, to whom was referred a resolution yesterday submitted by Mr. POLAND, reported it without amendment, and it was agreed to as follows:

*Resolved*, That five hundred additional copies of House bill No. 598, and the amendments thereto proposed by the Committee on the Judiciary, be printed for the use of the Senate.

#### THE TENURE OF OFFICE.

Mr. EDMUNDS. I move to postpone the present, if there is a present order, as I believe there is, and all prior orders, to proceed to the consideration of Senate bill No. 453, to regulate the tenure of offices.

The motion was agreed to.

Mr. TRUMBULL. It is not designed, I understand, to go on with the bill to-night; I therefore move that the Senate do now adjourn.

Mr. WADE. Will you withdraw that motion for a moment?

Mr. TRUMBULL. Certainly.

Mr. WADE. I believe that the Committee on the Judiciary have charge of the House bill

fixing the time for the holding of the sessions of the next Congress.

Mr. TRUMBULL. It has been reported to the Senate.

Mr. WADE. It seems to me that it is important that that bill should be taken up and disposed of at a very early day, so that some of the States that do not ordinarily elect in time to participate in the proposed first session of the next Congress may have an opportunity to change, if necessary, their ordinary time of electing so as to conform to our new law. I barely now wish to call attention to it so that it may not be overlooked. It seems to me it is important to act upon it at an early day.

Mr. TRUMBULL. I can say in reply to the Senator from Ohio that the bill was reported back by the committee before the recess, and it is in the Senate, subject to be taken up at any time. It was in the particular charge of the Senator from New York, [Mr. HARRIS,] who is not in his seat to-day.

Mr. WADE. Very well; I only wished to call attention to it.

Mr. TRUMBULL. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, January 4, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### POST OFFICE APPROPRIATION BILL.

Mr. KASSON. I desire to make a report from the Committee on Appropriations.

Mr. WASHBURN, of Illinois. I thought that no business was to be done to-day.

The SPEAKER. No vote is to be taken to-day.

Mr. WASHBURN, of Illinois. No vote on any subject?

The SPEAKER. The unanimous order of the House was that no vote should be taken to-day.

Mr. WASHBURN, of Illinois. On any subject?

The SPEAKER. The Chair thinks the report is on order.

Mr. KASSON, from the Committee on Appropriations, then reported a bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, made the special order for Monday next, and ordered to be printed.

Mr. WASHBURN, of Illinois. I desire to reserve the right to raise points of order on that bill in Committee of the Whole as in the House.

The SPEAKER. That right is reserved.

#### FORTIFICATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the fiscal year ending June 30, 1868; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and made the special order for Wednesday next.

Mr. WASHBURN, of Illinois. I reserve the right to raise points of order on that bill as in the House.

The SPEAKER. The right will be reserved.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I would like to have a definite understanding about this matter of business, as some gentlemen seem to have been misled. The report in the Globe, which certainly misled me, says that by unanimous consent a proposition was submitted by the gentleman from Ohio [Mr. ASHLEY] that to-

morrow and the next day be devoted to debate, and that no vote be taken on those days.

The SPEAKER. The Chair supposes that the report in the Globe is taken from two propositions made: one proposition was that nothing but debate should be in order; afterward the gentleman from Ohio [Mr. ASHLEY] suggested that the agreement be that no vote should be taken.

Mr. ASHLEY, of Ohio. As I understand the agreement, no vote is to be taken on the reconstruction bill before the House or upon any important measure. We have probably no quorum here. But I understood that resolutions and bills could be introduced.

Mr. WASHBURN, of Illinois. I think we had better have the understanding made more clear, that no business shall be done except of a formal character.

Mr. SCHENCK. I must object to any such understanding, for I am about to ask the unanimous consent of the House to pass a bill to-day, the necessity of which the gentleman from Illinois will at once see.

The SPEAKER. If any gentleman objects, the Chair will decide that the gentleman's proposition cannot be entertained.

#### ELECTION OF SENATORS IN CONGRESS.

Mr. SCHENCK. I ask unanimous consent to offer a bill, which I send to the desk. Senators have advised me that they will be prepared to act upon it if they get it to-day. I ask leave to offer the bill now and that it be read.

The bill was read. It provides that the act to regulate the times and manner of holding elections for Senators in Congress, approved July 25, 1866, shall be so construed that when the meeting and organization of the Legislature of any State takes place on a Tuesday, then the second Tuesday after such meeting and organization shall be held to be the fourteenth day thereafter.

Mr. NIBLACK. I object.

#### PAYMENT OF PUBLIC DEBT.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following preamble and resolution; which were referred to the Committee of Ways and Means:

Whereas the people of the United States have paid more than \$200,000,000 of the public debt during the last fifteen months and are now toiling under an unprecedented burden of taxation; and whereas the population of the country duplicates in twenty-one years, after the lapse of which term there will be two men to contribute to the public debt as often as there is one now; and whereas the credit of the Government is so firmly established that its securities are eagerly sought for in every part of the world: Therefore,

*Be it resolved*, That the people ought not for the present to be further or any longer taxed to raise money for the reduction of the principal of the public debt.

#### FIRST COLLECTION DISTRICT OF ILLINOIS.

Mr. WENTWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate to this House the amount of internal revenue collected in the first collection district of Illinois for each month in the year 1866, and the amount of penalties assessed against any one person or firm or company in such district, with the amount remitted by the Department at Washington in each case, specifying the instances where the remittance has been made upon the recommendation of any particular officer or officers in said district.

#### TREATMENT OF FREEDMEN.

Mr. WASHBURN, of Illinois, by unanimous consent, presented a paper containing statements of officers of the Bureau of Refugees, Freedmen, and Abandoned Lands, concerning the treatment of freedmen in Arkansas and the Indian Territory; which was referred to the joint committee on reconstruction, and ordered to be printed.

#### DUTIES ON SUGAR, MOLASSES, ETC.

Mr. JULIAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so

arranging the tariff duties on sugar, molasses, coffee, and other articles as to discriminate in favor of the free-grown and against the slave-grown products.

#### SWAMPS AND OVERFLOWED LANDS.

Mr. McCLURG, by unanimous consent, introduced a bill in addition to and amendatory of the several acts of Congress relative to swamp and overflowed lands; which was read a first and second time, and referred to the Committee on Public Lands.

#### RESERVATION NO. 17, WASHINGTON.

Mr. INGERSOLL, by unanimous consent, introduced a bill in relation to reservation No. 17, in the City of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### COURT OF CLAIMS.

Mr. HILL, by unanimous consent, introduced a joint resolution extending the provisions of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims;" which was read a first and second time, and referred to the Committee on the Judiciary.

#### ARMY AND NAVY PENSIONS.

Mr. SCHENCK, by unanimous consent, introduced a bill to continue to Army and Navy pensioners their pensions notwithstanding their appointments to civil office; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### WILLIAM GILL.

Mr. ARNELL, by unanimous consent, introduced a bill for the relief of William Gill, of Maury county, Tennessee, a veteran of the war of 1812; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### NATIONAL MILITARY AND NAVAL ASYLUM.

Mr. SCHENCK. I ask unanimous consent to introduce for the consideration of the House at this time a joint resolution, which I will send to the Clerk's desk to be read; and then I will explain why it is important that it should be passed now.

The joint resolution was read. It provides that the National Asylum for Disabled Volunteers, not having obtained title to land at Point Lookout, in Maryland, as contemplated by the twelfth section of the act approved March 21, 1866, establishing that institution, the Secretary of War is authorized at his discretion to transfer to the said National Asylum any property of the United States still remaining at Point Lookout which may be considered appropriate and useful for the objects of that corporation.

Mr. SCHENCK. I will explain the necessity for the action of Congress at this time upon this subject. By the twelfth section of the act which established the National Military and Naval Asylum it was provided that all the property of the United States now at Point Lookout, St. Mary's county, Maryland, shall be and become the property of the asylum so soon as a title to the satisfaction of the board of managers shall be made to the asylum of at least three hundred acres of land, including that on which said property of the United States is now built and maintained or held.

At the time it was thought that probably the managers of the asylum would select Point Lookout as one of the places for establishing a branch asylum. They have, however, declined to do so, but have located one of the branches at the North or Northeast, in Maine, another in Wisconsin, and another to be established somewhere in the West, probably in Ohio or in Indiana.

There is, however, on that private property a good deal of property now or lately belonging to the United States, consisting of barracks, a laundry, a bakery, &c. The Government has advertised and sold a portion of this property, and a part yet remains on hand. This, the Secretary of War says, will, if offered in the market, be sacrificed—sold for a mere song.

He is willing, if Congress will grant the necessary authority, to transfer to the National Asylum for a consideration of \$1,200 such portion of this property as can be used for the benefit of the disabled soldiers. This resolution proposes to authorize the Secretary of War to make the transfer. It is believed that it is not worth while for the Government to buy from itself, or to require a corporation created by itself for public purposes—the care of the soldiers—to buy from the Government. This property, which might be used for the benefit of the soldiers, will be immediately sold, and sold at a very great sacrifice unless we adopt some measure of the kind now proposed.

There being no objection, the joint resolution was introduced, read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXTRA PAY OF TREASURY CLERKS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in reply to a resolution of the House of December 10, 1866, a report of the disbursement of the fund of \$160,000 among the clerks in the Treasury Department; which was referred to the Committee on Appropriations, and ordered to be printed.

#### MAJOR OTIS A. WHITEHEAD.

Mr. DODGE, by unanimous consent, introduced an act to release the sureties of Major Otis A. Whitehead; which was read a first and second time, and referred to the Committee of Claims.

#### RECONSTRUCTION.

Mr. WASHBURN, of Illinois. I now call for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights, on which the gentleman from Ohio [Mr. BINGHAM] is entitled to the floor.

Mr. BINGHAM. Mr. Speaker, when I took the floor yesterday it was with the intention of arguing this question before the House. When I yielded the floor the gentleman from Pennsylvania [Mr. STEVENS] moved to go into the Committee of the Whole for general debate. I did not desire to debate this important question in the Committee of the Whole. My purpose was to discuss it in the presence of the House, aided by such suggestions as in a full House members interested in this great question might be likely to give me. I therefore beg leave to defer what I have to say until this bill shall come up in its regular order on next Monday.

The SPEAKER. The Chair will state to the gentleman from Ohio that next Monday, after the morning hour, has been assigned for the consideration of one of the regular appropriation bills in the Committee of the Whole. Therefore this bill may possibly not be reached on that day.

Mr. BINGHAM. All I desire is to submit my remarks whenever the bill shall again come up in the House.

The SPEAKER. The bill is still before the House for discussion.

Mr. WASHBURN, of Illinois, (after a pause.) If no gentleman desires to take the floor, I move that the House adjourn.

Mr. SCHENCK. I ask the gentleman to withdraw his motion, that some petitions, which have been improperly referred to the Committee on Military Affairs, may be sent to appropriate committees.

Mr. WASHBURN, of Illinois. I withdraw the motion for that purpose alone.

#### FREDERICK SCHADE AND OTHERS.

On motion of Mr. SCHENCK, by unanimous consent, the Committee on Military Af-

fairs was discharged from the further consideration of the petition of Frederick Schade, of Tennessee, and various others, claiming compensation for a church destroyed by General Burnside's army; and the same was referred to the Committee of Claims.

#### DANIEL COLE.

On motion of Mr. SCHENCK, by unanimous consent the Committee on Military Affairs was discharged from the further consideration of the petition of Daniel Cole, of Hampshire county, Virginia, for a pension; and the same was referred to the Committee on Invalid Pensions.

#### BAR BEHYMER.

Mr. SCHENCK, from the Committee on Military Affairs, by unanimous consent, submitted an adverse report on the petition of Bar Behymer, asking pay for military services rendered the Government in 1864; which was laid on the table.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate joint resolution No. 102, construing and giving effect to joint resolution entitled "Joint resolution for the survey of the State of Wisconsin," approved July 1, 1864, in which he was directed to ask the concurrence of the House.

#### MAIL ROUTE TO CALIFORNIA.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be, and hereby are, instructed to inquire into the reasons why service has not been put on the mail route from Springfield, Missouri, to San Francisco, California; and if any further legislation is necessary to establish a daily line of stages between those points, then to report by bill or otherwise.

#### SESSION TO-MORROW.

Mr. HOOPER, of Massachusetts. I move when the House adjourns to-day it adjourn to meet on Monday next.

Mr. WASHBURN, of Illinois. I thought the understanding was there was to be no vote taken to-day. [Laughter.]

The SPEAKER. A vote on the motion to adjourn over can be taken.

The House divided; and there were—ayes 26, noes 28; no quorum voting.

Mr. WASHBURN, of Illinois. I hope it will be the understanding that the House shall meet to-morrow for debate only.

Mr. ASHLEY, of Ohio. I have no objection to that.

Mr. HOOPER, of Massachusetts. I withdraw my motion on that understanding.

The SPEAKER. The Chair is not aware of any gentleman who is desirous to go on to-morrow in the Committee of the Whole.

Mr. WASHBURN, of Illinois. There is no quorum present in the city, notice having gone out that no business would be done until Monday next.

Mr. WENTWORTH. If it requires unanimous consent to do anything, I do not see why we should not act upon business to which there is no objection.

Mr. WASHBURN, of Illinois. I learn there are three or four gentlemen who wish to speak to-morrow, and I hope the House will not adjourn over.

The SPEAKER. If there be no objection it will be the understanding that the session to-morrow will be devoted exclusively to debate in the Committee of the Whole on the state of the Union on the President's message.

There was no objection; and it was ordered accordingly.

#### REPORT OF REVENUE COMMISSIONER.

Mr. GARFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the House twenty thousand copies of the report of the special commissioner of the revenue, and two thousand copies of the form of bill accompanying the

same; and for the use of the Treasury Department one thousand copies of the report, and five hundred copies of the form of bill.

#### COTTON CLAIMS.

Mr. WENTWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate the amount of each cotton claim presented to his Department for payment, with the names of the claimants, with the amount allowed upon each claim, stating what ones have been rejected, what ones are still under examination, and the total amount already paid upon all the cotton claims allowed.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### TENNESSEE AGRICULTURAL COLLEGE.

Mr. BIDWELL. I ask unanimous consent to take up and put on its passage House joint resolution No. 213, to extend the provisions of the act in regard to agricultural colleges to the State of Tennessee.

Mr. ALLISON. I object.

#### PRESIDENT'S MESSAGE.

Mr. GARFIELD moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the President's annual message.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. MERCUR was entitled to the floor.

Mr. MERCUR. I am not prepared to go on to-day, and will yield the floor to any gentleman who is.

Mr. LAWRENCE, of Ohio. I propose to discuss House bill No. 684, to repeal certain parts of the act approved April 30, 1790, entitled "An act for the punishment of certain crimes against the United States."

By the act approved April 30, 1790, it is provided:

"SEC. 1. That if any person or persons owing allegiance to the United States of America shall levy war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted on confession in open court or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States and shall suffer death."—1 *United States Statutes-at-Large*, 112.

The same act provides as follows:

"SEC. 32. That no person or persons shall be prosecuted, tried, or punished for treason or other capital offense aforesaid, willful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offense aforesaid shall be done or committed, nor shall any person be prosecuted, tried, or punished for any offense not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offense or incurring the fine or forfeiture aforesaid: *Provided*, That nothing herein contained shall extend to any person or persons fleeing from justice."—1 *United States Statutes*, 119.

That act created four capital offenses—treason, murder, piracy, and forgery.

There is not in the act, and never has been, any limitations as to prosecutions for murder and forgery, but forgery has ceased to be a capital offense.

The act therefore limits prosecutions now to three years in cases of treason and piracy.

The act approved July 17, 1862, provides—

"SEC. 1. That every person who shall hereafter commit the crime of treason against the United States and shall be adjudged guilty thereof shall suffer death" or be imprisoned for not less than five years and fined." &c.

"SEC. 2. That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States or the laws thereof, or shall give aid and comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a

fine not exceeding \$10,000, and by the liberation of all his slaves, if any he have; or by both of said punishments at the discretion of the court."—12 *United States Statutes*, 589.

There is no repeal in terms of the act of 1790.

The act approved July 31, 1861, makes it a fineable offense for two or more persons to conspire together to overthrow, put down, or destroy by force the Government of the United States, or to levy war against the United States, or to oppose by force the authority of the Government, &c. (12 *Statutes*, 284.)

The actual hostilities which opened the war of the rebellion commenced in April, 1861, so that there were many "overt acts of treason" prior to the acts of July, 1861, and July, 1862, and prosecutions for which are now barred under the act of 1790. The act of 1790 also limits prosecutions for treason under the act of July 17, 1862, since the limitation of three years in the former act applies to all cases of treason, whether defined by that or any subsequent statute.

The bill now under consideration (H. R. No. 684) declares:

That so much of section thirty-two of an act for the punishment of certain crimes against the United States, approved April 30, 1790, as provides that no person or persons shall be prosecuted, tried, or punished for treason or other capital offense unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offense shall be done or committed, shall be, and is hereby, repealed. And all persons who have been or may be guilty of treason or other capital offense may at any time be indicted, tried, and punished therefor.

I am instructed by the Committee on the Judiciary to report this bill to the House with an amendment to come in at the end of it, as follows:

*Provided*, That nothing herein shall apply to crimes the prosecution of which is already barred by the provision herein repealed.

If this amendment shall be adopted and the bill passed and approved the effect will be that in all cases of treason and piracy, in which prosecutions are already barred by the act of 1790, no prosecution shall ever be commenced, and of course the guilty offenders will forever escape all punishment. That is, every act of piracy and every overt act of treason committed three years ago or more will escape prosecution and punishment.

If the amendment shall not be adopted, but if the bill be passed and approved in its original shape, assuming it to be valid, then pirates and traitors will simply stand upon the same footing with willful murderers under the statute; that is, they may be prosecuted and punished at any time when the evidence can be procured and the population of the rebel States shall be sufficiently loyal to render the administration of the law practicable.

The Judiciary Committee have not instructed me to recommend this amendment, but only to report it, to test the sense of the House.

Two questions therefore are presented for determination:

1. Shall the three years' bar against prosecutions be removed as to piracy and treason already fully barred, or if it shall not, then,

2. Shall the bar of three years be repealed as to acts of piracy and treason where the limitation is running, but is not yet run out.

I will present my views on these questions briefly and in the order stated.

Questions of expediency and of constitutional power are involved in the proposition to restore the right of prosecution in cases already barred.

Under ordinary circumstances no one perhaps would desire to interfere in such cases, for it is undoubtedly correct, as a general proposition, that even the errors of existing laws should be remedied by changes prospective in their operation.

No one now desires many sacrifices of life, even for the treason and piracy of that greatest of all great crimes, the late rebellion.

But Jefferson Davis at least should not escape the punishment due to his great crime. I agree, in part at least, with the late Attorney General Speed that—

"It is the plain duty of the President to cause crim-

inal prosecutions to be instituted before the proper [civil] tribunals, and at all proper times against some of those who were mainly instrumental in inaugurating and most conspicuous in conducting the late hostilities. I should regard it as a direful calamity if many [some few at least] whom the sword has spared, the law should spare also."—*Letter to President*, January 4, 1866.

No traitor has ever yet been punished in the United States. The opinion has become quite prevalent that it is only a political offense, indulged in by respectable gentlemen, and should be exempt from punishment, which is only designed for more humble offenders. If this be so, then abolish your treason statutes forever, and let your books no longer emblazon the lie that treason is a crime, when your practice says it is none. Ours is the only country where treason is made respectable by exemption from all punishment. I maintain that it is expedient, that it is alike the dictate of justice and sound policy to restore the right of prosecution, even in cases already barred, for many reasons, and among them these:

1. It is against the general policy of the law, universally maintained by all publicists, that any right of the Government, either in the prosecution of great criminals or in the assertion of civil rights, should be speedily defeated, thus giving immunity to crime in its worst forms.

2. The rebellion took possession of eleven States and rendered prosecutions impossible until its suppression; and even since then the disloyal condition of the people in most of those States has in fact made it impracticable to prosecute. The act of 1790 only contemplated in its general spirit and purpose a limitation of three years, when all the courts were open and trials were practicable.

3. Unless the right of prosecution is restored most if not all the traitors will be exempt from the death penalty for treason, and will only be liable to a fine not exceeding \$10,000 and imprisonment for ten years, because it has been solemnly decided that for every act of treason since July 17, 1862, which consists in assisting or engaging in the rebellion or giving aid thereto, no punishment but fine and imprisonment can be inflicted. And, as every act of treason prior to that time and for more than a year and a half later is already barred by the three years' limitation, no traitor can be punished except by fine and imprisonment, as the law now stands, if the decision to which I have referred be sustained. In support of these propositions I will present some authorities.

Every statute of limitations which defeats a right of the Government is against the policy and the wisdom of the common law. It was long ago ruled—

"That the king has a prerogative *quod nullum tempus occurrit regi*, and therefore the general acts of limitation, or of pendency, shall not extend to him."—11 *Co.*, 68-74 b.; *S. C.*, 1 *Roll. R.*, 157.

And Angel, in his work on Limitations, says:

"It has been considered, that in all representative governments" "the reason for this doctrine is at least equally cogent here as in England."

And in *People vs. Gilbert*, 18 Johnson Reports, 228, Woodworth, Judge, declared that, on the ground of expediency and public convenience, it was a necessary principle, and that hence the rights of the Government could not be barred, even by a statute, unless specially named.

Then again the right of prosecution must be restored or Jefferson Davis and all his coconspirators may, and under the ruling of one of the judges of the Supreme Court probably will, escape only with fine and imprisonment.

In the case of *The United States vs. Chapman*, tried October, 1863, in the United States circuit court for the northern district of California, before Justices Field and Hoffman, the defendants were indicted under the second section of the act of July 17, 1862. The indictment charged that defendants did traitorously engage in and give aid and comfort to the rebellion by fitting out an armed schooner with intent that it should be employed in the



service of the rebellion to cruise on the high seas and commit hostilities upon the citizens, property, and vessels of the United States.

Mr. Justice Field, in his charge to the jury, said:

"In 1790 Congress passed an act fixing to the offense the penalty of death. By the first section of the act of July, 1862, Congress gave a discretionary power to the courts to inflict the penalty of death or fine and imprisonment, providing that in either case the slaves of the party convicted, if any he have, shall be liberated. The second section of the act declares 'that if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States or the laws thereof, or shall give aid and comfort to any such existing rebellion or insurrection and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding \$10,000, and by the liberation of all his slaves, if any he have, or by both said punishments, at the discretion of the court.'"

"There would seem upon a first examination to be an inconsistency between the first and second sections of this act—the first section declaring a particular punishment for treason, and the second declaring, for acts which may constitute treason, a different punishment. It appears from the debate in the Senate of the United States, when the second section was under consideration, that it was the opinion of several Senators that the commission of the acts which it designates might, under some circumstances, constitute an offense less than treason."

"But we are unable to conceive of any act designated in the second section which would not constitute treason, except perhaps that of inciting to a rebellion. If we lay aside the discussion in the Senate, and read the several sections of the act together, the apparent inconsistency disappears. Looking at the act alone we conclude that Congress intended—

1. To preserve the act of 1790, which prescribes the penalty of death in force for the prosecution and punishment of offenses committed previous to July 17, 1862, unless the parties convicted are accused under the act of the latter date for subsequent offenses.

2. To punish treason thereafter committed with death, or fine and imprisonment, in the discretion of the court, unless the treason consist in engaging in or assisting a rebellion or insurrection against the authority of the United States, or the laws thereof, in which event the death penalty is to be abandoned, and a less penalty inflicted. By this construction the apparent inconsistency in the provisions of the different sections is avoided and effect given to each clause of the act. The defendants are therefore in fact on trial for treason without being liable in case of conviction to the penalty which all other civilized nations have awarded to this the highest of crimes known to the law."

And the court say that the acts charged in the indictment constitute a "levying of war," and are therefore "treason" in fact; though as the second section of the act of 1862 uses other words, it is sufficient if the indictment follows the words of the act without specifically using the terms "levying war."

I do not wish to be understood as indorsing the opinion of the learned justice, that if treason consists in "engaging in rebellion" it is only punishable under the second section of the act of 1862.

It is the duty of courts to give effect to the legislative intent, and it is conceded that the opinion of Senators when the second section of the act of 1862 was under consideration was—

"That the commission of the acts which it designates might under some circumstances constitute an offense less than treason."

I am equally well aware that the legislative intent, where it is palpably manifest from the letter, spirit, and general purpose of the statute, cannot be controlled by evidence *aliunde*, either from the debates or otherwise.

But, inasmuch as every case of treason was made punishable by the act of 1790, and by section one of the act of July, 1862, without subtraction or diminution, it would seem to me that it is unreasonable to suppose that section two of the latter act covered any case of treason, and this section should therefore be construed as applicable only to "offenses less than treason," as the Senators enacting it declared. I must be permitted to say, with the most profound respect for and deference to the opinion of a justice so distinguished, that it seems to me much more reasonable to hold that whenever the act of "engaging in rebellion" amounts to "treason" it is punishable as treason, rather than to hold, as the distinguished Justice Field has done, that if admitted "treason" consists in "engaging in rebellion" it can only be held criminal as rebellion.

It is the duty of the court by a well-known rule of interpretation to give effect to all parts of a statute; but in doing this there is no reason why "treason" should be merged and lost in the less crime of rebellion than that rebellion when it consists of admitted treason should not be held and punished as treason.

And if the same criminal acts palpably constitute both "treason" and "rebellion" the Government may have an "election of remedies;" the right to prosecute for either according to the character, position, legal and moral criminality of the offender, and the necessities of the case. The law-making power may prescribe cumulative punishments, giving the Government an election to pursue some one of them.

The most philosophical and learned writer on American criminal law asserts on high authority that—

"If a new statute creates an offense with aggravations not embraced in the old law, and creates a higher penalty, or omits some aggravating quality and provides a lower penalty, or if it is applicable to a particular class only of persons who owe particular duties in the matter, the new punishment does not supersede the old."—1 *Bishop, Criminal Law*, 99, 208.

And again, he says:

"There may be several concurrent remedies 'of a different nature' for one offense, carrying with them their respective penalties, and each may stand, penalty and all, without conflicting with the others."—1 *Bishop, Criminal Law*, 97.

But the fact that a justice of the Supreme Court has made the ruling to which I refer should admonish us that it is possible, if not probable, as the Supreme Court is constituted, that the greatest of all great criminals now will be held only subject to fine and imprisonment. For this reason we should restore the right of prosecution for overt acts of treason committed prior to July 17, 1862, so that adequate punishment may be inflicted on the chief conspirators of the great rebellion. The constitutional power to restore the right of prosecution after it is barred I regard as entirely clear.

In the hurried examination I have given this subject I do not find that this precise question has ever been made or decided by the courts. But on principle and by way of analogy it must be so.

The same traitors who planned the assassination of the late lamented President Lincoln might in one or all of the judicial districts assassinate the judges, or by violence or terror, as now in the rebel States, intimidate grand and petit juries and defeat all prosecutions for more than three years. Yet shall this peril be invited by a concession of legislative impotency to restore the right of prosecution?

In principle and independently of the Constitution there can be no difference between the effect of the bar of a statute of limitations in civil and criminal cases. The inhabitants of a State in rebellion may owe a hundred millions to creditors in a loyal State, and yet if the rebellion should obstruct the courts and the collection of debts until the limitation had expired is the law powerless to restore the remedy?

All the authorities agree that there is a distinction between the right of action and the remedy to enforce it; between the crime and the public right of redress by prosecution.

A right of civil action may exist, as, for instance, the debt evidenced by a promissory note, and yet there may be no remedy to recover it, either because the law has provided no court in which to sue, or because the time has passed by within which by a statute of limitations an action may be brought. Now, in either of these cases the debt may still exist long after the remedy is lost. A party having committed murder or treason still continues guilty of the crime, even after the statute has declared that no prosecution shall be had therefor.

Story, in his *Conflict of Laws*, says:

"It may be important, then, carefully to distinguish between cases where the statute of limitations is strictly a mere bar to the remedy and cases where it goes directly to the extinguishment of the debt, claim, or right."

And Angel says:

"The difference between the obligation of a contract and the remedy to enforce it is that they originate at different times."—*Limitations*, page 18, section 11, chapter 2.

There is no such thing as a vested right in any particular remedy."—1 *Bishop Criminal Law*, section 104; *Commonwealth vs. Commissioners*, 6 Peck, 501.

Now I concede that the law-making power could, in the absence of any restraining constitutional provision, provide in a limitation statute that, after a given length of time, a right of action or a right to property in the claimant should cease and vest in the debtor or occupant. This has been done by statute. (So in Jamaica, *Story, Conflict of Laws*, section 582; 17 Vesey, Jr., 87, note; *Lincoln vs. Battle*, 6 Wend., 475. So Connecticut, Act of 1822, Digest R. I. Laws, pages 363, 364, edition 1822; Ersk. Inst., B. 3, title 7, sec. 1; *Newby vs. Blakeley*, 3 Hen. & Mun. R., 57; *Brent vs. Chapman*, 5 Cranch, 358; *Shelby vs. Grey*, 11 Wheaton, 361, 372; 11 Pick., 86; *Dudley vs. Ward*, Ambler's R., 118; 3 Johns. Ch. R., 190, 218; *Gallis R.*, 371, 372; 2 Mason R., 151; 5 Clark & Fennell R., 1, 17.) And I will not say that a similar effect might not be given to the limitation of prosecutions for crime by declaring that after a time the act previously criminal should cease to be so, thus giving an effect equal to that of a pardon. But here there is no such question. The act of 1790 does not undertake to wipe out the crime, but only to say that after three years no person shall be prosecuted; that the remedy shall not be pursued. The very fact that the Congress of 1790 did not exercise the high power they held of declaring that after three years the overt acts constituting treason through that limited period should thereafter cease to constitute crime is high evidence that there is a reserved power to restore the remedy while the overt acts continue criminal. In all such cases the suspended remedy is within the control of the law-making power and may be restored.

A question analogous to this came before the supreme court of Ohio in *Johnson vs. Bentley*, 16 Ohio Reports, 100. By a statute of 1816 unincorporated persons are prohibited from banking, but their notes issued are not void. A statute of 1824 enacted that courts should not entertain any action upon bank notes issued by unincorporated bankers, but this was repealed in 1840.

Between 1816 and 1824 Bentley and others, unincorporated bankers, issued bank notes, and in 1846 the plaintiff sued to recover on such notes. The opinion of the court was delivered by Judge Read, who said:

"After the passage of the act of 1824 there was a liability without a right of action to enforce it. The remedy was denied; it has been restored by a repeal of the act denying it. This is, then, a case of mere suspended remedy, and the Legislature has the full power to restore it."

(See *Lewis vs. McElvain*, 16 Ohio Reports, 347; *Trustees vs. McCaughey*, 2 Ohio State Reports, 152.)

Retrospective laws were not then prohibited by the constitution of Ohio. Congress has repeatedly sanctioned such laws. (*Satterlee vs. Matthewson*, 2 Peters, 380; *Charles River Bridge vs. Warren Bridge*, 11 Peters, 420; *Webb vs. Den*, 17 Howard, 576; *Wilkinson vs. Leland*, 2 Peters, 627, 16 Peters, 294; *Watson vs. Mercer*, 8 Peters, 38. See *Woart vs. Winnich*, 3 New Hampshire, 473.)

There is another class of cases which, by way of analogy, establishes the power to restore the remedy.

In *Bulger vs. Roche*, 11 Pickering Reports, 36, the remedy on a cause of action was barred by the local law of Nova Scotia, where both parties resided during the whole period of the running of the statute of limitations.

"The supreme court of Massachusetts held that the right of action after a change of domicile of the defendant by a removal to Massachusetts was not thereby extinguished in the State tribunals; but might be pursued within the period by the statute of limitations of Massachusetts."

In other words, that the *lex fori* governed without regard to the *lex loci contractus*, and the foreign limitation only operated on the remedy,

and that not *extra territorially*. (Byrne vs. Crowninshield, 17 Mass. R., 55; LeRoy vs. Crowninshield, 2 Mason R., 151; 10 Barn. & Cres., 903; 2 Bing. N. C., 209; 3 Johns. Ch. R., 219; 9 Mart. R., 526; 3 Bing. Comm. on Col. and For. Law, part 2, chap. 10, sec. 5, p. 124; Story, Conf. Laws, sec. 581; Dudley vs. Warde, Ambler R., 113; McElmoyle vs. Cohen, 13 Peters R., 327; Angel on Limitation, 62, chap. 8; 1 Cowan, N. Y. R., 402; Andrews vs. Heriot, 4 Cowan, 528. But see Don vs. Lippman, 5 Clark & Fennell R., 117; Story on Conf. Laws, sec. 582; Beckford vs. Wade, 17 Vesey, Jr., note; 22 Alabama, 631; 5 Maryland, 256; Newby vs. Blakeley, 3 Hexn. & Müm. R., 57; Brent vs. Chapman, 5 Cranch R., 358; Shelley vs. Grey, 11 Wheaton R., 372; Huber vs. Steiner, 2 Bing. N. C., 211.) This question is now before the Supreme Court of the United States.

Now all this proceeds upon the idea that the remedy is subject to the legislative power at the time an action or prosecution may be instituted, notwithstanding the right of action may have been previously barred.

But now I come to a class of cases more directly in point and more conclusive in their character. The statute of limitations may take away the right to prosecute for crime. In such case it is taken away by law. On principle and in effect it can make no difference whether a right of prosecution is taken away by a limitation law or any other law. Yet it has been again and again solemnly decided that a right of prosecution utterly taken away and extinguished by law may be restored by law, and that the restoring law is not *ex post facto*.

The repeal of a criminal statute without any saving prevents all future prosecutions under the repealed law, including crimes committed prior to the repeal. (1 Bishop, 103.) But in such case, says Bishop in his excellent work on Criminal Law, (volume I, section 105:)

"Where after the old law has been repealed the Legislature by subsequent act authorizes the proceedings, as by repealing the repealing statute, in every such case, and though the right to prosecute should have once lapsed a conviction may be had. The statute that repeals the law under which a prisoner committed an offense 'operates, in the language of Wilde, J., 'only as a suspension of his liability and not in the nature of a pardon.'—Commonwealth vs. Getchell, 16 Pickering, 452, (contra Roberts vs. State, 2 Overt, 423.) Com. vs. Mott, 21 Pick., 492; see Van Valkenburg vs. Torrey, 7 Cowan, 252, 255; State vs. Dunkley, 3 Iredell, 116; Dawson vs. State, 6 Texas, 347; McMullen vs. Guest, 6 Texas, 275.

"A statute creating a new court or giving jurisdiction to an existing one to try offenses previously committed is not *ex post facto*."—Commonwealth vs. Phillips, 11 Pick., 28; Perry vs. Commonwealth, 3 Gratt., 632; Baughner vs. Nelson, 9 Gill., 299.

This authority is conclusive and unanswerable as applied to the question now under consideration. But it is supported by still other analogies. The constitutional prohibition against laws "impairing the obligation of contracts" is no less sacred than that against *ex post facto* laws. The remedy is as completely within legislative control in reference to the one class of laws as the other. Yet the Supreme Court of the United States, in discussing the constitutional prohibition against laws "impairing the obligation of contracts," used this language:

"Undoubtedly a State may regulate at pleasure the modes of proceeding in its courts in relation to its past contracts as well as future. It may, for example, shorten the period of time within which claims shall be barred by the statute of limitations."

"Whatever belongs merely to the remedy may be altered according to the will of the State, provided the alteration does not impair the obligation of the contract."

(Per Tancy, C. J., Bronson vs. Kinzie, 1 Howard, 315; Sedgwick on Statutory Law, 133, 192, 200, 643, 650, and cases collected.)

It may with equal propriety be said of laws affecting the remedy for crime, that—

"Whatever belongs merely to the remedy may be altered according to the will of the State."

And when we come to consider the definition of an *ex post facto* law it will be found that no definition ever given excludes the legislative right to restore the remedy by prosecution in cases where it is already barred.

An *ex post facto* law is defined by Blackstone thus:

"When after an action [indifferent in itself] is committed, the Legislature then for the first time declares it to have been a crime and inflicts a punishment upon the person who has committed it."—Com., 46.

This was the definition referred to in the debates which framed the national Constitution. (3 Madison Papers, 1399, 1450, 1579. Carpenter vs. Pa., 17 Howard R., 463.)

In Colder vs. Bull, 3 Dallas, 390, Chase, J., discusses the question, what is an *ex post facto* law? and he remarks:

"Literally, it is only that a law shall not be passed concerning and after the fact or thing done or action committed."

"I will state what laws I consider *ex post facto* within the words and intent of the prohibition:

"1. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal, and punishes such action.

"2. Every law that aggravates a crime, or makes it greater than it was when committed.

"3. Every law that changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed.

"4. Every law that alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense, in order to convict the offender.

"All these and similar laws are manifestly unjust and oppressive."

In that case it appeared that the Legislature of Connecticut passed a law in May, 1795, which set aside a decree of the court of probate for Hartford and granted a new hearing by the court.

The court held that the constitutional prohibition against the enactment of *ex post facto* laws had reference only to crimes.

But the justice delivering the opinion makes a remark which shows that a law to be *ex post facto* must relate to or affect the criminal act at the time of its commission. He says:

"In the present case there is no fact done by Bull and wife, plaintiffs in error, that is in any manner affected by the law or resolution of Connecticut; it does not concern or relate to any act done by them. The decree is the only fact on which the law operates."

This definition of Mr. Justice Chase is the most comprehensive, exhaustive, and complete ever given. It is adopted by Story and Kent and every author and jurist of any repute in this country.

If I am correct in the position that the remedy may be restored after it has been once barred, it will follow of course that while the statute is running the period of limitation may be enlarged or altogether taken away. Of this there can be no doubt whatever. The only pretext for denying the power of the Legislature to interfere with the remedy is, that it cannot create a right or reinvest a right already completely extinguished. (Bulger vs. Roche, 11 Peck, 36.) But no right is extinguished or lost while the statute is running.

The right to change the limitation in such case is fully recognized in the authorities collected in a note to section twenty-two of the recent edition of Angel on Limitations, which I will read, as follows:

"A statute of limitation may well apply to contracts in existence at the time of its passage, provided a reasonable time be allowed before the statute takes effect or the debt is barred within which creditors may institute their actions. (Pierce vs. Toby, 5 Met. (Mass.), 168; Patterson vs. Gaines, 6 How. (U. S.), 550; Pearce vs. Patton, 7 B. Mon. (Ken.), 172; Sleeth vs. Murphy, 1 Morris, (Iowa), 321; West Fel. Railroad Co. vs. Stockett, 13 S. & M. (Miss.), 375; Beal vs. Nason, 2 Shep. (Me.) 344; Bank of Alabama vs. Dutton, 9 How. (U. S.), 522; Webster vs. Cooper, 14 How. (U. S.), 488; Winston vs. McCormick, 1 Carter, (Ind.), 56; Pritchard vs. Spencer, 2 id., 436; De Cordova vs. Galveston, 4 Texas, 470; Gilman vs. Cutts, 3 Foster, (N. H.), 376; Willard vs. Harvey, 4 id., 344; Slater vs. Cave, 3 Ohio, (N. S.), 30; Briscoe vs. Anketell, 28 Miss., 6 (Cush.); 36; State vs. Clark, 7 Ind., 468.) It has been held, however, in Arkansas that the statute of 1844 does not apply to causes of action which had accrued at the time of its passage. (Calvert vs. Lowell, 5 Eng. (Ark.), 147; Morse vs. McLendon, id., 512.) So also in Kentucky, as to the effect of the revised statutes where the right of action had accrued previous to their passage. (Ashbrook vs. Quarle's Heirs, 15 B. Mon. (Ken.), 20; and see also Didier vs. Davidson, 2 Barb. (N. Y.) Ch., 477; Williamson vs. Field, 2 Sand. (N. Y.) Ch., 533; Thompson vs. Alexander, 11 Ill., 54; Brown vs. Wilcox, 14 S. & M. (Miss.), 127; Boyd vs. Baringer, 23 Miss., (1 Cush.), 269; Paddleford vs. Dana, 14 Miss., 517; Clemens vs. Wilkinson, 10 id., 97; Gordon vs. Mounts, 2 Greene, (Iowa), 343; Hinch vs. Weatherford, id., 244; Dickerson vs. Morrison, 1 Eng. (Ark.), 264; Lucas vs. Tunstall, id., 443.)

"But a statute extending the time of limitation will not revive cause of action already barred under pre-existing statutes. (Wright vs. Oakley, 5 Met. (Mass.), 400; Joy vs. Thompson, 1 Dory, (Mich.), 373; Hawkins vs. Campbell, 1 Eng. (Ark.), 512; Couch vs. McKee, id., 384; Walker vs. Bank of Mississippi, 2 id., 561; Clark vs. Bank of Mississippi, 5 id., 512; Bobb vs. Harlan, 7 Barr, (Penn.), 292; Forsyth vs. Ripley, 2 Greene, (Iowa), 181; McKinney vs. Springer, 8 Blackf. (Ind.), 506; Davis vs. Miner, 1 How. (Miss.), 180; Stopp vs. Brown, 2 Carter, (Ind.), 647; Wires vs. Farr, 25 Vt., 41.) If, however, the cause of action be not already barred, the statute extending the time will apply. (Winston vs. McCormack, 1 Smith, (Ind.), 9. And see Royce vs. Hardy, 24 Vt., (1 Deane), 620; Henry vs. Thorpe, 14 Ala., 103; Cox vs. Davis, 17 id., 714.) In Louisiana it is held that where there is a change in the limitation the time prior to the change is reckoned according to the law then in force, and the subsequent time according to the new statute. (Deaf vs. Patterson, 12 La. Ann. R., 728.)"

And now I submit to the House that the constitutional power to restore the right of prosecution already barred and the expediency of its exercise is established beyond controversy.

It will have a salutary effect if it shall be understood that this is one of the latent powers of Congress.

One of the great errors, not to say one of the great crimes of Andrew Johnson, has been and is that he has encouraged the rebels to believe that they are already restored to all their rights and have no sins for which they should atone.

The consequence has been and is, that the leading spirits of the rebellion, feeling the restraints of punishment removed, are defiant and insolent. Aided by the President, they have organized the forms of State governments in defiance of law, without consulting Congress, the only competent authority.

They have gone through the forms of electing rebels, who assume to be Senators and Representatives entitled to seats in Congress, in utter disregard of the law prescribing a "test oath." (Statute United States, page 502; act of July 2, 1862.)

These aspirants insolently demanded admission to these Halls while their hands are yet red and dripping with the blood of their victims, our murdered brethren. The spirit of rebellion and disobedience is as rife to-day in most of the rebel States as it was when the last rebel army surrendered. If some few of the great leaders can be made to understand that they are yet liable to the penalties of treason and that they may be candidates for these rather than for positions to make laws for loyal men, it will have a salutary effect in the way of inspiring respect for the law and obedience to its requirements.

The learned gentleman from Rhode Island [Mr. JENCKES] has said that—

"If there is any offense for punishment or prosecution to which a statute of limitation should be passed it is of that class denominated political offenses, of which treason is the highest."—Speech, December 12, 1866.

Rebellions have generally been against despots, to relieve people ground down by tyranny and to secure the rights of men. For such political offenses every generous impulse demands clemency and repose. But for the political offense of treason in a Government of the people like ours there ought to be no such generous humanity, for it is without excuse when the ballot is a sure corrective for all grievances.

I know, sir, that from the very necessity of the case a great rebellion must be followed by a general amnesty. The President has not only issued his proclamation of amnesty for most of those engaged in rebellion, but he has by pardons relieved most of those excepted from the amnesty from all punishments, if his pardons indeed be legal.

The reasons which existed at common law for regarding treason as a political offense, which should escape punishment whenever possible, do not exist here.

"By the ancient common law (says Story) it was left very much to discretion to determine what acts were and were not treason; and the judges" \* \* \* "became but too often instruments" \* \* \* "of injustice." \* \* \* "They had abundant opportunities to create constructive treasons."—2 Story, Const., sec. 1797.

But if a mistaken zeal has perverted the law

in aid of tyranny in other countries and so induced charity for the oppressed, it is no reason why bad men should have the same charity now in an effort to overthrow a "Government guilty of no wrong." To put all rebellion on the same footing is to disparage the moral heroism that combats tyranny and to dignify into respectability the criminal attempt to subvert a free Republic.

A good government here should not fail to execute salutary laws against bad men, because elsewhere bad men have perverted the laws to repress patriotic efforts to establish good government.

But now even in England treason is by act of Parliament a well defined crime. (Stat. 25 Edward III, chap. 2, 1 Hale P. C., 259.)

Our Constitution has expressly limited it to two species and thus "cut off all chances of arbitrary constructions." It can only be proved by "two witnesses to the same overt act or a confession in open court," and the "trial shall be held in the State" where the treason was committed. With these limitations on treason the public security is left vastly more in jeopardy by giving traitors perfect immunity from punishment than by a faithful execution of the law in a few of the most conspicuous and aggravated cases.

The question therefore for us to determine now is, whether all traitors shall escape the punishment awarded to great leaders of conspiracy in every other civilized country of the globe. The gentleman has cited cases of conviction for treason long years after the crimes committed. He might have cited similar cases of convictions for murder; for there is no limitation as to this either in the acts of Congress or in the States of the Union. I know no reason why an humble murderer should continue liable, and a great traitor, the leader of a conspiracy which counts its murders by hundreds of thousands, should escape. If, when we have vindicated the law by making an example, it shall be deemed expedient to prosecute no more, let it be so declared by authorizing amnesty for all, or by a statute of repose.

But as the law now stands, and with the construction given to it, not even one example can be made of any great offender.

And surely if three years limitation was proper when the courts were open and trials practicable, there ought to be three years for prosecution after trials shall become practicable.

The gentleman from Pennsylvania, [Mr. STEVENS,] with his accustomed ingenuity, but not with his usual fairness, spoke of this bill by saying:

"I do not believe that it becomes this nation; I do not believe it is safe for us to undertake to pass laws by which we can or may be able to punish men, however guilty, who could not be punished under the law existing when the crimes were committed."—*Speech, December 11.*

It is enough to say, in answer to this, that the object of this bill is to restore the right to punish traitors "under the law existing when their crimes were committed."

It does not propose to administer any law different from that which existed when the crime was committed. But it simply provides that inasmuch as trials were then and ever since impossible by reason of the continuance of the rebellion, by reason of the continued wrong of the rebels, that they shall not now take advantage of that wrong to escape all punishment.

But the gentleman further—we may suppose for want of any real objection to the bill—sets up a man of straw to combat, and of course demolishes him. He said:

"The Constitution and our laws provide very carefully that especially in the case of treason the party charged with that crime must be tried at the place where the overt act was committed, in a district previously ascertained by law, and by a jury from that bailiwick. Now any law which professes to change that in any respect looks to me so much like an attempt to commit judicial murder that I have always been afraid to attempt it."—*Stevens's speech, December 11.*

I was quite as well aware of the constitutional provision referred to as my distinguished and

venerable friend, [Mr. STEVENS,] but as this bill does not relate to the place of trial, which he finds so amply protected by the Constitution, his remarks which I have just read have no relation to the subject under consideration.

Again, the gentleman used this language:

"I am aware that the traitors in the South, if tried under our existing Constitution and laws, will not one of them be convicted. I should never attempt to try them for treason; I would try them as belligerents, under the law of nations and the laws of war."

I am happy to find the gentleman agreeing with me that a few at least of the traitors have been guilty of something for which they should be tried.

As he is in favor of a trial by court-martial "under the law of nations and the laws of war," I take it for granted he is in favor of punishment. He does not indulge the humane sentimentality that punishment should be meted out to small offenders and that great traitors should go unpunished.

But in courts-martial there is no venue, and traitors, if triable as belligerents under the laws of nations and the laws of war, could be tried out of the district or State where the crime was committed. Whether that would look like an "attempt to commit judicial murder" I leave the gentleman's speech to answer for itself.

But the gentleman's plan of trial is impracticable.

No one knows better than he that Andrew Johnson will neither authorize nor permit it, and on this question his decision is final.

The late Attorney General Speed, in an able opinion dated January 4, 1865, decided that military tribunals can not—

"exist except in time of war, and cannot then take cognizance of offenders or offenses." \* \* \* "except offenders and offenses against the laws of war." (See Lawrence's speech in Congress, February 5, 1866.)

Such tribunals cannot punish for treason at all, but only for military offenses during "actual hostilities" or during that "state of war" which may exist afterward. During a great rebellion the Government by its military power may crush conspiracy and execute conspirators wherever found where the "*salus populi*" imperatively demands it, and no decision of the Supreme Court will ever in practice arrest the exercise of this power. (See *ex parte* Milligan, Supreme Court United States, December, 1866.) The war power will not wait until conspiracy has subverted the civil authorities to see if it is prudent to interfere.

The gentleman from Pennsylvania [Mr. STEVENS] further said to the House:

"Now, it does not follow that every traitor will escape who is not prosecuted within three years of the time of the commission of the offense. The statute of limitations never runs in any case unless it is possible to enforce the remedy; it only runs from the time when it was possible to enforce it."

I must be permitted to differ with my venerable friend, learned as I know him to be in the law, but in this instance I fear his law is even worse than his logic.

Section thirty-two of the act of 1790 affixes a limitation of three years on prosecutions, but there is this proviso:

"Provided, That nothing herein contained shall extend to any person or persons fleeing from justice."

It so happens that John C. Breckinridge and others did not flee the country until long after the act of July 17, 1862, nor until all treason prior to that date was barred.

As to treason not barred, he and other fugitives would be liable to indictment and to fine and imprisonment only, if the ruling of Mr. Justice Field be correct.

But there is no statute and no principle of the common law which announces the general principle stated by the veteran statesman from Pennsylvania, [Mr. STEVENS.]

Again, the gentleman said in the same connection:

"But whether that be so or not, still during the time of war, during the prosecution of the war, the crime continued; it was a continuing offense, and the offense continued up to the time when peace shall be proclaimed, which it never yet has been."

Certainly, Mr. Speaker, the gentleman could

not have considered the words he used. He is too much of a lawyer to assert that overt acts of treason committed five years ago are not barred by the three years limitation of the act of 1790, because the rebellion was continuous.

The authorities are against the position. (Wharton's Precedents, 1117; 2 Chitty's Criminal Law, 67; Bishop's Criminal Procedure, sec. 978, 982.)

"An overt act must be alleged and proved."—3 Greenleaf's Evidence, sec. 240.

"Laying several overt acts in a count for high treason is not duplicity."—Archbold's Criminal Pleadings and Evidence, 13, London edition, 54; 1 Bishop's Criminal Procedure.

"The evidence must be confined to the overt act or acts laid in the indictment."—3 Greenleaf's Evidence, sec. 241.

And Bishop in his Criminal Procedure says:

"From this principle it might seem to follow that if taking the time alleged in the indictment to be the true time, the offense is barred by the statute of limitations, the indictment will be adjudged insufficient."—Section 256.

Traitors and their sympathisers would not favor this bill. It may find opponents in the ranks of loyal men. But I warn gentlemen that the time for universal amnesty has not yet come. This House expressed that opinion on the first day of the session. This bill alone can prevent the speedy coming of what is equivalent to universal pardon and amnesty—the end of all prosecutions.

Let the country take notice that he who votes against this bill or to modify it votes against merited punishment for the great leaders of the rebellion. Such ill-timed clemency is a crime against the Constitution, the majesty of the law, and the matured judgment of the loyal people of this Republic.

Mr. NEWELL. Mr. Speaker, I propose to submit a few remarks for the consideration of the House upon the annual message of the President of the United States.

In doing so allow me to call attention to the importance of the issues decided in the great political contest which agitated and almost convulsed the northern States during the recess of the present Congress. Those issues were not less momentous than the war itself. That, indeed, decided a question of mere physical superiority; those decided questions of political principle, which are to be the bases of our future prosperity. Whatever we may say of the prowess and perseverance of our people during the war, (and they were such as to attract the admiration of the world to our gallant armies,) we must admit that their conduct all through the late trying political campaign was so admirable as to extract unwilling praises even from the enemies of the country. That political contest was the most trying test ever imposed upon the principle of self-government; and so well did the people endure it that the most devoted worshippers of monarchical or despotic systems of government have been compelled to acknowledge that the strain was not too much for our institutions. Indeed, one of these gentlemen, on a visit to this country, in a speech delivered in this city a few weeks since, is reported to have put off the trying period of our institutions for at least a century. We thank him for his long respite, and only hope his descendants will do us a similar favor, and as graciously, when they find his promised period of dissolution is as far off as ever.

The military contest, I remarked, only decided a question of military superiority or inferiority; but the political, a question of social and material well-being. Consequently the importance of the latter cannot be overrated. Let me call attention to a few points bearing upon that importance.

Previous to the late war and the political contest just terminated, questions regarding rights of the States as opposed to those of the General Government were constant sources of dispute, which time and again threatened the existence of the Government. Those contests continued from the formation of the Government to the present day. Their results were as generally unfavorable to the continuance of such a degree of authority in the cen-



tral Government as was compatible with its existence in case of the secession of one or more of the States. The gentleman who occupied the executive seat at the outbreak of the rebellion even questioned the right of the General Government to provide for its own safety in case of such secession. In this view he was sustained by many able men in his own party, who subsequently took part with the Union in the armed conflict, and by nearly all that party in both sections of the country. So far as political force availed, the victory at that dark and doubtful period was with the enemies of the General Government and in favor of the so-called rights of the States. Many leaders of both political parties wavered. The politicians apparently had been so indoctrinated with the prevailing heresy of State rights that it became a question with them whether we really were a nation or a mere confederacy of States, liable to be dissolved at any moment through the ambition of some powerful sectional politician acting upon the prejudices of the people under his immediate influence.

We were almost in that condition which marked the period of the dissolution of all republics, and indeed of all nations. We were about to be resolved into our original elements. Then what saved us from such a frightful catastrophe? Simply the instinct of national preservation in the great heart of the American people. That instinct was superior to the situation. It rose above the doubts and fears of politicians; as if the will of the Almighty himself was behind it urging it on to save the country from destruction it rushed to the rescue of the Government. It not only appalled the enemy but it strengthened the friends of the Union. In the darkest hour of disaster it never once flinched from its original purpose. It was the people that saved the Government during the war. It was the people also that saved it during the late political contest. As they determined by the war that this country should be a nation, so they determined by the late political contest that no party chicanery, that no dictation of men in power, even supposed to be originally for the Union could snatch the fruits of the war from their hands.

This much was so emphatically decided that he must be a madman or a traitor who doubts it. Look at the influences brought to bear against the people in the late contest! The whole executive power and patronage of the Government, now swelled to appalling proportions, were thrown into the hands of the enemy, so lately humbled and subdued on the field of battle. Every artifice that a long acquaintance with political management and an unscrupulous use of political corrupting influences could bring to bear to swerve the people from their purpose was resorted to. The Executive himself, with unblushing effrontery and a total disregard of the amenities and requirements of his high station, descended into the political arena and sought to bully the masses of the people into submission to his autocratic will. Such an exhibition of political violence as was displayed in that pretended monumental tour never before disgraced the country, and for the honor of human nature and the credit of republican institutions I pray God never will again. In the mean time, in every department of the Government the political ax was descending upon the heads of men too honest to be corrupted and too patriotic to sell their principles for place. A reign of political terror swept the land from one end to the other, in the midst of which the Executive, by his free pardons to rebels and more by promises of what he would do in the future, was paving the way for the return of the lately defeated rebels to all the political power and to a higher than the political status they had so lately forfeited.

But in the midst of all this the people proceeded quietly to discharge their duties as citizens who were determined to preserve to themselves a country; and, as during the late war they proved their prowess upon the battle-field

by the bayonet, so in the late political contest they asserted their supremacy by the mightier weapon of the ballot. By the bayonet they saved us a nation on many a bloody battle-field; by the ballot, in one great and glorious political contest, they preserved that nation for themselves and their posterity forever. American nationality was the all-important question decided by the people in the late contest for political power. The period of that contest will mark the time when the United States entered into the great family of nations, with power equal to if not greater than any other of them all, to make herself feared and respected both at home and abroad. In that contest the Congress of the United States submitted to the people certain propositions for their acceptance, which propositions it considered essential to the future welfare, if not the very existence, of the Republic. After a contest to which, as I have stated, the annals of our political history afford no parallel, the people accepted these propositions, while the opponents of them retired ignominiously from the field. The Executive may yet make a show of resistance to them; but he must now see (and if he does not it is time he should) that such resistance betokens not only a spirit of factious opposition, but a desire to cater to the prejudices and passions of a section of the country whose patriotism must at least for some years to come be looked upon with a considerable degree of distrust. After such a political verdict as that lately rendered by the people, opposition to it takes the form of opposition to the country itself. If any belief remains in the hearts of the opponents of the loyal masses of the ability of the people to govern themselves, they must surely see that in the late elections a higher authority than that of any human law asserted itself—the will of God speaking through His chosen instrument—the voice of the people. Let those in power heed it ere it be too late.

As to the terms of the propositions submitted to and indorsed by the people, they are such as the lately rebellious States should be glad to accept. They are magnanimous on the part of the victors and not humiliating to the vanquished. They deprive but a few leading spirits of the rebellion of their rights, and in their cases the deprivation is confined to rights more nearly approaching the character of privileges than any other enjoyed in a republican form of government. In fact, these terms thus offered to rebels lately in arms tend to elevate rather than depress the people of that section of the country; as they open a way for the gradual incorporation into its body-politic of a class of persons who, under proper instruction and encouragement, may become hereafter as politically as they have heretofore been socially and materially useful. But even in this instance no force is used. The elevation of the subject-class of the South to political rights is virtually left in the hands of those who at present wield sovereign sway. It is left for the latter to say whether they are ready to admit the former to association with them. All the loyal people of the country ask for is security for the future. And is it too much to expect this? In treaties with foreign Powers at the close of the war the victors in all cases ask not only for security for the future, but for indemnity for the past.

The loyal people of the United States magnanimously concede the indemnity; but let not the late rebels be mistaken, for as magnanimously as they concede it so as religiously and determinately will they exact the security. There can be no alternative. If the security is not obtained in the way indicated in the amendments as proposed by Congress, it will be obtained in another, and I am free to say one more in accordance with my own individual ideas of justice and propriety. That other I indicated as long since as the 15th of February, 1866, and consists in the assumption of the right by Congress, by a declaratory act, to pronounce citizenship and suffrage synonymous; in other words, to assert the axiom that every man born on American soil is an Amer-

ican citizen, and as such heir to all the rights, privileges, and immunities of all other American citizens. So that if the rebel States are not willing to concede to the loyal people of the country the least measure of justice to which the latter are entitled, that is, security for the future, the loyal people themselves will seize that security by simply declaring that universal suffrage shall henceforth be the shibboleth of American political brotherhood.

Let these men, then, who by their causeless rebellion have forfeited all their rights of citizenship choose whom they will serve, for there are and can be but few alternatives open to them. These alternatives are, the acceptance of the constitutional amendments, the creation of provisional governments, or the acknowledgment of the God-given right of all men to govern themselves according to the dictates of their own consciences, uncontrolled by any external influences whatever. Either one of these is eminently just. Indeed, if a preference is to be given on the score of justice, it is to that one which is founded on the principles which are the corner-stone of our political edifice. That edifice was erected by the people for the people and their posterity; not by a portion of the people for the benefit of themselves exclusively. Read every word of the Declaration of Independence, and every article of the Constitution, and you will find no distinction or reservation as to the application of the rights there secured to any portion of the people. And this was at a time even when nearly every State held a certain class of its people in bondage.

That fact was ignored to the extent that even when these people were no longer slaves in several of the States they became entitled to the suffrage; they were elevated in all respects, civil and political, to the status of the people among whom they resided. It was only when Judge Taney invented the dogma that by the universal consent and practice of the world at the time the Constitution was formed these persons had no rights that white men were bound to respect, that it was discovered, (because of the existence of slavery in several of the States and for the sake of its security,) it was necessary that these people should be declared citizens by a change in the organic act itself. But that change has been effected, and now there are no subjects in these United States. All are sovereigns, and entitled to sovereign rights. If this were not so, where is the article or articles in the Constitution which provides for the creation of sovereign rights in any person heretofore a subject? There is no such provision. And why? Simply because the Constitution recognizes every man born in the United States as already possessing the rights of sovereignty. There is, to be sure, a provision for naturalization; but that is wholly in the case of subjects or sovereigns of other nationalities. It has no application to our own people. Judge Taney in the *Dred Scott* decision says:

"The Constitution upon its adoption obviously took from the States all power by any subsequent legislation to introduce as a citizen into the political family of the United States any one, no matter where he was born or what might be his character or condition."

Now, then, if the States have no power to elevate any man to citizenship, and Congress has no power to do so except exclusively in the case of aliens, does it not follow that citizenship is the natural, inherent right of every man born on the soil, and that to deprive him of it would be, not only to violate his inherent rights of humanity, but to sap the foundations of the Government itself? Citizenship in the United States is a right, not a privilege. In monarchical or despotic countries it may be the latter, because the king or the emperor claims to rule by divine right, and thus to dispense laws by favor of his gracious will. But in this country all are sovereigns; all are supposed to be governed by laws founded on the principles of eternal justice. No man can give to another any right as by favor. No man can receive from another any privilege as by right.

The moment he does, the nature of the Government becomes perverted and the principles of the Constitution violated.

"In the extract above quoted, Judge Taney speaks of the 'political family of the United States.' Note, he does not say the civil family. It is the political family to which he alludes. His position would not be tenable in any other sense. Now, the question arises, what constitutes that family? The answer is, those born on the soil; those who are taxed for the support of the Government; those who are liable to be called upon to bear arms in its defense; in fine, those who, in every material, moral, and religious sense, are its constituent parts—the units of its aggregate manhood. Every man, then, who is not an alien and who thus refuses allegiance to the Government on the sole ground that he owes it to another, comes within the above category. To deny to him altogether, or to abridge his rights of citizenship, is to violate the Constitution of the United States in its most sacred and solemn characteristics.

"But," say the State-rights interpreters of the Constitution, "a State can make or unmake a citizen of the United States; can limit his rights, privileges, or immunities, or deny them altogether." I deny this assumption *in toto*. A State has no right to deprive a citizen of the United States of any rights he enjoys as such. On the contrary, it is expressly provided in the Constitution that the citizens of every State are entitled to the rights, privileges, and immunities of the citizens of all the States. Hear what Judge Taney says upon this important point in the decision from which I have heretofore quoted:

"And if persons of the African race are citizens of a State and of the United States they would be entitled to all those privileges and immunities in every State, and the State could not restrict them, for they would hold these privileges and immunities under the paramount authority of the Federal Government; and its courts would be bound to maintain and enforce them, the constitution and the laws of the State to the contrary notwithstanding. And if the States could limit or restrict them, or place the party in an inferior grade, this clause of the Constitution would be unmeaning, and could have no operation, and would give no rights to the citizen when in another State. He would have none but what the State itself chose to allow him."

Now, let us look at the Constitution itself. After reciting in the preamble that, "we, the people for ourselves and our posterity" enact certain provisions of law, the first article reads:

"The House of Representatives shall be elected by the people of the several States."

Let our strict constructionists ponder upon this. Can the question of suffrage be delegated to the several States in face of such a positive provision as this? But let us see who are the people of the United States. And here I must again refer my Democratic friends to the Dred Scott decision, in which Judge Taney says:

"The words 'people of the United States,' and 'citizens' are synonymous terms, and mean the same thing."

But I have already shown that a citizen is not made by Congress nor by the States, but is such by his own inherent right of manhood. I have also shown by the Dred Scott decision, and by the Constitution itself, that the citizen of each State cannot be deprived of any right, privilege, or immunity inhering in him in his capacity of citizen of the United States. How, then, can a State limit him in those rights, much less deprive him of them altogether? It can only be done by a misconception and misinterpretation of the organic act, superinduced by devotion to slavery and fostered by monarchical and despotic ideas and prejudices.

But some persons may answer that suffrage is not a right. If it is not a right, I ask what it is? I have shown that there are really no privileges in the United States; but, as if to cover the whole ground and deprive the opponents of the sovereign power of the central Government of all ability to cavil, Judge Taney declares not only that a State has no right to deprive a citizen of the United States of any rights inhering in him as such, but that it has no right to deprive him of any of the privileges or

immunities of a citizen. What can be broader than this language? Does it not cover every ground? Does it not stamp in ineffaceable characters as treason to the Constitution any attempt of any State to deprive a single citizen of the United States of any rights, privileges, and immunities inhering in him as such.

The first article of the Constitution expressly says that the House of Representatives shall be elected by the people of the several States. Now, if a State can step in and say that one of the people within its jurisdiction shall not vote for members of the House of Representatives it has power to say that many or all of them shall not so vote; it has power to say that a citizen shall not vote unless he is worth \$1,000 or \$10,000; that he shall not vote unless he owns a certain quantity of real estate; that he shall not vote unless he owns a certain amount of railroad stock; that he shall not vote unless he can read or write; that he shall not vote unless he can speak French or Spanish or German; that he shall not vote unless he is a Protestant; that he shall not vote because he is a Jew or a Catholic; that he shall not vote because he is black; that he shall not vote because he is white; in fine that he shall not vote on account of any negative or positive characteristic it may be in the power of the State Legislature to enact to be a bar to the exercise of the franchise. How would such legislation comport with the first article of the Constitution? Would it not virtually nullify, if not expunge it from the organic act? Would it not place this House at the mercy of State Legislatures, who at any time might desire to limit its powers or to confine its jurisdiction to such legislation as the said Legislatures, and they alone, might deem to come within the scope of its authority?

But, on the other hand, what is the obvious meaning of the first article of the Constitution? Is it not that the House of Representatives shall be a body entirely independent of the State Legislatures, not deriving any authority from them, nor acknowledging any jurisdiction of them over either its acts or the rights of the people in selecting its members? Congress has no right itself to prescribe the qualifications of those whom it represents. The Constitution does this. Surely it is not the intent of the Constitution to cede away that right to Legislatures elected for mere local and State purposes; to foreign bodies having no authority over its deliberations, and even no right (except the right of enjoying in common with each individual citizen) to question its acts. I contend that State Legislatures have no right to limit the jurisdiction or scope of Congress. Who will contend that they have? But would not the power to limit its constituency or to obstruct it by laws depriving it of any rights enjoyed by that constituency have this effect? It most undoubtedly would. Consequently, admitting the right of the States to limit or virtually to annihilate our constituency, and we admit their right to wipe us out of existence or to narrow down our constituency to limits which would make us the representatives of a mere oligarchy or aristocracy—an oligarchy founded upon race or color, or an aristocracy founded upon wealth or intelligence.

Supposing one of our great railroad monopolies were to obtain control of one of the States, an entirely supposable case, could not its organic act be so altered as to prescribe qualifications for our constituents which would make it impossible to have the great mass of that particular State fairly represented on this floor? In the same manner, suppose other great corporations should combine in other States, and steal away the rights of the people, what would be the result? Why, that this body would be turned into an assembly not representing the people of the United States, but a comparatively few privileged persons, who would be able, for all time to come, to ride booted and spurred upon the backs of the late sovereign people. Is this the consummation that my Democratic friends so ardently desire to see brought about?

The truth is, every nation, every political family has a right in its organic act to fix the status of its component units in a free Government; indeed, this status is fixed by the irreversible laws of justice and right, and cannot be changed. It was regarded as so fixed by the framers of the Constitution. It would have continued to be so regarded by their posterity but for the pestilent heresy of State rights, through which it was sought to enslave a portion of the body-politic for the special benefit of another portion.

In what article of the Constitution is conceded the right of any particular State to limit or abridge the suffrage as respects the constituency of Congress, the people? In no one. On the contrary, the Constitution provides that that suffrage shall be placed on the very broadest basis; nor does it anywhere deny to Congress the right to regulate the manner of the expression of that suffrage within the bounds of the Constitution itself, of course, but totally regardless of the laws of the several States. The States are not represented here but the people; therefore it is to the people under the United States Constitution, not to the States under their constitutions, that we are responsible for our acts. What justice would there then be in handing over the control of the expression of the will of the people whom we here represent to State Legislatures which are created for altogether local and State purposes and necessarily limited in their jurisdiction and prescribed in their action? There would be none whatever. On the contrary, in so acting we would constitute our system of government an anomaly, leaving no foundation in reason or experience, and so obstructive of necessary legislation as to render it incapable of successful working.

I have shown that no State can restrict the rights, privileges, and immunities of a citizen of the United States. Suffrage, instead of being the least, is the most important of these; and why? Because it guards and protects all the rest. It is in fact the covering that overshadows like the wings of the angels of the covenant all other rights. Take it away, and in no despotic Government is a man so bereft of right as in that republic which thus deprives its citizens of the only means by which they can render their servants accountable for their actions. In fact such deprivation reduces the citizen to the necessity of taking up arms in order to reassert his manhood. Thus you prepare the way for revolution hereafter; and revolution which we ourselves have always justified in other nations, on the ground that the fact of their having no voice in their Governments gave them the right to resort to that *ultima ratio* of nations and men which has decided so many political contests, but not without an appalling loss of both blood and treasure. Indeed, the ground of our own revolution was that we were denied a voice in making our own laws; we were compelled to submit to taxation without representation. Can we compel peaceably on the part of others that which we resisted to the shedding of blood ourselves?

But some may say that it is dangerous to extend the suffrage to a race illy prepared to exercise it. Is not the foreigner who comes to our shores totally unacquainted with our manners and customs, our political and social characteristics, after a short probation admitted into full fellowship with the political family? Will my colleague, Mr. ROGERS, the leader of the Democratic side of the House, who is very ready to pronounce a particular race as unfit to exercise the rights of freemen, dare pronounce the same ban upon the foreigner? But this ability to exercise the suffrage on the part of this large class of persons must be looked upon in the light of expediency if we once drop down from the position of equal and exact justice to all men. And what will expediency teach us on the subject? Simply that though there may be great evils in extending the suffrage to the lately enslaved race there may be still greater in

excluding them altogether and for all time from it. By so doing you raise up a class of persons alien and foreign to the Commonwealth; you create a governing and a governed class in the United States; you give the power of life and death to the former over the latter; you place the property and liberty of one man at the control of another; you create castes and distinctions in society; you raise up a class of tyrannical task-masters to reign over a mass of outcasts, and between both you place a gulf over which no man can pass. Think you that under such a condition of things republicanism would be possible? Think you that the evils of an extended suffrage would not be altogether less than the evils of a condition of society, for a parallel to which we must only look to misgoverned Ireland or to the oppressed and exhausted Provinces of the British empire of India?

Yes, gentlemen, suffrage is a delusion and a snare if it cannot be extended to every man created in the image and likeness of his Maker, then is our whole system of government an error of such gigantic proportions as to involve our country in ruin and destruction. For good or evil we are committed to the doctrine of equal rights to all men. For good or evil we are bound to follow it to its legitimate conclusions. Where it may lead us no human eye may be able to see, but where the opposite principle would ultimately leave us, a stranded and hopeless wreck upon the shores of time, any ordinary mind can foresee. But we know that while following the lead of universal suffrage we are carrying out the principles of justice and humanity, which are the eternal verities of God himself; and where these point it is certainly more safe to presume is the path most likely to conduct us to unity, peace, and prosperity.

Some persons indeed favor universal suffrage, but couple it with a general amnesty. By this they propose to set off justice to a wronged and oppressed race against an act of unmerited mercy to their oppressors, who have been at the same time rebels against national authority. I am opposed to any such bartering of right for wrong; of justice for mistaken mercy. I look upon such a bargain as jeopardizing the safety of the nation, which has already cost such fearful sacrifices of life and treasure. *Salus populi suprema est lex* is my motto in this and every case relating to public affairs. And I religiously believe that the safety of the Republic requires that the leading spirits of the late rebellion should be deprived of the power, by simple exclusion from office, of again experimenting upon the life of the nation. At the South public sentiment more than at the North is created by the governing class. This arises from the absence of wide-spread educational facilities; from the fact that political discussions take the form rather of oral communications in mass-meetings than of printed arguments in the press. Consequently the leaders of the South always speak from their hearts to the hearts of the masses. In the North, on the other hand, the leaders more generally speak to the reason. Thus at the South, while the leaders have almost supreme at the North they have but a limited control over the masses, the effect of which is easily set aside by argument and discussion. To give these southern leaders, then, during the present generation another opportunity to "fire the southern heart" is a scheme to which I am unalterably opposed. And especially am I opposed to it when it is linked with a proposition to do that which the Constitution makes it peremptory on us to perform; that is, to render equal and exact justice to every member of the political family of these United States.

I have spoken in strong terms of the course of the Executive in the late political contest. I was for a long time loth to believe that he had really and for good or evil linked himself with the political enemies of his country. But the fact was forced upon me at length by repeated acts of usurpation on his part, which have called down upon his head the indignation

of a deceived and outraged people. It is now evident that the Executive, almost immediately upon the death of the late lamented President, linked himself with that party which had all through the war, by every means short of actual aid in the field, allied itself with the enemies of the country. Upon his accession to his present place he and that party inaugurated a plan of restoration designed to bring back the rebels to power, and when thus brought back in alliance with the Democracy they were again to rule the country in the interests of the South and its institutions. The doctrine of State rights was once more to become the ruling policy of the country. The States were to be restored to that commanding position which made them the arbiters of the fate of the General Government; rebel debts were to be acknowledged; rebel claims were to be paid.

It is patent to all that Mr. Johnson lent himself to all the schemes of the most violent partisan Democratic and rebel politicians. They loudly boasted that he was with them, and that what he did to-day was but a foretaste of what he would do to-morrow when the public mind had been properly prepared for some new outrage or usurpation. Instead of allying himself with Union men in Congress, he consorted and counseled with rebels, traitors, and bitter partisan Democrats. Every act of his administration has been inspired by the counsels of such persons. Every attack upon the Government was applauded by their claquers. In fine, if the late president of the so-called confederacy had been in the Executive chair, he could not more zealously have espoused the cause of his late associates than has Mr. Johnson. The only difference would be that he would have carried on his crusade against the people of the North with more tact and discretion because of his greater ability, superior educational advantages, and more extensive acquaintance with the courtesies and amenities of civilized life.

No wonder that the public clamor for his impeachment when they reflect on the long list of offenses he has committed against the party and the principles which placed him in power. What are a few of these offenses?

We find him immediately upon entering upon the duties of his office, without consultation with the law-making power, legislating for the southern States in the most autocratic manner.

We find him assuming powers which Congress only can exercise.

We find him laying down laws for whole sections of the country; in fact, making and unmaking statutes for the people of the United States.

We find him assuming to decide who are and who are not citizens of the United States.

We find him excluding loyal men from the right of suffrage.

We find him authorizing unpardoned rebels to exercise the same right.

We find him thus handing over the rebel States to disloyal men, and putting the loyal under their tyrannical sway.

We find him thus elevating rebels who had fought to destroy the Union, and putting down loyal men who had fought to preserve it.

We find him appointing men governors of States whose hands were yet red with the blood of slaughtered Union citizens and soldiers.

We find him letting loose the rebel bloodhounds in New Orleans upon a legal and peaceable assembly of loyal men. The result was a massacre such as froze the heart of the North with horror and dismay, and caused every loyal southern heart to utterly despair of his country.

We find him afterward shaking the bloody hands of those murderers in the reception-room of the Presidential Mansion, while he complimented them upon the manner in which they had executed his programme for wiping out loyalty at the South.

We find him denouncing this body as an usurpation.

We find him not satisfied with exciting the passions of the mob against the lawful authority of Congress through the press by the fulminations of himself and satellites, but de-

scending to the arena of stump oratory in this and other cities, and delivering harangues calculated not only to excite a breach of the peace, but a revolution of the Government itself.

We find him, on pretense of laying the corner-stone of a monument to a deceased statesman, repeating those harangues at every point on his route, the only object of which was to bring the Congress of the United States into contempt and derision.

Such a catalogue of high crimes and misdemeanors was never before presented against any executive officer in the whole range of history as can be presented by the present Congress against Andrew Johnson, President of these United States.

In conclusion, Mr. Speaker, let me again impress upon the House the importance of the questions decided in the late political contest. They cannot, indeed, be overrated. But that one which is really the most important of all, and which includes all the others in the scope and bearing of its almost measureless influences, is that once and forever the United States is a nation, not a simple confederacy of States. From that day the country takes a new departure in its progress toward its final destiny. From that day it stands forth a nation in the family of nations, and has a mission to fulfill which was impossible before the war.

Why, sir, who cannot see that the American continent was created to be the abode of one people, and that the artificial incidents of its settlement by its present inhabitants intensify and make more self-evident the original destiny of the country. There are on the North American continent no great national barriers between the different parts of the country. The only really gigantic barrier, the Rocky mountain chain, running north and south, is easily pierced by the artificial highways essential to modern civilization. In a few short years the whistle of the locomotive will wake the echoes of its snow-capped peaks, and the Atlantic and Pacific will be indissolubly united by those iron bands which will be as hooks of steel binding East and West in eternal amity. The slopes of the continent, from north to south and from west to east, are gradual and almost unbroken. Its rivers are navigable for great distances inward. Its productions—mineral, vegetable, and animal—are almost similar in character and species, save the natural characteristic features created by isothermal distinctions, which are, however, gradual and not abrupt, as is the case in other continents. As to artificial causes that create and foster similarity, our people are of one language; and if there are varieties of race these latter are so blended and harmonized by contact and accretion that the marked features of distinction which characterize other quarters of the globe are in this, if not wholly absent, almost entirely erased.

In fine, while Europe presents the aspect of variety in unity, both as regards natural and artificial features, America presents the aspect of unity with little variety. And this is one great reason that great revolutionary movements in politics, literature, and religion appear to sweep over the country from one end to the other with a resistless power and effect which are often even appalling by the very force and depth of their movement. Such a revolution was our late war and such the late political contest which succeeded it. Let us ponder upon their consequences and effects; but above all let us not forget that both settled the question of America's nationality in spite of the opposition of not only the rebels in the field and their sympathizers at the ballot-box, but of the President bringing to bear all the power and patronage of the Government to thwart the will of the people.

Mr. Speaker, it is a source of extreme mortification and regret that my congressional district cannot claim a full share of the honor achieved in the contest from which we have just emerged, but it must not be inferred that any portion of my Republican constituents have deserted their principles. The result was effected



by a combination of influences mainly foreign to the great issue; by the aid of corporations and lavish expenditure of money, which it was impossible successfully to combat. The fullest force of the Federal Administration was turned against me; secret circulars containing unscrupulous misrepresentations of my acts and sentiments, supposititious extracts from a speech, not one word of which did I ever utter; garbled extracts from my public papers, a base and ungenerous appeal to the passions and prejudices of a large class of voters, by misrepresenting my motives and action in the discharge of a solemn and painful executive duty years gone by, were circulated without limit. In a district of uncertain political character, oftentimes Democratic, these and other less important causes, together with an unfounded confidence in our success, have conspired to deprive us of an additional Representative. But, whilst an individual has fallen, and his ripple will soon subside, our lofty and sacred principles are imperishable and will never fade away. It rejoices me to remember that I have been their early and earnest advocate, and I shall never cease to cherish and defend them.

**MR. WENTWORTH.** Mr. Chairman, a few days ago I offered a resolution calling upon the President for information in respect to the pardon of the Chicago conspirators, as they are generally called. I understand they have all been pardoned but one. I understand with reference to that one the usual course is being resorted to for the purpose of getting him pardoned, namely: first a number of *quasi* rebels, men too old to go to the war themselves, but who sent their sons and grandsons and therefore claim to be loyal, sign a petition. Then they get a leading clergyman, a bishop of some diocese perhaps, to sign the petition. Then they go to a few weak-backed Republicans and get their signatures, and finally take the usual course through the well-known claim agents or pardon brokers, male or female, in this city. But to give strength to their efforts in this case I hear that they have finally got the Legislature of Florida to pass a joint resolution asking for the pardon of the only remaining one of these Chicago conspirators.

No information from the President has come to this House touching this conspirator. Since I introduced the resolution on this subject I have received a letter from one of the most gallant colonels of all our Illinois regiments, which I will send to the Clerk to be read in order that the people of this country may know what class of persons they are who are seeking and getting pardons from the President.

The Clerk read as follows:

OTTAWA, December 20, 1866.

SIR: I have just read in the papers your remarks respecting the application of Florida for the restoration of Grenfel from the Dry Tortugas.

I had the misfortune to fall into the hands of this infamous rebel as a prisoner of war when he was the adjutant general of John Morgan's brigades.

He is in my opinion one of the very worst men that lives on the face of the earth, and was known as a robber and murderer and the most conspicuous guerilla in all the rebellion. He should have been hung. Never allow him to be released; keep him on the Tortugas until he rots, is my desire for the scourge of the land.

Yours very truly,  
A. B. MOORE,  
Late Colonel One Hundred and Fourth Illinois Infantry.

Hon. JOHN WENTWORTH, Member of Congress.

That, sir, is the way the mass of our soldiers feel respecting these men, and soldiers generally talk as they feel. Whether this man has been pardoned I cannot say, but this we do know: that men as bad as he is (and there can be none worse) have been pardoned.

Under the late decision of the Supreme Court I understand that all such criminals are to be liberated by writ of *habeas corpus*. I have read both the majority and minority opinions of the court, and I find that for the most part they are both based upon the law of 1863. I have been looking over the law more particularly this morning and I cannot well see how respectable lawyers can attack that decision of the Supreme Court after having read this law. I refer to the points where

both the majority and minority agree. I do not see how they could have done any less than give that decision under that law. In view of that fact, I introduced a resolution yesterday calling upon the Judiciary Committee of this House to report whether any measure was necessary to retain the assassins of President Lincoln and the conspirators who attempted to burn the city of Chicago where they are and where they belong.

Now, let me state the facts in the Chicago case. This man Grenfel was an Englishman. Fighting and robbing seemed to be his profession. He was sent out by the Jefferson-Davis government to liberate the prisoners at Camp Douglas and afterward to burn the city. Had he succeeded, there is every probability that the Davis government would have employed him as one of the assassins of Mr. Lincoln.

Now, this conspiracy was not discovered until the night but one before the election. At that time, of course, the most of the male citizens were engaged in matters incident to the election. The intention was to commence their work on Monday night preceding the election. On Sunday night all these men were arrested. What chance for civil tribunals then? Many of them were citizens of our own State. In regard to others who escaped before arrest we do not know what States they were citizens of. Now, under the decision of the Supreme Court, based unanimously upon the law of 1863, all those who were citizens of a State where the processes of the courts were not interrupted were liable to be tried only by civil tribunals. In that view of the case it was only necessary to employ citizens of free States (and God knows we have in the loyal States as many rebels as can be found in the southern States) to do their fiendish work, and the military tribunals were estopped from trying them.

In view of these facts, I shall on the earliest occasion introduce a bill and have it referred to the Committee on the Judiciary to repeal the law of 1863; and I hope when it shall be so referred that the able lawyers on that committee will sift the good (if there is any) from the bad in that law, and report back something to this House that will keep the assassins of the President, Chicago conspirators, and all others equally base where they belong.

I know nothing about the passage of this law (as I was not then in Congress) and especially do I know nothing of the causes that led to the limitations that are placed in it making one provision for traitors, conspirators, and assassins in some States, and another for those in others; and I make these remarks on this occasion expressly to call the attention of the many soldiers and able lawyers of this House to it, and also that the public may place the responsibility of the origin of this law, upon the effect of which the opinion of the court is unanimous, where it properly belongs.

**MR. GRINNELL.** Mr. Chairman, the President of the United States did not in his late message commend the proposed constitutional amendments to the rebel States, nor did he promise that on their adoption they should have a representation in Congress. Such a pledge would have been made without authority, and have been an untrue reflection of the spirit of the radical governing power of this country.

Congress is committed to the amendments as proper—a first installment—but has made no promise that being complied with the millions late in arms against the Government shall be permitted to take their place in the family again. Prudence and statesmanship will ask what is the spirit and the sentiment, what the local laws, of the people we would endow with political rights and equal privileges. The newer States of the Northwest gave their hundred thousand majority and returned an almost united Union delegation, not in pledge or concurring in the opinion that justice would restore States where a sordid motive only was presented in security for impartial justice. The returned soldiers and the people in great masses, in con-

ventions, and at public discussions, declared that they who fought our battles and were our tried friends should never be left to the caprices and cruelties of their late rebel masters unprotected with a ballot.

I see before me the gentleman from Illinois, the Nestor of this House from the Northwest, who comes back here endorsed by a majority of near ten thousand, to whom I might safely appeal in corroboration of the understanding of our people.

**MR. WASHBURNE,** of Illinois. If the gentleman from Iowa refers to me, I will state frankly that I made no such pledge. On the other hand, I stood to the doctrine enunciated in the report which he holds in his hand. I hold it to yet, and if I had been in my seat—and I was detained from it by indisposition—when the vote was taken for the admission of Tennessee, I desire to state here that I should have voted with the minority; I should have voted as my friend would have voted if he had been here, against the admission.

**MR. GRINNELL.** That conforms entirely to the sentiment entertained by the State of Iowa, that gave 37,000 Union majority, where the loyal press seem to be unanimous as to our having made a bargain. Not one of them ever held that they were bound to receive these States upon the mere adoption of the constitutional amendment, and I am thankful to my friend for this testimony, and the report of this minority will stand as a permanent document as developing the truth in regard to this question. It demands as a condition the incorporation of impartial suffrage in the constitution of every State desiring admission.

The waves of public opinion, rolling higher day by day and week by week, proclaim it is no settlement. Millions of freedmen know that their civil rights cannot be assured without suffrage in States now ruled by the spirit of barbarism. Tried loyalists who fled for their lives, learned judges, ex-governors, and legislators, who have come back to their homes, from which they were driven by this war of traitors, now ask, "Shall it be said of the American people that, after fighting for four years at the sacrifice of hundreds of thousands of precious lives, they are now ready to surrender to conquered enemies who, having in vain tried to destroy the Constitution, now claim its protection?" They have "rebel State governments in each, rebel Legislatures, rebel parish officers, a rebel police, a rebel public sentiment, which sustains a rebel press, a rebel church, and a rebel bar, and swarms of ex-rebel soldiers ready, when the proper time arrives," to precipitate the southern States into another revolution.

The unwilling testimony of our enemies is proof of this. Their press publishes their shame of selling men into slavery. By the court records the late lords of the lash go unpunished for the murder of men struck down wearing the scars of the valiant sable soldiery, and even their Moses—"they wot not what has become of him"—who has changed his Israelites. discharges the criminal held for trial. In Texas, the remotest State, where thousands just freed died by violence the last year, General Sheridan testifies that "the trial of a white man for the murder of a freedman would be a farce." A nearer State illustrates the same spirit, where the light from the torch of the incendiary almost illumines the dome of this Capitol. It must be said by that Christian patriot, Judge Bond, in reply to the persecuted poor, "When we think that all the outrages of which you complain, and the burning of twelve churches and school-houses could take place, and all the pulpits remain as silent as if the millennium had dawned, it is marvelous." Not only refusing to provide schools for those whose fathers have cleared away their forests and reaped down their fields, they are intolerant of the purest beneficence of the teachers who come to the victims of slavery, delivered by the valor and blood of our soldiers, to brighten the future of the downcast and rescue them from ignorance and crime. They even doom to the cell and to wearing the ball and

chain a devoted instructor on charge of vagrancy.

Small homesteads in numerous cases have been taken away from their happy occupants by the greed of pardoned rebels, and a border State, that availed itself of the military service of thirty thousand of the colored race, imposes a fine by law of five dollars, and takes from its owner his gun, though he bought it of the Government, and bore it during the war. That State, which is the adopted home of the now royal prisoner at Fortress Monroe, forbids, by statute, negroes from purchasing or leasing real-estate except in corporate cities and towns; and thus in various forms do the States fill up the measure of iniquity. That neither of the States have cheerfully modified their laws; that the murderers of the colored race by thousands go unpunished, and that the more than savage butcheries at Memphis and New Orleans attest the spirit of the people; what have we to do but to hear the call of God, that we now lay the foundations deep and strong, subjecting the conquered neither to banishment nor to execution, but to laws which are impartial, and their execution to our friends rather than to our enemies?

Happily for our country, the rebel States spurn the provisions of the constitutional amendment, which relieves the Government from an obligation to keep open the implied conditions, if ever made. It spares us the dangers which would attach to the return of rebels in spirit so early, and the shame of being a party to giving the rights of millions of a proscribed race into the keeping of traitors to their country with that motive only to enact impartial justice, which is found in a promised increase of political power.

Had their evil spirit been exorcised by a sense of their poverty, a consideration of their crimes and the clemency of the Government, the great party of freedom might have been divided in counsel and a restoration possible on a basis of white suffrage and rebel rule; but now, thanks to the Almighty Ruler, who causes the wrath of man to praise him, and who from the revelation of human passion brings the greatest deliverance, the way for radical methods is open and the duty of Congress made plain and the demand for action imperative.

Congress has not yet breathed political vitality into those States in rebellion. Their political chaos is as complete as their rebellious deeds were methodical and infernal. Brutality, chicanery, and a mysterious inspiration drawn from the dispensary of power, exalts treason and treads loyalty under foot, and the first duty of Congress, and one which can no longer be delayed, is to give an impartial, just, and constitutional government to the people lately in revolt. It is no mean or light work overturning these State bastilles "that not one stone shall be left upon another." It involves that reorganization spoken of by President Johnson "when the old leaders must be put aside and new men brought forward." It summons the spirit which inspired the martyred Lincoln at the cemetery of Gettysburg to counsel "that we here highly resolve that the dead shall not have died in vain; that the nation shall under God have a new birth of freedom, and that the government of the people by the people and for the people shall not perish from the earth."

Too long have we delayed in establishing governments for those leaders, the greatest of criminals, and for those who surrendered unconditionally as prisoners of war. Our now proposed leniency two years since would have been regarded with gratitude and astonishment. Now we are cautioned not to fire the southern heart, and the Constitution is cited as in the way of that just policy of reconstruction which every true patriot desires, and who but their timid confederates in crime and political associates will doubt the power of the Congress to protect its own citizens in the right of suffrage? Mr. Madison said:

"Should the people of any State by any means be deprived of the right of suffrage, it was judged proper

that it should be remedied by the General Government."

We apply the remedy most proper by the testimony of Justice Story, who in his Commentary declares—

"That a perfect equality of rights, privileges, and rank was contemplated by the Constitution among all citizens."

In the opinion of the martyred Lincoln the laws and partialities growing out of slavery and caste were alien to the spirit of the Constitution; and it can be no secret that our present Chief Justice holds that those States which had disfranchised a majority of the people never had a republican form of government. We have then the highest authority for striking at the center of these aristocracies which have been the nurseries of treason, and are bound by every consideration of honor to see that there is meted out impartial justice, and full political rights are assured to our friends who now stand before us as the loyal but defenseless victims of the master spirits of the late rebellion. This is our opportunity. We are summoned to the work of "appropriate legislation" which was to enforce the emancipation proclamation and to make haste as we remember the late court decisions, and hear the supplications of imperiled friends, witnesses of the carnival of cruelty and blood in unconstructed States.

Nothing being more plainly decreed in the book of fate than that the bondman was to be free, is it less plain that having shown the patience of a philosopher, intelligent sympathy for our cause, and heroic devotion in the field, that he is to have the rights of a freeman and means for their protection? Dare we intrust this work to those who feel "since I have wronged you I have hated you?" Can we be a party to holding millions in a condition of serfdom while regarding the inference of our enemies that it is less safe to intrust a loyal black man with a ballot than a late disloyal white man? No, the cure for evils in southern society is not the whipping-post nor a remanding into partial slavery, but the going forth of the citizen with the responsibilities of a man, having a recognition by his Government, with the means for mental and moral improvement, and a ballot which both awakens respect and becomes a weapon of defense.

"Let us alone," they cry. That has been the criminal's supplication in all time. "Give us peace and guano," they ask. No, that is not their great want, but the humility which is one of the first evidences of sorrow for crime and the humanity which will raise up the lowly who have been the victims of their despotism. To become coequal members of our political family they must open their eyes upon the party wrecks, the strewn and broken timbers which tell of the ignorant conservatism of captain and pilot. Conservatism! That of to-day offers neither a retreat for the man nor a pledge for the growth and virtue of his party. The idolators of fossils who on all occasions and with prolonged speech shout Constitution are akin to that class described by the Virginian who declared unwittingly that when they said Union they meant nigger three times. They propose to save nothing good which is really endangered; and having intrusted their locomotion and progress to that very conservative steed, with eyes turned backward to his load and a facility for brithching labor rather than with the collar makes only such down-hill strides as are easy and convenient to that memorable abode of the chief conservatives of our time, the slough of despond. All compassionate generals sparing of ammunition, fearful of the temper of their sword; neutral States and political constitutional saviors have their day, and are to sleep with the Bourbons of all nations.

These lessons cannot be lost upon the radical governing power of the nation. Its mission is to reform, to preserve, evoking into being a freer, nobler life. Yielding a principle and refusing to demand impartial justice through fear it becomes occupied with sordid plans, disgusts the moralist, and dampens the ardor of the young and heroic whose service has been

determined by the nature of our boldness, constancy, and trust in the Almighty Ruler. It is a party only worthy of success, as represented by the opposite of effete conservatism in the bold and poetic imagery of Job, who has in his war horse pictured the worthy leaders in a holy cause: "He paveth the valley and rejoiceth in his strength. He goeth on to meet the armed men. He mocketh at fear and is not affrighted, neither turneth he back from the sword. He saith among the trumpets Ha! ha! and he smelleth the battle afar off, the thunder of the captains, and the shouting."

Sir, we are acting in sublime concert with the peoples of the world now overturning the wrong and remodeling institutions as never before to insure popular rights. The plea and demand for suffrage has the charm of an inspiration and is in alliance with the power of Omnipotence. It gives that charmed eloquence to England's great reformer which sways multitudes like the forests bent by storms, and rocks the chief power of Europe to its base. The victorious arms of Prussia have enlarged the sympathies of her nobility, and the liberal ideas of King Frederick William have given universal suffrage to his Germanic dominions. Spain, in preparation for this boon, assures a free education. Alexander of Russia, more considerate than the late "patriarchal masters" of our Republic, builds school-houses for those born in slavery and gives them a homestead, and bold and timely action in behalf of our States will send cheer to millions in the Old World; while a deferring of impartial suffrage will leave our people of the boasted "free Republic" beneath the subjects of king or autocrat.

Our war, with the revulsion of parties and the exemplary conduct of those who are the wards of the nation, have brought us most unlooked-for collaborators, represented, as examples, by the Boston Post, that embodiment of hunkerism, which declares "that to give suffrage to the negroes on the same terms as is given to the whites is wise, just, and politic." The Chicago Times, in the past unequalled for fervor in a bad cause, if making no atonement at least evinces its sagacity in this language:

"Is not negro suffrage inevitable, and is not the quickest way to get the negro question out of the way at once to concede the suffrage, making issue only on the degree to which it shall be conceded? We know that many Democrats have not reached this advanced view of the case and that such still feel inclined to revolt at the proposition of negro suffrage in any degree; but let us tell them that it is always wise to accept the inevitable when the inevitable comes."

The Herald, deemed inveterate and more truly the indicator of the winds than the king thereof, steps from the ranks of the laggards in its old age to outstrip its juniors, asserting: "The question of negro suffrage, which entered largely into this debate, is one that forces itself so prominently upon public consideration as to have become a political necessity, and will have to be settled in favor of impartial male suffrage, restricted within certain limits of intelligence." Have these wails no significance to the timid? Will the party that has, amid the throes of civil war, become strong, heed the prejudices of ignorance, fearing its vinous inspiration, and dare to be unjust by neglect of those now imperiled, who, in great numbers, without the hope of promotion, went from under the lash and stole away from the slave-pen, or broke from the coffin-gang, to nurse our sick, pilot our armies, or take their place in the ranks of our brave soldiery? Then it will be denied the pleasure of gleaming from these fields "where the red rain makes the grass grow;" then the humble laborers who have made our majorities at the polls, remembering that the royal arms of Lilliput were an angel lifting a lame beggar from the earth, will retire in sadness and abjure your party creed. Those religious denominations, representing the conviction and zeal of millions, have, in their late annual gatherings, spoken with united voice for that comprehensive justice which no constitutional amendment now proposed will assure; and the conditions of their future coop-

eration must be our adherence to principle and the recognition of a God in our history.

Mr. Chairman, I do not despair of the adoption of a safe and radical policy. Our long marches and decisive battles have a parallel in mighty civic victories, which have a voice for the timid.

"Lowly faithful, banish fear,  
Right onward drive unharm'd;  
The port, well worth the cruise, is near,  
And every wave is charmed."

That clemency of the conqueror to rebels, as shown by President and Congress, has brought out a timely development of the proud unsubdued spirit, which would dictate the terms of restoration. I regard it as related to a wonderful chain in God's providences. Our first Bull Run defeat, which menaced this capital, awakened the moral sense of the nation to its crimes, and pointed out our dangers and duties. It was preparatory to the warning proclamation of President Lincoln in September, 1862, which traitors in arms would not heed, and was followed by the loss of slavery, that for which they began the war. And now when they scorn the mildest terms of conciliation ever made to rebellious spirits, the question of rights and ballots for the long degraded and defenseless, need not be committed to the caprice or love of power reigning with the dominant class. Let history speak with her trumpet tongue from the graves of nations that consented to the degradation of its meanest subjects, and, if wise, we shall be warned by the fatal compromises made by our fathers; and, now about to shape the destinies of millions, shall not forget His paternal care of those who survived the slavery of Egypt, the perils of the sea, and wanderings in the wilderness, in giving them homes, protection from enemies, and wise and devoted friends.

I regard it as a delusion that representation here by the rebel States will strengthen or assimilate the nation. Congeniality of spirit is a prerequisite. Let the disloyal spirit just evinced at a fair held in this city be exorcised, where the ballots for the rebel General Lee were as six to one for our great captain, General Grant; let rebel airs no longer on festive occasions drown our national song; and if there be a loyal pulsation let it bring out the stars and stripes, so long overlain with the rattle-snake flag; unlock the cemetery gates closed against the sable patriots, who would strew the flowers of affection on the graves of their comrades; bid the Lone Star State desist in her demands for the removal of our dead from their graveyards, that the dust of "hiring soldiers" mingle not with that of her "noble and heroic dead;" make political preferment in city and county possible to a Unionist, and for the time penitents should detain their sons from the college lectures on moral philosophy by expirate Semmes,

—"the mildest mannered man  
That ever scuttled ship or cut a human throat;"  
and at least, when safe and convenient, arrest defiant murderers at large, that the cry "I am a loyal American citizen" be no more the signal for a visitation of cruelty if he be an American citizen of African descent.

Demons stood aghast at the cruelties unatoned for endured by our prisoners, and hell doubtless waits for the coming of those leaders in rebellion whom we seem to have no laws to punish. Strange that they should desire a return on any terms, and more strange our leniency, and that we have not met the expectations of the country and made impartial suffrage a condition. This withheld by the supplicants, my vote for their return will not be given. Never, never!

Mr. WASHBURN, of Illinois. As no other gentleman desires to address the committee to-day, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union, having had under con-

sideration the President's annual message, had come to the resolution thereon.

#### SOLDIERS' BOUNTY.

Mr. HILL, by unanimous consent, introduced a bill supplemental to an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes."

The bill proposes to extend the bounty provided by the act of July 28, 1866, to soldiers discharged on account of disease contracted in the line of duty.

The bill was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. WASHBURN, of Illinois. I am aware that the House has made an understanding that there shall be no business done here to-morrow and nothing but speaking, but I am told that there is no gentleman who desires to speak to-morrow, and therefore there is no necessity for our holding a session.

The SPEAKER. If any gentleman desires to speak to-morrow he will manifest it. [Laughter.]

Mr. SPALDING. I desire to speak to-morrow if no one else does.

Mr. WASHBURN, of Illinois. Then I move that the House do now adjourn.

The motion was agreed to; and thereupon (at two o'clock p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Dr. William Boyd, of Washington City, in regard to the sale of persons of color in Maryland.

By Mr. BUNDY: The petition of Hiram Campbell, and 31 others, citizens of Ironton, Lawrence county, Ohio, protesting against any further reduction of the national currency.

By Mr. COBB: The petition of citizens of Lancaster, Grant county, Wisconsin, that the currency question be let alone.

By Mr. HOLMES: The resolutions of Board of Trade of Oswego, New York.

Also, the petition of Charles T. Radcliff, for American register for schooner or brig New York.

By Mr. MOULTON: The petition of 100 citizens of Clay county, Illinois, praying for the impeachment of the President of the United States for his misdemeanor and malfeasance in office.

Also, the petition of sundry citizens of Cherokee county, Georgia, praying for an amendment to the Constitution of the United States so as to secure equality of rights among all citizens.

Also, the petition of sundry citizens of Christian county, Illinois, against the curtailment of the currency.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, January 5, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read.

#### CORRECTION OF THE JOURNAL.

Mr. HILL. I desire to correct the Journal. I introduced yesterday a joint resolution extending the provisions of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims, and for other purposes." The Journal records that it was referred to the Committee on the Judiciary. My motion was to refer it to the Committee on Military Affairs. I move that the Journal be so corrected.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. STEVENS. I rise to a privileged question. Mr. Blow, of Missouri, is detained from the House by sickness. I move that he be excused from attendance here indefinitely.

The motion was agreed to.

#### PRESIDENT'S MESSAGE.

Mr. NEWELL. I ask leave to offer a resolution.

The SPEAKER. No business can be transacted to-day. The Chair even doubted if a gentleman could be granted leave of absence. The House has determined that no business shall be in order to-day, except debate as in the Committee of the Whole on the state of the Union on the President's message, and upon

that the gentleman from Ohio [Mr. SPALDING] is entitled to the floor.

Mr. SPALDING. When I suggested last evening the expediency of holding a session to-day, and intimated that I would like to speak, it was more for the purpose of affording an opportunity to those members of the House who had prepared themselves with speeches, in writing or in print, which they wish to pronounce, than to speak myself. I would now very cheerfully yield the floor to any gentleman of that character; but as I have not been able to discover any such present, I shall ask liberty to occupy the attention of the House for a few moments in making some remarks, perhaps of a rambling character, but such as shall not be inapt, in the consideration of the Executive message. But first, I desire to give attention for a moment to my respected friend from Pennsylvania, [Mr. STEVENS,] my only senior in this House, and a gentleman for whom I can entertain nothing but kind regard, and for whose opinions I most commonly have profound respect. But it so happens, unfortunately for me, that whenever I am called upon to make any remarks on this floor—and I do not do it often—I am subjected to the caustic criticism of the learned gentleman from Pennsylvania, [Mr. STEVENS.]

Now, sir, on the last day of the session of this House, before the adjournment over for the holidays, I undertook, in the most innocent manner, to explain my sentiments in respect to the validity of the State organizations in the lately rebellious States, and to show that injustice was done me in one or two of the journals of the day when they said that a resolution of inquiry, which I offered some weeks ago, signified that I supposed that the action of those Legislatures, or a portion of them, was necessary to the ratification of the proposed amendment to the Constitution of the United States. I called the attention of the House to an article found in the Washington Chronicle of the day before I spoke, in which the editor represented me as entertaining that opinion, and as running the proceedings of Congress into an absurdity if we were to ask these Legislatures to ratify the amendment to the Constitution, and then afterward seek to displace them and set up other governments in their stead.

Now, sir, in making my remarks on that occasion I expressly declared—and my friend [Mr. STEVENS] could not have heard me or else he would not have made this criticism upon me—I expressly declared that I never supposed that the amendment to the Constitution of the United States, which emanated from his committee, the joint committee on reconstruction, and which has been submitted to the Legislatures of the several States—I never supposed for a moment that it could receive any validity from the action of any one of those outstanding States. I said expressly that I believed the ratification of that amendment by three fourths of the loyal States was sufficient to make it a part of the Constitution of the United States. And in that I agreed exactly with the editor of the paper upon which I was then commenting.

Now, Mr. Speaker, my friend from Pennsylvania [Mr. STEVENS] says—I read from the Globe of the next day:

"Mr. Speaker, had I got the floor at the time when the gentleman from Ohio [Mr. SPALDING] sat down, I had intended, perhaps irregularly, to have said one word in regard to his position. I will only now say, however, that I think the argument of the editor is altogether the better of the two, and perfectly conclusive."

The editor and myself had run together; and at the same time "the argument of the editor is altogether the better of the two, and perfectly conclusive;" and the gentleman proceeds: "And that, while I do not charge the gentleman to be the author of it, the doctrine implied in his resolution is the most pernicious which can possibly be brought to obstruct the final reconstruction of this Government."

What! the doctrine contained in that resolution of inquiry the most pernicious that could be offered in this matter of reconstruct-



ing the Government? Why, sir, what was that resolution of inquiry? I will read it:

*Resolved*, That the Committee on reconstruction be requested to inquire into the expediency of passing a joint resolution declaratory of the purpose of Congress in the reception of Senators and Representatives from the rebellious States, respectively, upon the ratification by them of the constitutional amendment and the establishment of republican forms of government not inconsistent with the Constitution of the United States."

Now, sir, that resolution only calls upon the joint committee on reconstruction; if they deem it expedient, to offer for the consideration of Congress a joint resolution declaratory of the purpose of that amendment. I do not say what that purpose was; I do not undertake to say, in this resolution of inquiry, what that purpose was. I leave it for the committee who framed that amendment to tell us what they intended by it. Is there anything wrong in this? But I am impugned as the author of this resolution, and as being the author of a resolution pregnant with mischief. The gentleman from Pennsylvania [Mr. STEVENS] continues:

"But I am not going into the argument, as it might look out of place after the gentleman has left the floor. I have only thought it proper to say this much in favor of the argument of one who cannot appear here himself, and which I deem conclusive and entirely more satisfactory than that of the gentleman from Ohio."

Now, sir, the article from the Daily Morning Chronicle is set forth in the Daily Globe of the 21st of December last; and in that article there is nothing found, if I have read it and construed it correctly, but what I concurred in, and even went beyond, and expressed an opinion even more decisive than that expressed in the paper, that the ratification to be made by those rebellious Legislatures would signify nothing but their submission, and their disposition hereafter to be loyal to our Government; nothing more. And I said expressly that, even if this amendment was to be ratified and become a part of the Constitution, I should then exact from those States—those peoples, if you please, not calling them States—a republican form of government in all respects, before I would vote to receive their Representatives into this House.

I make these remarks, Mr. Speaker, as much to set myself right in the judgment of my friend from Pennsylvania as for any other purpose whatever—perhaps more so, for I think that when the gentleman reads the remarks in the paper and my explanation he will see that he did me injustice when he said I was at variance with the paper, and still further injustice when he said that my resolution looked to evil consequences.

My friend once made at me a good-humored fling when I happened to differ with him in regard to some one of his propositions by saying that "there was a vacant judgeship somewhere up in northern Ohio." Well, sir, I acknowledge the hit. But it so happens that I am not and have not been a candidate for that judgeship. Some twenty years ago I might have been pleased to occupy that honorable position if I had had the requisite ability; but under present circumstances I have no aspiration that way; none at all. But my friend will pardon me if I call to his attention a very eulogistic notice of himself in this very Chronicle in connection with a seat in the United States Senate, which is to become vacant in a short time. We will let one offset the other; and let it be understood that neither of us is under very much temptation in consequence of the offices which are presented to the public view as being those in which we are especially interested.

So much in all kindness toward my friend from Pennsylvania; and I hope that now we shall part fair friends and go on together, helping to do this great work of reconstructing this great Government which is intended for a great people and for a great time to come.

So far as regards the understanding had of the effect of this constitutional amendment by the people during the late canvass I have a word to say. In the first place, my individual understanding, when we voted with so much

unanimity to put that amendment before the people for their ratification, was, that it was to be taken as a measure of conciliation, to some extent, between the loyal States and the disaffected or disloyal States, and that the latter should be admitted to representation in Congress when they should have signified their approbation of these amendments to the Constitution, and should have framed their State governments so as to pass the ordeal of Congress—not otherwise; for I here protest again that, since the rebellion opened, I have never seen the hour when I supposed these States had the right to a representation in the Senate or House of Representatives of the United States. And I say further, that no man can come to a logical conclusion on this subject unless, in claiming that those States now have the right to representation in Congress, he maintains that they had the right of representation during every hour of the war. We must meet this question openly and boldly. I say to you, sir, that from the moment when these rebellious States swung loose from the Congress and the Government of the United States, and unsheathed the sword of rebellion, and attempted to strike down the Constitution of our common country, from that moment they became severed from the law-making power of this Government, and cannot be restored except by the action of Congress. Of this I have no manner of doubt, and upon this subject I have never doubted.

I have already given my understanding in regard to the effect of the constitutional amendment when Congress adjourned last July. I say further, that the canvass or campaign in the State of Ohio was carried on upon the basis of the constitutional amendment alone, and I will state my warrant for saying so. The Republican State convention of Ohio adopted the constitutional amendment presented by Congress as the height and breadth and length and depth of their platform. They had not another line in their platform; the constitutional amendment was the whole of it. The Republican party went into the canvass upon the strength of that amendment, and in every district, in every county, in every township, we argued the merits of this constitutional amendment before the people, and upon it obtained their votes. I believe I represent upon this floor as radical a district as any one of my colleagues from Ohio, and I say to my colleagues and to the members of this House generally that in every speech I made in my district in the three counties composing it—and those speeches were not a few—I advocated this constitutional amendment in all its aspects, and uniformly declared to the people that when that amendment should become a part of the Constitution, and those refractory States should exhibit to us satisfactory republican forms of government, I should vote to receive their Representatives; and on this question I never yet heard a dissenting voice in my district.

The National Republican committee, if I am correctly informed, held forth to the country the fact that the great turning point of the readmission of these outstanding States was the adoption of this amendment to the Constitution. The State convention of New York declared the same thing, and their election took place on that hypothesis. So that I claim that those members of Congress who now say that the amendment to the Constitution, if adopted, settles nothing, are in this respect in error. It may not settle everything, but will go a great way toward pacification and reconstruction.

Again, sir, if the substitute for House bill No. 543, introduced by my learned friend from Pennsylvania [Mr. STEVENS] the other day, should obtain the assent of this House and of the other branch of Congress and become a law, as it may probably, I do not say to my friend now that I shall not vote for this proposition. I like many of its features well. I have not much to say against any part of it; but I say this: if this should be adopted and if

those outstanding communities should be reconstructed upon this basis and this plan, even then I hold that this amendment to the Constitution of the United States ought by no means to have the "go by." We want the security of the guarantee contained in that amendment to the Constitution for all time to come, (no man can doubt that,) even if these States be reconstructed upon the plan submitted by the learned gentleman from Pennsylvania. Hence, I do most earnestly advise the loyal States, all of the loyal States that will do so, to adopt that amendment to the Constitution; and, as I said the other day, I would earnestly advise the Legislatures of the so-called States of the South to do the same thing, not because they make it a part of the Constitution by doing so, but because they express their own sense of the utility of the measure and their accordance in sentiment with it.

Mr. Speaker, I am satisfied that the opposition made in the southern States to this amendment to the Constitution arises mainly from the provision contained in the third section. I was informed not many days ago in the town of Petersburg, Virginia—where I went during the holidays to view some of the landmarks made conspicuous during the recent war—I was informed by some of the gentlemen residents there that they wanted this difficulty settled. I said to them, "Here is the constitutional amendment and you repudiate it." They replied, "If you can put that constitutional amendment in force without our aid then do it and we will submit to it. We do not so much complain of the provision itself as that we are called into action to vote on it as a part of the Constitution of the United States." Upon the hypothesis that their action on it only goes to show their submission to the terms we are trying to impose, they will permit the loyal States to make this a part of the Constitution of the United States by a three-fourths vote, and then come in and express their acceptance of it.

Mr. KELLEY. Will the gentleman yield to me for a moment for a confirmation of what he has expressed?

Mr. SPALDING. Certainly.

Mr. KELLEY. I have letters from North and South Carolina, from very able lawyers, from men who served as soldiers and officers in the confederate army, arguing the view the gentleman from Ohio has so clearly expressed. They say as the result of the war: "We have lost; our States have lost: as individuals we have our rights. Our States were overthrown; as States alone could we act upon the constitutional amendment; but States we are not. We cannot adopt the constitutional amendment constitutionally; we could not sustain it personally in striking down our leaders for having participated in a common crime. You exercise your constitutional rights and adopt the amendment, and you will find no resistance to it in the South." In almost the language I have given, from strangers to each other, some in South Carolina and others in North Carolina, I have received these letters.

Mr. SPALDING. I do not know how extensively this sentiment may prevail in the late rebel States; I have no question that the sentiment does prevail to some considerable extent; but I would not claim that Congress should rest content upon any such assurance. We must have some tangible evidence that shall satisfy us that this work of reconstruction is perfect and enduring. If the amendment to the Constitution should be ratified, we then may require something from those States which have incurred so fearful a penalty at the hands of this Government by their long-continued rebellion. When we come to that subject—for I confess it is only a work of time with me—we will act upon it. My opinion is that, inasmuch as we have put this amendment to the Constitution before the people, and inasmuch as the people of these States have given it their approbation by their votes at the late elections, we ought to suffer a reasonable period of time to

elapse before we adopt other ulterior and more violent measures.

Now what I would suggest very respectfully would be this: that we let the constitutional amendment be in the train of adoption where it now is, until perhaps the 4th of March next, when the Fortieth Congress will meet, and if at that time we find that this measure is repudiated by the southern States and flung back with contempt in our faces, then let the gentleman from Pennsylvania call up his reconstruction bill, and I will be one of the foremost to go with him in any practicable measure of reconstruction after the fashion which he indicates; and in doing that I should carry out the wishes of my constituents as well as consult my own feelings in the matter.

But I must be permitted to remark that we seem to have fallen on strange times. Heretofore independence of thought and action has been permitted in this honorable body on the part of its members; but now it seems as if every difference of opinion amounted to a desertion of the Republican ranks in the opinion of some. I am bold to say that it will take some time and no little trouble to get me out of the Republican ranks, for I was in at the inception of the Republican party, and was a Republican, in fact, long before. I left the State of Ohio a proudly dominant party in 1848, one which ruled in that State by 40,000 majority, and one in which I had served for twenty-five years. I left it, too, when I laid down the honors of the highest judicial office in the State, because I ventured to differ with the Democratic party of my State on the subject of the rendition of fugitive slaves. Soon after that the notorious fugitive slave law was enacted. From that time to the present I have, in all my votes and all my actions, contributed, so far as in me lay, to the downfall of slavery and all the despotic institutions of the country. That, sir, has become with me a habit, and I cannot readily abandon it.

But unfortunately we are misapplying just now the favorite term "radical." Why, sir, I have often been called at home "the great Radical of Ohio." And yet in this House I am to-day charged with being somewhat conservative. The gentleman from Pennsylvania told us the other day, I believe, that he had come here a conservative at the present session. Now, what is the meaning of this term "radicalism?" It certainly does not mean despotism. Does it mean anarchy? For in avoiding the one we may run into the other. Are we prepared at the sound of the bugle blast to run into the ground all the cherished institutions of this popular form of Government? Are we, without a moment's consideration, to be made to follow our great leader and throw into the condition of provinces or territories old Commonwealths which entered into the glorious constellation of the thirteen States that gave this Government birth?

Having this great subject upon our hands—the overthrow of these different State governments, which it would seem it might be enough for us to grapple with at one time—are we to be called forward again and rallied at the sound of the trumpet to charge with impeachment the Chief Executive officer of the Government? Are we to do this at once, without any time for reflection or consideration? Mr. Speaker, I do not question that the President of the United States has said and done a great many wrong things. I might perhaps say that some of them approach the "very verge" of what would form a ground of impeachment. I do not stand here for the purpose of applauding, much less excusing, in any degree, the conduct of the Chief Magistrate while he was traversing the country last summer, nor at any time since. But I do stand here, sir, to vindicate our popular institutions, our free institutions of government, against the rudeness of all these assaults at one and the same time.

I am not given to fear without a cause. I am commonly reckoned as reckless as the most reckless man; but my age is such that I must

be permitted to listen rather to the counsels of reason than the impulses of passion: and I do say it will be wise in this House and in the other branch of Congress to proceed in these matters with some degree of caution.

Sometimes it is said, sir, that we should go into these matters with decision, with firmness, and without delay, because the perpetuity of our great party rests upon the adoption of radical measures. Sir, I have been a partisan long enough to know that extreme measures will not always promote the interests of a party. Suppose that we should in this House, at this moment, prefer articles of impeachment against the President of the United States, we have a measure pending at the same time to establish governments by the exercise of the elective franchise by all the freedmen of the South in those States. What will our people at home think of these rank and radical measures? We have not yet had their vote upon this subject. But, sir, if Congress be not content with exerting and exercising its constitutional powers, and passing laws by a two-third vote over the Executive veto; if we are not content to rest ourselves upon the exercise of this power, but at the same time seek violently to throw the President from his seat, and dispossess these so-called State governments of the South, what are we to expect from our constituents at home? Will not these matters react; and will not the President, by and by, beget a sympathy with the masses, which may do far more toward throwing the great Union party at the next election out of power than anything else? I only throw out this suggestion for the consideration of my friends—those who have far more interest in this subject than I possibly can have.

Again, sir, there is the test of radicalism held out to us upon the subject of revenue or tariff upon foreign importations, and upon the subject of the currency. It would seem that no man can come fully up in these days to the standard of radicalism unless he be prepared to put a tariff upon foreign goods that shall amount to prohibition, and to open and extend the paper circulation of the country without any limitation. That I understand to be radicalism in the State of Pennsylvania. While I advocate a reasonable tariff to protect our own industry at home, I am not prepared to denounce every officer of the Government who says that we must still derive a portion of our revenue from duties on imports. While I would disapprove any curtailment of the currency so as injuriously to affect the legitimate business interests of the country, I am with the Secretary of the Treasury when he says that we should gradually feel our way to specie payment.

Mr. KELLEY. Does the gentleman think that an assurance to the world that we can resume specie payment in less than two years is a proposition to do it gradually?

Mr. SPALDING. It occurs to me that that would be a proposition to do it within two years, and if that is not gradual enough for the gentleman why of course it is not gradual.

Mr. KELLEY. I simply asked the gentleman the question.

Mr. SPALDING. I do not profess to believe that this measure can be brought about in two years. I did not claim that. I only claimed that an officer of the Government, who I believe is endeavoring faithfully to discharge his duty as the principal financier of this Government, should not be subjected to the tar-bucket and the brush whenever he recommends any policy to this House. That is all, sir.

I do believe, barring his political opinions in respect to this work of reconstruction, that the present head of the Treasury Department, in connection with Alexander Hamilton and Salmon P. Chase, will be read in history as the great financial officers of America. Now, I say this boldly: I was ready to say that he was the proper man for the place when Mr. Lincoln appointed him to it. I believed then that Mr. Lincoln was appointing a capable business man, not a politician, to a business situation, and my experience with his administra-

tion of the revenue since that time has served to confirm my judgment in this particular.

Now, sir, I do not agree with him in his proposition for reconstruction. I do not agree with the Secretary of the Navy where he alludes to the same subject in his report. I do not agree with any of them, the President or any of his Cabinet; I have said so most distinctly. But setting those political opinions aside, I say those department officers are discharging their duty with high integrity; and, instead of being censured in the House of Representatives, they ought to be commended.

Mr. Speaker, I have occupied much more time than I expected to do when I took the floor this morning. My remarks were expected to be discursive; I have made such as occurred to me; I have made them in a spirit of frankness and candor, and I shall adhere to them with just as much tenacity as ever characterized Ulysses S. Grant when he undertook the siege of Vicksburg. Sir, I have done.

Mr. BUNDY obtained the floor, but yielded to

Mr. STEVENS, who said: Mr. Speaker, I do not rise to make any lengthy reply to the distinguished gentleman from Ohio, [Mr. SPALDING.] Certainly I shall enter into no personal controversy with him, for I have no feeling which would induce me to raise a personal issue with him. But when any gentleman advances doctrines here, I feel that those doctrines are public property, to be dealt with by each of us according to our sense of their soundness and worth, and that their condemnation ought to be in no way offensive to those gentlemen whose doctrines are thus condemned. They use the same privilege in regard to others. Hence I wish to say to the gentleman from Ohio that I had no idea that my condemnation of some of his views was in any way a personal matter, or that it could be made personally offensive. If I had supposed so, I should have forborne those remarks. It is my desire here, while I deal boldly and fearlessly with principles, to deal fairly and justly with all individuals of this House of all parties. So much with regard to the *animus* of my remarks, which the gentleman appears to have misunderstood.

Now, going back upon the ground-work of those remarks, which was the resolution introduced by him some weeks ago, and which he has read to the House this morning, listening to his resolution from this point and to his attack upon the editor of the Washington Chronicle for what he had said with regard to the purport of that resolution, I could not help thinking that the gentleman's views differed from mine. He may be right, but I gave it as my opinion that his views were wrong and mischievous. I hold the same doctrine to-day.

Now, sir, what I meant by that was this: that resolution was the entering wedge into this House of the idea, the sanction of the idea, that when the proposed amendment to the Constitution of the United States should be adopted the States now in rebellion were to be admitted to their representation in this House. I knew that that doctrine had been assumed in some of the States, and had been enunciated in their platforms. I knew it had been argued, not only in the district of the gentleman, [Mr. SPALDING,] but in other districts in Ohio, and the people there had been taught the doctrine that the constitutional amendment which we had proposed was the final action of Congress in regard to the admission of those States. In my judgment, a more pernicious heresy never was promulgated anywhere or by any party; and it left us open, if it were once adopted, to the influx from the South of all the unreconstructed rebels that choose to come here. I agree with the gentleman that when three-fourths of the loyal States shall have ratified that amendment—and I suppose all on this side of the House agree with me—it will become a part of the Constitution of the United States. Then, it being a part of the Constitution, according to the doctrine to which I have referred, what is there for the southern States to do but to send their Representatives to this

Hall? If that was the final action of Congress before we admitted the rebels into this Hall, whenever, in a few days the northern States, the States that proposed the amendment, shall by a three-fourths vote have ratified it, then, if the doctrine to which I have referred shall prevail, there is no earthly power in this House to keep them out.

Now, I put it to this House and to the country if that would not be the most pernicious—"pernicious" is the word I used in regard to the gentleman's resolution—if that would not be the most pernicious doctrine, the most pernicious action that any rebel sympathizer could propose to this body? I did not misunderstand entirely the resolution of the gentleman, and I do not now. As I read it—not perhaps as the gentleman understands it—it is a soft invitation, a feeling-the-way to the very thing which I have just now stated. What was the resolution?

"Resolved, That the committee on reconstruction be requested to inquire into the expediency of passing a joint resolution declaratory of the purpose of Congress in the reception of Senators and Representatives from the rebellious States, respectively, upon the ratification by them of the constitutional amendment and the establishment of republican forms of government not inconsistent with the Constitution of the United States."

Now, sir, I think I saw this tadpole before it had its present shape. I think its present form is due in some measure to the gentleman's colleague, [Mr. BINGHAM,] at whose suggestion, I am inclined to believe, it was modified. In its present form the resolution looks a little better, but it really means nothing different. Why instruct the committee to inquire into the propriety of adopting a joint resolution providing for the admission of the Representatives and Senators from those States as soon as the amendment is adopted if it was not intended as a broad insinuation that such a resolution should be passed, and that the southern rebels should be admitted on the adoption of the amendment? If that was not the purpose, why was the proposition offered?

But the gentleman complained of the editor of the Chronicle, for it was in answer to an article of the editor that the gentleman made his remarks. He said that the editor charged him with inconsistency. The language of the resolution contemplates "the reception of Senators and Representatives from the rebellious States respectively upon the ratification by them of the constitutional amendment," distinctly inviting and legalizing the action of those States upon the constitutional amendment. Could anything more effectually stultify this body? The gentleman did not intend to stultify us; but he would have done it undoubtedly. We have been fighting upon the ground that there are ten outlawed rebel communities—

Mr. SPALDING. Will the gentleman allow me to ask him a question?

Mr. STEVENS. Yes, sir.

Mr. SPALDING. Will the gentleman have the goodness to say whether, in his judgment, the adoption of the constitutional amendment has any bearing whatever on the reconstruction of those States?

Mr. STEVENS. Not the least, except so far as it provides that when we find those States fit for admission they shall not overwhelm us by a representation based upon the negroes who are not voters. That, in my judgment, is the vital feature of the constitutional amendment. It contains other wholesome provisions, but its great virtue is, that it cuts down the representation of those States; takes away their power to overrule us when they shall have formed proper constitutions and shall be deemed fit for admission to representation. The idea that the constitutional amendment contains anything contemplating its submission to the action of the southern States is altogether idle. It need not go there. If we once adopt it and they choose to come in, why ask them to ratify it? They come in as any other State would come in, under the Constitution as amended, and they are bound by it, whether they ever choose to ratify it or not. To ask them to vote upon it would be stultifying ourselves, as

the editor of the Chronicle has justly said, for it would be treating them as States, and asking them to take State action upon what Congress has sent forth for the action of the loyal States. After doing this, how could we say to the Executive, "Why, sir, you are wrong; these are no States?" "What?" that astute gentleman would reply, "not States? You have sent to them an invitation to ratify this amendment to the Constitution. Not States? What are they? Are they disorganized communities, lying about, as you pretend? Why, you have solemnly asked them to unite with every loyal State in an action which none but States can take." Will the gentleman tell me whether by placing ourselves in that posture we should not stultify ourselves?

Mr. SPALDING. It may be so; but I will ask the gentleman whether his bill does not contemplate recognizing for certain purposes these very organizations in those States.

Mr. STEVENS. By act of Congress.

Mr. SPALDING. Exactly so.

Mr. STEVENS. We do not propose to recognize the present organizations as valid. We propose to regulate them; we do not propose to ask them to regulate anything. We propose to say to those communities: "You have no governments; we repudiate all your pretended governments. Go on and form such governments as Congress has ordered you to form." That is what we propose to do. When we shall have recognized those governments for municipal purposes the gentleman will be right in saying that for such purposes they are States. But the gentleman proposes to do this in advance. He would have them act now as States under their bastard reconstruction, and do that which none but States can do. I must beg leave to say, sir, as I have said before, first, the proposition was the most pernicious that could possibly be made by this body, and secondly, it stultified the House, and hence the editor was right.

Mr. SPALDING. I beg leave to ask the gentleman one question.

Mr. STEVENS. Certainly.

Mr. SPALDING. I ask whether he concurred in the majority report of the committee on reconstruction submitting this amendment for the approval of the House? I would also like to know whether he voted for the admission of Tennessee.

Mr. STEVENS. Yes, sir, I voted for the admission of Tennessee without regard to the amendment sent forth, which was no amendment then. Tennessee had formed a constitution and submitted it to her people, and they had ratified it; the only rebel State that had done so. On full examination of that constitution, my colleague here knows, and all the laws passed under it, the committee came to the conclusion it was a republican State, and we could safely admit it. Her adoption of the constitutional amendment before the act of admission was a matter of no importance; not the least in the world.

Mr. NIBLACK. I wish to inquire of the gentleman from Pennsylvania whether the joint resolution admitting the State of Tennessee to representation in the two Houses of Congress did not place it upon the ground the State had adopted the constitutional amendment, and whether Congress did not sanction that view in that act, and that to adopt the constitutional amendment would entitle any of the rebel States to admission?

Mr. STEVENS. The preamble to the joint resolution admitting the State of Tennessee recited many of her good acts, and among the rest, as an inducement to admit her and as evidence of her loyalty, that she had just adopted the amendment to the Constitution; but nobody ever thought of giving a vote on that ground. No one thought of voting for it because she had done it; but it was one of the evidences of her loyalty.

Mr. NIBLACK. I beg to ask the gentleman whether Congress in that matter did not stultify itself according to the view he has promulgated?

Mr. STEVENS. Congress did not submit it to Tennessee at all. Tennessee did it before

Congress passed the joint resolution. It was the voluntary act of the State of Tennessee, incited thereto by the impetuous young gentleman who is the Governor of that State. [Laughter.] It was sent here and was incorporated as one of her good things to palliate the great many foolish things she had done. That is the whole of that.

Mr. NIBLACK. The gentleman will pardon me. My recollection is that it was transmitted to the Governor of the State of Tennessee, who called a special session of the Legislature, and that Congress waited with breathless anxiety to hear of the result; and when we received word by telegraph that Tennessee had adopted the constitutional amendment, Congress made haste to admit Tennessee on that ground. It is part of the history of the country. Such is my recollection, and I think gentlemen will agree with me.

Mr. STEVENS. I have not that recollection, but I do not undertake to contradict the gentleman from Indiana when I do not recollect. All I have to say is, that we recognized Tennessee as a State; the committee recognized Tennessee as a State; we agreed she had done all in forming her constitution which a State was required to do. The gentleman's fact, therefore, has no pertinency.

I may as well say to the gentleman that he knows we took the ground that these disloyal States are not State organizations known to us, but are captive provinces, and have in their capitals certain municipal institutions for the purpose of going on from day to day, which we do not propose yet to disturb, but which are referred to in my enabling acts.

Now, sir, I have answered the gentleman's personal point. I have nothing personal to say in the matter; I say personal point; I mean the question referred to in his personal explanation. I do not wish, and I hope he does not so understand I wish, to interfere with his prospects; I do not know what they are; I would not do it if I could. Three or four of his colleagues were as bad upon the stump as he was.

Mr. MAYNARD. Will the gentleman allow me, as the admission of Tennessee has been referred to at this stage of the discussion, to ask if States which were in rebellion were to do the things which Tennessee has done, and which are recited in the preamble to the joint resolution by which Tennessee was restored to her privileges in the Union, namely: providing by law to secure her freedmen in the enjoyment of their civil rights; providing by law for the prevention of the return of the rebel element to power in the State; and, in the manner designated here, proving its loyalty to the Government and the loyalty of the people whom that Government represents, whether the gentleman or any other gentleman would not take such action in the case of that State as in the case of the State of Tennessee? I speak of no one particular act, but acts denoting all that I have intimated; that is, the repression of the rebellion in the persons of its votaries, the protection of the freedmen, and a government of loyal men representing a loyal constituency.

Mr. STEVENS. Mr. Speaker, it is not expected that the rebel States will be kept out forever, although they seem to be getting worse and worse—further and further off every day; and I do not know when they will get to the end of this long lane that has no turning. When these States form constitutions—I believe that of Tennessee was submitted to the people—

Mr. MAYNARD. Yes, sir.

Mr. STEVENS. When they form constitutions and present them here, and the Congress of the United States shall believe them to be republican in form and founded upon principles of justice, I presume Congress will be very glad to admit them to representation. I will say, however, here and now, that I shall never vote for the admission of another State containing one of the provisions of the Tennessee State government. The gentleman, I suppose, knows what that is.



Mr. MAYNARD. I confess I do not. [Laughter.]

Mr. STEVENS. Why, the exclusion of negro suffrage.

Mr. MAYNARD. Well, sir, I will say in regard to Tennessee that, so far as her treatment of the black portion of her population and of the late rebel population is concerned, she has been entirely impartial; that is to say, she gives to the freedmen and to the late rebels alike the enjoyment of all civil rights, and denies them only the right to vote, to hold office, and to serve on juries. The probability is, however, that she will very soon adopt the principle that this Congress has already adopted in reference to this District—not of universal suffrage, not of negro suffrage, not of impartial suffrage, but of loyal suffrage, giving the right to vote to all who have shown their loyalty to this Government, irrespective of race or color.

Mr. STEVENS. That is the part of the constitution of Tennessee which I shut my eyes to at the time the vote was taken, (I do not know whether my friend from Tennessee shut his,) the idea that a loyal negro is to be put on the same footing with a rebel. [Laughter.] It is an outrage in the constitution of Tennessee.

Mr. MAYNARD. Will the gentleman permit me to say that Tennessee has done a great deal more for the negro than is done in a large portion of the United States, where he is not elevated to the same plane that the rebel is permitted to occupy. Even in the gentleman's own State a rebel from my portion of the country, should he go there, would find the door of political fellowship open to him. Whether they would welcome a loyal negro or not perhaps the gentleman can tell us. [Laughter.]

Mr. STEVENS. The gentleman is right. Pennsylvania ought to blush, and many others of the free States ought to blush, for the infamous exclusion to which the gentleman refers. But will our blushes whiten the countenance of Tennessee? [Great laughter.]

Mr. MAYNARD. No; but perhaps the suffrage may be a little less obvious. [Laughter.]

Mr. STEVENS. I have nothing to say against Tennessee. I feel kind toward her. All I mean to say is, that I do not expect to vote for the admission of any other State upon precisely the same conditions as those upon which Tennessee came in.

Mr. MAYNARD. Tennessee reciprocates the sentiment of the gentleman from Pennsylvania; she feels kindly toward him, and regrets that he did not find it convenient to become one of the party on a recent occasion to spend the holidays in that part of the country. [Laughter.]

Mr. STEVENS. Well, sir, I had made no preparation for a burial down there, [great laughter,] so I thought I would stay at home until I got ready, or at least until the winter was over and the ground broken. [Laughter.]

Mr. Speaker, aside from this episode, which is a very pleasant one, I was going on to say a few words by way of reparation, perhaps, for the feelings of the gentleman from Ohio, [Mr. SPALDING,] who thinks, unnecessarily as I suppose, that I have said something harsh about him. I admit that he has made the ablest and the handsomest defense of Andrew Johnson and his administration that I have heard for the last two years. I trust the members on the other side of the House will forgive me for placing them in the shade in comparison with the grand eulogy which has been delivered upon Andrew Johnson, his doings and his Cabinet, by the gentleman from Ohio. [Laughter.] Why, sir, I understand the gentleman to be perfectly satisfied with not only this exalted President, but particularly with everything done by the Secretary of the Treasury. Did he remove your collector? [Laughter.] Well, I do not know whether he did or not.

Mr. WASHBURN, of Illinois. He removed mine.

Mr. WENTWORTH. And mine.

Mr. STEVENS. I do not think he removed the gentleman's collector.

Mr. SPALDING. He did.

Mr. STEVENS. Then you got him back?

Mr. ASHLEY, of Ohio. He was put out at the request of the gentleman.

Mr. STEVENS. My friend says that he was put out at the request of the gentleman. I do not give it as my own statement.

Mr. SPALDING. So I see. I know where it comes from.

Mr. STEVENS. When my friends were slaughtered I did not feel grateful. When the Secretary of the Treasury, for no cause on earth but the building up of a new party and the promotion of a new political organization, turned out of office the best men in my district I did not feel toward him as the gentleman does. That only shows how much more of a Christian the gentleman is than I am, and I give him credit for it.

But the gentleman is afraid of "radicals." Well, who does he mean by radicals? He said he was a radical himself. Well, sir, "radical" means anything: root! Sometimes the root goes down about half an inch and sometimes a foot. How deep the gentleman's root goes I do not know. [Laughter.]

Mr. SPALDING. The less he and I say about roots the better for both. [Laughter.]

Mr. STEVENS. We should say nothing about little roots. [Laughter.]

Mr. Speaker, the gentleman is afraid that there will be an assault rashly made upon the President in this House; that there are threats to impeach him without examination, without deliberation, and indiscreetly. Now the gentleman had no right, in answer to me, to make any remark of that kind. I have said and done nothing in the House which looked to impeachment, and the only thing, perhaps, that I have to reproach myself with is, that the gentleman has held me back so long. Nothing has been done to enable us to administer this Government in its purity, and it never can be administered so as to protect the liberties of this nation until there is a different—I dare not say it, sir; it might be supposed that I am in favor of impeaching the President—I mean, sir, until the presidential term is up, (that is all,) and he thereby becomes removed, for he is an obstruction to all loyal action, and he is an eye-sore to all loyal men except the gentleman from Ohio.

The gentleman will excuse me for noticing his remarks in respect to the Administration, which I do in no censorious spirit, but merely to express my dissent in a very faint way, and more particularly to fix the attention of the Administration upon the laudable efforts of the gentleman in their behalf.

But, sir, I did not rise to make a speech, or to say anything unkind toward the gentleman from Ohio, but simply to vindicate the editor and myself, in defending him from the proposition which the gentleman made, and in reference to which I think the editor was right. I have nothing further to say.

Mr. BUNDY. Mr. Speaker, after the speeches which the House has just listened to, any remarks I may be able to make will seem dry, as the subject about which I propose to talk a little will not be of much interest to the members of this House. I did not suppose that I should be able to get the floor during the present session for the purpose of saying anything touching any subject that has been before us for our action or that might be before us, or most certainly I would have made some preparation with a view to the proper discussion of the subject.

The subject upon which I propose to talk a few minutes, without, however, any expectation that anything I may say may influence the mind or the conduct of any gentleman present, is one, as I said before, that in its nature is not very interesting just at this time, because although it is a subject of great interest to a great many persons, it has been and will be overslaughed by the great question of reconstruction, about which we have heard so much. I allude to the subject of finance, and I do not approach its discussion with any purpose on my part or with any idea that I shall be able

to throw any light upon it, but simply in discharge of what I conceive to be a duty to myself and to those whom I represent upon this floor. I have a chronic dislike to making speeches. I think my time can be much better occupied, as a general thing, in doing something else. Like Balaam's long-eared horse, I never speak anywhere until I am almost kicked into it. But, sir, in the great interest manifested in the question called reconstruction, it seems to me that the financial interests of the country, if not entirely disregarded, have commanded a very small share of the consideration of this House.

In other words, it seems to me that by the action which we have taken during the last session of Congress, and which I see we are to take during the present session, if we are to carry out the suggestions and recommendations of those gentlemen who have the charge of the subject here—the whole subject being handed over to the keeping of the Secretary of the Treasury, and with a rate of speed that I do not comprehend by any manner of means, the Committee on Ways and Means of this House appear to adopt and carry out almost all his suggestions in regard to it—and which, in my judgment, seriously threaten, to say nothing worse, the industrial interests of the country. I know the difficulties under which the man labors here if he disagrees with or if he attacks in any form whatever, even by his vote simply, the recommendations of that committee. I know the embarrassments under which he labors if he attempts to make a speech in opposition to its recommendations or suggestions, and I know the advantages that the members of that committee have over other members of this House with regard to any measure that it may propose here, and that may be discussed by the committee or by the different members thereof.

Having said this much, I propose to spend a few moments in the consideration of a proposition which has been mooted, an assertion that has been made and parrot-like repeated by almost every gentleman who has made a speech on this subject, in reference to the recommendations of the Secretary of the Treasury; and that is in regard to this feature of those recommendations, to wit: that the "redundancy of the currency or circulating medium of the country enhances the prices of the products of the country, or, in other words, enhances the price of living for the non-producers." Now, is that true? I know that that is the theory laid down in the books. I know very well that almost all writers on domestic or political economy assume that the quantity of the circulating medium of a country affects, either one way or the other, as it may be redundant or scarce, the prices of the productions of the labor of the country. I know that that proposition is laid down, I believe, in Adam Smith upon the Wealth of Nations.

Now, why should we pay any regard to a theory of that sort when it is found that in our financial history the proposition had far better be laid down by "John Smith," of America, because the conditions by which we are surrounded are altogether different from those which suggested the theory as laid down by that eminent author upon the subject of political economy? Now, I take it that all such theories have been exploded by the facts, every time that the test has been made in the history of this country at any rate. How is it, why is it, that for the last two or three years the prices of the living of our people, the prices of their meat, their bread, and their apparel have been so extraordinarily high in comparison with the prices of other years? Is it because we have had such a redundant currency? I know that that is the assertion. Is it because that previous to the war, say in the year 1860, we had a circulating medium of about three hundred million dollars in round numbers, including all descriptions of currency, while during the period of the last three years we have had three times that amount of a circulating medium? I say I know that is the theory; I know that is the assertion; I have heard the

assertion made in this House by distinguished members of the Committee of Ways and Means. But, in my judgment, a little reflection upon the facts will dispel that theory, as facts have dispelled all such theories in all times, I believe, in the financial history of our country.

Why was it that the price of beef, if you please, has increased from four to twenty cents per pound? Was it because we had a redundant currency? I take it it was not for that reason. It was because by reason of the market made by the demands of the war; and this remark will apply to all articles. A million and a quarter of men were sent into the field, composing the Federal Army, more than one million of that number being producers. More than one million of that number of men were engaged before the war, before they entered the Army, in some department of the industry of the country. We transferred that million of men from the ranks of the producers to those of the consumers, and the effects were not only felt in the immediate vicinity of the Army, but they were felt in all the remote districts of the country. I said that that remark applied to everything else; to the bread, to the meats of all descriptions, if you please. Did a redundant currency have anything to do with it? Why, sir, in my judgment it had but very little to do with it. Those men who had been engaged in supplying their wants by their own industry, being producers, had ceased to be such, and had become consumers.

But, says the Secretary of the Treasury, in order to bring back the state of things that we had prior to the war it is necessary to reduce the volume of the circulation. Why, sir, what I understand to be necessary to restore the state of things that we had before the war, in reference to the price of living, is to give the people of the country the time to repair the wastes of the war. Let these men go to producing again, as they did before the war; let the supply increase in proportion to the demand, and I have no doubt that we shall see, as we have seen heretofore, that when, so to speak, there is a proper equilibrium established in this regard, prices will recede.

I have said that the remark applies to the prices of all descriptions of commodities. Take some of the items, if you please. I have spoken of beef. Take, if you please, mutton, which before the war always commanded a price as large or larger than beef. But during the war it has been, as it is now, almost as low in the market as it ever was. In Ohio to-day the raw material is almost or quite as low as it ever was. Why? If this theory that a redundant currency enhances prices be true, why should not the price of mutton correspond with the price of beef? Why should not the raw material be upon the same plane? Simply because there is a very large supply of that raw material, a very large number of sheep in the country. I might say the same with regard to corn. Why, sir, before the war, when we had \$300,000,000 of currency in circulation, I have known the price of corn in our country, which is a very great corn-growing region, to be one dollar per bushel, when all other articles beside were at nominal prices. Why was that? There was a scarcity of currency. Why was not the price governed by the volume of the circulating medium? Simply because Providence withheld the earlier and the later rains, and there was a failure of the crop. That is the only explanation that can be given.

How has it been, and how is it now, with regard to pork? The great demands of the war, and the prevalence of the disease known as the "hog cholera," so far cut short the crop that the farmers in the country did not raise a supply for domestic purposes, very many of whom were compelled to supply themselves from the great pork marts of the country. This was the case especially for the seasons of 1864-65, hogs and their products commanding such prices that even the class formerly retained for reproduction were thrown upon the market and killed, thereby almost cutting off the means of supply. But in 1865 the great

prices stimulated an almost universal effort among producers to restore the supply, and in which they were partially successful, to the extent that the price of the hog crop declined nearly one half the present season. What had a redundant currency to do with this? Nothing. The reason for the decline is to be found in the fact that nearly all the so-called "small farmers" raised this year, not only their own supplies, but a surplus for the general market.

To claim that a retiring currency or a declining gold market had very much to do with bringing the price of pork from eleven cents per pound to six cents would be rank injustice alike to the procreating or recuperating capabilities and powers of the swine and the enterprise, industry, and thrift of the farmer. No article in the market has shown or does show any palpable sympathy with the gold market, the increase or decline of the volume of the circulating medium, except such as are imported exclusively; and even the supply of the latter will more certainly and sensibly affect its price than anything else.

How was it at the same time with regard to the article of wheat? There having been good wheat crops throughout the country, wheat was just as cheap in the market as corn. How is it now? Corn to-day with us is worth forty cents per bushel. If a redundant currency causes high prices, why is not the price of that article one dollar or one dollar and twenty cents per bushel, as it has been sometimes? Why, because there is a large corn crop. That is the explanation, and the only explanation that can be given. And with regard to wheat there has been an almost entire failure of the crop; and therefore the price is higher than we have ever before known it to be. My constituents have to buy their wheat from the constituents of the gentleman from Chicago.

Now, Mr. Speaker, I am willing to admit that there may be for some purposes such a thing as a redundant currency, and that it may have an effect upon prices; but that effect is only temporary. It may induce men who have no means of their own to go into speculation. Because of the quantity of the currency or its accessibility they may borrow and go into speculation. They may buy and hold a large amount of produce and temporarily affect prices. But when their bills payable become due and have to be met, possibly they may renew them once for a period of ninety days; but when those bills have to be met the produce must be sold and the market comes down. Speculators may affect the prices of commodities temporarily; but when pay-day comes, as come it must, prices again come into harmony with the demand for the article.

But, sir, is it true that, as compared with the period of 1859 and 1860, we have a redundant currency? How was it then? Why, sir, they say that at that time we had \$300,000,000 of currency afloat, and now that we have \$600,000,000 or \$700,000,000. I undertake to say, sir, that \$600,000,000 or \$700,000,000 is not so much in proportion to the demand and the uses for currency now as \$300,000,000 was before the war. Before the war, for every dollar of circulation, for every dollar of bank paper or gold, or whatever entered into or made up the sum total of our currency, there was somebody's note out for ten or fifteen dollars.

No one then pretended to do business on a cash basis; no business was conducted anywhere for cash; no sales were made for cash. The wholesale merchant sold at six months' time, and the retail merchant did the same thing. Every man who had any commodity to sell never expected to get money for it; he always expected to get somebody's note, the usual credit being for six months. I undertake to say that, during the period of five or six years prior to 1862, fifteen sixteenths of all the commercial transactions of the country were carried on upon the basis of credit; and therefore it is not true, taking our present position and what we are doing as compared with what we did then, that seven or eight hundred millions of currency now are more than three hundred millions

then; for we are now attempting to do business for money, to do away with the credit system. I have nothing to say against the credit system by itself; but, sir, it has been the parent of a great deal of our miseries as a people. It has been the occasion of bringing on a great many of our financial crises. But when, sir, the idea was conceived and brought forth that we were to have a paper currency, such as the actual wants of the country demanded, why the people gradually, very gradually, did away to some extent with the credit system among us, and they did business purely on a cash principle. While they are doing that, I undertake to say, such a thing as panic or crisis could not possibly take place. What do the people care about a crisis if no one is in debt? It can never be, and never will take place. Therefore I say, sir, in point of fact it is not true that we have a redundant currency at this time. Beside, sir, we have a demand now for actual currency to pay internal Federal tax or revenue exceeding the entire volume of circulation before the war. The last report of the Secretary of the Treasury shows that during the last fiscal year our people have paid into the Treasury of the United States more than \$310,000,000—eighteen million dollars more than the total of the authorized circulation of the national banks; and nothing but currency (lawful money) will be received in payment of these dues.

But, Mr. Speaker, acting on his theory, the Secretary of the Treasury, seconded by the Finance Committees of both Houses of Congress, is retiring as fast as possible, as fast as the law will permit, a portion of the currency we already have. How is it to-day, sir? We have about sixteen hundred national banks, with a circulation of \$292,000,000. We have in round numbers \$400,000,000 of United States notes and in round numbers \$159,000,000 of compound-interest notes that have already been treated and regarded as money; and now what is attempted to be done? By the law of the last session the Secretary of the Treasury was permitted and authorized by law to do—what? Why, sir, to convert the compound-interest notes into long bonds; to retire the non-interest-bearing notes; so that, since the passage of the law, \$4,000,000 per month of United States money or non-interest-bearing legal tenders have been retired, and the Government has put just that much more money on interest than we had before. Now, what is to be the effect of this thing? If it goes on, how is the country to be affected? How is the business of the country to be affected? If this thing is to continue, all the compound-interest notes will be retired; the entire \$400,000,000 will be retired, and then we will be remitted to a condition of things not so favorable to the business of the country as before the war, as we will not then have as much circulation as we had before the war.

Mr. PRICE. Do I understand the gentleman to say that by the act of the last session of Congress the Secretary of the Treasury was authorized to retire legal tenders and to pay for them in long bonds?

Mr. BUNDY. Yes, sir, in effect.

Mr. PRICE. I supposed we had guarded against that point particularly.

Mr. BUNDY. How can you guard against it? I am a modest gentleman here and will cheerfully answer any question put to me, but as I have never had the floor before I fear I may make some mistake and lose it. [Laughter.] I ask you, Mr. Speaker, whether it is not an authority given to the Secretary of the Treasury to retire legal tenders and to issue Government interest-bearing bonds in their stead?

Mr. PRICE. I wish to say in reply, if the gentleman is correct in the position he assumes then the country is in a dangerous position financially.

Mr. BUNDY. That is what I say, sir.

Mr. PRICE. For one I will go as far as any member upon this floor to correct that evil. I suppose that the act of the last Congress authorized the Secretary to retire so many mil-

lions per month and that they were to be destroyed, and to make myself sure that I was correct in that, I introduced a resolution some two weeks since, which was kindly objected to by my friend from Illinois, [Mr. WENTWORTH,] requesting the Committee on Banking and Currency to ascertain whether these legal tenders had been burned. I wanted to know what had been done with them. I wanted to be assured that they were reduced to ashes. For if instead of being destroyed they are being converted into long bonds, if we have left that door open to the Secretary of the Treasury, then we had better here and now, before sunset, pass a law that no non-interest-bearing legal tender should ever be converted into interest-bearing bonds of any description. I cannot consent to believe that we have made such an egregious blunder as to allow such a thing to be done.

Mr. WENTWORTH. The gentleman says I objected to his resolution; I objected only to a part of it.

Mr. PRICE. There were two resolutions, and the gentleman very kindly objected to both.

Mr. WENTWORTH. Was it all in one proposition?

Mr. PRICE. They were on the same paper, but they were susceptible of division if the gentleman had seen proper to call for a division, but he did not.

Mr. WENTWORTH. Does not the gentleman understand parliamentary law well enough to know that we cannot divide a proposition when the question is upon its reception. Only after it is received can it be divided; therefore I objected to its reception.

Mr. PRICE. I am so well acquainted with parliamentary law as to know that the House could not act on it in any manner until it was received, and the gentleman availed himself of the privilege, knowing that a single objection would stop it, to prevent its coming up for debate or division or anything else.

But to return to what I was saying when I was interrupted. When at the last session that bill was under consideration, I expressed my views upon it in a short speech, and I took the ground that we should retire these notes no faster than the receipts of the Government exceeded its expenditures, and that we must not retire the non-interest-paying paper and keep afloat the other. I certainly combated to the extent of my ability then, and shall continue to do it so long as I shall remain a member of this House, the doctrine that the Government should make any more interest-paying notes, and maintained that if it retired any it should be the interest-paying notes. I supposed I was entirely with the gentleman from Ohio in that, and I am only sorry to find there is a possibility of my being mistaken in regard to it.

Mr. BUNDY. It is wholly immaterial, and the gentleman as readily understands it as any member on the floor perhaps, whether there is a provision in the law to the effect which he claims or not. What are the facts in the case? The gentleman knows as well as I do that if you do not increase the interest-bearing bonds of the Government they remain as they are bearing interest. In other words if you retire anything, would it not be better to retire the bonds that bear interest?

Mr. PRICE. The notes that bear interest.

Mr. BUNDY. Why do you give the Secretary of the Treasury permission to retire four millions a month of notes upon which the Government pays no interest and retain as indebtedness those upon which it does pay interest? There is the impolicy of the thing. I care not what the special provisions of your law are; it amounts to nothing, because if we are getting more revenue than is necessary to meet the ordinary expenses of the Government, that surplus ought to be applied to the payment of the debt upon which we are paying interest and not of that upon which we are paying no interest. He would be a very foolish man indeed who, in the administration of his own affairs, should give his surplus above his necessary expenses or the requirements of his business to pay those notes upon which he had to pay no interest,

while he let those remain upon which he was paying interest.

Mr. KELLEY. Will the gentleman yield? Mr. BUNDY. Oh yes, only I am afraid the gentleman will interject a better speech than my own. [Laughter.]

Mr. KELLEY. I desire just at this point to say that the theory of the Secretary of the Treasury is, that by absorbing the non-interest-bearing notes, while the compound-interest notes are afloat, he is contracting the currency; and I wish to ask the gentleman to permit me to have read from the Public Ledger, of Philadelphia, a paper of unquestioned standing, an article showing that the banks recognize the absorption of the compound-interest notes as contraction, and are afraid that retiring them even at their maturity will bring them to insolvency or to a suspension of the payment of greenbacks in the redemption of their notes. I ask for the reading of the article:

The Clerk read as follows:

"The proposition to take from the national banks the right to count compound notes as a part of their legal reserve is creating alarm among bankers, who see in it the seeds of financial revulsion, the result of an arbitrary and violent change in the law. The withdrawal of the compound notes from the banks at maturity will force upon them a conservative policy, which cannot fail to be felt by their debtors, who must pay up as fast as the banks are obliged to contract by the maturing of their interest-bearing reserve. The following extract from a letter from the president of the First National Bank at New York, whose experience in currency and banking gives his opinions great weight, is entitled to the consideration of Congress:

"I wish to enter my protest to the Honorable Mr. Hooper and others against amending the national bank law so that the banks cannot count in their reserve money their compound-interest notes. When they are due and payable the banks do not substitute gold or greenbacks for the compounds they hold any faster than they fall due will surely cause a severe revulsion in the money market, and the Government itself will not be among the minor sufferers. The banks will necessarily violate the law as regards their reserve, or fail, many of them, outright."

Mr. BUNDY. I would before I got through, if I had not forgotten it, have referred to that feature of the bill known as Mr. HOOPER's bill. Permit me to say, in passing, that I have no sympathy with banks or bankers who are apprehensive of any such state of things. It is their business to provide against any such contingencies. I was going on to say—and I am sorry that I have no moorings to which I can fasten for the purpose of making my speech, if you can call it such, connected—I was going on to say that the legitimate effect of the processes now in operation, inaugurated by the Secretary of the Treasury, and seconded, I am sorry to say, by the Congress of the United States, is to bring us down to the circulation of the national banks without any authority for the increase of that circulation, to wit, to \$292,000,000, or less than we had during the terrible times of 1860 and 1861. I say that that state of things is inevitable. Inevitable, why? Why, because, as I before remarked, this excess which the Government derives from its sources of revenue is applied, not to the extinguishment of the interest-bearing bonds of the Government, but to the extinguishment of the non-interest-bearing bonds to a great extent. Why retire the non-interest-bearing notes? What reason is there for that? Four hundred millions of them at six per cent. would produce \$24,000,000 a year, which, under a peace establishment, would have been considered a large source of revenue for the purpose of carrying on the Government and paying its ordinary expenses; and yet it is proposed to retire all that class of public indebtedness, not as rapidly as the Secretary of the Treasury asks, I admit, but as rapidly as he may do it under the law.

Does that look like a good financial policy? Why was it inaugurated? Why is it insisted on with such pertinacity on the part of the head of the exchequer? Why, sir, without attributing any selfish motives in the matter, without supposing for a moment that he had any aspiration for the future with regard to himself, it would be a very pleasant thing for him to have it said in history that during his administration

of the financial affairs of the country he had become its greatest financier. His object is to enforce the resumption of specie payments. Who wants the resumption of specie payments?

Several MEMBERS. We do.

Mr. BUNDY. We do, but we want it in a way that will not destroy the great industrial interests of the country. I undertake to say that if this matter is left to natural causes specie payments will resume themselves without any spasmodic action on the part of the Secretary or of Congress.

How can we resume specie payment now? What is specie payment? What is specie? It is nothing more or less than the representative of the values of the products of the country. It has no intrinsic worth; it is the medium of exchange. Exchange of what? Exchange of that which is substantial, and which is of intrinsic worth. And how can we resume specie payment without those products? Just wait; "make haste slowly" in this matter, and the productive industries of the country will become such as will create a basis upon which your specie can rest, and when specie payment is resumed, as the consequence of natural causes, it will be worth something. If you attempt it before, as I have said, the action will be spasmodic and worthless, and not only worthless, but destructive to every material interest of this country. Who wants specie payment, and for what? Why, upon the theory I first mentioned, that because of the fact that gold is above the face of our paper currency, the denomination of the currency, and therefore the prices of the living of those men who have salaries are enhanced, and the prices of the living of non-producers are enhanced. That is one view of it. I know that it is right for persons who have salaries even to live as cheaply as they possibly can; but I take it that they have no right to demand cheap living at our hands, even if their theory is true at all, at the expense of the whole productive interests of the country.

Who else wants resumption of specie payment? Why, sir, the holders of the bonds of the country, and their name is legion, whether foreign or domestic. Those men who have bought our bonds when gold was 280 would regard it as a God-send to-day if by the action of the Secretary of the Treasury and of this Congress, the thirty-three cents of their gold should become a dollar in their hands. Why, sir, Aladdin's lamp would be utterly worthless in comparison with it. They are interested in this matter. Where are the bondholders thus interested? There are across the waters a part of the bondholders, and I am very glad of it, very glad of it in one view. It would be a grand financial triumph of the Secretary of the Treasury, aided by the Congress of the United States, if by possibility the fifty cents in gold which, in the day of our distress they brought over here and invested in our bonds, should become a dollar in gold.

Mr. MAYNARD. Will the gentleman allow me a moment?

Mr. BUNDY. I will.

Mr. MAYNARD. I desire to ask the gentleman a question right at this point. Does he think this nation is under any moral obligation, I do not say any legal obligation, to meet these outstanding bonds in coin, or does the gentleman think they may justly and righteously be discharged by the payment of Treasury notes or greenbacks?

Mr. BUNDY. If I understand that to be the sentiment of the gentleman then I agree with him. Those bonds were bought by these men when gold was at least one hundred per cent. premium. And I say it is not the business of Congress, it is not the business of the Secretary of the Treasury, in order to put money into the pockets of these men, to so shape the finances of this country as that they shall make a dollar out of their fifty cents within a very short time, say within a year or two.

Mr. KELLEY. Will the gentleman allow me to interrupt him for a moment?

Mr. BUNDY. Oh, yes, sir.



Mr. KELLEY. Allow me to say that those bonds are payable in "lawful money," and if the English people send them over here before we resume specie payment, they must take their redemption in lawful money, let it be specie or greenbacks.

Mr. BUNDY. That is a very important suggestion, and I am obliged to the gentleman for making it.

Mr. MAYNARD. I wish to ask my friend from Pennsylvania [Mr. KELLEY] whether he thinks that the Secretary of the Treasury, by making an official announcement that these bonds will be paid at maturity in coin, creates thereby any moral obligation upon the part of the Government to pay them in coin.

Mr. KELLEY. I have never supposed that the word of the Secretary of the Treasury could override the law of the land; and as those who bought these bonds bought them with the understanding that according to the terms of the law they should be redeemable in lawful money, the Secretary cannot change the terms of the contract. I am therefore in no hurry to give the gold instead of greenbacks, as in doing so we will crush all branches of American industry. Foreign bondholders cannot complain if they have to take what is "nominated in the bond," and do not get gold when we promised but lawful money.

Mr. BUNDY. I am very much obliged to gentlemen for interjecting such good doctrines into my speech. They will be highly valuable as illustrations.

Now, Mr. Speaker, I have stated who are the interested parties; and they are the only parties interested. On the one side are the non-producers, with the bondholders, domestic and foreign, added; while on the other are the producers of this country, the men who work, I care not where they work; on them the whole weight of this thing must eventually fall. They constitute the bed-rock in these strata. Whatever we may say here, the capitalist, the man who has the money, is not to be the sufferer by a crisis. The weight of the calamity falls at last, and most severely, upon the man who works—the producer.

But, sir, it is urged that the reputation of the Government is involved in this matter. I have seen intimations coming from across the waters that we should see to it that very early, perhaps even before all the revolted States are restored to practical relations with the Government, the resumption of specie payments shall be accomplished. In order to enforce this doctrine, the example of Great Britain after the Peninsular war is quoted to us as an illustration. What is the fact in regard to this matter? How did Great Britain resume specie payments? What are her consols worth to-day in the market? Do they command specie dollar for dollar with their denominational characters? No, sir. They are quoted in London at ninety-two cents on the dollar; while our five-twenties in the same market are quoted at seventy-two. Do you call that a resumption of specie payments? If it were proposed that our Government should resume specie payments upon that principle, there would not perhaps be so much objection to it. Take all our vast debt; consolidate it; declare that you will pay but three per cent. interest on it, and then let its quotable value in the market be but ninety-two cents on the dollar, and you will have resumed specie payments in the same way that England has done it, so far as the indebtedness of the Government is concerned.

But, Mr. Speaker, the evil of this thing does not stop here. In the first place, we are not conditioned like Great Britain. We never have been; and we shall not be within the next hundred years. Her natural resources are nearly all developed; and the Government, the capitalist, the agriculturalist, and the manufacturer are all a unit. They are on one side of the line; on the other are the paupers of Great Britain, the artisan, the mechanic, and the laborer. Hence, under the system prevailing there, the manufacturers and capitalists can,

in almost every case, avoid a financial crisis when they see it approaching. All that they need to do is to get the Bank of England to lower the rate of discount and issue their paper, thus anticipating and avoiding a financial crisis. It is not so with us, and it never will be. Here the Government is one thing; our agriculturists another thing; our manufacturers another, so far as their respective interests are concerned. Hence I maintain that England cannot furnish us any example in the solution of our financial difficulties. There cannot exist in that country a condition of things analogous to that prevailing here. There is just as much propriety in quoting the practice of Great Britain under her financial system as a rule for our Government as there is in quoting international law established by despotic and monarchical Powers as a rule to guide us in the restoration of our Government.

Why, Mr. Speaker, we never did do anything here like Great Britain, and I hope we never will. Here it is that the people are sovereign, and they manage their own affairs pretty much as they please. Not so there. Therefore I say the rule does not apply. Gentlemen are perfectly willing, apparently, to leave all matters pertaining to our interests in this country to the people who are involved, except this question of finance. We maintain until we get into Congress that that is their right, under the spirit and form of our Government. I know how I have felt once. When I was at home as an humble individual, I thought I was able to conduct my own finances without any interference from others; but somehow or other when I got in here I thought it was a part of my duty to regulate the financial affairs of all my neighbors. I know that is natural; but, sir, the effect of all such action is detrimental to the business interests of the country. So much, then, for that view of the question.

Now, Mr. Speaker, I concede that the bondholders have a large interest in this question of "contraction and resumption," for those are the catch phrases; and perhaps, without intending to say anything against our national banking system at all or any of the persons who are engaged in it, I must be allowed to say there is no class of men in the country who are any more interested than they are, because their bonds constitute the basis of their circulation.

There is another aspect of this case. By the legislation of Congress you tax out of existence every State bank in the country. In other words, the national banking system is the only one we have or can have. They have the matter in their own hands. It is curious to see how the capital has been distributed, and how it has been appropriated by different sections of the country. Now, sir, I do not blame men for being actuated to some extent by self-interest in this country, and therefore it is not surprising to me that a great effort is being made to so amend our national banking law so that our country national banks shall be compelled to keep an agency in New York. It is not a matter of surprise, when we look at the New England States. I will show how that thing has been "fixed up." Take, if you please, the State of Massachusetts, with a population, I do not remember how many, but something over a million. In this race of diligence, for that is what it is, they have appropriated of the banking capital of three hundred and odd millions authorized by Congress, seventy-nine millions, over one fourth of the whole. The State of Ohio, with a population twice that of Massachusetts, with an area much larger, with a country for agriculture far superior, with a belt of mineral territory six miles wide, running from the northeast to the southwest, which, if properly developed, would be worth more than all the lands and manufactories of Massachusetts, has a banking capital of this association of—how much do you think?—about twenty millions, or about one fourth of Massachusetts.

I do not wish to make any invidious comparisons; I only wish to show how fast men

go in this race of diligence. Take, if you please, seven States, New York, Massachusetts, Maine, Rhode Island, New Hampshire, Vermont, and Connecticut, and of the sixteen hundred and odd banks they have seven hundred and ninety-eight of them, with an authorized capital of about two hundred and sixty-two million dollars. If you include Pennsylvania—and we have a right to include it so far as the Northwest is concerned—there is this condition of things: that of the sixteen hundred and forty-seven banks, they have nine hundred and ninety-nine of them, or two thirds, leaving for the other twenty-eight States of the Union and all the Territories but six hundred and forty-eight banks; that is all that can be made under the law. In order to show how this national banking system has been "fixed up" and appropriated, I append the following tables, extracted from the last report of the Secretary of the Treasury:

*Statement showing the number of national banks located in the seven eastern States, together with their authorized capital and circulation.*

States.	No. of Banks.	Capital paid in.	Circulation.
Massachusetts.....	207	\$79,932,000	\$56,740,300
New York.....	308	116,267,941	75,970,300
Rhode Island.....	62	20,864,800	12,369,850
Maine.....	61	9,085,000	7,451,820
New Hampshire.....	39	4,715,118	4,121,253
Vermont.....	39	6,310,012	5,676,800
Connecticut.....	82	24,584,220	17,177,450
Total.....	798	\$261,259,091	\$179,508,043

If we add the State of Pennsylvania, which, for all business purposes, must be regarded as an eastern State as contradistinguished from the western, northwestern and southern States, we will have:

Pennsylvania.....	201	\$49,200,765	\$38,099,640
Total.....	999	\$310,459,856	\$217,607,683

Whole number of banks in operation authorized by law.....1,647  
In operation in the above-named eight States..... 999

Leaving for the other twenty-eight States and Territories..... 648

Whole amount of circulation authorized for all the national banks.....\$292,671,753  
Of which the above-named eight States have appropriated..... 217,607,683

Leaving for the remaining twenty-eight States and Territories..... \$75,064,070

Whole amount of banking capital for all the banks.....\$417,245,154  
The above-named eight States have appropriated thereof..... 310,439,856

Leaving for the remaining twenty-eight States and Territories.....\$106,785,298

*Statement showing the number of national banks located in the following-named States, together with the authorized capital and circulation of each.*

States.	No. of Banks.	Capital paid in.	Circulation.
Ohio.....	135	\$21,804,700	\$18,375,230
Illinois.....	82	11,570,000	9,448,415
Indiana.....	71	12,867,000	10,888,280
Michigan.....	42	4,985,010	3,778,900
Iowa.....	45	3,697,000	3,204,395
Wisconsin.....	37	2,935,000	2,512,750
Minnesota.....	16	1,660,000	1,481,000
Missouri.....	15	4,079,000	2,712,490
Kansas.....	4	325,000	269,000
Total.....	446	\$63,922,710	\$52,673,650
All other States and Territories have.....	202	42,862,588	22,380,420

*Statement showing the approximate quantity and the character of the circulating medium of the United States, October 31, 1866.*

United States notes, "greenbacks,".....	\$390,195,785
National banks.....	292,671,753
Fractional currency.....	27,588,010
Total.....	\$610,355,548

To which may be added such part of the compound-interest notes due in 1867 and 1868 as may be held as reserves by the several national banks, thereby releasing for circulation an equal amount of the said United States notes, the

whole amount of the said compound-interest notes being \$159,012,140.

Now, sir, is it surprising we should find upon our tables a bill asking us, in addition to all this, that the national banks in Ohio, Indiana, Illinois, and throughout the West, Northwest, and South, must organize a redeeming agency in the city of New York? They will then get all our money there; every bit of it.

There is another proposition in that bill I will speak of before I get through. But now about this thing of having a redeeming agency in New York. Some of us in the West have had sad experience in regard to that matter.

You remember, sir, once upon a time there existed an institution called the Ohio Life Insurance and Trust Company. The main office of that company was in Ohio, but the principal office for redemption was located in the city of New York, where the bulls and bears do congregate, to say nothing of any other species of animals. It so happened that the men who had the management of this redemption agency in New York applied all the funds to purposes outside of the legitimate object of the organization, and when the crash came in 1857 down went the Life and Trust Company. Now, I say that in my judgment it would be infinitely better, if we are to have an institution of that kind, to locate it out West somewhere, in some of our little towns, where men do not congregate in such masses; and perhaps it would not be amiss to locate that redeeming agency in my own little town of Jackson. [Laughter.]

Mr. MAYNARD. If the gentleman will allow me, I find in my mail a petition of some of my constituents which seems germane to the subject he is discussing, and if he does not object I would like to have it read.

Mr. BUNDY. Not at all; every injection of that sort helps my speech. [Laughter.]

The Clerk read as follows:

*To the Senate and House of Representatives of the United States in Congress assembled:*

Your petitioners, the undersigned, citizens of Benton, in the county of Polk, in the State of Tennessee, respectfully pray:

1. That your honorable body will refrain from the passage of any act authorizing the curtailment of the national currency, or having in view the return, within a limited time, to specie payments. They respectfully represent that the further reduction of the volume of currency at present would prove highly injurious to the banking, manufacturing, and mercantile interests of the country, and would entail suffering upon nearly every member of the community; and they express the opinion that, if such currency shall now be contracted, we are near to the time when the lawful obligations of citizens cannot be met; when the demands of the national Government, together with the heavy taxes levied by our State and municipal authorities, cannot be paid; and when many of our good citizens shall have to submit to a confiscation of their hard-earned property.

2. Your petitioners further pray that your honorable body will refrain from the enactment of any law compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances.

And your petitioners respectfully submit, that any law compelling all national banks to redeem their circulating notes in New York would prove onerous to them, injurious to the business men of their locality, and would ignore the just claims of other sections of the country.

And your petitioners further show, that as the business of nearly every bank in the United States requires it to keep deposits at one of the national banks located in New York, any law prohibiting the receipt or payment of interest upon balances by such banks would operate harshly upon all like institutions located out of that city, and would render wholly unproductive a considerable proportion of their capital.

And your petitioners will ever pray, &c.

Mr. MAYNARD. A letter explanatory of the petitioners' views accompanies it, which I offer.

The Clerk read as follows:

BENTON, TENNESSEE, January 3, 1867.

SIR: By last mail a portion of the citizens sent a petition addressed to you asking Congress to refrain from passing any act curtailing the national currency, or to require the national banks to redeem their notes in the city of New York, or to prohibit national banks from paying interest on bank balances; all of which I hope will meet with your approbation, as any laws looking to a reduction of the currency and an early resumption of specie payments at a time when we have such heavy taxes (both State and national) to pay, would prove highly injurious to all classes of business.

Calling attention to the petition referred to, I am, respectfully, yours, &c.

Hon. H. MAYNARD.

Mr. WENTWORTH. Will the gentleman allow me to interrupt him?

Mr. BUNDY. Yes, sir.

Mr. WENTWORTH. While that petition was being read I looked over one of eight or ten of the same kind that I have, and I now send it to the Clerk's desk to be read, for the purpose of showing where these petitions come from. Every member, I presume, has a handful of them:

OFFICE OF THE MERCHANTS' UNION LAW COMPANY, AMERICAN EXCHANGE BANK BUILDING, No. 128 BROADWAY, NEW YORK, December 21, 1866.

DEAR SIR: Several of the parties connected with the Merchants' Union Law Company, having been retained by some of the national banks and others interested to oppose measures pending in Congress for the further curtailment of the currency, for compelling all such banks to redeem their issues in New York, and for prohibiting them from receiving or paying interest on bank balances, in view of the importance of the questions involved, concert of action in the matter has been determined upon. Eminent counsel have been retained at Washington and elsewhere to prepare and present arguments against each of these measures, and in favor of an enlargement rather than contraction of the volume of the currency; and such other measures have been taken as were deemed proper to inform Congress of the wishes and interests of the whole community upon these subjects.

Copies of the blank petitions, which have been transmitted throughout the Union, have also been forwarded to you; and, after procuring the signatures of your most influential citizens thereto, you are respectfully requested to inclose the same to your Congressional Representative, or to some other member at Washington with whom you are acquainted. Much good may also arise from communicating your wishes by letter to your acquaintances in Congress.

Additional blank petitions, in any number desired, with printed arguments, in pamphlet form, by some of the most eminent counsel in the country, favoring these views, will be forwarded to you free of charge upon application to this office.

If you approve of the efforts thus made and to be continued in this direction, you are respectfully solicited to contribute to the expenses of the same by transmitting to this office such retainer in the matter as you shall deem proper—say one tenth of one mill on each dollar of your capital, being in the proportion of ten dollars on each \$100,000 of such capital; it being understood, of course, that you incur no additional obligation by so doing.

Yours, &c.,

JOHN LIVINGSTON,

Secretary, &c.

[Here the hammer fell.]

Mr. WENTWORTH moved that the time of the gentleman be extended.

No objection being made, the time was accordingly extended.

Mr. BUNDY. I understand very well the scope and effect of that letter, and am not surprised at the source whence it emanates and the medium for its introduction into this House. My friend from Illinois resides in a large city of the West, which is abundantly supplied with banking facilities.

Mr. WENTWORTH. With the gentleman's permission I would like to say a word in answer to a remark of the gentleman from Pennsylvania [Mr. KELLEY] on the subject of national banks. I will assure that gentleman that for every bank that fails I can get men in my district alone to start another. We are not afraid of these national bank failures, as their bills are secured; and there are bonds enough in the country in the hands of willing capitalists to start a dozen for every one that fails.

Mr. BUNDY. Yes, sir. I understand something about banking at Chicago. Banking facilities are very easily obtained there, to say the least of it; but there is one condition—precedent, I believe, to the discount of any business paper, and that is that the applicant must leave some additional sum of money, beside the proceeds of the discounted paper, on deposit until the paper matures. [Laughter.] Of course they do not want any increase of banking facilities there. But, Mr. Speaker, that paper is but the forerunner of coming financial events if this state of things in reference to the currency continues; and it should be regarded as a note of warning to the whole country, and its effect should not be lost upon the members of this House.

Mr. HARDING, of Illinois. I desire, with the gentleman's permission, to say, in reference to the representations made by my colleague,

that I hold in my possession petitions from numerous and very respectable men of business in Chicago, who dissent from the views presented by my colleague, [Mr. WENTWORTH.] The petitions are headed by such names as Solomon Sturgeon & Son, Amos T. Hall, and many others; so that, although my colleague is from Chicago, it seems there are two sentiments prevailing there on this question.

Mr. WENTWORTH. Allow me to say that I have expressed no sentiment; I only sent up the paper to be read in order to get the origin of these petitions before the country.

Mr. BUNDY. Mr. Speaker, I begin to think there is a conspiracy here, knowing that I am a modest man, to embarrass my speech. [Laughter.] Now, I do not know where I was. [Laughter.] I was about saying—yes, I did say, that by a law of Congress there was such a heavy tax imposed upon State banks that it is impossible for institutions of that kind to exist, and therefore the only circulating medium that we have or can have in the future, if this state of things is permitted to go on, will be that furnished by these national banks. I said they had no interest. It is true, they may have a conflicting interest. They may have no interest and no sympathy with my views; but they have an interest in this special, "strait-jacket" legislation, which confines the entire facilities for furnishing a circulating medium to them. It is natural that it should be so. I have no objection to that on their part. They want to make as much money out of their money as they can. That is their side of the question.

Now, Mr. Speaker, with regard to the processes and the manner in which they are to be accelerated for the reduction of the currency, I have said that these Eastern banks, acting on the suggestion of their own interests, as a matter of course, would favor nothing that looked to an increase of the capital of the banks, or a redistribution of it. I am opposed, for one, to any legislation upon the subject. If I should favor any legislation at all it would be a reapportioning of this bank capital to the States and Territories in proportion to the people resident there, or to the wants of the country, as might be determined after investigation.

In looking further into the report of the Secretary of the Treasury, I find that eight States, including the seven first mentioned and Pennsylvania, have a circulation on authorized capital of \$310,459,000, leaving the other twenty-eight States and Territories only one hundred and six million odd dollars; or, in other words, that those eight States have two thirds of the entire authorized banking capital under this law; and therefore it is not remarkable that they should feel an interest in perpetuating this state of things as far as they can, and making it as profitable as possible.

Let me refer to the section of this bill, which has been read, amending section thirty-two of the law. I read the proviso:

"Provided, That compound-interest notes shall not be included in the lawful money of the United States required in any association by the provisions of the preceding section."

What is the practice of all these banks now? For their reserve they put away the compound-interest notes, and that being the case, it keeps afloat legal tenders to a corresponding extent, because the law requires that such a per cent. of their capital shall be placed as a reserve, and it must be "lawful money;" and the word "lawful" is held to mean those interest-bearing notes. Instead of holding as a reserve this vast sum in legal-tender, non-interest-bearing notes, they now hold compound-interest notes. By the proviso in this bill the committee, no doubt acting in harmony with the desires and suggestions of the Secretary, propose to force all the national banks, to discard and surrender the compound-interest notes now held as a reserve, and substitute therefor the United States non-interest-bearing legal tenders. This would facilitate, to the extent of such substitution, the reduction of the currency.

The process of the reduction of the currency is not rapid enough to suit these gentlemen; it is too tardy. They propose, therefore, by this amendment to make it unlawful for the banks to retain compound-interest notes as a reserve, and compel them to substitute the legal-tender now circulating among the people. They propose, "at one fell swoop," by this amendment to take all the compound-interest notes out of the vaults of the banks, and compel them to put in their place legal-tenders or non-interest-bearing notes.

Now, Mr. Speaker, I said a while ago that there were two parties to this controversy; two interests involved. It is a fine thing for us to talk boldly and eloquently about "the rights of man;" it is something for us to say when we go home, that during the present session of this Congress we enfranchised a portion of a race that has been disfranchised from time immemorial; it is something for us to say that we have, as far as we were able by our voices and our votes, attempted to do justice to every member of the human family; but, Mr. Speaker, while we are doing that, while this interest seems to overshadow all others, it must be recollected that back there in the States there are a few white men left, whose interests must be consulted by the Administration and by Congress. They have said in thunder tones to us, "These things ye ought to have done;" and the same distant and potential voice will also peal forth, "and not to have left the others undone." If we do not now, we will be compelled to hear, and our successors to heed, the latter injunction. For my part, I am disposed to hear and obey that injunction now. It will not do for you to say to these men whom you called into the service, a million and a quarter strong, men from the free States who endured the hardships imposed upon them by the Government to put down the rebellion, that, after they did as they had done, nobly, you, by your action on this great question of finances, have so crippled the industrial interests of the country as to turn them out of employment, or to leave them and their families to starve.

I know some gentlemen talk as though they could compel men who have money to operate with it. No such thing can be done. Capital, as has been said here repeatedly, is always timid. The manufacturers, who give employment to these men, will do just as their interests indicate they should do, in order to save that capital and enhance it. And therefore it is not surprising at all that, amid the terrible uncertainty that now seems to hang over this whole question of finance, we find that fifteen thousand artisans, mechanics, and day laborers are idle in the city of New York, looking in vain for the means of procuring subsistence. Why, sir, we not only owe to all conditions of men the boon of personal freedom, but we owe to them access to the means for their living.

And here let me say that there is another thing that will come up in the hereafter, blink it as you may, frown it down in these Halls as you can. Having provided by law that one sixth of all your taxable property, held by all the people of this country, shall, for all time to come, be exempt from taxation, if you turn these men out of employment, who provide the means by which the value of and interest upon that property is kept up, they will say, if they are thus treated by their Government, why should they hereafter labor and toil to keep in power a party in the country who will continue to exempt that property from taxation, while its action destroys the means to their prosperity? I hope the day may never come in the history of our country when the thought of repudiation will tarnish its fair fame. But I will tell gentlemen they may so act, they may so conduct public affairs, as to precipitate such an event. It will do the soldier no good; it will furnish him no reasons why he should continue his support of a party that, on these great abstract rights, obeyed the behests of justice and the dictates of an enlightened conscience, when at the same time it fails to secure to him and his family the means to exist. This, indeed,

would be a sublime history and grand example for the instruction and admiration of the world. The soldier has been honorably discharged from the conflicts of the ensanguined field; he has now returned, if not to the more terrible, yet more protracted battle of life. It is true, we have a free country; but with freedom I want to carry blessings to all its people. The manufacturers will not, cannot, employ these men. The agriculturist cannot do it. The capitalist will not invest his money in any enterprises, without reasonable prospects of fair profits upon the investment. They will prefer investment in the untaxed bonds of the Government.

There is another view of this subject which may be important in this connection, and which is intimately connected with this question of labor, or the employment of labor.

Before the war, when our currency was in round numbers \$300,000,000, the manufacturers as a class, and even the agriculturists, were so much in debt that they were obliged to continue in operation their business regardless of the results of their operations as to profits. The manufacturers were compelled to keep their establishments in operation even at a yearly loss, so that, by the sale of their products, their existing indebtedness could be carried over from year to year; and they were also stimulated by the hope that each successive year's operations might show a better balance-sheet at the end thereof.

The farmers as a class were embarrassed by reason of investments made for improvements upon their farms or for additions purchased thereto, so that it may be said, without any disparagement of the farmers as a class, that their farms were shingled over with mortgages to secure the payment of liabilities incurred as above suggested. They too were compelled to cultivate their farms, furnishing employment to labor, so that by the sale of each year's products they were enabled to pay the accruing interest on their liabilities and also carry over or change their maturing liabilities by making new loans.

But, Mr. Speaker, that state of things no longer exists. The manufacturers and farmers are comparatively if not entirely relieved from debt, and the only thing for them now to decide in the consideration of the question of prosecuting their business is, whether it will be profitable to operate or not. The farmer will be contented with simply producing enough to subsist himself and family, unless, indeed, he has assurance that he will receive such prices for the surplus that he will be paid for his labors. The same remark will apply to the manufacturers. So that the question of the employment of labor will not, as heretofore, be governed by the necessities of the employers thereof, but by the prospects of their business.

Now, Mr. Speaker, is it not easy to see that if by our action here the financial affairs of the country shall be so distracted and disturbed as to unsettle or embarrass our producing enterprises, and that supplies shall be cut short by reason thereof, that the prices of produce and everything that our people consume will be enhanced thereby? The fact of a reduced currency or resumption of specie payment would not have much influence in the premises.

And, sir, if we reduce our currency below the absolute requirements of the country, in order to the successful prosecution of all classes of enterprises, how are you to command the means to pay the accruing interest on your public debt? From what source will you derive internal revenue? Whence will be derived your surplus that looks to the creation of a "sinking fund," or the direct reduction or extinguishment of your public debt? Do you expect that the Commissioner of Internal Revenue will be able to report the receipt annually of more than \$300,000,000 from this source alone? And how is the labor of the country to be employed with reference to the interest, if not to the very existence, of the laborer? I confess I do not see how these questions can receive satisfactory answers if the line of policy inaugurated by the Secretary is to be pursued indefinitely.

Now, Mr. Speaker, I have said all that I intended to say, and much more. Having no notes, and keeping no account of what I did say, owing to the repeated interruptions to which I have been subjected, it will not be strange if these remarks are somewhat incoherent and disconnected. It is said that the books furnish the theories that guide the exchequer of the country, and in the main they furnish the arguments, too, of the Committee of Ways and Means of this House. But what are books with us? What are theories with us? In our practices we scout them all. Diverging a little from the main topic and in order to illustrate the individuality and independence of our people as to the modes of thought and action, I beg to refer to the following little incident of the war: In the State of Tennessee, the home of my friend on the right, [Mr. MAXNARD,] a young man, a soldier of the Union Army, made application for a furlough to go home. Being denied by all his immediate superior officers, nothing daunted he resolved to seek the headquarters of the general commanding the department, General Thomas. He readily obtained access to the good-natured, sedate, and brave man, who inquired the object of his visit. He said, "General, I want to go home." "What do you want to go home for?" said the General. "To see my wife," replied the soldier. "How long has it been since you have seen her?" inquired the General. "Three months," responded the soldier. "That's nothing," said the General, "I have not seen my wife for three years." "Ah, General," said the soldier, "my wife and me are not that kind of folks, I want you to understand." The General surrendered; the soldier received his furlough. [Great laughter.] Think of such a dialogue and repartee with the results between a great general and the common soldier of any other country but ours. Why do you attempt to draw instructions from the theories or even the practices of the old countries, or any country whose conditions are not like ours? What did Adam Smith know about greenbacks? Why should we attempt to adopt theories or follow examples furnished us by monarchies and despotisms, even in regard to the great subject of the reconstruction of the States lately in rebellion?

They are all in the same category. They can furnish us no rule, because, Mr. Speaker, whenever two kings go to war, they fight until a sufficient number of their subjects have been killed to sate their ambition, and then all that is necessary to bring about peace is that the two kings or the two dynasties should make up their quarrel. But here it so happens that every one of our people is a sovereign; and I claim, sir, that the humble soldier-boy has as much right to dictate the terms upon which he will reaffiliate with the rebel who tried to kill him as the man in the White House at the other end of the avenue. My only boy, who is dying by inches from the effects of a wound received by a rebel shell, has as much right to say upon what terms those men shall come in here by my side and vote me down as the President of the United States. He stood for me, sir, in the time of my own and my country's peril, and by the blessing of God I will now stand in "my lot" here or elsewhere for him and his brave compatriots until I die.

Why, sir, look at the recent war in Europe between Austria and Prussia. It was a very short war; and when the war was over everything apparently was very speedily "fixed up." Why? Because there was nobody to fix it up but the dynasties interested. A great many of us wondered why it was that the Prussians gained so many advantages over the Austrians. We never understood it until we learned the fact that Benedek had George B. McClellan on his staff. Then the whole mystery was explained.

Now, Mr. Speaker, I want to say in conclusion that I hope we shall right here "call a halt." There is no necessity for a financial crisis in this country. Let our people alone; let them go on with their respective branches



of industry under the auspices of a Government which they regard as their friend financially, and soon, very soon, the wastes of the late war will be repaired; soon, very soon, you will have productions upon which you can form a basis for the resumption of specie payments; soon, very soon, our people, if left to themselves, will so manage their affairs that we shall have universal prosperity all over the land. Let us have no spasmodic action. Let us right here say to the Secretary of the Treasury: "Thus far and no farther, shalt thou go in this matter." Let us declare that the volume of the currency shall not be diminished, except so fast as the interest of the country may require. Let us say that no one man on earth, however great or able, shall be intrusted with the power that the Secretary of the Treasury exercises to-day with regard to the financial destinies of the country. I know of but one man on earth who is the embodiment of sufficient wisdom and patriotism to govern and conduct the affairs of this great people, and he is so only in his own estimation. In my judgment it is the duty of this Congress—it is my duty and the duty of every Union man in this body—to see to it that no harm shall come to our people because of the management or mismanagement of our finances by the Secretary of the Treasury, and that while we can send to the nations of the earth greeting that "our people are free," may we be able in all truthfulness to say with equal pride and significance that "they are prosperous and happy."

Mr. MAYNARD obtained the floor.

Mr. PRICE. Will the gentleman from Tennessee [Mr. MAYNARD] yield to me for a moment?

Mr. MAYNARD. I will if the gentleman will agree to continue the speech of the gentleman from Ohio [Mr. BUNDR] in the same strain and with the same ability.

Mr. PRICE. That is asking a great deal of one man. I will, to the extent of my ability, continue it in the same strain, but I cannot promise to do it with the same ability.

I desire to occupy the attention of the House for a moment, because there may be other members than those who have spoken who are under a wrong impression in regard to the law passed at the last session. When I interrupted the gentleman from Ohio, who very kindly yielded me the floor, I did so because I thought he was under a misapprehension as to the power conferred on the Secretary of the Treasury by the law of last session. I know that, unless he had misapprehended that law, I had; and that was my reason for asking him the question which I put to him. I have since obtained a copy of the law, and I wish to read a few lines to refresh the memory of members on this subject. The act of April 12, 1866, entitled "An act to amend an act entitled 'An act to provide ways and means to support the Government,'" approved March 5, 1865, provides—

"That the act entitled 'An act to provide ways and means to support the Government,' approved March 3, 1865, shall be extended and construed to authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress; the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained."

This is the point to which I wish to call attention—

"shall be construed to authorize any increase of the public debt."

The interest of the public debt, Mr. Speaker, is as much a part of the public debt, and for which the people of this Government are as much bound as the principal. The act then goes on to say:

"Provided, That of United States notes not more than \$10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than \$1,000,000 in any one month."

That is why I introduced the resolution the other day. I want to know whether they have been canceled; I want to know whether the law has been complied with; I want to know whether the money has been retired according to law, and what evidence we have of that fact. That is the reason why I introduced my resolution; and one of these days, if I live long enough, I hope to get that resolution up again, and gentlemen here perhaps will then see that such a law has been passed. That is all I have to say in reference to the law.

Now, it will be seen by the law that it contemplates this and nothing more, if I comprehend it correctly. It gives the Secretary of the Treasury power to convert the seven-thirties, that is, he may issue five-twenties for seven-thirties, because six per cent. is not more than seven-thirty. That law gives the Secretary of the Treasury power to retire the compound-interest notes and to issue bonds bearing a like amount of interest to give us more time. In my opinion it authorizes him to do that and nothing more, and it was with that view I thought the bill was brought in, although I did not approve of it at the time of its passage, because it was held by some members upon this floor, as I find it held by some still, that the Secretary had power to do other things. And in confirmation of that I ask the Clerk to read half a dozen lines of what I said on that occasion. The gentleman from Ohio will find it entirely in consonance with what he has said on this subject.

The Clerk read as follows:

"A very small, almost insignificant, part of our debt is payable on demand, and the balance runs from fifteen to forty years, at the expiration of which time we shall, if republican ideas and principles prevail, be the richest and most powerful nation on the globe. The feature of this bill, which provides that the \$450,000,000 of legal-tender notes, which bear no interest, and which are redeemable at no definite time, may be funded in six per cent. gold-bearing bonds, is to me so strange and unaccountable that I am astonished to find it presented to the House for consideration. This feature of the bill, if adopted, would involve an additional annual expenditure of \$27,000,000 in gold, for which the people of the country must necessarily pay an additional tax. Would any prudent and sensible business man, who had given his note payable at his own option, and without interest, be likely to take up that note and give another for the same amount payable at a certain time, with interest at six per cent., payable semi-annually in gold?"

"Why, sir, the bare mention of such a transaction provokes a smile of incredulity, and yet this is precisely one of the features of this bill. The Government owes \$450,000,000 on which we pay no interest, and which is redeemable whenever it suits the convenience of the Government; and yet if this bill becomes a law this \$450,000,000 may be funded in bonds bearing six per cent. in gold."

Mr. PRICE. These were the views I held on the passage of that bill, and I hold the same views now. I think the majority of the House also held these views when it passed the law from which I have read, and believed that it was guarded against this evil. I say now and here, to the members of the House, as I said before, when the gentleman from Ohio so kindly yielded to me, if we have not guarded against that evil, if we have left the door open for the increase of the public debt, leaving the Secretary of the Treasury to do as he pleases, the sooner we drop all other business and attend to that the better it will be for the nation. And I hope, without unnecessary delay, the matter will be investigated and attended to. We ought to retire the interest-bearing notes; and when we have retired any amount of them, in the language of the act I have read, they ought to be canceled, which, in my opinion, means they ought to be destroyed, and destroyed by being burned.

Mr. MAYNARD. Mr. Speaker, several days ago, during the consideration of another subject, I made a statement about a matter affecting a constituent and personal friend of mine, who had been arraigned in the State of North Carolina for an offense alleged to have been committed by him, as an officer, during the war. In the course of my observations I stated that I understood this officer had been demanded as a felon by the Governor of North Carolina from the Governor of Tennessee. The Governor of North Carolina, being in the city, cor-

rected me in the matter of his having made any such demand, and I so stated on a subsequent occasion in making a personal explanation. This morning I have received from the Governor of Tennessee a communication, which I desire, in connection with my former remarks, to present to the House.

The Clerk read as follows:

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT, KNOXVILLE, December 31, 1866.

HON. H. MAYNARD: I notice in a Washington paper a report of your remarks relative to the case of Captain Nelson. You gave the case substantially as the captain and I gave it to you. He was notified of the finding of a true bill against him in North Carolina, and of the intention of Governor Worth to make a requisition upon me. I told the captain to make himself easy, that I was familiar with all the facts, that I knew him to have acted under military orders as a member of General Gillem's staff, and that I would not surrender him to a rebel mob in North Carolina.

Governor Worth never made such requisition, and I attributed his not doing so to the noise made in the rebel papers, about the same time, of my prompt refusal to give up the gallant Colonel Smith, upon an application by Governor Jenkins, of Georgia, for an indictment for stealing four bales of cotton, which cotton he had seized as an officer of the Government. Had I given him up he would have gone to the penitentiary for twenty-one years, not really for stealing cotton, but for having fought through the war on the Federal side.

Previous to these occurrences Governor Peirpoint, of Virginia, addressed me a communication foreshadowing his purpose to make a demand upon me for Hon. R. R. Butler, for a time in the Federal Army, but now one of our superior court judges. I gave the Governor such an answer that no further correspondence took place between us on the subject.

I now have before me a demand upon Major General Thomas by the sheriff of Gordon county for Captain Duff, of East Tennessee, a gallant officer, who served in the Union Army during the war. Captain Duff was with a party who followed a gang of Georgia horse-thieves into Gordon county, found the Tennessee horse and a Georgia thief on him, and in the scuffle a Georgian got killed. Although Captain Duff was not in the fight, a demand was made upon the commanding general for him, the sheriff expressing his want of confidence in the civil authorities of Tennessee.

The Georgia sheriff properly understands me. I will not surrender Union officers and soldiers to the horse-thieves and bushwhackers of the rebel States to be imprisoned and hung because of their Union sentiments. They were persecuted during the rebellion and driven from their homes, and their families shamefully abused; and now it is proposed to keep it up through the courts of the rebel States, where traitors preside on the bench and traitors serve as jurors. There is too much of this thing going on in the rebel States. It ought to be met by Congress with prompt and vigorous legislation, and a stop put to all such persecution. The loyal party in Congress owe it to the brave officers of the Union Army and the gallant soldiers who fought under their commands.

I have the honor to be, &c.,

W. G. BROWNLOW,

Governor of Tennessee.

Mr. MAYNARD. I do not propose at this time to go into the general subject broached in that letter. I sought the floor in order to present that statement to the House and to the country. I will remark, however, that there is no tyranny known to mankind so inexorable and terrible as judicial tyranny. The most fearful persecutions that ever the race has been subjected to have been committed under the form of legal proceedings.

Two propositions, as law, at this time are very much pressed in all that region of country where the rebellion has prevailed. The first is, that the southern confederacy was the government *de facto* of that country until it was overthrown, and that consequently its edicts and decrees furnish a legal defense for all trespasses that were committed under it by the conspirators and their followers, whether arraigned for civil or criminal redress. The other proposition is, that everything done by the Federal Government for the purpose of suppressing the rebellion from the time President Lincoln called out seventy-five thousand militia until the closing act of the war, was done in contravention of the national Constitution, and was therefore void and a usurpation, furnishing no protection at all to the agents of the Government by whom the war was carried on, whether military or civil.

It is not strange that with these two propositions declared to be law rebel confiscation should be held to be valid, while confiscation by the authority of the United States Government should be held to be void and utterly disregarded. The subject is one that Congress

must sooner or later address itself to. It will not do to leave—I will not say Union men of the southern country, the men that stood by the Government during the war—but it will not do to leave your own officers and soldiers subject to indictment and arrest whenever business, pleasure, or curiosity may induce them; after five, ten, or fifteen years, to visit that country which was the scene of their military exploits. It is a matter that must be provided for, so that men who, under the flag of their country, maintained its honor on the southern battle-field and in camp, shall not be subjected to annoyance. It is true at the present moment your citizens are not likely to be annoyed as are those of the southern States who went into the Army and supported the national flag; but leave them to suffer, give them no redress, and believe me the time will soon come when—

Mr. WASHBURN, of Illinois. Will my friend allow me to interrupt him?

Mr. MAYNARD. Yes, sir.

Mr. WASHBURN, of Illinois. The gentleman speaks of "your" citizens, addressing himself, as I suppose, to citizens of other States, including, of course, the State which I have the honor in part to represent.

Mr. MAYNARD. Yes, sir; I mean the States outside.

Mr. WASHBURN, of Illinois. I desire to state to my friend that northern citizens are not exempt from outrages at the South even now. I had a most extraordinary case presented to me last evening by a citizen of my own State, a member of an Illinois regiment, a man by the name of Morey, who was early in the Army, and, on account of his intelligence and capacity, was detailed as a detective. After the surrender of Vicksburg he was ordered by the provost marshal of that city to go through the city and hunt up captured or stolen property of the United States. He found in the possession of a Jew two Government tents, which, under the orders of his superior officers, he took and turned over to the provost marshal. But when the civil authority, about which we hear so much, was established, and the military control was to some extent withdrawn, this soldier was indicted in the local court at Vicksburg for robbery, and held to bail in the sum of \$3,000. Fortunately he had character and means enough to give security; otherwise he would have been in the jail at that place to-day or in the penitentiary at Jackson.

When his case came up (and I speak this from the record which he exhibited to me, certified by the clerk of the court) the plea was put in that the act was performed as a soldier acting under orders of a superior officer, and that he was protected by the act of Congress; but the court overruled the plea and held him on the indictment. Then his lawyer put in an application under the law to remove the case to the district court of the United States; that also the court overruled. Either by accident or design this last plea does not appear in the record.

I do not know what existing remedy there is in the present state of things, under the recent decision of the Supreme Court, for that man. He has to choose whether to go back to Mississippi, where the door of the penitentiary is yawning for him, or remain at the North, have his cognizance forfeited, and pay his \$3,000. As to his release by a United States judge on a *habeas corpus*, there is great doubt about his getting the writ allowed, and many think the Supreme Court will hold an indemnity act unconstitutional. And, in addition to that, he told me of another case. The man to whom I have referred is a constituent of my distinguished friend and colleague before me, [Mr. FARNSWORTH,] a Union soldier, who has been lying for months and months in jail at Vicksburg, upon the absurd and false charge that he had set fire to some buildings at the time when Vicksburg was besieged; a thing which it was impossible for him to have done; and even if he had done it he would not have been amenable to any civil tribunal. He says further, that the condition of every Union man in that

section of the country is absolutely horrible, and that every northern man and every Union man is leaving as fast as he can get away.

Sir, the case I have mentioned I presume is but the type of a very large class, and, as the gentlemen has said, there is scarcely an officer or soldier who fought in the Union ranks who can travel in the States lately in rebellion without subjecting himself to indictment and punishment. I see no existing adequate remedy for it. The judges disregard the United States law and trample it under foot, and there is no power that I know of to enforce it; and I say that this Congress must take prompt and effective measures to vindicate the rights of these men. We must have courage and ability and genius enough to devise something by which the lives and liberties of these loyal men shall be protected, and if we have not that courage, if we have not that ability, if we have not that disposition, our constituents will require us to leave our places here that our places may be filled by men equal to the exigencies of the times in which we live.

Mr. MAYNARD resumed the floor.

Mr. WASHBURN, of Indiana. With the permission of the gentleman from Tennessee, I will say that we need not go to Mississippi for circumstances such as were detailed by the gentleman from Illinois. In my own district one of the five tried and convicted by a military court at Indianapolis, whose case has lately been reviewed by the Supreme Court, has, within the last two months, obtained judgments against the soldiers who arrested him for \$25,000 for false imprisonment. Some powder and caps were captured at the same time, and ten soldiers are now under indictment in the State of Indiana, under heavy bonds, for having taken the powder and caps from the possession of this person. This is outside of the rebel States and in a loyal State.

For my part, I certainly agree with the gentleman from Illinois, [Mr. WASHBURN,] that we must take some prompt and decided steps when the judges in the State of Indiana decide that our laws are unconstitutional and refuse to allow these cases to be taken from their courts.

Mr. MAYNARD. Mr. Speaker, if the people of Indiana are not competent to redress all such cases as that suggested by the gentleman [Mr. WASHBURN,] then I am mistaken in the estimate that I formed of their character during a recent brief visit to that State.

For the case mentioned by the gentleman from Illinois, he says that he knows of no existing remedy. It used to be told as an anecdote of General Jackson, illustrative of his character, that when his Attorney General on one occasion reported that he could find no law for doing something that the general had much at heart, he sent word back to him: "Tell my Attorney General that if he cannot find law, I will find an Attorney General who can find law;" and I think that Jacksonian view of the case will present itself very strongly to the Union constituencies of each one of us.

Now, it certainly seems to me that when our fathers framed this Constitution of government they did not leave things at such loose ends that there should be no power in the government to protect a citizen of the United States in the enjoyment of his rights as such citizen upon the soil of the United States. It would have been very remarkable if they had done so.

Mr. NIBLACK. If the gentleman from Tennessee will allow me, I wish to say that the difficulty in Indiana, to which my colleague referred, grew out of a disregard of the rights of American citizens on the soil of the United States. That was the trouble. If they had obeyed the laws and resorted to the courts for the vindication of the law and the majesty and power of this Government, if they had not resorted to illegal military arrests and illegal military tribunals, there would have been no difficulty whatever. The difficulty they may now be involved in grows out of their disregard of the municipal laws of the State of Indiana.

Mr. MAYNARD. On one occasion Mr.

Clay appeared at the bar, where, with all his greatness as a statesman and ability as a lawyer, it was understood that he was not specially versed in what are called the technicalities of the law. The judge reminded him that the state of the law was according to a formula that he, the judge, laid down. "Very well," said Mr. Clay, "may it please your honor, if that is the law, all I have to say is that it ought not to be the law." And if it is the law in Indiana that arresting a traitor with arms in his hands and ammunition in his pocket, ready to turn loose thousands of the enemies of the country held as prisoners of war and arm them and organize them into a hostile army; if this is an offense, then the laws of Indiana ought to be changed, and the laws of the United States ought to be changed.

Mr. NIBLACK. All I have to say is that if the law is a bad one there is a way of getting rid of it. But the theory of the conservative men, as we call ourselves in Indiana, always has been that while laws are upon the statute-book they must be enforced. There is a law of Congress and a law of Indiana that provides for the arrest and trial in a certain way of any man guilty of treason or any other crime against the Government; but these military officers disregarded that law; they took the matter into their own hands, and by the exercise of brute military force they have involved themselves in this trouble. If there were any traitors in Indiana they could have been convicted by the courts at any time. The gentleman assumes that these men thus arrested were traitors. That is the issue, an issue that has never yet been properly tried. The Government has always declined to appeal to the courts to test that question; and it is the disregard of the plain provisions of the laws of Congress and of the State which has involved those men in all this trouble.

Mr. WASHBURN, of Indiana. With the permission of the gentleman from Tennessee, [Mr. MAYNARD,] I will ask the gentleman from Indiana if the parties thus arrested and tried have not now in their possession the pardons of the President?

Mr. NIBLACK. To whom does the gentleman refer?

Mr. WASHBURN, of Indiana. To Milligan and others tried by a military commission at Indianapolis.

Mr. NIBLACK. I know not how that may be. But the point I make is this: before men can be called traitors they ought to be convicted of treason; and there is a way of doing that provided by the laws of Indiana, but which was not appealed to by these gentlemen.

Mr. MAYNARD. It will certainly be very gratifying to the loyal Union people of this country to hear the gentlemen from Indiana [Mr. NIBLACK,] say that there is a way by which men who are guilty of treason can be tried and punished, because a great many of them are fast coming to the conclusion that there is no means by which treason can be brought to trial much less punished.

Most of us are aware that from the beginning of this struggle there has been a school of legal politics which assumed that every measure taken by this Government for the suppression of the rebellion was in violation of the Constitution, a usurpation, and illegal and void. I need not refer to the speeches that appear in the debates of this House and the debates at the other end of the Capitol. I will mention no names; I merely state the general fact.

And I will state further, as my opinion and belief, that if that school of politics was right; if those opinions shall be established by judicial decisions to have been the law of this land, then it would have been better to have allowed our flag to trail irrecoverably in the dust under the walls of Fort Sumter; to have let this Government go into the limbo of lost and forgotten things, never more to be heard of; for the Government which does not possess within itself the power of self-preservation against rebellion, treason, and insurrection is in fact no Government.

But to return to my friend from Illinois, [Mr. WASHBURN,] who intimates that he can find no remedy for the evils I have mentioned. It strikes me that for the case he has specified there is a very simple remedy. I understand his constituent is held under the authority of what assumes to be for the time being the government of Mississippi.

As I understand, the effect of the rebellion—asserted not only by the President now in office, but by his predecessor, and by various acts of Congress—was to deprive the people of that State of the civil government which they had before the war, of all civil government, and it devolves upon the United States to guaranty to the people of that State civil government. The Supreme Court more than twenty years ago declared, as I understand the decision pronounced by the late Chief Justice, that it is the office of Congress to execute this guarantee, and that before Congress can guaranty a republican form of government in a particular case it is necessary to examine it and see whether it is such a one as in its opinion ought to be guarantied. If this be a specimen of the government of Mississippi, I think we have at our command a very short method of disposing of it—setting it aside and establishing another one that will recognize the rights of citizens of the United States.

I will not elaborate these views. I did not rise for that purpose nor for the purpose of making a speech, but simply to present the written statement which has been read. At some future time if I can have the ear of the House, I may take occasion to extend these views somewhat more in detail. But it does seem to me that we are not driven to any extreme position—anything that will shock the ordinary sense of the country; that we are not driven to the extreme of regarding these States as no longer members of the Union or of regarding them simply as Territories held by right of conquest. It appears to me that we may reach a solution of the difficulty by regarding them simply as States that for the time being are without civil government, States not in function, States whose statal powers are in abeyance, or if I may use an expression of the President, "in a condition of suspended animation;" and adopting this view we can go to work and see that the governments of those States shall be reorganized on such a basis as in our judgment is adequate to the exigency of the times and consistent with the present state of affairs. This strikes me as a simple proposition, and one which there is certainly ability enough in this House, as displayed upon many other questions, to carry out, and that without much delay or inconvenience.

Mr. WENTWORTH obtained the floor.

Mr. WASHBURN, of Illinois. With the consent of my colleague [Mr. WENTWORTH] I wish to say, that when I stated I knew no existing remedy in a case I mentioned I did not mean to be understood as saying that we could not adopt a remedy. On the other hand, I said we were bound as representatives of the people to provide some remedy. There is no existing remedy. As to that man confined in jail at Vicksburg for no offense whatever, I do not know how he is to be got out in the existing state of things.

Mr. MAYNARD. I suppose the gentleman meant to say that there was no remedy for that man; but we have in our hands the power to apply a remedy, and if we do not apply it the fault is with us.

Mr. WASHBURN, of Illinois. That is just what I said.

Mr. WENTWORTH. Mr. Speaker, alluding to some remarks which I made yesterday with reference to the decision of the Supreme Court, I find it claimed in some of the papers that the law of 1863, in the construction of which the Supreme Court was unanimous, originated with Mr. Lincoln's Cabinet, and was taken up in this House and passed by a strict party vote. On looking at the record upon the subject, I find that if this House adopted a bill under the supervision or at the suggestion of

Mr. Lincoln's Cabinet, it must have been a very short bill which I now send up to be read by the Clerk.

The Clerk read as follows:

"Whereas since the 4th day of March, 1861, the United States have been in an insurrectionary and rebellious condition, and the public safety has required that the privilege of the writ of *habeas corpus* should be suspended; and whereas during that time the privilege of the said writ has been several times suspended by the President of the United States, and several arrests and imprisonments have taken place under and in consequence thereof; and whereas there is not entire unanimity of opinion as to which branch of the Government possesses the constitutional power to declare such suspension: Therefore,

"*Be it enacted, &c.*, That all such suspensions, arrests, and imprisonments, by whomsoever made or caused to be made, under the authority of the said President, shall be confirmed and made valid; and the said President, Secretaries, heads of Departments, and all persons who have been concerned in making said arrests, or in doing or advising any such acts as aforesaid, are hereby indemnified and discharged in respect thereof, and all indictments, and information, action, suits, prosecutions, and proceedings whatsoever commenced, or to be commenced, against the said President, or any of the persons aforesaid in relation to the acts and matters aforesaid, or any of them, are hereby discharged and made void.

"*SEC. 2. And be it further enacted*, That during the existence of this rebellion the President shall be, and is hereby, invested with authority to declare the suspension of the privilege of the writ of *habeas corpus*, at such times and in such places, and with regard to such persons, as in his judgment the public safety may require."

Mr. WENTWORTH. Now, Mr. Speaker, if our soldiers have a right to complain of anything in the passage of the law of 1863, it certainly cannot be of Mr. Lincoln or his Cabinet. That law originated in this House; it went from this House to the Senate; the Senate amended it and added to it very materially; it came back to this House and was rejected; a committee of conference was had, and I see that it was only passed at the very close of the session. Mr. Lincoln was compelled to get a law passed through for a suspension of the *habeas corpus* in that shape or to have none at all. So then the responsibility for the passage of that law cannot be charged upon Mr. Lincoln or his Cabinet, or upon this House. That is all I have to say.

Mr. WASHBURN, of Indiana, moved that the House adjourn.

The motion was agreed to; and thereupon (at twenty-five minutes to four o'clock p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rules, and referred to the appropriate committees:

By Mr. COBB: The petition of citizens of Richland Center, Richland county, State of Wisconsin, for an improvement of water communications between the Mississippi valley and the Atlantic seaboard.

By Mr. FERRY: The petition of Allan McLean, Augustus Wilcox, C. O. Thompson, L. J. Lemert, Dorus M. Fox, and 60 others, citizens of Michigan, praying for an amendment to the Constitution providing against any inequality among citizens on account of birth, race, color, &c., and for legislation removing such inequality from the District of Columbia, Territories, and the ten unrestored States.

By Mr. GARFIELD: The petition of citizens of Ravenna, Ohio, praying that no further curtailment of the national currency be made, and that national banks be not required to redeem their notes in New York.

By Mr. SCHENCK: Sundry petitions of officers of the United States Army, for the restoration of fifty cents as the commutation price of the ration.

#### IN SENATE.

MONDAY, January 7, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received, and been requested to lay before the Senate, a memorial of the Legislative Council of the Territory of New Mexico, setting forth that General James M. Carleton and others have purchased a land grant in Taos county, in that Territory, usually known by the name of the Rio Grande grant, and are seeking to have the title to that land confirmed in them; that this will do great injustice to many of the settlers who are upon this grant, who are nu-

merous, and who have made improvements on the land, and they pray Congress to confirm the title to these lands in the actual settlers, and not regard this grant. If there be no objection, this memorial will be received and referred to the Committee on Private Land Claims.

Mr. RAMSEY presented the petition of Josephine Slocum, widow of Martin N. Slocum, late second lieutenant sixty-fifth regiment United States (colored) infantry, praying for a pension for herself and minor children; which was referred to the Committee on Pensions.

Mr. POLAND presented seven petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented the petition of citizens of the town of Wheeler, Steuben county, New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. MORGAN presented the petition of the manufacturers of white lead, red lead, and litharge, praying that the duty on the articles manufactured by them may be placed two cents per pound higher than on the raw material; which was referred to the Committee on Finance.

He also presented the petition of citizens of East Bloomfield, New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

He also presented the memorial of saw manufacturers, remonstrating against the increase of the duty on steel as proposed by House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

He also presented seven memorials of consumers of steel, remonstrating against the increase of the duty on steel as proposed by House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

He also presented the memorial of citizens of New York, remonstrating against the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against the enactment of any law compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. WADE presented the petition of citizens of Erie county, Ohio, praying for a specific duty of one dollar per gallon on all importations of wine; which was referred to the Committee on Finance.

He also presented the petition of citizens of Licking county, Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. WADE. I present also the petition of George Arnold, late major of Ohio volunteers, praying for the passage of a law giving to soldiers who have lost their discharge papers the bounty to which they are entitled upon proof of their service and identity and of the loss of their discharge. I think the Committee on Military Affairs ought to look into this subject. It is a great hardship I know upon soldiers who by the accidents of war have lost their discharge papers that, as the law now stands, they cannot supply that proof by any other means, although they have evidence perfectly satisfactory. I think that equity and justice demand that a law should be passed to remedy this evil. I move the reference of this petition to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. FESSENDEN presented the petition of Thomas E. Dudley, of the first collection dis-



trict of the State of South Carolina, praying for compensation for services rendered as assistant assessor in that district; which was referred to the Committee on Finance.

Mr. JOHNSON. I present the petition of Thomas B. Devereux, of North Carolina, stating that he invested a fund in confederate bonds under particular circumstances set forth in the petition, and asking that under the peculiar circumstances of that investment he be indemnified to the extent of \$8,000, which he lost. I move its reference to the Committee on Claims.

It was so referred.

Mr. SHERMAN presented the petition of citizens of Erie county, Ohio, praying for a specific duty of one dollar per gallon on all importations of wine; which was referred to the Committee on Finance.

Mr. ANTHONY presented the petition of Benjamin W. Ham, cashier of the Providence National Bank, of Providence, Rhode Island, praying that certain taxes alleged to have been erroneously paid under a decision of the Treasurer of the United States and the Commissioner of Internal Revenue may be refunded; which was referred to the Committee on Finance.

Mr. SUMNER presented the petition of Alphonso Dorn and Thomas H. Cross, employes at the Executive Mansion, praying for an addition of twenty per cent. on their present pay; which was referred to the Committee on Finance.

Mr. TRUMBULL presented the petition of Charles Robidou, of Alton, Illinois, praying for services rendered as secret policeman in the army of the Cumberland; which was referred to the Committee on Military Affairs and the Militia.

Mr. CRAGIN presented the petition of Jacob C. Wentworth, of Somerworth, New Hampshire, praying that a pension may be granted him on account of a disability incurred while a landsman on board the United States frigate Colorado; which was referred to the Committee on Pensions.

Mr. MORRILL presented the petition of Henry Addison and H. D. Cooke, of Georgetown, District of Columbia, representing that an inequality of taxation was imposed on the cities of Georgetown and Washington by the act of July 26, 1866, entitled "An act authorizing the construction of a jail in and for the District of Columbia," and praying for the repeal of that portion of the act making the inequality; which was referred to the Committee on the District of Columbia.

Mr. HOWE presented the petition of O. E. Dreutzer, of Wisconsin, praying for compensation for services rendered as consul of the United States at Bergen, Norway, from the 5th of November, 1865, to the 26th of May, 1866; which was referred to the Committee on Commerce.

Mr. GRIMES presented the petition of the McGregor Western Railway Company, praying for a grant of land in alternate sections to enable them to extend their road from the terminal point in O'Brien county, Iowa, via Yankton, to a point on the Union Pacific railroad; which was referred to the Committee on Public Lands.

#### PAPERS WITHDRAWN.

On motion of Mr. SAULSBURY, it was

*Ordered*, That Colonel Benjamin S. Compton have leave to withdraw from the files of the Senate his petition and papers praying for compensation for seven hundred and eighty-two bales of cotton, which he alleges were seized by a military expedition under the command of Brigadier General Ransom, and shipped to the port of Memphis and sold on account of the Government of the United States.

On motion of Mr. NESMITH, it was

*Ordered*, That Robert W. Dunbar have leave to withdraw from the files of the Senate his memorial praying to be reimbursed for damages sustained in consequence of a revocation of his appointment as agent to take charge of public property at Port Orford, in Oregon.

#### PERSONAL EXPLANATION.

Mr. JOHNSON. I rise, sir, with no view to present a memorial, but to refer to what the

honorable member from Wisconsin [Mr. Howe] is reported to have said on Friday in what might be called a colloquy between himself and myself, which I did not hear at the time, or I would then have done what I am now about to do. The honorable member supposed, as I collect from his speech, as reported, and I suppose the report is accurate, that in what I had said in relation to him it was my purpose to taunt the State of Wisconsin with having sent him to this body. I should have hoped that my friend never would for a moment have supposed that in anything I had said, or was capable of saying, I intended or could intend any reflection upon him, and particularly upon his State from his being her representative on this floor. Our relations ever since we have been together in the Senate have been upon my part, and I have no doubt upon his, entirely cordial. I have felt for him the sincerest esteem, and that esteem I know I shall continue to feel as long as we remain here and thereafter. So far from my desiring to taunt the State of Wisconsin with having him as her representative upon this floor, I know no man in that State, and I know a great many there who are members of his own party, whom I would be more glad to see upon this floor as the honorable member from Wisconsin. I could wish, as I have no doubt he would wish in regard to myself, if he spoke of my position as a Senator on this floor, that upon some of the political topics of the day his opinions coincided with my own. The opinions which he entertains, I have no doubt, are just as sincerely entertained as the opposite that I entertain. I would be the last member of the Senate to evince, even in the most distant way, any want of courtesy to any associate upon this floor. I am not conscious that I have ever done it upon any former occasion; and if I may have said anything which could be construed into any purpose of the kind to which I allude I beg the honorable Senator to be assured that it was as far from my purpose as anything that is the most absolutely foreign to any purpose I ever had, or can have, and I trust would be foreign to my own nature.

Mr. HOWE. Mr. President, I ought not to allow the very generous remarks just made by the Senator from Maryland to pass without saying that, although I did feel at the time that some portion of the remarks he made on Friday sounded something like a taunt, as I said at the time, yet I felt they were struck out of him in the heat of debate, that they were not the expression of a serious conviction, and they left no sting or bitterness on my part which I carried out of the Senate Chamber; indeed, they occasioned no bitterness at the time. I thought it due to myself, as well as to the course the debate had taken, that I should notice them as I did, but beyond that I certainly never meant to take any notice of them, and I meant by nothing that I said to challenge any such very ample explanation as the honorable Senator has just been pleased to make. It is true, as he says, that our relations have been as kindly heretofore as I believe it is usual for the relations between members of this body to be, and it is only proper for me to say, as we are on the subject of personal explanations, that there is no member on this floor, and has been none, for whom I have cherished any higher personal regard than I have for the Senator from Maryland.

#### REPORTS OF COMMITTEES

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred a report of the Secretary of War communicating, in compliance with a resolution of the Senate of July 24, 1866, information touching the probable cost of constructing a railroad on the route mentioned in the charter of the Northern Pacific railroad, have had the same under consideration, and instructed me to report the papers back and move that they be printed for the use of the Senate.

The motion was agreed to.

#### NAVY REGISTER.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print a thousand copies of the Navy Register, reported it without amendment, and it was considered and agreed to, as follows:

*Resolved*, That one thousand extra copies of the Navy Register of the United States for the year 1867 be printed for the use of the Senate.

#### SOLDIERS' MEDALS.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred a joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage, have instructed me to report it back and recommend its passage. It is a very short resolution, to which I presume there will be no objection. It merely authorizes the authorities of West Virginia to transmit medals through the post office to their honorably discharged soldiers. I ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the adjutant general of the State of West Virginia to distribute through the mails, free of postage, to the honorably discharged soldiers of West Virginia, and to the relatives and friends of those who were killed or died of wounds or disease while in service, certain medals furnished by the Legislature of that State; and provides that the envelopes inclosing them shall be franked by the adjutant general of the State in the mode prescribed by the Postmaster General.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PAYMENT TO MASTERS OF ENLISTED SLAVES.

Mr. FESSENDEN. I move to take up for consideration Senate bill No. 459.

The motion was agreed to; and the bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes, was considered as in Committee of the Whole. It provides that the final report of the commissioners provided for in the second section of the act of Congress entitled "An act making appropriation for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, shall be made through the Secretary of War to Congress; and that no money shall be paid from the Treasury, or from any fund therein, upon that report or otherwise, to any claimant under the provisions of section twenty-four of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March 3, 1863, until such report shall be approved and confirmed by Congress.

Mr. JOHNSON. My colleague feels an interest in this subject. I do not see him in his seat, and I suggest that the bill be postponed until he comes in. I think that course would personally gratify him.

Mr. FESSENDEN. I think he is here or will be in the Chamber in a minute.

Mr. JOHNSON. I do not see him in his seat. The law itself which it is proposed to suspend was passed several years ago, and awards have been made to the amount of some two or three hundred thousand dollars, and a fund is now in the Treasury specifically appropriated to meet such cases. The Secretary of War or the President has renewed the commissions for the purpose of proceeding with the duty which the law imposes. We had supposed in Maryland that after Congress promised the loyal owners of slaves that if they would consent to their going into the military service of the United States they should be paid, that promise would be kept. On the faith of that promise Maryland also agreed to give, I think, about a hundred dollars in each

case, and that she has paid *pari passu* with the Government, or rather has paid since the Government has stopped paying; and it would be exceedingly inconvenient to the loyal men of Maryland, for whom the original law was passed and who are great sufferers now by the emancipation of their slaves, that they should be deprived of this comparatively small sum; I mean comparatively small to each party. Unless there is a great public necessity for suspending the law, I should hope it would be permitted to take its course. I see that my friend and colleague is now in his seat. He knows more about the matter than I do, and can state to the Senate the situation in which our people are placed.

Mr. CRESWELL. When this subject was before the Senate at the last session I said all that I believed I could say in regard to the measure, and I have nothing further to add now. The Senate must take such action as it deems best under the circumstances.

Mr. FESSENDEN. This bill does not propose to repeal the law or interfere with the obligation of the Government, but merely to keep the Treasury in the hands of Congress, and to provide that Congress shall see what the reports are and judge how far they are satisfactory before money is paid out of the Treasury.

Mr. HENDRICKS. I think that the provision of the bill of the last session was incorporated on the motion of the Senator from Kentucky, [Mr. DAVIS,] who is not now present.

Mr. FESSENDEN. There has been no legislation on the subject since the original act.

Mr. HENDRICKS. Was there not legislation at the last session?

Mr. FESSENDEN. It was brought up at the last session, but nothing was done. It was then proposed in the shape of an appropriation.

Mr. HENDRICKS. I thought that provision was made at the last session. I recollected that the Senator from Kentucky took a good deal of interest in it, and I wanted to suggest to the Senator from Maine the fact of his absence.

Mr. FESSENDEN. This does not interfere with any object the Senator from Kentucky has in view. He wants the money paid, claims it as a matter of right and contract on the part of the Government. That is not the question here. Neither is this a question of an appropriation to pay it. There have been commissions appointed under the original act to make examination and report, and the object of this bill is to direct that those reports shall be made through the Secretary of War to Congress, and that Congress shall have a chance to examine the reports and see the results arrived at before the money is paid out of the Treasury. That is the object of the bill, and a very proper one, as the Committee on Finance unanimously thought.

Mr. HENDRICKS. I did not intend to discuss the bill, but simply to suggest that the Senator from Kentucky, whose State is probably more interested in this question than any other State, had taken an interest in it at the last session, and I thought the amendment which he proposed at the last session was adopted.

Mr. FESSENDEN. No, sir.

Mr. HENDRICKS. Then I was misled.

Mr. FESSENDEN. This has reference to the original act, and does not interfere with any object he had.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 490) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Territories.

Mr. WADE asked, and by unanimous con-

sent obtained, leave to introduce a joint resolution (S. R. No. 155) to provide an increased depth of water in the harbor improvements of the lakes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CRESWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 491) amendatory of the several acts respecting copyright; which was read twice by its title, referred to the Committee on the Library, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 492) to protect the rights of married women; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### CEREALS AT THE PARIS EXPOSITION.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next; which was read twice. It proposes to instruct the Commissioner of Agriculture to collect and prepare, as far as practicable and with as little delay as possible, suitable specimens of the cereal productions of the several States of the Union for exhibition at the Paris Exposition, and forward the specimens in proper order and condition to J. C. Derby, agent of the United States Government for the Paris Exposition at New York.

Mr. CATTELL. I hold in my hand a letter from Mr. J. C. Derby, the agent of the United States for the Paris Exposition, in which he states, under date of January 4, that only some six or seven States of this Union have so far forwarded specimens of the cereal productions of our country. It occurs to me that an interest so vast as that of the agriculture of the United States should be properly represented at the Exposition in Paris, and that no readier method could be adopted than that of instructing the Commissioner of Agriculture, who has opened correspondence with prominent gentlemen connected with this interest of our country in various parts of the country, to gather together these specimens and to forward them to the duly authorized agent, Mr. Derby, of New York, to be forwarded to the Exposition. The States which have already forwarded them are Illinois, Missouri, Kansas, Indiana, Wisconsin, Michigan, Louisiana, and California, leaving quite a number of the States which produce largely of cereals unprovided for. I have only to say, Mr. President, that having been for the last twenty years connected with both the foreign and domestic trade in cereals of this country, I am anxious to have a comparison of them in regard to their extent and their variety and their quality with those of any other nation on the face of the globe. I hope, therefore, as no time can be lost if we are to do this thing properly, that the joint resolution will pass now.

By unanimous consent the joint resolution was considered as in Committee of the Whole.

Mr. CONNESS. I think some provision should be made in that connection to limit or fix the expenditure that the Commissioner of Agriculture may involve the Treasury in. I should like to know from the Senator who has introduced the resolution, if any estimate can be made with regard to the expense of this proceeding. If it is to come out of the annual appropriation made for the support of the Agricultural Department, if that is to be understood, of course it is all right. I should like to know something about it.

Mr. CATTELL. I apprehend that the expenses will be so trifling as to be scarcely worthy of consideration, and I suppose it would come without the slightest difficulty out of the usual appropriation for the Agricultural Department. Samples will be furnished gratuitously with great pleasure by everybody. It is simply the trouble of preparing the packages and forwarding them, which would involve only a trifling expense, so much so as I think not to be worthy of notice.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### PASSENGER STEAMSHIPS.

Mr. WILLIAMS. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of prohibiting by law the sending of passenger steamships to sea after they have been in use a certain number of years.

The resolution was considered by unanimous consent.

Mr. EDMUNDS. I would suggest to my friend from Oregon that if the Committee on Commerce are to perfect anything useful in respect to that inquiry there had better be added to the resolution a power to compel the attendance of persons and papers; and I move to amend the resolution by adding "and that the committee have power to send for persons and papers." It is an inquiry of very considerable importance, and a subject which needs, in my judgment, a good deal of searching investigation.

The amendment was agreed to; and the resolution, as amended, was adopted.

#### COLONY OF AMERICANS IN TURKEY.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if this can be done compatibly with the public interest, a copy of any official correspondence which may have taken place upon the subject of an alleged recent emigration of citizens of the United States to the dominions of the Sublime Porte for the purpose of settling and acquiring landed property there.

#### PENSION AGENTS.

Mr. CRAGIN. I move that the Senate proceed to the consideration of the bill (S. No. 69) to provide for the payment of pensions, which was passed by the Senate at the last session and has been returned from the House of Representatives with an amendment.

Mr. HOWE. I do not want to delay the passage of that bill, but I am taken by surprise by the motion now. I shall have no objection to its being taken up to-morrow.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pensions. The bill as passed by the Senate was in these words:

*Be it enacted*, That the President of the United States shall be, and he is hereby, authorized to establish agencies for the payment of pensions granted by the United States wherever, in his judgment, the public interests and the convenience of the pensioners require, and by and with the advice and consent of the Senate, to appoint all pension agents, who shall hold their offices for the term of four years and until their successors shall have been appointed and qualified, and who shall give bond, with good and sufficient sureties, for such amount and in such form as the Secretary of the Interior may approve; *Provided*, That nothing herein contained shall be so construed as to vacate any existing office prior to an appointment by the President as herein provided.

The amendment of the House of Representatives was to strike out the proviso at the close of the bill, and in lieu of it to insert the following:

*Resolved*, That the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and that no such agency shall be established in addition to those now existing in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of \$500,000: *And provided further*, That the term of office of all pension agents appointed since the 1st day of January, A. D. 1866, shall expire at the end of thirty days from the passage of this act, and that the President shall, within fifteen days from the passage of this act, nominate to the Senate persons for pension agents in the several agencies in which pension agents have been appointed since the said 1st day of January, A. D. 1866; and that all pension agents appointed prior to said date last named, and now acting, shall continue in their respective offices until their successors shall be nominated and confirmed in accordance with the provisions of this act.

The PRESIDENT *pro tempore*. The Committee on the Judiciary have reported amend-

ments to the amendment of the House of Representatives. The first amendment of the committee is in line eleven of the House amendment, to strike out "January" and insert "October;" and in line twelve to strike out "six" and insert "five," so as to read "1st day of October, A. D. 1865," instead of "1st day of January, A. D. 1866."

Mr. HOWE. Is that amendment in the eleventh and twelfth lines only one amendment? If it is all one amendment, I object to a part of it. I have no objection to the amendment in line eleven.

The PRESIDENT *pro tempore*. The amendment can be divided at the suggestion of the Senator, and the question can be taken in the first instance on the first portion of the amendment.

Mr. HOWE. I would rather the vote should be taken on the first amendment.

The PRESIDENT *pro tempore*. Then the question will be on the first clause of the amendment, striking out "January" and inserting "October" in line eleven.

Mr. TRUMBULL. That amendment was proposed on the consideration of facts presented to the committee while the bill was before them, and I trust the amendment will be concurred in. No reason is given why it should not be. It reaches back to 1865.

Mr. HOWE. For what reason?

Mr. TRUMBULL. It is to go back and declare that the terms of office of those men who have been put into office simply for political purposes since the controversy that now exists arose shall expire, and that either they or somebody else shall be nominated to the Senate and confirmed. The object of the bill is to bring before the Senate these important officers, pension agents. Since the war and the large increase of pensions in the country these offices have become important and they have multiplied; they are much more numerous than they were; I think there are as many as four in some of the States of the Union; and it was thought advisable that instead of being designated as heretofore by the Secretary of the Interior, and he being left to designate them *ad libitum* as many as he pleased, it was better to regulate this matter by law. The bill does not appropriately, as I think, belong to the Committee on the Judiciary. We did not think so. It originally came from the Committee on Pensions, and I trust the Senator from Indiana, who is chairman of that committee, will take charge of this question. After being amended in the House and sent back to the Senate, the bill was referred at his instance to the Committee on the Judiciary, on the assumption that there was some constitutional question involved in the matter. I think, however, the Committee on the Judiciary were unanimously of the opinion that there was no constitutional question involved, but as the bill was before them they considered it and reported it back with these amendments.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 828) to repeal section thirteen of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862; which thereupon received the signature of the President *pro tempore* of the Senate.

#### APPROVAL OF BILLS.

A message from the President of the United States, by Mr. ROBERT JOHNSON, his Secretary, announced that he had approved and signed a bill (S. No. 62) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" and a joint resolution (S. R. No. 123) in relation to the settlement of the accounts of William P. Wingate, collector at the port of Bangor, Maine.

#### SUFFRAGE IN THE DISTRICT—VETO.

The President's Secretary also announced that he was directed by the President to return to the Senate, in which it originated, the bill (S. No. 1) to regulate the elective franchise in the District of Columbia, with his objections thereto in writing.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday; but prior to that, with the permission of the Senate, the Chair will lay before the Senate a message from the President of the United States.

The Secretary of the Senate, Hon. JOHN W. FORNEY, thereupon read the message as follows:

#### To the Senate of the United States:

I have received and considered a bill entitled "An act to regulate the elective franchise in the District of Columbia," passed by the Senate on the 13th of December, and by the House of Representatives on the succeeding day. It was presented for my approval on the 26th ultimo—six days after the adjournment of Congress—and is now returned with my objections to the Senate, in which House it originated.

Measures having been introduced, at the commencement of the first session of the present Congress, for the extension of the elective franchise to persons of color in the District of Columbia, steps were taken by the corporate authorities of Washington and Georgetown to ascertain and make known the opinion of the people of the two cities upon a subject so immediately affecting their welfare as a community. The question was submitted to the people at special elections, held in the month of December, 1865, when the qualified voters of Washington and Georgetown, with great unanimity of sentiment, expressed themselves opposed to the contemplated legislation. In Washington, in a vote of 6,556—the largest, with but two exceptions, ever polled in that city—only 32 ballots were cast for negro suffrage; while in Georgetown, in an aggregate of 813 votes—a number considerably in excess of the average vote at the four preceding annual elections—but one was given in favor of the proposed extension of the elective franchise. As these elections seem to have been conducted with entire fairness, the result must be accepted as a truthful expression of the opinion of the people of the District upon the question which evoked it. Possessing, as an organized community, the same popular right as the inhabitants of a State or Territory, to make known their will upon matters which affect their social and political condition, they could have selected no more appropriate mode of memorializing Congress upon the subject of this bill than through the suffrages of their qualified voters.

Entirely disregarding the wishes of the people of the District of Columbia, Congress has deemed it right and expedient to pass the measure now submitted for my signature. It therefore becomes the duty of the Executive, standing between the legislation of the one and the will of the other, fairly expressed, to determine whether he should approve the bill, and thus aid in placing upon the statute-books of the nation a law against which the people to whom it is to apply have solemnly and with such unanimity protested, or whether he should return it with his objections in the hope that upon reconsideration, Congress, acting as the representatives of the inhabitants of the seat of Government, will permit them to regulate a purely local question as to them may seem best suited to their interests and condition.

The District of Columbia was ceded to the United States by Maryland and Virginia, in order that it might become the permanent seat of Government of the United States. Accepted by Congress, it at once became subject to the "exclusive legislation" for which provision is made in the Federal Constitution. It should be borne in mind, however, that in exercising its functions as the law-making

power of the District of Columbia, the authority of the national Legislature is not without limit, but that Congress is bound to observe the letter and spirit of the Constitution, as well in the enactment of local laws for the seat of Government as in legislation common to the entire Union. Were it to be admitted that the right "to exercise exclusive legislation in all cases whatsoever" conferred upon Congress unlimited power within the District of Columbia, bills of attainder and *ex post facto* laws might be passed and titles of nobility granted within its boundaries. Laws might be made "respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," might with impunity be violated. The right of trial by jury might be denied, excessive bail required, excessive fines imposed, and cruel and unusual punishments inflicted. Despotism would thus reign at the seat of Government of a free Republic, and, as a place of permanent residence, it would be avoided by all who prefer the blessings of liberty to the mere emoluments of official position.

It should also be remembered that in legislating for the District of Columbia, under the Federal Constitution, the relation of Congress to its inhabitants is analogous to that of a Legislature to the people of a State, under their own local constitution. It does not, therefore, seem to be asking too much that, in matters pertaining to the District, Congress should have a like respect for the will and interests of its inhabitants as is entertained by a State Legislature for the wishes and prosperity of those for whom they legislate. The spirit of our Constitution and the genius of our Government require that, in regard to any law which is to affect and have a permanent bearing upon a people, their will should exert at least a reasonable influence upon those who are acting in the capacity of their legislators. Would, for instance, the Legislature of the State of New York, or of Pennsylvania, or of Indiana, or of any State in the Union, in opposition to the expressed will of a large majority of the people whom they were chosen to represent, arbitrarily force upon them, as voters, all persons of the African or negro race and make them eligible for office, without any other qualification than a certain term of residence within the State? In neither of the States named would the colored population, when acting together, be able to produce any great social or political result. Yet, in New York, before he can vote, the man of color must fulfill conditions that are not required of the white citizen; in Pennsylvania the elective franchise is restricted to white freemen; while in Indiana negroes and mulattoes are expressly excluded from the right of suffrage. It hardly seems consistent with the principles of right and justice that representatives of States where suffrage is either denied the colored man, or granted to him on qualifications requiring intelligence or property, should compel the people of the District of Columbia to try an experiment which their own constituents have thus far shown an unwillingness to test for themselves. Nor does it accord with our republican ideas that the principle of self-government should lose its force when applied to the residents of the District merely because their legislators are not, like those of the States, responsible, through the ballot, to the people for whom they are the law-making power.

The great object of placing the seat of Government under the exclusive legislation of Congress was to secure the entire independence of the General Government from undue State influence, and to enable it to discharge, without danger of interruption or infringement of its authority, the high functions for which it



was created by the people. For this important purpose it was ceded to the United States by Maryland and Virginia, and it certainly never could have been contemplated, as one of the objects to be attained by placing it under the exclusive jurisdiction of Congress, that it would afford to propagandists of political parties a place for an experimental test of their principles and theories. While, indeed, the residents of the seat of Government are not citizens of any State, and are not therefore allowed a voice in the Electoral College or representation in the councils of the nation, they are nevertheless American citizens, entitled as such to every guarantee of the Constitution, to every benefit of the laws, and to every right which pertains to citizens of our common country. In all matters, then, affecting their domestic affairs, the spirit of our democratic form of Government demands that their wishes should be consulted and respected, and they taught to feel that, although not permitted practically to participate in national concerns, they are nevertheless under a paternal Government, regardless of their rights, mindful of their wants, and solicitous for their prosperity. It was evidently contemplated that all local questions would be left to their decision, at least to an extent that would not be incompatible with the object for which Congress was granted exclusive legislation over the seat of Government. When the Constitution was yet under consideration it was assumed by Mr. Madison that its inhabitants would be allowed "a municipal Legislature, for local purposes, derived from their own suffrages." When for the first time Congress, in the year 1800, assembled at Washington, President Adams, in his speech at its opening, reminded the two Houses that it was for them to consider whether the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States, should be immediately exercised, and he asked them to "consider it as the capital of a great nation, advancing with unexampled rapidity in arts, in commerce, in wealth, and in population, and possessing within itself those resources which, if not thrown away or lamentably misdirected, would secure to it a long course of prosperity and self-government." Three years had not elapsed when Congress was called upon to determine the propriety of retroceding to Maryland and Virginia the jurisdiction of the territory which they had, respectively, relinquished to the Government of the United States.

It was urged, on the one hand, that exclusive jurisdiction was not necessary or useful to the Government; that it deprived the inhabitants of the District of their political rights; that much of the time of Congress was consumed in legislation pertaining to it; that its government was expensive; that Congress was not competent to legislate for the District, because the members were strangers to its local concerns; and that it was an example of a government without representation—an experiment dangerous to the liberties of the States. On the other hand, it was held, among other reasons, and successfully, that the Constitution, the acts of cession of Virginia and Maryland, and the act of Congress accepting the grant, all contemplated the exercise of exclusive legislation by Congress, and that its usefulness, if not its necessity, was inferred from the inconvenience which was felt for want of it by the Congress of the Confederation; that the people themselves, who it was said had been deprived of their political rights, had not complained and did not desire a retrocession; that the evil might be remedied by giving them a representation in Congress when the District should become sufficiently populous, and in the mean time a local Legislature; that if the inhabitants had not political rights they had great political influence; that the trouble and expense of legislating for the District would not be great but would diminish, and might in a great measure be avoided by a local Legislature; and that Congress could not retrocede the inhabitants without their consent.

Continuing to live substantially under the laws that existed at the time of the cession, and such changes only having been made as were suggested by themselves, the people of the District have not sought, by a local Legislature, that which has generally been willingly conceded by the Congress of the nation.

As a general rule, sound policy requires that the Legislature should yield to the wishes of a people, when not inconsistent with the Constitution and the laws. The measures suited to one community might not be well adapted to the condition of another; and the persons best qualified to determine such questions are those whose interests are to be directly affected by any proposed law. In Massachusetts, for instance, male persons are allowed to vote without regard to color, provided they possess a certain degree of intelligence. In a population in that State of 1,231,066, there were, by the census of 1860, only 9,602 persons of color; and of the males over twenty years of age, there were 339,086 white to 2,602 colored. By the same official enumeration there were in the District of Columbia 60,764 whites to 14,316 persons of the colored race. Since then, however, the population of the District has largely increased, and it is estimated that at the present time there are nearly 100,000 whites to 30,000 negroes. The cause of the augmented numbers of the latter class needs no explanation. Contiguous to Maryland and Virginia, the District, during the war, became a place of refuge for those who escaped from servitude, and it is yet the abiding place of a considerable proportion of those who sought within its limits a shelter from bondage. Until then held in slavery, and denied all opportunities for mental culture, their first knowledge of the Government was acquired when, by conferring upon them freedom, it became the benefactor of their race; the test of their capability for improvement began, when, for the first time the career of free industry and the avenues to intelligence were opened to them. Possessing these advantages but a limited time—the greater number perhaps having entered the District of Columbia during the later years of the war or since its termination—we may well pause to inquire whether, after so brief a probation, they are as a class capable of an intelligent exercise of the right of suffrage, and qualified to discharge the duties of official position. The people who are daily witnesses of their mode of living, and who have become familiar with their habits of thought, have expressed the conviction that they are not yet competent to serve as electors, and thus become eligible for office in the local governments under which they live. Clothed with the elective franchise, their numbers, already largely in excess of the demand for labor, would be soon increased by an influx from the adjoining States. Drawn from fields where employment is abundant, they would in vain seek it here, and so add to the embarrassments already experienced from the large class of idle persons congregated in the District. Hardly yet capable of forming correct judgments upon the important questions that often make the issues of a political contest, they could readily be made subservient to the purposes of designing persons.

While in Massachusetts, under the census of 1860, the proportion of white to colored males over twenty years of age was one hundred and thirty to one, here the black race constitutes nearly one third of the entire population, while the same class surrounds the District on all sides, ready to change their residence at a moment's notice, and with all the facility of a nomadic people, in order to enjoy here, after a short residence, a privilege they find nowhere else. It is within their power, in one year, to come into the District in such numbers as to have the supreme control of the white race, and to govern them by their own officers, and by the exercise of all the municipal authority—among the rest, of the power of taxation over property in which they have no interest. In Massachusetts, where they have enjoyed the benefits of a thorough educational system, a qualification of intelligence

is required, while here suffrage is extended to all, without discrimination, as well to the most incapable, who can prove a residence in the District of one year, as to those persons of color, who, comparatively few in number, are permanent inhabitants, and having given evidence of merit and qualification, are recognized as useful and responsible members of the community. Imposed upon an unwilling people, placed, by the Constitution, under the exclusive legislation of Congress, it would be viewed as an arbitrary exercise of power, and as an indication by the country of the purpose of Congress to compel the acceptance of negro suffrage by the States. It would engender a feeling of opposition and hatred between the two races, which, becoming deep-rooted and ineradicable, would prevent them from living together in a state of mutual friendliness. Carefully avoiding every measure that might tend to produce such a result, and following the clear and well-ascertained popular will, we should assiduously endeavor to promote kindly relations between them, and thus, when that popular will leads the way, prepare for the gradual and harmonious introduction of this new element into the political power of the country.

It cannot be urged that the proposed extension of suffrage in the District of Columbia is necessary to enable persons of color to protect either their interests or their rights. They stand here precisely as they stand in Pennsylvania, Ohio, and Indiana. Here, as elsewhere, in all that pertains to civil rights, there is nothing to distinguish this class of persons from citizens of the United States; for they possess the "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens," and are made "subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding." Nor, as has been assumed, are their suffrages necessary to aid a loyal sentiment here; for local governments already exist of undoubted fealty to the Government, and are sustained by communities which were among the first to testify their devotion to the Union, and which during the struggle furnished their full quotas of men to the military service of the country.

The exercise of the elective franchise is the highest attribute of an American citizen, and, when guided by virtue, intelligence, patriotism, and a proper appreciation of our institutions, constitutes the true basis of a democratic form of government, in which the sovereign power is lodged in the body of the people. Its influence for good necessarily depends upon the elevated character and patriotism of the elector, for if exercised by persons who do not justly estimate its value and who are indifferent to its results, it will only serve as a means of placing power in the hands of the unprincipled and ambitious, and must eventuate in the complete destruction of that liberty of which it should be the most powerful conservator. Great danger is therefore to be apprehended from an untimely extension of the elective franchise to any new class in our country, especially when the large majority of that class, in wielding the power thus placed in their hands, cannot be expected correctly to comprehend the duties and responsibilities which pertain to suffrage. Yesterday, as it were, four million persons were held in a condition of slavery that had existed for generations; to-day they are free-men, and are assumed by law to be citizens. It cannot be presumed, from their previous condition of servitude, that, as a class, they are as well informed as to the nature of our Government as the intelligent foreigner who makes our land the home of his choice. In the case of the latter, neither a residence of five years, and the knowledge of our institutions which it gives, nor attachment to the principles of the Constitution, are the only conditions upon which he can be admitted to citizenship. He must prove, in addition, a good moral character, and thus give reasonable ground for the belief that he will be faithful to the obligations

which he assumes as a citizen of the Republic. Where a people—the source of all political power—speak by their suffrages, through the instrumentality of the ballot-box, it must be carefully guarded against the control of those who are corrupt in principle and enemies of free institutions, for it can only become to our political and social system a safe conductor of healthy popular sentiment when kept free from demoralizing influences. Controlled through fraud and usurpation by the designing, anarchy and despotism must inevitably follow. In the hands of the patriotic and worthy our Government will be preserved upon the principles of the Constitution inherited from our fathers. It follows, therefore, that in admitting to the ballot-box a new class of voters not qualified for the exercise of the elective franchise, we weaken our system of government instead of adding to its strength and durability.

In returning this bill to the Senate, I deeply regret that there should be any conflict of opinion between the legislative and executive departments of the Government in regard to measures that vitally affect the prosperity and peace of the country. Sincerely desiring to reconcile the States with one another, and the whole people to the Government of the United States, it has been my earnest wish to co-operate with Congress in all measures having for their object a proper and complete adjustment of the questions resulting from our late civil war. Harmony between the coordinate branches of the Government, always necessary for the public welfare, was never more demanded than at the present time, and it will therefore be my constant aim to promote, as far as possible, concert of action between them. The differences of opinion that have already occurred have rendered me only the more cautious, lest the Executive should encroach upon any of the prerogatives of Congress, or, by exceeding in any manner the constitutional limit of his duties, destroy the equilibrium which should exist between the several coordinate departments, and which is so essential to the harmonious working of the Government. I know it has been urged that the executive department is more likely to enlarge the sphere of its action than either of the other two branches of the Government, and especially in the exercise of the veto power conferred upon it by the Constitution. It should be remembered, however, that this power is wholly negative and conservative in its character, and was intended to operate as a check upon unconstitutional, hasty, and improvident legislation, and as a means of protection against invasions of the just powers of the executive and judicial departments. It is remarked by Chancellor Kent that—

"To enact laws is a transcendent power; and, if the body that possesses it be a full and equal representation of the people, there is danger of its pressing with destructive weight upon all the other parts of the machinery of Government. It has therefore been thought necessary, by the most skillful and most experienced artists in the science of civil polity, that strong barriers should be erected for the protection and security of the other necessary powers of the Government. Nothing has been deemed more fit and expedient for the purpose than the provision that the head of the executive department should be so constituted as to secure a requisite share of independence, and that he should have a negative upon the passing of laws; and that the judiciary power, resting on a still more permanent basis, should have the right of determining upon the validity of laws by the standard of the Constitution."

The necessity of some such check in the hands of the Executive is shown by reference to the most eminent writers upon our system of government, who seem to concur in the opinion that encroachments are most to be apprehended from the department in which all legislative powers are vested by the Constitution. Mr. Madison, in referring to the difficulty of providing some practical security for each against the invasion of the others, remarks that—

"The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." "The founders of our republics" "seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened

by Executive usurpations." "In a representative republic, where the executive magistracy is carefully limited, both in the extent and the duration of its power, and where the legislative power is exercised by an assembly which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes—it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions." "The legislative department derives a superiority in our governments from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with the greater facility mask, under complicated and indirect measures, the encroachments which it makes on the coordinate departments." "On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by land-marks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is this all. As the legislative department alone has access to the pockets of the people, and has in some constitutions full discretion, and in all a prevailing influence over the pecuniary rewards of those who fill the other departments, a dependence is thus created in the latter which gives still greater facility to encroachments of the former." "We have seen that the tendency of republican governments is to an aggrandizement of the legislative, at the expense of the other departments."

Mr. Jefferson, in referring to the early constitution of Virginia, objected that by its provisions all the powers of government—legislative, executive, and judicial—resulted to the legislative body, holding that—

"The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one." "As little will it avail us that they are chosen by ourselves. An elective despotism was not the Government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis: that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislative for their subsistence in office, and some of them for their continuance in it. If, therefore, the Legislature assumes executive and judiciary powers, no opposition is likely to be made, nor, if made, can be effectual; because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy; and the direction of the Executive during the whole time of their session is becoming habitual and familiar."

Mr. Justice Story, in his Commentaries on the Constitution, reviews the same subject, and says:

"The truth is, that the legislative power is the great and overruling power in every free Government." "The representatives of the people will watch with jealousy every encroachment of the Executive Magistrate, for it trenches upon their own authority. But who shall watch the encroachment of these representatives themselves? Will they be as jealous of the exercise of power by themselves as by others?" "There are many reasons which may be assigned for the engrossing influence of the legislative department. In the first place, its constitutional powers are more extensive, and less capable of being brought within precise limits than those of either of the other departments. The bounds of the executive authority are easily marked out and defined. It reaches few objects, and those are known. It cannot transcend them without being brought in contact with the other departments. Laws may check and restrain and bound its exercise. The same remarks apply with still greater force to the judiciary. The jurisdiction is, or may be, bounded to a few objects or persons; or, however general and unlimited, its operations are necessarily confined to the mere administration of private and public justice. It cannot punish without law. It cannot create controversies to act upon. It can decide only upon rights and cases as they are brought by others before it. It can do nothing for itself. It must do everything for others. It must obey the laws; and if it corruptly administers them, it is subjected to the power of impeachment. On the other hand, the legislative power, except in the few cases of constitutional prohibition, is unlimited. It is forever varying its means and its ends. It governs the institutions and laws and public policy of the country. It regulates all its vast interests. It disposes of all its property. Look but at the exercise of two or three branches of its ordinary powers. It levies all taxes; it directs and appropriates all supplies; it gives the rules for the descent, distribution, and devises of all property held by individuals. It controls the sources and the resources of wealth. It

changes at its will the whole fabric of the laws. It molds at its pleasure almost all the institutions which give strength and comfort and dignity to society. In the next place, it is the direct, visible representative of the will of the people in all the changes of times and circumstances. It has the pride as well as the power of numbers. It is easily moved and steadily moved by the strong impulses of popular feeling and popular odium. It obeys, without reluctance, the wishes and the will of the majority for the time being. The path to public favor lies open by such obedience; and it finds not only support, but impunity, in whatever measures the majority advises, even though they transcend the constitutional limits. It has no motive, therefore, to be jealous or scrupulous in its own use of power; and it finds its ambition stimulated and its arm strengthened by the countenance and the courage of numbers. These views are not alone those of men who look with apprehension upon the fate of republics; but they are also freely admitted by some of the strongest advocates for popular rights and the permanency of republican institutions." "Each department should have a will of its own." "Each should have its own independence secured beyond the power of being taken away by either or both of the others. But at the same time the relations of each to the other should be so strong that there should be a mutual interest to sustain and protect each other. There should not only be constitutional means but personal motives to resist encroachments of one or either of the others. Thus ambition would be made to counteract ambition; the desire of power to check power; and the pressure of interest to balance an opposing interest." "The judiciary is naturally, and almost necessarily, (as has been already said,) the weakest department. It can have no means of influence by patronage. Its powers can never be wielded for itself. It has no command over the purse or the sword of the nation. It can neither lay taxes nor appropriate money nor command armies nor appoint to office. It is never brought into contact with the people by constant appeals and solicitations and private intercourse, which belong to all the other departments of Government. It is seen only in controversies or in trials and punishments. Its rigid justice and impartiality give it no claims to favor, however they may to respect. It stands solitary and unsupported, except by that portion of public opinion which is interested only in the strict administration of justice. It can rarely secure the sympathy or zealous support either of the Executive or the Legislature. If they are not (as is not unfrequently the case) jealous of its prerogatives, the constant necessity of scrutinizing the acts of each, upon the application of any private person, and the painful duty of pronouncing judgment that these acts are a departure from the law or Constitution, can have no tendency to conciliate kindness or nourish influence. It would seem, therefore, that some additional guards would, under such circumstances, be necessary to protect this department from the absolute dominion of the others. Yet rarely have any such guards been applied; and every attempt to introduce them has been resisted with a pertinacity which demonstrates how slow popular leaders are to introduce checks upon their own power, and how slow the people are to believe that the judiciary is the real bulwark of their liberties." "If any department of the Government has undue influence, or absorbing power, it certainly has not been either the executive or judiciary."

In addition to what has been said by these distinguished writers, it may also be urged that the dominant party in each House may, by the expulsion of a sufficient number of members, or by the exclusion from representation of a requisite number of States, reduce the minority to less than one third. Congress, by these means, might be enabled to pass a law, the objections of the President to the contrary notwithstanding, which would render impotent the other two departments of the Government, and make inoperative the wholesome and restraining power which it was intended by the framers of the Constitution should be exerted by them. This would be a practical concentration of all power in the Congress of the United States—this, in the language of the author of the Declaration of Independence, would be "precisely the definition of despotic Government."

I have preferred to reproduce these teachings of the great statesmen and constitutional lawyers of the early and later days of the Republic rather than to rely simply upon an expression of my own opinions. We cannot too often recur to them, especially at a conjuncture like the present. Their application to our actual condition is so apparent that they now come to us a living voice, to be listened to with more attention than at any previous period of our history. We have been and are yet in the midst of popular commotion. The passions aroused by a great civil war are still dominant. It is not a time favorable to that calm and deliberate judgment which is the only safe guide when radical changes in our institutions are to be made. The measure now before me is one of those changes. It initiates an untried experiment for a people who

have said, with one voice, that it is not for their good. This alone should make us pause; but it is not all. The experiment has not been tried, or so much as demanded by the people of the several States for themselves. In but few of the States has such an innovation been allowed as giving the ballot to the colored population without any other qualification than a residence of one year, and in most of them the denial of the ballot to this race is absolute, and by fundamental law placed beyond the domain of ordinary legislation. In most of those States the evil of such suffrage would be partial; but, small as it would be, it is guarded by constitutional barriers. Here the innovation assumes formidable proportions, which may easily grow to such an extent as to make the white population a subordinate element in the body-politic.

After full deliberation upon this measure, I cannot bring myself to approve it, even upon local considerations, nor yet as the beginning of an experiment on a larger scale. I yield to no one in attachment to that rule of general suffrage which distinguishes our policy as a nation. But there is a limit, wisely observed hitherto, which makes the ballot a privilege and a trust, and which requires of some classes a time suitable for probation and preparation. To give it indiscriminately to a new class, wholly unprepared by previous habits and opportunities, to perform the trust which it demands, is to degrade it, and finally to destroy its power; for it may be safely assumed that no political truth is better established than that such indiscriminate and all-embracing extension of popular suffrage must end at last in its destruction.

ANDREW JOHNSON.

WASHINGTON, January 5, 1867.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The bill is now before the Senate for reconsideration, and the question is: Shall the bill pass, the objections of the President to the contrary notwithstanding? By the terms of the Constitution this vote must be taken by yeas and nays.

Mr. SAULSBURY. I move that the message of the President be printed, and that the further consideration of the subject be postponed until to-morrow.

Mr. MORRILL. So far as the printing of the document is concerned, that seems to have been anticipated; it is already printed and on our tables.

Mr. SAULSBURY. We have not had time to read it, all of us.

Mr. MORRILL. I hope, Mr. President, that the Senate feel themselves sufficiently informed or possessed of the opinions of this document to enable them to vote upon the bill at the present time. Whether the question in its present form of postponement is debatable or not, I do not propose to state more than simply the points raised in the message, and to say that so far as I am concerned I feel no embarrassment on the question; for there are but three distinct points of objection raised at all by this message, and each of those was considered at large by the Senate when the bill was under discussion. I will not occupy the attention of the Senate at this moment. I hope the Senate will come to a vote at the present time.

Mr. SAULSBURY. I consider that it is nothing but respectful to the chief executive officer of this country that the message which he has sent to this body should be printed. It is true that since it has been brought to the Senate, it has been laid on our tables in a printed form, but a good many of us have had no opportunity of reading it, or hardly of hearing it read. We have been necessarily called out of the Chamber by persons whom we are bound to see. Being a communication from the President of the United States, it is due to him, whatever may be his political position, or however antagonistic to his may be the position of a majority of the Senate, that this message should be printed and calmly and deliberately considered; and on to-morrow, the first day after it has been delivered to the Senate, the honorable chairman of the Committee on the

District of Columbia may be able to show to us some reasons why perhaps the bill should be passed, the objections of the President to the contrary notwithstanding. I should like to look into the reasons assigned by the Chief Magistrate of the nation why he has felt it his duty to interpose his objection and to forbid the passage of this law, as far as he is concerned. There is no need for haste. I presume that the bill will pass over the President's veto; but give us time to look into the reasons assigned by the President, and above all, he being the chief executive officer of the country, let us treat him and his messages with that respect which is always due to the Chief Magistrate of the country.

The motion was not agreed to.

Mr. MORRILL. I do not propose to occupy the attention of the Senate in submitting remarks at large upon the message, but to advert to the points as I have gathered them as the document has been read.

I understand that the first objection which the President makes to the passage of this bill is that it is against the popular will of this District. I had occasion to say when this bill was under consideration that that fact does not appear. It was not made to appear before the committee, and I have not seen the evidence of it in the Senate. The evidence which was relied upon here on a former occasion, that which is relied on by the President, is a vote of the electors qualified to vote in the ordinary affairs of the District. Now, the objection I took—perhaps it was more lawyer-like than otherwise—was that this was a subject upon which those electors qualified to vote in ordinary affairs were not qualified to act. This is a popular question; or, in other words, it is a question of popular rights. It does not belong exclusively or peculiarly to the persons who are qualified by law to vote in this District upon the ordinary affairs of the District.

But, then, on this subject there is a more conclusive answer still; and that is that this question does not belong to the people of this District in any sense whatever. This District belongs, in the highest sense and the strongest sense, to the people of the United States, and upon all questions of popular rights here the people of the United States, and not the people of the District, are to control, I take it. We are the representatives of this District as we are the representatives of the country at large; and beside us this District has no representative, and by the Constitution was not expected to have. So in the sense that this question is a question of popular rights, the people of this District have no control over the subject at all. It is a question, I repeat, belonging entirely to the American people.

I said on a former occasion all I then deemed necessary or now deem necessary to say if I were to discuss this question more at large.

The next objection which the President takes to this bill is that it violates the right of local government which this people have. Why, sir, what rights of local government have the residents of this District? Was this District organized in the sense of government? Was it ever designed that this capital should be a government? Certainly not; otherwise they would have been provided with a local Legislature, as they are not; otherwise this District would have been provided with representation, either by Representatives, Senators, or Delegates, neither of which is there. In no just sense whatever I conceive is the District of Columbia a government, either local or general, and the questions of local self-government do not arise here. It is the capital of the United States; that is all; exclusive jurisdiction is given to the representatives of the nation. It is the home, the local home, the residence of the representatives of the American people, over which they have exclusive control; and, sir, no local government was contemplated here originally. When this grant was provided for in the Constitution of the United States, the history of the times show that no local government was contemplated, and in conformity

with the general expectation it was governed originally and in the beginning by commissioners chosen directly by Congress—governed as what? Governed as the capital of the United States, and that was all.

The next objection I notice upon which the President lays stress, is that of the supposed antagonism between the races which it is said will arise here, and arising here will spread throughout the country to the detriment of the inferior race. I had occasion to anticipate this objection when the bill was before the Senate before; of course I shall not detain the Senate by repeating now what I then said. I had supposed, I may be permitted to remark, that this was a popular delusion, and would not be repeated as an argument by the Executive of the nation why justice should not be done to a defenseless race.

Fourth, and the last statement: I hardly know that I ought to say it is an objection to the passage of this bill, but the fourth specification or statement in this message is that the dangers to be apprehended to popular liberty in this country arising from the encroachments of the legislative rather than the executive department of the Government. That may be so or it may not; I know there has been much speculation on that subject; but it is certainly time that an argument on that point, whichever may be found to be the state of the case, has no relevancy whatever to this measure. If the danger is precisely as the President apprehends, it is not a reason, it is not an argument why this bill should not pass, it has no reference to it; and as I propose to endeavor to get a vote on this bill to-day, I shall postpone the consideration of that subject to some future occasion, when certainly it can be discussed with as much propriety as upon this bill. With these remarks I content myself with asking for the passage of the bill.

Mr. SHERMAN. Mr. President, when this bill was considered at the beginning of the session I contented myself by simply voting for it, but only after serious reflection and after listening to all that was said on either side of the question. We are now required to reconsider our opinions. There comes to us a message from the President of the United States stating in the ordinary way his objections to the passage of this bill. The message is respectful in its terms, made in pursuance of his constitutional duty, and it ought to be fairly and fully considered. There is nothing new in the message so far as argument is concerned. The statements of the message are but a *resumé* of the arguments already adduced in the Senate, where the subject was fully and ably debated; and probably nothing is said in the message that was not more fully said in the Senate. Still, as it is the duty of the President, where he withholds his assent to a bill passed by Congress, to communicate his reasons to the body in which the bill originated, it becomes our duty to give to his reasons a respectful consideration.

The only criticism I can make on the message itself is on that part of it in which the President undertakes to warn the people of the United States against the dangers of the abuse of legislative power. He quotes from Judge Story that the legislative branch may absorb all the powers of the Government. He quotes also the familiar language of Mr. Jefferson, that one hundred and seventy tyrants are more dangerous than one tyrant. I do not think that there is any occasion for such a warning, because I am not aware that in this bill Congress has even assumed any doubtful power. The President himself admits that Congress has absolute legislative power over this District, as full power as any State Legislature could have, unrestrained by a constitution. The power of Congress over this District is without limit, and therefore in prescribing who shall vote for mayor and city council of this city it cannot be claimed that we usurp power or exercise a doubtful power. The only question is as to the discretionary exercise of a clearly admitted power.



So far as the President's argument as to the dangers from the legislative power is concerned, I submit that there can be but little danger from Congress; for our acts are but the reflection of the will of the people. This body—the most permanent branch of the legislative authority—is but twice removed from the will of the people. We are elected by members of the State Legislatures, who are elected annually or biennially by the people of the respective States, and one third of this body is changed every two years, so that after all it represents the popular will of the States who send us here. The House of Representatives is more directly the representative of the people, being immediately elected by them. The recent acts of Congress at the last session, those acts upon which the President and Congress separated, were submitted to the people, and after a very full canvass and a very able one, in which great numbers of speeches were made on both sides and documents were circulated, the people, who are the common masters of the President and Congress, decided in favor of Congress. Unless, therefore, there is an inherent danger from a republican Government, resting solely upon the will of the people, there is no occasion for the warning of the President. Unless the judgment of one man is better than the combined judgment of a great majority, he should have respected their decision, and not continue a controversy in which our common constituency have decided that he was wrong.

I have not seen any effort on the part of this Congress to unreasonably curb the Executive or to assume any doubtful authority. For the last twenty or thirty years, and ever since the time of General Jackson, there has been a growing feeling in this country that the danger of an undue increase of executive power was the imminent one. The President was not only using his share of the legislative power, because by his veto he controls at least one third of the legislative power, but he was greatly increasing his power by the use of the executive patronage. There has been no time in the history of our Government when the executive patronage has been used to a more dangerous extent than it has been within the last six months. Usually the controversy arises within a party; the President selects agents within his party to administer the executive functions; but by the singular position of events now, the President goes outside of the political party which elected him, goes beyond those who contributed to his election, and selects agents outside of that organization to perform nearly all the executive functions of the Government.

But it is not necessary to pursue this matter; I wished simply to refer to it. The language of the message, as I have said, is courteous: I wish the President in his verbal speeches had always been as courteous and kind in his remarks about Congress as he has been in his messages. If so, it would probably have tended to prevent a great deal of the bitterness of feeling that may have been shown in the recent canvass.

But to come to the question itself: the first objection made by the President is that the people of this District are opposed to this measure. If this were a question whether one mill or two mills or ten mills on the dollar should be levied on their property, I would say that we ought to defer to the wishes of the people of the District. If it were a question whether a new court-house should be built, or any question affecting alone the people of this District, the people of the District ought to be consulted.

When the President says that in local matters we ought to defer to the people of this District, I think he is right. Congress has never been as liberal to the people of the District in conferring political power as I think it ought to have been. My impression has been for years that we ought to form a legislative assembly, or something in the nature of a legislative assembly, in this District, and confer upon it full power over local affairs, and many of the laws introduced here and passed, on the motion of

the District Committee, ought to be passed by their local authorities; and whenever such a proposition is made here I shall be most ready to vote for it. Indeed, the growing wants of one hundred thousand souls, the wealth that is accumulating here, the industries that are being built up, the railroads that have been and are being constructed here, all demand some kind of local legislative authority, and I am perfectly willing to give that local legislative authority to the people of the District.

But that is not the question here. This is a question as to who shall vote. This is peculiarly a question for Congress to determine. Even in a State it is not left to the local Legislature to determine who shall vote. The Legislature of Ohio does not prescribe the qualifications of a voter in that State. I believe in no State of the Union can the Legislature prescribe the qualifications of a voter. The prescription of who shall vote is the highest act of power in any government. It is an act of the people. After it is once fixed it is only by a change of the Constitution that the subject can be reached. The people themselves, through a convention duly elected, prescribe who shall vote; and even if legislative power should be conferred upon the people of this District no authority would be given to them to say who should vote. That must be fixed by the supreme legislative authority, and in the District it is admitted to be in Congress.

Now that the white people of this District should meet together and say that other people, equally interested with them, shall not vote is an assumption of authority not justified by reason. What right have the white people of this District to say that the negroes shall not vote, any more than the negroes have to say that the whites shall not vote, except that they are the most numerous? The result was, when they called an election, not in pursuance of a law, not in accordance with law, but without law, to determine who should vote, as a matter of course a great many people remained away, and only those voted who were in favor of excluding the negroes from voting. I do not pay the slightest attention to this vote of the people of the District. We are bound to legislate for them ourselves. We prescribe who shall vote in this District. It is a power clearly conferred upon us; and in the exercise of that power I felt bound to take the broadest democratic rule, to give to every one affected by the legislative authority of this District a right to vote directly or indirectly. So far as the families, the women and children, are concerned, we know that they are represented by their husbands, by their parents, by their brothers, by those who are connected with them by domestic ties; but so far as the black people of this District are concerned, we knew that the white people generally were hostile to them; jealous of them; generally had a feeling of strong prejudice against them. Now to say that the white people of this District should vote for the black people was simply saying that the black people had no rights whatever which the white people were bound to respect.

It has been the history in all Governments in all struggles for liberty that the persons in possession of power have always been the last to share it with the others. If it is left to the governing classes of England they will not extend the elective franchise to the masses of the people of England. A controversy is going on, memorable in its character, at this moment in England. A very small proportion of the white male citizens in England vote; and the struggle now there is, not for universal suffrage, but it is a struggle of a class to get into the favored class. A singular spectacle is presented of men of intelligence, of the highest merit, of education, who have graduated at their colleges, being excluded from the right to vote because they have not property. Every person would say that such men, graduates of colleges, men of intelligence, ought to vote; but they cannot in England extend the franchise by any general rule without reaching the body of the people; and when that proposition is there

made it is met by the very same arguments that are here adduced by the President of the United States. It is objected that it is dangerous to go down to a lower grade in society, because you thereby admit to the polls ignorant people unfit to exercise political power. One of the expressions used by the President is almost in the very words uttered by a member of the British Parliament recently, that it would not do to trust the people to levy taxes, because they did not own the property to be taxed. That has been the common argument with which universal suffrage has been resisted in all Governments.

In our own country our institutions are founded mainly upon those of England, and it took more than a hundred years to establish in this country the right of general or universal suffrage; and even now in the State of Massachusetts, which is considered one of the most democratic or republican of States, they exclude a portion of their people because they cannot read or write. It seems to me that now, when we are founding a basis for civil society in this District, we ought to make it as extensive as possible; we ought to give every person whose property is affected by local taxation some right to be represented in the authority which imposes those taxes. If this was a corporation—and so far as the city of Washington is concerned it is but a corporation—we ought to apply to that corporation the same principle that is applied to all other money corporations, that every person who is interested either in the protection of his rights or in the protection of his property should have some voice, directly or indirectly, in the Government.

The next objection which is urged by the President is, that it is dangerous to the rights of the whites to extend the suffrage to the negroes. That is an argument which, I think, answers itself. He admits in this message that the colored population is less than one third of the people of this District. The white people have nearly all the property; they have the control of every organ of public opinion; they have the control of every newspaper; they have control of nearly all the churches; they are intelligent; they are white; and yet it is said that one hundred thousand of them cannot enter into a competition with thirty thousand negroes! It is simply absurd.

But it is said that these negroes are ignorant. So they are. And if I could have drawn any line of distinction between those who are intelligent and those who are not intelligent I would do so. I listened with great interest to the argument of the Presiding Officer of this body on this subject. I should have been willing, for the present at least, to apply an intelligence qualification to the negro voters; but I came to the conclusion that it was impossible. You cannot draw a line and say that a man who can read and write shall vote, and that a man who cannot read and write shall not vote. It is an uncertain test, a difficult test to be applied in any Government. It is unjust here, because by your laws you have prevented this class from learning to read and write. The mere habit of reading and writing is no test of intelligence. It is true a man who can read and write has opportunities of acquiring intelligence which one who cannot read or write has not; but it is no sufficient test upon which to base the great right of suffrage. The very difficulty of drawing a line compelled us either to exclude the whole black population in this District from all right to vote or else to extend it to all alike without distinction of race or color. I think, therefore, the Senate of the United States did perfectly right when they abolished all distinctions upon this subject, and as a general rule allowed every head of a family or every male citizen to exercise the elective franchise.

The President says this is not the time to try the experiment. I say that it is precisely the time. We have recently with great unanimity passed a constitutional amendment in which we have endeavored to persuade in a gentle way the people of the southern States to give some

degree of political power or political rights to the negroes of the South. Since we have passed that amendment we cannot sit here and refuse to give to the negro population of this District some political power, as we have in a measure by our constitutional amendment bribed the people of the southern States to extend some political power to their negroes. It seems to me that now is the time, at the end of this great civil war when general principles are discussed more than ever before, to start out upon correct principles.

The President says this is not the place for this experiment. I say it is the place of all others, because if the negroes here abuse the political power we give to them we can withdraw the privilege at any moment. It is always within the power of Congress to revoke this authority. If it be shown hereafter that by their ignorance, or their folly, or their crime, they are endangering or will endanger civil society in this community, we can withdraw at any time the power which we now confer and resume our original functions. When the power is conferred by a State it cannot be withdrawn except by a change of the Constitution, but here we can withdraw it.

I have always thought, and I have often been taunted for saying, that this District was the paradise of free negroes. It is the paradise of free negroes, and it ought to be. Heretofore they were under the ban of prejudice; in the southern States the great mass of them were slaves; in the northern States they could not enjoy any rights; in the city of New York they were cruelly mobbed while we were in the midst of the war in which they served us faithfully as soldiers and laborers. In nearly all of the States they are now denied political power. Here political power can be conferred upon them with safety; I will say for the free negroes in this District that they will exercise their new power with reasonable moderation and intelligence. They are now making rapid progress in education. They are sustaining their own schools without public money, although they are taxed to maintain the schools for white children. They are building churches. They are now showing evidences of intelligence and a degree of industry and order which some classes of the white people do not. I believe they are rapidly advancing in the scale of civilization, and that, if not now, they will soon be prepared to vote with as much intelligence as other citizens of the District.

But there is another reason why we can confer this power here, even before it is conferred in the States. Here this element can do no harm. The people in this District vote simply upon municipal questions; they exercise no political power; they have no voice either in the Senate or the House of Representatives. The questions upon which they are called to vote are simply questions of dollars and cents, money matters which affect them in common with other property holders, and upon which they will vote with as much discretion as others.

I say, therefore, that this is the time and this is the very place to try this experiment. I desire for one to see it extended all over the country. I have no doubt that the people of Ohio, who have for fifty years excluded the black population from voting, will, in their own good time, and in their own way, without any interference from outsiders, allow the negro population of that State, which is very small, participation in the elective franchise, and probably place them on an equality with the whites. I have no doubt this will be done. The State, as a political community, would not allow anybody else to interfere with their power over this subject, but when the Constitution is revised in its regular course, this discrimination against our negro citizens will be removed, and it may be done sooner.

Notice that the Democratic party, in the hope to make a popular issue, have invited the controversy in our State by passing resolutions in their county conventions declaring that they are very much opposed to negro suffrage in Ohio.

I for one am willing to accept their challenge. Our people are ready for the contest, and will not shrink from the universal application of a great principle from a narrow prejudice of caste. I am willing to extend to the few negroes in the State of Ohio the elective franchise on precisely the same terms that it is now given to all other male citizens of legal age. When the question is made—and we will make it in our own good time—it will be carried, and then our Democratic friends, instead of appealing to the narrow prejudice against the negro, will be appealing to the negro for his vote.

I have perhaps said more than it was necessary to say at this time, because I take it we have all formed and expressed by our votes our opinions on this matter, and there is but little doubt as to the result. The message of the President admits the general principle that an intelligent negro ought to vote. We say we can draw no satisfactory test of intelligence and prefer a general rule applicable to white and black. Here we differ, and I for one appeal with confidence to the sober reason of our common constituents. I believe that experience will demonstrate the wisdom of this act, as it has the kindred act of emancipation in this District.

Mr. COWAN. Mr. President, I had not intended to say a word on this subject in defense of the message of the Executive, and I should not do so now had it not been attacked. If it was the design of the majority of the Senate to force this measure to immediate consideration and to an early vote, they should have refrained themselves from attacking the message. However, that was perfectly legitimate. I rise more particularly for the purpose of saying that I differ entirely with the honorable Senator from Maine in the expression of that sentiment of his, that the people of this District had nothing to do with this question. I do not know whether I caught his exact words, but I endeavored to get their substance. If that proposition be true, then this whole Government from top to bottom, our institutions all, State and national, are based upon a wrong foundation. What, sir, the people of this District have nothing to do with this question! Who else have anything to do with it? What have the people of Maine to do with it? What have the people of Ohio to do with it? What have the people of Pennsylvania to do with it? It is the first time in my life that I ever heard the claim set up on the part of an outside people to interfere with the legislation of those who are affected by the legislation. Will any legislation of the mayor and councils of the city of Washington, or any legislation of the municipal authorities of this District of Columbia affect the people of Maine in any way, or affect the people of any State in any way, or any people outside of the limits of the District? If they are not affected, how comes it that they have a right to regulate the internal affairs of the District here? By what warrant would Pennsylvania undertake to regulate the internal legislation of New Jersey? Would not the answer be obvious at once, "Does this legislation affect you?" By what warrant would the people of New Jersey interfere in the election of officers in Pennsylvania? Is not the answer there equally obvious: "Are you to be governed by these officers?" Why, Mr. President, it is a fundamental principle in all our institutions, or else I have very much misunderstood them, that it is to the people alone that these questions are to be referred.

Yes, but the honorable Senator says we have exclusive legislative power over the District of Columbia. We have exclusive power of legislation; what for? To tyrannize over the people of the District of Columbia? To contravene their will, or to carry it out and embody it in our legislation? Which of the two? Was it intended by the founders of this Republic, when they put the District under the guardianship of Congress, the great council of the nation, that the people should be servants; that they should be slaves; that their will should go for naught in the regulation of their

municipal affairs? I have always understood that the very reverse was the case; that it was thought, from the magnanimity of this great national council, the District of Columbia would receive more liberal legislation than if it had a local Legislature of its own.

What was the purpose of this grant of exclusive legislation over the District of Columbia? Was it for the purpose of making this a hunting-ground for experimenters? Was it to make it an arena in which all the new-fangled notions of modern times could be tried at the expense of the people of the District, disregarding their will and their wishes, their almost unanimous will; or was it to give this Government simply that control over the District which was necessary to enable us to carry on the Government? Can any man furnish a motive why our authority, our tyrannical authority, our arbitrary authority, should extend further than that? If there is a single one I should like to hear it. We have a right to that extent, to enable us to govern the nation well, to control the District of Columbia; but that gives us no right to disregard the will of the people of the District of Columbia, and trample upon their wishes, and introduce among them, against their will, an experiment which has never yet been tried upon the continent.

To say that the people who are to be affected by the measure ought to have no voice in the question is laying the ax to the very root of the tree of liberty. It is to put the bar at the very foundation of the edifice and to overturn it. The people of the District of Columbia are a free people, a distinct, separate, independent community, as much so as the people of Maine, or the people of Pennsylvania, or the people of Ohio, with the same rights; and those rights are to be preserved by us, not trampled upon.

Now, what is the question? This District is inhabited by two different races. Gentlemen say this argument has all been probed to the bottom; it has all been answered. I beg leave to say that I think it has not been probed to the bottom; I think the question has never been argued down as deeply into the nature of things as it might be. This is not a question as to the admission of a certain number of citizens to the elective franchise, as it is in England. It is an entirely different question. This District is inhabited by two races of people, distinct races. How distinct? So distinct as to prevent anything like social equality. Is not that a fact? If there were no facts before the Committee on the District of Columbia to show that there was a majority of the people of this District opposed to this measure, I suppose that committee will agree that it is a fact that the distinction of races prevents social equality. I think that cannot be denied.

Then a question arises immediately behind that: if the difference between the two races prevents social equality, is it not enough to bar political equality? Honorable Senators say: "No; we will grant political equality." You may grant, if you please, a chance to try it; but you cannot grant the equality. That is a thing lying out of your reach; lying within the nature of the races themselves. Pass what laws you please, you cannot make black men white nor white men black, because that is not the subject-matter of your legislation. Then I ask what is to be the line which will divide parties in this District when the bill of the honorable Senator from Maine becomes a law? As among us of the same race, the line which divides parties is one of principle. My honorable friend on the other side is a free trader; I am a tariff man. There is a line between us, and which side we take depends upon argument and reason. It is from that fact that the lines between parties depend upon argument and reason, and are to be settled by them and them alone, that we have a free Government.

I ask what will be the line when the negro votes in the District? I am presuming now that he is just as well qualified to vote as the white man; that he is just as good, just as wise, just as intelligent as the white man; and I ask

what is to be the line between parties when he does vote? Is it to be the line of argument, the line of reason, the line of principle, or is it to be the line of tribal distinctions? Will a man belong to a white party because he believes the white party has the best of the argument, that the principles which the white party advocate are the true principles upon which to govern the District; or will he belong to the white party simply because he is white; and will he belong to the negro party because the negro is right or because he is black?

To a wise man, and to a man who is willing to look a little beyond the excitement of the moment and the passion of the hour, is not this inevitable? Then, what is the consequence, supposing it to be so, and no one can deny it? Nobody can anticipate anything else as the result of the bill but that. Then what is the consequence? It is not a question of sharing in the Government; it is a question of which race shall dominate. There are one hundred thousand whites, and there are thirty thousand negroes. Which will dominate? Given that things remain as they are, the whites will predominate. Then what will the negro get by the bill? Of what use is his vote to him? When your party lines depend upon tribal differences of what use is the vote to the weaker?

There, Mr. President, we come back exactly to that which every society does at the outstart by its fundamental law. In a case of that kind the whites exclude the blacks from the right of suffrage altogether, and it is right and prudent and proper. I would not quarrel with a black community that would exclude the whites from voting, and why? All that the honorable Senator's bill does is to create this contest for every election, to make it recur year after year, and to exclude from the contest all considerations of principle, of reason, of right, of wrong. His bill is to invite in the District of Columbia a contest of races at every election from this time forward. That is the object of it, and that will be the effect of it, and there can be none other. Now, the District of Columbia, being a free community, just like a State, would, if it could, call a convention to settle this matter—settle it just as the States have settled it; "We are the majority; we are the ruling class of the community; we have the power; we can exercise it year after year; but we do not choose to invite that contest; we choose to form a constitution and fix that matter at the outstart by the exclusion of the weaker race from the right of suffrage." That is right and proper and wise, and anything else would be exceedingly improper and exceedingly unwise.

Then, Mr. President, this being a question, not of sharing the Government, this being a question of dominion, who will have the dominion? You have one hundred thousand whites and you have thirty thousand negroes, and you have sixty thousand or one hundred thousand negroes standing all around who have no property, who have no ties to any particular spot, who are not engaged in any business which entangles them, perfectly free-footed to come into the District within any period of ten days and live here as well as they live where they are. They may attain to the ascendancy in that way; but they do not need to come here in equal numbers with the whites to attain to the ascendancy. Sixty thousand negroes here in the city, if you suppose there are ten wards, may govern the city without any difficulty. There is no difficulty in withdrawing that kind of population from one ward to another so as to enable them to carry a majority of the city government, although it is a minority of votes. The whites do not enjoy these facilities for colonizing and pipe-laying. A man who owns large and valuable property in the city cannot pull up stakes and go and live in another ward in order that he may have a controlling vote at an election; but at least nine out of every ten of the colored men can.

The effect of this bill, then, will be to introduce these contests into the District of Columbia, to perpetuate them annually, and to beget

a never-ending feud. If white men of the same race can become as much embittered against each other as we see that they can when in this society even now, in the society of the best regulated States north, what are you to expect when the vial of this tribal difference is poured in? It is hardly to be supposed that there were not wise men before us as well as there were brave men before Agamemnon. Why has this experiment never been tried heretofore? Gentlemen say it has been tried partially in Massachusetts. Very sparingly in Massachusetts, and very well guarded; very sparingly in New York, and very well guarded; very sparingly in Maine, and very well guarded—if not sparingly in the words of the law, sparingly in the number of negroes.

Mr. MORRILL. They all vote with us.

Mr. COWAN. They all vote; but is there any of them? In Pennsylvania, where we have one hundred thousand of them, we could extend this privilege to them perhaps, and the effect it would produce would hardly be appreciable there. There would be no danger of the tribal contest I have mentioned there. You could not have a black party and a white party there, because the blacks would not be enough anywhere to make anything like a party; they would hardly be enough in any district in the State to hold even the balance of power. It is a very different thing when you speak about introducing this principle where there are but few negroes, and where they form a large element of the population, say one third of it.

Mr. President, where was the necessity for this? My honorable friend from Maine is chairman of the Committee on the District of Columbia. He has had these people under his charge and control for the last four or five years. He knows all about them; and I am here ready to say, I think in all truth, that he has put them in every respect upon a footing with the whites, except in this political aspect. Does not the negro in the District enjoy his personal liberty, his personal property? Has he not a right to go into court and sue? It is likely that he is oftener sued, but still he has the right to sue if he can get anybody in debt to him. He has a right to testify, which was thought to be a most valuable right. He has all the rights that the white man has except one, and what is that? What is this invaluable right that is now to be vested in the negro by this bill, when you come to examine it? I will tell you, Mr. President, what it is. He is to have the right now under this bill to vote for a mayor and council. What have that mayor and that council got to do? Can they tyrannize over him if they want to do so? My honorable friend has fixed all that. They have no power to affect him in any way. They cannot affect any of his personal rights or liberties in any respect.

Well, what have this mayor and council to do? So far as I recollect, they have charge of the streets, the sewers, the pavements, the gutters, the side-walks, and all that kind of thing. I believe these powers are delegated to them specially by Congress. They have them within their jurisdiction. If the negro has been imposed upon in any way by their administration of this branch of the city government, my honorable friend should have withdrawn the delegation of this power from the mayor and common council and made a general law which would have corrected the evil. That I would have agreed to do. But has anybody ever heard a negro complain of the exercise of the power of the city government in these respects? Has he been heard ever to complain that the tax he contributes for municipal purposes, which I suppose is not the one thousandth part of the whole amount, had been misapplied; that the side-walks had been neglected; that the gutters had not been cleaned; that the gas and the water companies had not been well arranged? That is about the extent of it. He is now to have a right to vote for mayor and council, a right to interfere with the distribution of the taxes of the city. How much does he pay of them? Sup-

pose the negroes were here to-day numbering one hundred thousand, equal to the whites, how much of the taxes would they pay? And yet, when they pay no taxes and the whites pay them all, when the whites own all or nearly all of the property, you talk about its being fair that the negro should be permitted to intermeddle in this matter and correct the malversation and the mal-government of the city officials.

I have never heard even the most earnest advocates of the measure allege these as reasons why this new thing should be introduced here. I have never heard my learned and eloquent friend from Maine even hint at such a thing; and why? Because if there was such a thing, it would be susceptible of another and entirely different remedy. There is nothing to prevent Congress from withdrawing all the power delegated to this mayor and common council and resuming it themselves for the purpose of correcting any difficulty that may have occurred on these points. But instead of that, this extraordinary remedy is resorted to.

Mr. MORRILL. My honorable friend will allow me to ask him how it is that in drawing this line he speaks of he finds it so easy to establish a definite line as to all the civil rights of the colored man, affecting his life, his person, and his property, and yet so impossible to draw the line when he touches political rights? I understand him to say distinctly that in regard to civil rights he has no difficulty in defining the line clearly; the colored man has just as much right to protection in all his civil rights, life, liberty, person, property as the white man, and that can be made clear; but he denies that the line between the colored and the white man can be drawn at all without danger of infinite confusion whenever you change the political rights.

Mr. COWAN. I have a very simple answer to all that. The right to life, liberty, property, is the gift of God; the right to vote and the right to hold office, which is the same thing, is the gift of the community. That is all. The negro who is prevented from having a vote in a community has no more right to complain of it than the defeated candidate after the election has a right to complain. Why? Because who shall vote is a question of expediency and policy for the community to decide.

I ask my honorable friend himself if he saw this thing in the light in which I see it, if he saw in the future prospects of this District nothing but a strife between these two races of men, that their parties would be based upon their tribal distinctions, would he vote for this measure? Would he not say that it was better to tell the weaker: "You stand back, do not undertake to participate, because as long as you are the weaker you cannot be elected, and when you get to be the stronger the others cannot be elected." That is the whole of it. It is not like widening the franchise and allowing men of the same race to come in; it is an entirely different question, and one which merits the most careful and serious consideration on the part of everybody intrusted with it.

Does not every man know how much more easy it is to appeal to a sectional prejudice than it is to make an argument. How much easier is it for a man to say, "come my brother Irishman with me," or "come my German friend," or "you come the native?" This is the short way to make a party, and it is a very effectual one to make it even among white men; but what argument is there in it? We have lamented that tendency among ourselves. If that tendency exists among Germans, among Irishmen, and among native-born people, to associate themselves together according to some external mark or symbol rather than to associate themselves upon principle and fortify themselves by argument, if that is a mischief, will not this be much more so?

Gentlemen talk about public opinion, the public opinion of the country. Why, Mr. President, what is the public opinion of the country? It is hardly ten years since a Congress sat here which I suppose thought itself as wise a Congress nearly as this is, which was called a Know-



Nothing body. Then instead of throwing suffrage to the dogs and giving it to everybody, suffrage was said to be a great right of the American citizen, the chosen heritage of the American people, not to be thrown out to foreigners and strange people who came from everywhere. Now I put it to you, Mr. President, to look back ten years. I do not know whether the honorable Senator from Maine was a member of the Know-Nothing party; but supposing him to have been in the Congress of the United States at that time, and supposing he were there to have introduced this proposition, what would public opinion have said then? What will public opinion say next year? I say to him now the public opinion in the District of Columbia, whether the Committee on the District knows it or not, is unanimously or nearly so against his measure. I tell him further that the opinion of the American people, the mass of them, is nearly unanimous against it, too. I agree that there are plenty of the American people who for some reason or other do not like the District of Columbia very well. They think it has rather a southern aspect; that there are many southerners living here; that it has rather been rebelliously inclined; and they do not care, they would probably delight in cramming negro suffrage down upon it; but no man is fool enough, even among them, to believe that this will benefit either the negro or the white man. It may be very comfortable in the hour of party rage and party passion to be able to do that to an antagonist when you have him down and when you have the exclusive power to legislate for him. I have no doubt but that there are large numbers of the American people who are exceedingly anxious to compel negro suffrage through the southern States. But has any one of them ever made an argument to show that the southern States would be better governed; that there would be more peace and more quiet in consequence of it? I have never heard those arguments if they have been made, and I do not know how anybody could make them.

My friend from Ohio excepts to this message of the President because the President happens to have said in it that the legislative power of a country is most likely to encroach upon the other departments. He goes into a labored argument to show that it is impossible that they can encroach. Why, sir, what was the reason the Federal Constitution was made, what is the reason why our States have made constitutions? If legislatures are always right, if they are always obedient to the monitions and the will of the people, what are your constitutions for? Is not a constitution made to restrain the legislature? Is it not made to restrain the legislature just as the law is made to restrain the individual? Why restrain the legislature? Because there is a possibility that the legislature may do wrong, may encroach. That very possibility stood up so strongly before the eyes of our fathers that they made a constitutional wall against it; but now the honorable Senator from Ohio says there is no danger from it at all. Oh, there was no danger, of course, from a legislative assembly in France during the revolution; that convention was perfectly safe; it was the representative of the people; but what did it end in? It ended in the destruction of everything, sacred and profane; all went down in an indiscriminate mass together.

Mr. President, legislatures are dangerous, executives are dangerous, courts are dangerous. Power is always dangerous. Power must always be curbed and must always be restrained, and I fear me very much that constitutions will fail to do it. "Eternal vigilance is the price of liberty," never to sleep in the presence of these encroachments. The honorable Senator might find this Congress in such a shape that a minority could govern the majority if certain precedents are followed. The majority in this body can turn out a refractory member. The majority in this body can turn out a member if he does not happen to be elected by a majority of the Legislature of his State in the way that this body thinks that majority ought to elect.

A majority in this body and in the other House have undertaken to build up a wall around themselves by requiring those who come from certain sections of the Union to take an oath that none of them can take. Does not that look a little like encroachment on the part of the legislative body? What right have we to affix a qualification to a Senator when he comes into this body? If, according to the original bargain, Pennsylvania elects a man thirty years of age, a resident of that State, who, if naturalized, has been nine years a citizen; who is willing to swear to the Constitution, by what right can the other Senators here say to him and to Pennsylvania: "This man whom you have sent as your representative cannot come in?" Why? "Because he cannot do something which we require him to do." Has not Pennsylvania a right to ask: "By what warrant do you require him to do this, that, or the other thing? Is it in the Constitution that he shall do these things? If we send men here who have all the constitutional qualifications, where does the right come from to impose others?"

But, sir, there were precedents for this. Cromwell, who wanted to have a Parliament to suit himself, administered his oath at the door: "You may come in, gentlemen, to legislate for the Commonwealth of England, but there is one thing you must swear you will not do; and what is that? 'Why, inquire into my power and authority; hands off that.'" The French convention undertook to stop at the doors of its halls a certain number of the delegates and keep them out in order that the remainder might have full control. Was there no danger of usurpation there, of encroachment? Was there no danger when Colonel Pride purged the Long Parliament with a couple of squadrons of dragoons? And this was on the same principle precisely. A majority get in and when they get in they say: "We will turn the key and nobody else shall come in." How are you going to do it? Either keep them out at the doors or put them out if they come in, or build up some new qualification wall that they cannot get over. I should not be at all astonished in the fluctuations of parties to find ten years from this time a wall built up here that every man who would not swear that he had never been an abolitionist, never been a Radical, never been in favor of negro suffrage, should not come in. That might just as well be made as any wall you can build up. You may just as well require a man to swear that at the door as anything else. If you can make him purge himself of his crimes, why can you not of his heresies? That canonical system of laws, however, never was very popular, and I do not think that it ought to be.

Then, Mr. President, this bill is against the will of the people of the District, the people who are to be affected by it. And I say further that it is against the will of the American people. I say that wherever this issue was attempted to be started, excepting, perhaps, in the New England States, it was repudiated in the last canvass by the winning party everywhere, and the proposed amendments to the Constitution were triumphantly pointed to to show that the question of suffrage was still to be left to the States. Negro suffrage was disavowed everywhere south of New England. If so, how can it be said now that this is in accordance with the will of the American people? It could be far better said that it is against their will than that it is in accordance with it.

There is another point put by the President, and if I remember aright (because I have no had an opportunity to read the message, and only heard a portion of it imperfectly) that is unanswerable; and I defy the honorable Senator from Maine, with all his ingenuity, to answer it. How do you undertake to say that it is the will of the American people to establish negro suffrage in the District of Columbia when it has not been done in Ohio; when it has not been done in Pennsylvania; when it has not been done in New York; when it has not been done

in the States from which almost all those gentlemen come who are eager for it here? How is that to be answered? If a gentleman representing a State strongly imbued with this sentiment, so strongly that it itself had made it a part of its organic law, came here advocating it for the people of the District of Columbia, I should pay great heed to his advice and to his counsel; but I do not understand with what face he can come here and propose to saddle this measure upon this population, happening to be at his mercy, when he refuses to inaugurate it and carry it out at home. If the institutions of the American people are to be taken as expressive of their will, indicative of their wishes in this behalf, I say to the honorable Senator that the great mass of the people are against him and against his scheme. This cannot be disputed. There is no constitution in the Union which has adopted this principle of manhood suffrage; the people of no State in the Union have adopted it; and yet this is said to be desired by the American people.

You cannot attribute to the American people, as such, malice, ill-will; at least we cannot presume that they intend to inflict a punishment upon the District of Columbia rather than confer a benefit upon it. And yet this will be the effect of it, and to no purpose; not to secure the negro; not to give him better laws; not to protect his person; not to protect his liberty any better; not to send him into a court that will be more favorable to him, or to give him any advantage whatever, except to intermeddle with the distribution of taxes raised to clean out gutters and sewers, and to keep the streets in order. Perhaps if he can attain to a majority here and get control of the city he will himself distribute, and distribute as he chooses, the hundredfold of taxes that the whites pay into the public Treasury more than he does. That will be the effect of it.

Mr. President, I have only said what I have said because I was unwilling to allow this occasion to go by without replying to the suggestion which has been made here on the floor of the Senate, that the people who are to be affected by legislation in this case have nothing to do with determining the question of its propriety or impropriety. The idea has always been thrown out that this is the place to make experiments. Why make the experiment here more than anywhere else? Do the people of this District belong to the United States for all purposes, or for only one purpose? If they do not belong to the United States for all purposes, for what particular purpose do they belong? Is it not that the General Government may be located here, and nothing more? If it is nothing more than that, are they not in all other respects American citizens, like other citizens, entitled to the same rights, entitled to the same protection and the same consideration? Have we a right to tyrannize over these people and to make them do things they do not want to do; make them change their institutions in a fundamental point of view; and why? Not because they want it, but it is rather because they are opposed to it than otherwise.

Mr. President, I have no hope that there will be any change in the foreshadowed result in this case; but it is well to know that there are some things at least which may be said in answer to the criticisms made by honorable Senators upon the message.

Mr. WILLIAMS. Mr. President, I believe that the author of this message, while he was "swinging around the circle," frequently referred to his political consistency, and I am inclined to think that this veto maintains his claim in that respect, and that he is now what he said he was at the conclusion of the war—the Moses of the black race and in favor of extending to them the right of suffrage. During the canvass of 1864, if I am not mistaken, the President, then a candidate for office, declared that he was in favor of committing the organization of the rebel States to the loyal white and black men of the South, without making any discrimination as to color, and in the sum-

mer of 1865 he transmitted a dispatch to Governor Sharkey, of Mississippi, in which he advocated the extension of qualified suffrage to the black men of that State. Since that time upon various occasions, and particularly to one Mr. Stearns, and I think to the honorable Senator from Missouri, [Mr. HENDERSON,] he expressed his conviction that qualified suffrage should be extended to the negroes of the United States, and according to my information he declared that if he was in Tennessee and could vote upon that question he would vote to extend suffrage to the black men of that State. And, sir, this message seems to me to be somewhat consistent with the declarations which the President has heretofore made on this subject, for I find in one paragraph that he is in favor, as he says, "of the gradual and harmonious introduction of this new element into the political power of the country." Now, sir, to concede that the negroes of the United States are to be an element in the political power of this country is to answer all the objections which the President makes to this bill, except those that are of a local character.

It seems, then, that there is no difference in principle between the President of the United States and the majority in Congress as to negro suffrage. Both are in favor of that kind of suffrage, and the difference is as to the degree or extent to which it shall be exercised. Congress, so far as the District of Columbia is concerned, has extended the right of suffrage to the black men above a certain age and who have resided within the District for a certain time, while the President in his advocacy of negro suffrage has favored other qualifications; and because the President differs from the majority in Congress upon that matter of qualification, he has seen proper, in the exercise of the veto power, to overrule the judgment of Congress, not upon any constitutional ground or question of principle, but upon a mere matter of opinion.

Now, sir, it certainly cannot be so alarming as the President represents it to be to extend suffrage to the black men in this District, when he has favored its extension to black men elsewhere, when not only the majority in Congress favor negro suffrage, but the leading Democratic journals of the United States have espoused the same cause. Sir, we find the President, the majority in Congress, the Chicago Times, the Boston Post, the Albany Argus, the leading Democratic journals of the country favoring negro suffrage in some way. Since the public judgment has become so convinced of its necessity and justice there seems to be no very good reason for sustaining this message.

It has been objected by the Senator from Pennsylvania, repeating what the message says, that Senators here undertake to force negro suffrage upon the people of this District when the States they represent do not allow suffrage to the negroes. I will ask the honorable Senator if by the enactment of a law suffrage could be granted in the States, the legislative assemblies now in session would not extend to colored persons the right of suffrage. To change a constitution takes time. Conventions have been called in some of the States for that purpose, and in other States they are preparing to call conventions; but if by a law suffrage could be extended to the negroes of Pennsylvania as it can be to the negroes of the District of Columbia, I have little doubt that before the present Legislature adjourned negroes there would enjoy the elective franchise.

Mr. SAULSBURY. I wish to ask the Senator from Oregon how many negroes there are in the State he represents here, and whether they allow them the right of suffrage in the State from which he comes?

Mr. WILLIAMS. I have to say, sir, that there are but few negroes in the State which I represent, and, like other States, they are not allowed the right of suffrage for the constitution of that State was formed—

Mr. SAULSBURY. Then let me ask the Senator another question: why does he force

this measure upon a people where one third or one fourth of the population consists of negroes, as in my State, when he will not allow the miserable remnant of the negro race in his own State the right of suffrage? Will he explain to the Senate how he can reconcile that with the spirit of justice, right, and propriety?

Mr. WILLIAMS. I am not advocating the extension of the elective franchise to the negroes in the State of Delaware.

Mr. SAULSBURY. But you are in favor of it, sir.

Mr. WILLIAMS. The question now before the Senate is as to whether negroes should enjoy the elective franchise in the District of Columbia, and I say that I believe a majority of the people represented here in Congress are in favor of this bill, and my reasons for believing so are these: during the last session a bill similar to this passed the House of Representatives, and a bill was also passed by that House extending the elective franchise to the negroes in all the Territories of the United States. The members—

Mr. SAULSBURY. May I ask—

Mr. WILLIAMS. I wish to finish my sentence.

Mr. SAULSBURY. I ask the gentleman whether he was not a member of the convention of Oregon that excluded the negroes in that State from the right of suffrage, and whether he did not vote for that exclusion?

Mr. WILLIAMS. Mr. President, that is altogether foreign to this question; but I can explain that matter. There was a strong party in Oregon at the time its constitution was formed in favor of establishing slavery in that State; and it was exceedingly difficult to defeat that party, because there was an effort made to make it the doctrine of the Democratic party, and to exclude from that organization all men who did not favor the pro-slavery policy there, and such was public opinion in the State of Oregon at that time that to defeat the establishment of slavery it was made necessary for the men who opposed it to introduce into that constitution a clause which denied to negroes the right of suffrage and other rights. It was for the purpose of defeating the institution of slavery in that State that the constitution was made in the form it now is.

Mr. SAULSBURY. Did you vote in favor of that, sir, and in giving that vote did you act conscientiously or under compulsion?

Mr. WILLIAMS. Mr. President, I do not like to be diverted from the subject before the Senate; but I say that I was determined, if possible, to defeat the institution of slavery in Oregon, and that, in my judgment, it was necessary in order to prevent its establishment there to concede somewhat to a public opinion which then predominated in that State.

I was compelled to choose between two evils, and, in my judgment, it was better as there were no negroes at that time in the State, and few could reasonably be expected to come there, to provide in the constitution that they should not have the elective franchise than it was to allow slavery to be established in the State of Oregon. But, sir, all that is entirely foreign to the question before the Senate.

I say that I am bound, as it seems to me, as a Senator upon this floor, not to act upon this subject in conformity to the wishes of a part of the people of the District of Columbia, but to act in conformity with the wishes of the people whom I represent upon this floor, or in accordance with a majority of all the people represented here. Now, if the legislative assembly of the State of Ohio should instruct my honorable friend [Mr. WADE] to vote for universal suffrage in the District of Columbia, I ask if he would not be bound to obey the instructions of the State which he represents, although in so doing he might act contrary to the wishes of the people in this District? So if the people of my State, in my judgment, by their elections or by their legislation instruct me to vote for the extension of the elective franchise to the negroes in this District, I am

bound to obey their wishes, notwithstanding the fact that a portion of the people in this District may object.

But I was undertaking to show, that in my judgment, the people of the United States were in favor of this bill. The men who voted for the bill at the last session in the other House, and who passed a law extending the right of suffrage to negroes in the Territories, went home to their constituents, gave an account of their proceedings, and were indorsed and returned; and the people through them now demand the consummation of this act by the Congress of the United States. So I claim that this act has been before the people; there has been a popular verdict upon the question, and the judgment of the people has been distinctly expressed in favor of this kind of legislation. I think therefore, Mr. President, that there are no valid objections to the passage of the bill, and that this message which the President has submitted is one that does not concern the principle involved, but simply takes issue with Congress as to the time when the right of suffrage should be extended to the negroes in this District; for I understand him to say that they are to become at some time an element in the political power of this country. It seems to me that Congress is just as competent to decide as to whether the negroes of this District are now sufficiently intelligent to vote or not, as the President of the United States, unless he has some extraordinary means of information which are not possessed by Congress. And when we look at what has transpired during the late war, and see that these black men, ignorant as they are represented to be, were able then to understand the issues before the country and take the right side in the controversy, it seems to me that there is at least some ground for supposing that they have sufficient intelligence to judge of other questions that may arise involving the welfare or safety of the country.

Mr. JOHNSON. This is the only opportunity which I have had of giving, as I shall do in a very few words, my reason for not being enabled to vote for the bill. My friend, the chairman of the committee by whom the bill was reported, supposes that the people of the District of Columbia are not entitled by any provision found in the Constitution to the blessings of a government of their own, that they are placed entirely under the jurisdiction of the Congress of the United States, that the Congress is their Legislature, and that nobody else, not even themselves, have a right to complain of the manner in which Congress shall exert their power.

In what I am about to say I shall be found to differ with the opinions of men of distinction in the past, to whom the nation has been in the habit of looking with reverence and respect. It is true that, in my opinion, everything which Congress, from the very nature of our institutions, is not prohibited from doing, Congress can do by legislation with reference to the District of Columbia. The only limitations upon the powers of Congress are not to be found in the words of the clause which invests Congress with the power, for they are very comprehensive—they are authorized to legislate for the District of Columbia in all cases—but are to be found in the nature of the government, and the particular individual guarantees to be found in the instrument. Those guarantees of personal liberty, personal rights, rights of property, are equally operative upon Congress, in the discharge of its powers over the District of Columbia, as they are operative upon Congress in the discharge of its authority in matters of legislation over the States.

Thirty or forty years after the Constitution was adopted, a notion was entertained by the men to whom I have referred that, although there was no express prohibition upon the authority of Congress in its power to legislate over the District of Columbia, there was an implied one. The implication that was then made was, that having accepted from Maryland

and from Virginia cessions of the territory which now compose the District, or did at one time compose the District, there was an implied obligation upon the part of Congress, entered into from the very first of those cessions, that they would not interfere with the institution of slavery. I never entertained that opinion, and certainly do not entertain it now; but it was entertained not only by Mr. Calhoun, who may have been considered somewhat prejudiced, and his opinions the result of that prejudice, because of his view of the benefits of the institution of slavery; but it was entertained by Mr. Clay, and it was measurably entertained by Mr. Adams. Mr. Adams, I think, in a speech in the House of Representatives, stated that he would never agree to abolish slavery in the District of Columbia without first taking the sense of the people of the District, and acting as they might decide upon the question whether the institution was to exist or was to be abolished. He seemed, therefore, to consider that because of the sources of the cession, and because of the inference to be drawn, which was that the persons who became residents of the District had the right to suppose that the institution itself would remain until they were willing to abolish it, it would be wrong to abolish it without their consent. He assimilated it to the authority which the States have over the same subject.

The States unquestionably had a right to abolish slavery. Whether that right was limited or qualified so as to compel them to give compensation to the masters of the slaves was a different question; but with reference to the authority to abolish slavery, no one ever doubted that it was possessed by the State governments. The State governments, however, were to exert it only as their people should will, and Mr. Adams' view was that, although not so expressly provided, it was but just and proper that the same legislation by Congress in the District, when proposed, should be submitted to the judgment of the people. My friend from Maine has well said that there is nothing in the Constitution which gives to the people of the District the right of self-government in the ordinary acceptance of the term. That is so; but if he will refresh his recollection by reading the debates, particularly in the convention of Virginia, he will find that the objection made to the Constitution, because of that sweeping authority vested in Congress, was met by Mr. Madison upon the ground that Congress would at once give the people of the District a government for themselves. Instead of doing what it was supposed, and he said was properly supposed, would be an inconvenient if not impracticable authority, the right to legislate in all local matters which might occupy the greater part of the time of Congress and take away from the Representatives in Congress somewhat of the time and the reflection which should be devoted to the great interests of the country, he said that Congress, as a matter of course, would give them some form of self-government. Upon reasons of policy which are very obvious, the people of the District were not permitted to legislate upon any subject at all except with the authority of Congress, because otherwise Congress itself might be under some local influence, or there might be some clashing of authority between itself and the municipal government. But subject to the right of Congress at any time to interfere, either by repeal or otherwise, with any improper legislation which any local legislature they might authorize might fall into, it was but just and right, consonant to the principles on which our Government was placed, that they should have a government of their own in reference to their mere local interests and individual rights.

If I am right as to this, and I know I am right historically, the honorable member from Maine is mistaken in supposing that the people of this District have not just as much right to be consulted about the government of the District as the people of Maine have a right to be consulted about the government of Maine.

They cannot control it by their votes. That is quite a different question. They have no authority to interpose any veto to any legislation which Congress may think proper to adopt; but they certainly have a right, when you are about to legislate upon matters which, as they think, materially affect their rights and interests, perhaps their safety, to be heard, respectfully heard, not obeyed, because they are not constituents of ours, but followed, provided they satisfy us that the grounds upon which they appeal to us are well founded.

The question then is, is it right to impose upon them this measure? They say not. They say it in respectful terms. They have done it in the most solemn manner in which a people can act. Every qualified voter, as I understand, has voted against the necessity or the propriety of this measure, and has asked to be protected from it. Are their reasons sound, or can any other reasons than those which they assign be given? If either is the case, it becomes Congress to listen and to be guided by the judgment to which they may ultimately come.

Now, what is the condition of the District? I do not know how many slaves were here; there were comparatively few free negroes I believe at the time you abolished slavery several years ago.

Mr. MORRILL. Between three and four thousand slaves and ten thousand free negroes.

Mr. JOHNSON. I am told there were ten thousand free negroes and between three and four thousand slaves. Efforts have been made on this floor, but always without success, to show that under the clause in the constitutional amendment abolishing slavery, which gives to Congress the authority to pass any appropriate legislation, the right of suffrage could be given to the freedmen. There is nothing in that which at the time was intended, or which any member of the Senate or the House has ever been able successfully to prove since, justifies Congress in giving to those people the right of suffrage as a constitutional right. Congress is authorized to pass such legislation as it may be necessary to pass to effect the purpose of the abolition of slavery. If under that constitutional amendment no such power as that which we are about to exert now by legislation was included, why was it not included? If it is right now to give to these people the right of suffrage, why was it not right then? And if it is right now to give it to them in the District, why was it not right then; and why was it not right then to give it to all of the class who are now free people in the several States? And yet nobody proposes that; nobody has suggested it even, except one or two. I believe my friend from Massachusetts [Mr. SUMNER] has been, from the first of the opinion that the right of suffrage should be given to negro males. He has not brought himself as yet to believe that it should be given to negro females. Then if you not only did not give, but carefully avoided giving, to these people in the several States the right to vote —

Mr. MORRILL. At this point of the Senator's argument I should like to remind him that at the very period of the formation of the Constitution to which he refers the right of suffrage was given to all freemen of color in all the States with the single exception of South Carolina; it was held in all the States everywhere to be the right of every freeman without regard to color, except in the single State of South Carolina.

Mr. JOHNSON. That makes what I was about saying still stronger toward the end for which I cited it. It was left to the people of the States to regulate the suffrage. If they gave it at one time to the negroes, at another time they took it away, and it was taken away when this last constitutional amendment was adopted for which my friend voted; and being taken away then, and it also being in the power of the States to keep it away from them, why, let me ask him, did he not propose by constitutional amendment to secure it as against the States?

Mr. MORRILL. Because we could not carry it. There were too many of you opposed to it.

Mr. JOHNSON. Not many of us. I suppose you have reference to gentlemen on the other side; and it is barely possible you might have had in your mind's eye the coming presidential election.

Now, Mr. President, is it right—let us apply it to ourselves—to force this measure upon the people of this District, who almost exclusively own the property here. Their local government is a municipal corporation, having no authority whatever to interfere with the rights of person, or if they have through the instrumentality of any penal legislation, have only that right subject at all times to be corrected by Congress? As I understand, there were at the time we abolished slavery some fifteen thousand negroes in the District; now I am told there are about thirty thousand. I wonder if my friend from Maine, in going around the city a year or two ago, since slavery was abolished, in order to discharge intelligently and humanely his duty as chairman of the Committee on the District of Columbia, saw anything in the condition of this race which satisfied him that they were capable of exercising the right of suffrage? Their squalid misery, the disease which at that time was making sad havoc in almost all of the wretched shanties where they were placed touched his heart, touched the hearts to whom that condition became known, and they became the objects, and the just objects, of individual charity. They were, in one sense, paupers; and in every State in the Union paupers are excluded from the franchise. Suppose that instead of the city government here being a municipal corporation of the character that it is, it had been invested with banking privileges, as you might have done, and you had made each citizen a stockholder to the amount that he would subscribe, would you let in these negroes by force to be stockholders without paying anything toward the general fund, toward the capital? Certainly not. And yet here is a capital consisting of personal and real property belonging to the population of the District who are white, over which, and over which alone, the corporation have legislative powers, and you propose to give to these poor creatures the same right to levy taxes, to appropriate money, that belongs, and belongs now exclusively, to those who own the property to be taxed.

And what makes it still more remarkable: not only did those who are in favor of this measure fail to provide that suffrage should be granted in the States of the Union by the constitutional amendment, but I am not aware that any effort has been made in any State of the Union to do it by legislation, or by constitutional change, where it can only be done by constitutional change. My friend who sits near me [Mr. SHERMAN] has told us that he thinks each State must judge of that for herself; that at the proper time, or, to use his own language, in her own good time, Ohio may give to them a right to vote, because there are so few of them. That is what he said, and I have no doubt it is true. If she gives it at all, it will be because there are so few of them. Here in the neighboring State of Maryland slavery has been abolished, and, as I said a day or two ago, abolished with no possible desire to have it reinstated. I do not believe a proposition of that sort would receive the vote of one man in a hundred. There may be some men—I do not know as to that—who are suggesting the propriety of converting Maryland into a territory, who might be in favor of it; but no sane man, as I think, who is unprejudiced, and who has no party ends to attain, would think of proposing to Maryland the proposition of giving to the negroes of Maryland the right of suffrage. Why? It is useless to close our eyes to the fact; you may, by constitutional provision and by legislation, declare, over and over again, that there shall be no distinction on



account of color, but there will be that distinction until the colors are blended so as to become one, if that shall ever happen. We find it in relation to the Indians, independent of their savage condition; we find it in relation to the Chinese.

My friend from Oregon who spoke just now [Mr. WILLIAMS] is very much in favor of giving the right of suffrage to the negroes in this District, and yet the other day he proposed a resolution to inquire whether it was not in the power of Congress and expedient to prevent the Chinese from coming into Oregon. Why? Because they are not white; because nature has made a distinction; because it is impossible to act harmoniously upon a subject with those several classes. And, let the time come when it may, if you give to the negroes the right to vote in the States they will either vote as the whites vote or there will be trouble in every community, if Congress should be called upon to enforce such a provision, as they ought to be called upon to enforce it if such a constitutional change should be adopted.

I have but a word or two more to say. I listened and read as the Secretary read the message of the President. His points are very well put, and, as the honorable member from Ohio says, the whole message is in good taste; but, in my judgment, it would have been much better if he had omitted all that part of it which relates to the comparative danger of usurpation between the two departments of the Government; not because he is not right as proved historically, not because he is not right from the very nature of two such departments, but because no such question arises upon this bill.

Congress will be guilty and has been guilty of no usurpation in passing this bill, as I think. Under the authority to legislate in all cases for the District of Columbia, they may legislate as this bill proposes to legislate. For the same reason the subject to which the bill adverts is a subject fit for legislation, and one which could in that way be disposed of by the States. If, therefore, I had been called upon to prepare a message of this sort, certainly all that part of the message would have been omitted by me; but not because I doubt at all the political wisdom of the theory which he maintains. I have said that all history proves that it is correct, and our own history proves it. Individual responsibility is lost in the responsibility of numbers. I do not speak of anything that has been done or may be done in the future. I am speaking of it now as a general principle. A member of the Senate—one of sixty odd members—or a member of the House of some two or three hundred, is, or may often be, found to do what he would not think of doing if he stood alone, open to the eye of the public and responsible alone for the consequences of his conduct. It was for that reason, among others, that the pardoning power was vested exclusively in the President. It was a great power, and it was supposed to be much more wise, judging from the nature of the power and the nature of our frail humanity, that a power of that description should be given alone to one individual.

I do not believe, however, that the time has come, and I trust in Heaven it is never to come, when executive usurpations or legislative usurpations, if there shall be any, will shake the firm foundations upon which the Republic stands. It has proved quite able to resist the assault of numbers on the battle-field, and stands now just as firmly fixed in the affections of the American people as it ever was; and if the time should come hereafter when Congress, in either branch or in both branches, or when a President shall forget the duty which the Constitution imposes upon each, and shall act so as to violate the rights of the people or endanger the safety of our institutions, the remedy will be found then, as it has recently been found in the patriotism and the power of the American people.

Mr. DOOLITTLE. Mr. President, several centuries of civilization have so instructed the white race to which we belong that, as a gen-

eral rule, all male persons of that race, on arriving at their majority, are capable of exercising the right of suffrage; but such is not the fact in relation to the other races. There is no man on this floor who will rise and give it as his deliberate opinion that a majority of either the Indian race, the African race, or the Asiatic race within the United States are capable of exercising the right of suffrage. There is not one Senator who will rise and give it as his opinion that, as a general rule, either the Indians, the Africans, or the Chinese are capable of discharging this highest duty of the citizen. In reference to the white race, the exception is incapacity. The few, the exceptions only of the white men of this country, are incapable of discharging this duty; but with the Indians, the Africans, and the Chinese it is only the exceptions that are capable of exercising this right.

What is this proposition? Not to provide for these exceptions who are capable of discharging the duty of the elective franchise here in the District of Columbia; but the proposition is to give and force universal suffrage to every male negro in this District, or who shall come into this District from the States which surround it. That is the bald proposition. Is there a Senator here—will the Senator from Ohio, [Mr. SHERMAN,] in his conscience and upon his judgment, say that he believes these people, as a general rule, are capable of exercising this right in the District of Columbia, or that those who are to flow into this District from Maryland and Virginia and all the States of the South are capable of exercising it? I admit there are exceptions; there are some very honorable exceptions, men of color who are educated, good peaceable citizens in the District; and if the bill provided for those who were qualified it should not meet with my opposition; but it is to this unqualified, unlimited extension of the right of suffrage to this race which in Africa, in its original condition, stood at the very lowest of all the races of mankind, and which in this country for almost two hundred years has been held in slavery; it is to this idea that now, upon the first instant of breaking the chains of slavery, at once this whole population is to have the right of suffrage bestowed upon them, that I am opposed.

Mr. President, there are gentlemen who stand up and say that the judgment of the people in the last elections was in favor of universal negro suffrage in the District of Columbia. How can that be inferred? This bill passed the House of Representatives early in the last session; it was among the first bills which passed that body; it came to the Senate; it was here pending during the whole of that long session. Why did you not pass it through the Senate? Because, in my humble judgment, you believed the people were against it, and you dared not take the responsibility. Men speak of universal negro suffrage as having been pronounced in favor of in the late election. Let us look at that proposition for a moment. What was the question submitted? The honorable Senator from Massachusetts [Mr. SUMNER] says that while the constitutional amendment was submitted to the people, it was by no means the definite issue submitted to them to pass upon, and under which Congress was pledged, in case it should be adopted, to admit representation from the States of the South as properly reconstructed. There are other gentlemen on this floor, it is true, who maintain that that constitutional amendment was submitted by Congress to the States of the South, and if adopted by those States it would be evidence that they were reconstructed so as to be entitled to admission. But, sir, in that constitutional amendment, if you say that that was the issue submitted, negro suffrage was repudiated, so far as the action of Congress was concerned. It was left to the States to decide for themselves. How, then, can gentlemen stand up here and say the judgment of the people in the last election was in favor of universal negro suffrage?

In my judgment, there is not a State in this

Union outside of New England, and I doubt even if there is one there unless it may be Vermont, which, on the direct question being put to the people, would vote in favor of universal negro suffrage. Even in Massachusetts, if the direct question of universal negro suffrage, whether the negro can read or write, or not, whether he knows anything about the Constitution of his country or not, were submitted to the people of Massachusetts, I doubt whether they would vote for it, few as the negroes are in the State of Massachusetts. If you proposed that it should be qualified by intelligence, that they should be required to be able to read or write, to read the Constitution of the United States or to write their names, Massachusetts might vote in favor of it; so might Connecticut; so might Wisconsin; so might other States. But when gentlemen tell me that the people of Ohio, the people of New York, and Pennsylvania, and the people of the whole North, by anything that transpired in the late election, have decided in favor of universal, unqualified negro suffrage, they assume that for which there is no foundation whatever. Your very constitutional amendment repudiated the idea of universal negro suffrage. There was not a stump in any one of the northern States on which you did not, over and over again, declare that you did not follow THADDEUS STEVENS of the House and Mr. SUMNER of the Senate in their views of universal negro suffrage, but that you left it to the people to decide for themselves. These are the facts. Sir, had universal negro suffrage to be imposed upon the District of Columbia and upon all the States of the South as a condition of reconstruction been declared as the basis of the issue before the American people by Congress before the election, as you now assume it after the election, and had that issue been presented in Pennsylvania, Ohio, New York, Indiana, Illinois, and Wisconsin, there would have been no such result at the elections as was witnessed.

I say, then, that this assumption which is made by gentlemen here, that the people in the last election have decided in favor of the passage of this bill, in favor of universal negro suffrage here, is an assumption without foundation, and we, therefore, are at liberty to look into this question and discuss it upon its merits. I come back to the merits of the question when I say that while the exceptions to the general rule may be qualified to discharge this duty, as a general rule the African race are incompetent to do it. It is not so with the white race. Therefore, while the law has allowed universal suffrage to the whites of the District, it ought to qualify that suffrage when it extends it to the negro. Inasmuch as this bill gives it without qualification, I voted against it on its passage, and I shall vote against it now.

The PRESIDENT *pro tempore*. This bill, having been passed by both Houses of Congress and sent to the President, has been by him returned with his objections to the Senate where it originated. It is, by the provisions of the Constitution, reconsidered, and the question is: Shall the bill pass, the objections of the President notwithstanding? Is the Senate ready for that question? ["Question!" "Question!"] By the provisions of the Constitution the vote must be taken by yeas and nays. Senators in favor of the passage of the bill, the objections of the President notwithstanding, will, as their names are called, answer "yea"; those opposed to its passage will answer "nay."

The question being taken by yeas and nays, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Foag, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, and Williams—29.

NAYS—Messrs. Cowan, Dixon, Doolittle, Foster, Hendricks, Johnson, Nesmith, Norton, Patterson, and Van Winkle—10.

ABSENT—Messrs. Brown, Buckalew, Davis, Guthrie, Harris, McDougall, Nye, Pomeroy, Riddle, Saulsbury, Sprague, Wilson, and Yates—13.

The PRESIDENT *pro tempore*. On this

question the yeas are 29, and the nays are 10. Two thirds of the Senate having voted in favor of the bill, the bill is passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes.

The message further announced that the House had passed a joint resolution (H. R. No. 217) to allow members of Congress to inspect papers in the Post Office Department, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the joint resolution of the Senate (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next, with an amendment, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage; which was thereupon signed by the President *pro tempore* of the Senate.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 217) to allow members of Congress to inspect papers in the Post Office Department was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### CEREALS AT THE PARIS EXPOSITION.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution of the Senate (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next, which was to add at the end of the resolution the following proviso:

*Provided*, That it shall require no further appropriation from the public Treasury.

Mr. CATTELL. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WADE. I move to take up Senate bill No. 456, for the admission of the State of Nebraska into the Union.

Mr. EDMUNDS. The unfinished business of Friday, the bill regulating the tenure of offices, was laid aside in order to consider the bill repealing the amnesty section of the confiscation bill, and I hope that that bill may be taken up and that this one may not be. When it is taken up to be proceeded with, I shall be willing to let it be laid aside informally, in order that the bill of the Senator from Ohio may be acted upon if it is ready for a vote.

Mr. WADE. Then I will ask the Senator from Vermont to permit his bill to be laid aside informally in order to allow my bill to come up.

Mr. EDMUNDS. I have no objection to that course.

The PRESIDENT *pro tempore*. Senators in favor of the motion, which is, that the Senate proceed to the consideration of the bill named by the Senator from Ohio, will say "aye;" those opposed "no."

The question being put, it was declared that the ayes appeared to have it.

Mr. EDMUNDS. I shall ask a division on that subject. I understand the Chair to be putting the question on laying aside, in the technical sense, so that the bill which I have in charge goes on the Calendar again, which is a thing I do not wish to agree to. If the bill which I have named—Senate bill No. 453—is now entitled to precedence, I am willing that it shall be laid aside informally by general consent that my friend's bill may be considered

for a short time; but as the question is being put, the effect of it will be that the bill which I have in charge will go over.

The PRESIDENT *pro tempore*. The Senator from Ohio made the motion, and the Chair had no alternative but to put it.

Mr. WADE. I am willing to withdraw my motion if that will be any accommodation to the Senator from Vermont. I am for both these bills, but I think the Nebraska bill ought to be taken up first, on account of the gentlemen who are waiting here for seats; but anything that will accommodate the Senator I will yield to.

Mr. EDMUNDS. That is what I ask.

Mr. WADE. He agrees not to call up his bill, and this is next in order, for it was made the special order for to-day.

Mr. EDMUNDS. Then I understand the Senator from Ohio to withdraw his motion for the moment.

Mr. WADE. I will withdraw my motion; but what next? I do not know that I understand it. His bill is to be laid aside temporarily and this one taken up, I understand.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his motion?

Mr. WADE. I will withdraw it with that understanding.

The PRESIDENT *pro tempore*. The effect of the Senator from Ohio withdrawing his motion will be to leave the unfinished business of Friday as the business before the Senate.

Mr. EDMUNDS. Now, I am willing that the unfinished business of Friday shall be laid aside informally that the Senate may consider the bill of the Senator from Ohio, if there be no objection.

Mr. WADE. Very well; that is what I want. I do not care about the form.

The PRESIDENT *pro tempore*. The Senator from Vermont suggests that Senate bill No. 453, being the unfinished business, be laid aside informally in order that the Senate may proceed with the consideration of the bill named by the Senator from Ohio. It may be done by the unanimous consent of the Senate. Is there any objection? No objection being made the unfinished business will be laid aside informally, and the bill named by the Senator from Ohio is now before the Senate.

#### PAPERS WITHDRAWN.

Mr. HENDRICKS. With the permission of the Senator from Ohio, I ask the unanimous consent of the Senate that the papers relating to the claim of James C. Pickett be taken from the files of the Senate and referred to the Committee on Foreign Relations. There was an adverse report at the last session on the ground that it was an old claim; but I ask the unanimous consent of the Senate that it may go again to the committee in order that they may consider it again.

The PRESIDENT *pro tempore*. That order will be entered, no objection being made.

#### BILLS INTRODUCED.

Mr. FESSENDEN. With the permission of the Senator from Ohio, I ask the unanimous consent of the Senate to introduce a bill without previous notice with a view to its reference to the Committee on Finance, which meets to-morrow, and I desire to have the bill considered then by the committee.

There being no objection leave was granted to introduce a bill (S. No. 493) supplemental to an act to establish the Treasury Department, approved the 2d of September, 1789; which was read twice by its title, and referred to the Committee on Finance.

#### ADMISSION OF NEBRASKA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union.

The PRESIDENT *pro tempore*. The pending question is on the amendment proposed by the Senator from Massachusetts [Mr. WILSON] to the amendment proposed by the Senator from Missouri, [Mr. BROWN.]

Mr. SHERMAN. Let us have a vote upon it. Mr. FESSENDEN. Let us have it read so that we may understand it.

Mr. WADE. I should like to hear it read. The Secretary read the amendment of Mr. WILSON, which was to strike out all of the amendment offered by Mr. BROWN after the word "color" in the fifth line, and to insert:

Excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act to act upon the conditions submitted herein.

So that the amendment of Mr. BROWN, if amended as proposed, will read:

*Provided*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise or of any other rights to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act to act upon the conditions submitted herein.

Mr. WADE. I hope that will not be agreed to.

Mr. HOWE. Mr. President, I have tried hard, very hard to keep out of this debate during all the last session, and so far during this, and I think I should have succeeded if the Senate had ever come to a vote before I got to be old and garrulous. [Laughter.] But as the vote has been postponed so long I think I shall have to surrender to the appetite I have to say something; and all the guarantee I can give the Senate as to how much I shall say is the promise that there are several subjects in politics, ethics, and religion that I shall not discuss on this occasion. [Laughter.] I have heard it remarked by somebody—

Mr. SUMNER and others. Let us adjourn.

The PRESIDENT *pro tempore*. The Senator from Wisconsin has the floor and must not be interrupted without his consent.

Mr. HENDRICKS. If the Senator will consent, I will move an adjournment.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin give way to the Senator from Indiana?

Mr. HOWE. I do to a motion to adjourn.

Mr. HENDRICKS. Then I move that the Senate adjourn.

Mr. WADE. I hope not. I call for the yeas and nays on the motion.

The yeas and nays were ordered, and being taken, resulted—yeas 11, nays 22; as follows:

YEAS—Messrs. Cowan, Dixon, Doolittle, Henderson, Hendricks, Johnson, Norton, Patterson, Sherman, Sumner, and Van Winkle—12.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Frelinghuysen, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Ross, Stewart, Trumbull, Wade, Willey, and Williams—22.

ABSENT—Messrs. Anthony, Brown, Buckalew, Davis, Fogg, Fowler, Grimes, Guthrie, Harris, McDougall, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Saulsbury, Sprague, Wilson, and Yates—19.

So the Senate refused to adjourn.

Mr. HOWE. I was about to remark, Mr. President, that I have some time or other heard it said that this Government of the United States is a Government of delegated powers. Indeed, I have heard it said so often that I sometimes think I never heard anything else, [laughter;] but I agree to the truth of the observation. The only comment I have to make upon it now is simply to say that because its powers are delegated it does not follow that they should not be exerted. I have also heard it asserted that all powers not delegated to the

Government of the United States are reserved to the States or to the people; and I agree to that, simply remarking that I do not conceive a power to be any more sacred because it is reserved than it would be if it were delegated.

When we speak of admitting a State into the Union, which is the specific work on which we are employed at the present time, I understand it to mean simply this: to clothe a community with two great political prerogatives or rights. One is the right to exert a certain share of the power which, under the Constitution, belongs to the United States, and the other is to exert all the powers which, under the Constitution, are reserved to the States. The powers which are delegated to the United States are those mainly which pertain to the defense of the national authority. To participate in the Government of the United States, therefore, it is only essential that one should love the United States better than any other sovereignty; should be willing to uphold and defend the United States against all other sovereignties. What we call loyalty, therefore, seems to me to be the great prerequisite to the admission of a people to a share in this Government. I believe no one denies this sentiment to the people of Nebraska. So far as I know that constituency I believe they are as loyal as the people of any other portion of the country. Why not then admit them to this participation in the Government of the United States?

It is said that the people of Nebraska are few in numbers, and if we admit them we must allow to them two Representatives in this Chamber and one in the other House; and it is said that that is a larger representation than they are entitled to upon the score of numbers. That is true; and if the Constitution intended that representation in the legislative department of the Government should be in proportion to numbers, it would not be just for the people of Nebraska to demand admission at this time; but we know, on the contrary, that such is not the intention of the Constitution; that those who framed the Constitution deliberately, considerably ignored that idea; and we know that, let them come into the Union when they will, they will not be represented in the legislative department of the Government equally with other States in proportion to their numbers. This disparity we find in representation between all the States, and the Constitution contemplated, or those who made the Constitution contemplated, that States would be admitted into the Union having a population less than that prescribed by law by your statutes for the choice of representatives, and contemplating that, anticipating that, it was provided that every State should have at least one vote in the House of Representatives. I do not regard, therefore, this disparity of numbers to be a serious objection. I do not regard it to be an objection at all, so far as our interests are concerned. It is one that concerns mainly the people themselves. If they feel that they are able to maintain the expense of a State government, and are willing to take upon themselves that burden, and to take upon themselves the obligations which the Constitution imposes upon every State, I am perfectly willing to concede that right to them at the present time.

What other objection is there, then, to the admission of Nebraska? The Senator from Maryland [Mr. JOHNSON] the other day started the most serious objection which I have heard urged in the course of this debate, and it was mainly to reply to that objection that I sought this opportunity to address the Senate. The Senator from Maryland reminded particularly the Senators from the eastern or Atlantic States that the western States were fast gaining an ascendancy, and he seemed to feel, at least he seemed to urge, that that ascendancy was likely to prove injurious to the interests of the Atlantic States. He reminded us that the western States were growing rapidly; and he recited to us a portion of the argument of one of those who participated in framing the Constitution of the United States, who urged that the Constitu-

tion should restrict the number of representatives from the western States so that they never should exceed the number of representatives from the Atlantic or sea-board States. I was very sorry, for one, to hear that argument introduced. I was very sorry to see, at this stage in our history, a new attempt to inaugurate a sectional controversy. For years we have witnessed a very systematic effort to imbrue the northern and southern portions of the country in a sectional controversy. We have just emerged from the worst stages of that controversy. For the last six years those two portions of the country have had each other by the throat. They have but just let go of each other; and I hope no Senator on this floor enjoys the spectacle they present to-day. Both of them have bled deeply, and are bleeding still; and in view of that terrible struggle and of its results, I do not think any statesman of to-day ought to be ambitious of inaugurating a new controversy between the eastern and the western portions of the Union, and I am sure there is no need of any such controversy.

And I want to say right here that, if the argument has any validity at all, if it be valid to-day, it is valid always: if the eastern States think it important for them to protect themselves against the growth of the West, then they have but one duty to do, and that is to resist from this time forward the admission of any more States into the Union; to say that they will admit not another one to participate in the powers belonging to the Government of the United States. I do not think they are prepared to take that position. I do not think the honor or the interests of the country will warrant them in assuming that position, and I do not think the honor or the interests of the Atlantic States would warrant them in assuming it.

Sir, it is not so very extraordinary that Mr. Gouverneur Morris, standing as he did in the Convention which framed the Constitution, in the very morning of the Republic, in the dim twilight which hung over that early hour in its history, should have supposed then that a necessary rivalry might exist between the East and the West, and that he, as an eastern representative, should have thought it incumbent upon him to do something, to put something into the Constitution, to protect the East against the day when that rivalry might spring up; but I think it very extraordinary that any statesman standing in the light of to-day should find any wisdom in the suggestions of Mr. Gouverneur Morris, should think the lessons of that hour were worth repeating in the light of to-day. I am sure I cannot find any wisdom in that suggestion, and I do not believe the country will recognize its wisdom.

I do not believe the Atlantic States are prejudiced by the growth of the western States. I do not believe they have proved injurious to the welfare of the eastern States. Certainly we were of no detriment to you of the East, sir, during the late struggle. We performed, I think, our full share of the labor which has been found necessary to save the integrity of the country. We contributed our full share of money, of blood, and of life. When the battalions of the West moved down the valley of the Mississippi, through Vicksburg and Port Hudson, and sent the commerce of that great stream tumbling on its way to the Gulf, I do not think that that was felt to be an injury to the Atlantic States or to any portion of the country; and when those same battalions took up their march to the East and struck the Atlantic coast at Savannah, I do not think that that march to the sea was felt to be any serious detriment to the Atlantic States; and when those victorious battalions turned their faces to the North and swept through the Carolinas, clearing out every one of those forts on the sea-board held still under the rebel flag, I do not believe that the growth of the West was felt in any portion of the country to be detrimental or prejudicial to the whole.

What, then, is this danger that threatens the Atlantic States from the growth of the West?

The Senator has not left us to surmise what it is; he has pointed us to it. He has told us that when the Constitution was framed the Atlantic States were engaged in commercial pursuits; that they believed those pursuits were to be the permanent pursuits of the country. He tells us that those interests have already been sacrificed. He tells us that the eastern States have been forced, by no fault of their own, in a great measure to drop the business in which they were then engaged, and which they supposed would constitute their principal business in all time to come, and to engage in the business of manufactures. Thus then the States of the West are arraigned here upon the charge of having wrested the commerce of the eastern States from their hands. Sir, it is true that the commerce of that day is gone. Perhaps, before we lament too much over that fact, we had better consider for a moment what that commerce was. In 1791 the domestic and foreign tonnage entering the Atlantic ports amounted to six hundred and four thousand three hundred and two tons. The value of commodities exported during that year was \$19,012,041. The value of the goods imported during the same year was \$29,200,000. That was the commerce of the year 1791. That was the commerce of the country at the time the Constitution was framed. That was the commerce to which the Senator from Maryland supposes that the States which formed the Constitution dedicated themselves to the protection and to the nurture of.

Where did these exports come from? Mr. Tench Coxe has preserved a table, and as I think it full of instruction on this very point I shall produce it. I read from a table, not for the year 1791, but for the year 1793:

*Value of goods, wares, and merchandise exported from each State:*

New Hampshire.....	\$181,407
Massachusetts.....	2,839,922
Rhode Island.....	698,084
Connecticut.....	749,925
New York.....	2,528,085
New Jersey.....	23,524
Pennsylvania.....	3,820,646
Delaware.....	133,972
Maryland.....	2,550,258
Virginia.....	3,549,499
North Carolina.....	503,294
South Carolina.....	2,917,979
Georgia.....	458,973

Total.....\$21,005,568

Thus you see that at that day each State was exporting its own products. They were drawn to the sea-board by wagons mainly. A pair of stout horses could make a journey from the sea-coast to your frontiers. It will be seen that then the State of New York, instead of being the first State in the Union in the matter of its exports, was, as I think, either the fifth or the sixth State of the Union.

That was the commerce of that day. That commerce is indeed gone. They have dropped it, says the Senator from Maryland; they have been forced to drop it, says the Senator from Maryland. Yes, Mr. President, they have been forced to drop it. If you hold your hand full of marbles you would be forced to drop them in order to pick up the koh-i-noor diamond. By no fault of their own, says the Senator from Maryland, have they been forced to drop this commerce. No, Mr. President, I do not attribute any fault to them for dropping it. I think the country and the world will hold them justified in dropping it when you consider for a moment what they have picked up in lieu of it. If we have not that commerce we have another one. In lieu of that commerce we had one in the year 1866 which employed a foreign tonnage of 7,821,560 tons, and a domestic tonnage of 7,782,484 tons, and that fleet exported from this country a value amounting to \$565,426,394, and imported \$437,640,354. Of these exports more than \$19,000,000—more than the whole export of 1791—were in wheat, and more than \$27,000,000 were in flour. And where does this commerce come from? It is not produced in the States which framed the Constitution; it is not brought to the sea-board with



ox-teams nor with horse-teams. There are long lines of canal and railway reaching far beyond what were the frontiers of the Union at the time Mr. Gouverneur Morris gave his advice to the country.

At the time that Mr. Gouverneur Morris made the suggestion which was repeated to us by the Senator from Maryland the other day the city of Chicago had not been heard of; old Beaubien had not begun to keep tavern there then: there is quite a town there now. It sends off annually more than fifty million bushels of cereals to the sea-board to swell the commerce of the United States. The city of Chicago sends a commerce annually over the St. Clair flats amounting to about one hundred and thirteen million dollars—more than twice the whole commerce of the country which Mr. Gouverneur Morris thought the country ought to nurse as its peculiar business. The State of Minnesota, one among the last of the States admitted into the Union, sends off more wheat every year than the whole United States exported in 1791. Some thirteen or fourteen years after Mr. Gouverneur Morris made this suggestion a party of exploration started from the Missouri river to cross the continent to the Pacific. They were some two years in making that journey. During the last season a railroad construction train has traveled almost as far between the Missouri and the Pacific as that party of exploration traveled in 1804.

Considering what the West has contributed to the new commerce of the country, I do not think that the Atlantic States have any occasion to regret the growth of the West or to lament the loss of that commerce which they possessed in 1791; and I like the sentiment avowed on one occasion by the Senator from Massachusetts, [Mr. WILSON.] He said they were not alarmed about the West; they regarded us all as their children. That is the true paternal feeling. We are the children of the eastern States; we are not at all likely to devour our mother; that is no part of our purpose. I have heard of some barbarous statesmen who were in the habit of putting female children to death in their infancy; but that was not because they promised to be strong; it was because they promised not to be strong; not because they promised to add too much strength to the State, but because they did not promise to bring strength enough to the State. Never till this late day have I read or heard anywhere of a statesmanship which would put children to death because they promised to be strong.

So, Mr. President, if I were an eastern representative instead of a western representative as I am, I think I would still insist upon the old policy of admitting States into the Union when they feel themselves capable of taking upon themselves the obligations of a member of the Union; when they manifest a disposition to discharge the duties which belong to every State in the Union. I am perfectly satisfied with the disposition entertained by the people of Nebraska toward the Government of the United States, and am willing to admit her as she stands to a participation in this Government; but if she comes in at all, she must not only, as I said, exercise a part of the power which belongs to the Government of the United States, but she must exercise all the powers which belong to a State. It is not only necessary that she should be animated by that sentiment of loyalty which will induce her to be faithful to the demands of the General Government, but she should be animated by that sentiment of justice which should secure to all the people of her own borders the protection which every people must have from some Government, and which, under our system of laws, they must get from the government of the State wherever a State exists.

Are the people of Nebraska animated by that sentiment of justice toward each other which entitles them to take upon themselves the exercise of those powers which belong to a State? In looking at the organic law which the people of that State are said to have adopted for the regulation of the home government, I find it

provided that all colored people are excluded from the right to vote under that government, and that the ballot is conceded only to white persons. I am told there are colored persons there. It is said there are but few. Just how many there are I do not know; and in asking for the colored people a right to vote in Nebraska, I do not hold myself to be the advocate simply of the colored people who are in Nebraska; I hold myself to be the advocate of the whole colored population of the United States. There are four millions of them who want the right to vote: in Nebraska when they are in Nebraska; in Wisconsin when they are in Wisconsin, and in other States when they are in other States; and if you deny this right to those who are now in Nebraska, you deny it to all who may hereafter wish or seek to go to Nebraska; you say to the whole colored race of the United States, "You cannot enter within the borders of Nebraska without leaving behind you the right to vote, provided you live in any portion of the Union where you enjoy that right to-day."

Now, Mr. President, I have never said a word on this floor in reference to the question of negro suffrage. I have voted upon it repeatedly here and elsewhere. It is either right or wrong, just or unjust, that colored men should vote in Nebraska. If it is just, the responsibility is with the Congress of the United States if they do not see that that justice is secure. If it is unjust that they should vote there, then we have to-day committed a fatal mistake, because if it is unjust for them to vote in Nebraska it is unjust for them to vote in the District of Columbia. We have to-day, by a very large majority, as on another occasion, declared it to be our opinion that it was just, and not unjust, for them to vote in the District of Columbia. I did not vote to put the ballot into the hands of the colored men of the District of Columbia by way of penalty upon the District; I had no wish to punish anybody, white or black, by the vote I gave; I voted to secure them that right here in the District as I had uniformly voted to secure them that right in Nebraska, and as I should vote to secure them that right in Virginia or in New York, whenever and wherever I find myself entitled to vote upon a specific question. Upon the question as to who shall and who shall not vote in the Territory of Nebraska the Congress of the United States has exclusive control. If they are debarred from the privilege of voting there, as I said before, we are responsible for it, not the people of Nebraska alone, but the Congress of the United States, which assents to that exclusion. To be consistent with myself, Mr. President, I must insist, it seems to me, upon their right to vote in Nebraska.

We have heard it said to-day upon this general question of the right of negroes to vote, as we have heard it said often elsewhere, that they are unfit to vote. That is true; God knows how true that is, and I think He alone knows how true it is. But it is not only true of the negro race in the United States; it is true of the white race; it is true of the body of the American people that they are not fitted by intellectual culture for the exercise of the right of suffrage. The American citizen, with the ballot in his hands, in the estimation of the American people, is a sovereign. Once a year he passes judgment upon you and me, upon President, upon judges, upon laws, upon policies, upon measures; and to be fitted for that great work he should comprehend them all; measures and men he should be familiar with; and to be really fitted to exercise the right of suffrage he should be better endowed than we are. We can be intrusted here to vote on specific laws, but when we come to review and criticise and pass judgment upon great policies, the best of us are hardly equal to that great work.

All that can be said in favor of our right to the ballot is this: that we can handle it for ourselves, we the people, better than anybody else can handle it for us. And that is not only true of the best educated and of the half educated,

but it is true, as I solemnly believe, of those who are not educated at all. They can handle it for themselves better than anybody else can handle it for them. Whenever you come to vote for a class, a large class of people, with whom you have no interests in common, for whom you have no affection, that class will suffer. The history of the world proves that. It is not because I think this colored race is fitted for the right of suffrage that I now demand their admission to it; it is because I feel and know they never will be fitted for it, and they never will be allowed to become fit for it until you put the ballot into their hands.

Why, Mr. President, the white race, for the last fifty years, have had the ballot in their hands exclusively; they have had the whole authority and power of Government. What have we got to show for it? What is the net result? You are taunted every day that you have four million colored people who are not fit to vote; who cannot read and write, it is said. You have more than that. You have in those ten communities down here lately in rebellion against the authority of the State, almost half a million of white adult males and females who cannot read or write. Mr. President, we cannot boast very loudly of the achievements of the white race in the matter of government when they have only such fruits as these to produce. I believe, sir, the only way in which we are ever to raise up and to fit these men to exercise the right of suffrage is to put them at the work now; put the ballot into their hands. I do not think your institutions will be particularly stronger for that single act; but I believe that when the American people see that every man has the ballot in his hands they will be made to see the common, public, urgent necessity of fitting every one of them for the use of it; and that we shall take hold of the work of education when we have completed the work of emancipation. I believe that will be necessary; I believe it ought to be done.

But what is the great danger, in the meantime of putting the ballot into their hands? The most ignorant man you can find on the continent cannot by possibility vote worse than the most cultivated men have voted within the last six years. Every man of them will be identified with one or the other of the two great parties. In each of the great parties and in all of the great parties we have ever had we have had men of high culture; and they will not vote worse than one or the other of these two parties. Why, Mr. President, take a man who is utterly stupid, insensate, and with the ballot in his hands there is just an even chance that he will vote on the right side. There are only two ways he can vote, the wrong side and the right side, and it is just an even chance that he will vote right; and where there is one chance in two of his going right the odds are not very much against you.

But after all, Mr. President, ignorance is not the thing which disqualifies a man most from voting. I would rather trust the ballot to-day or any day in the hands of a man who does not know what to do with it, than to trust the ballot in the hands of men who do know what ought to be done with it, but who do what they know ought not to be done with it; rather trust it in the hands of ignorant men, who are true to such convictions as they have than trust it, as you see it every day, in the hands of men whose convictions are clear enough, but who will sacrifice their convictions for some purpose of personal, present interest. I believe there is much more ignorance among the people of the United States than there ought to be; but I am bound to say that, in my judgment, ignorance is not the worst difficulty we have got to contend with, and it is a difficulty that we can remove more readily than some others that we do have to contend with.

And so, Mr. President, I think these colored men ought to be allowed to vote in Nebraska. I thought last winter they ought to be allowed to vote in Colorado, and because that right was denied to them in the constitution of Colorado, as it is denied in the constitution of

Nebraska, I once voted against the admission of Colorado. But subsequent to that vote I found the country confronted by a very grave emergency. The people of the United States had sent to these Halls a body of representatives equal in numbers to the enactment of laws even against the veto of the President; they had put into the presidential chair also one whom they supposed to be in harmony with themselves and in harmony with that great majority they sent here; but we found in the course of the last session that that harmony no longer existed between the Executive and the majority in Congress or the majority of the people which sent us here and placed him there. Had he still been in harmony with us we could have sacrificed a few members of this Senate and a few members of the House of Representatives, and yet have taken care of the interests of the country; but when we found that the President was no longer in line with us, it became the more necessary that we should preserve our majority in the two Houses. But the same calamity which took from our ranks the President of the United States took from our ranks also one, two, three, or perhaps four members of this body; "erring brethren," as I really think, of this House; and so at one time I really thought that we had not the power, this Union, this Republican, this loyal party of the country and its Representatives had not the power to enact a law without the assent of the President, and his assent we could not get. So it happened to me, as I dare say it happened to others, that I began to look about for reinforcements. I did not see exactly where they were to come from unless we drew on the West, on which we had been in the habit of drawing very freely during the late struggle.

Here was one loyal constituency, with loyal representatives standing at our doors, willing to come to our aid and help us to carry on the great work which we had taken upon our shoulders, but under which for a little while we did stagger a little, and you know it. I thought, stricken as we were, we had better seize the greater good even at the sacrifice of a temporary evil; and I reconsidered the vote which I first gave on the question of admitting Colorado and voted finally for her admission. It was urged then, and with a good deal of force, that Colorado had adopted her constitution before the new dispensation had ever been proclaimed to her people. I thought there was some weight in the argument, but it did not influence me to any great extent. It was the necessity resting upon me which finally induced me to vote for the admission of Colorado.

But that emergency has passed by. The Senator from Maryland—and I am very sorry he is not in his seat this afternoon, since I have to allude to him so often—really thought we were urging in Nebraska to-day for partisan purposes. Why, sir, he must have a very extraordinary opinion of us to suppose that we are still craving more strength in the Senate or in the House or in the country. The vetoes of the President have no sort of influence, as we have seen this afternoon, on the legislation of the country now. We have two thirds of both Houses assured men. We can do business by ourselves and as it ought to be done. What do we want of any more votes? Beside, it is only two years before we shall go to the people again, and then the small remnant of opposition which is still here will give way and loyal representatives will take their places; plenty of time to reinforce in the ordinary methods, even if we needed any reinforcements, but we do not.

I said that emergency had passed by. You remember of old, when Judea was looking in all directions for a Saviour. He at last appeared to them very unexpectedly from Nazareth. While we were looking about our frontiers for reinforcements to the Legislatures of the country, lo, our savior came from New Jersey. I scarcely looked for a savior from that quarter any more than Judea for hers from

Nazareth; but then we recognized ours when they came, which was more than Judea did of hers. They are here; the necessity has passed by; and now I think justice remains to be done.

But, Mr. President, because I think that we should not permit our sanction to rest upon this constitution as it stands, I do not think we should formally exclude Nebraska from the Union. That does not to me seem necessary. If we invite the people of Nebraska to remove this objection from her constitution, I do not doubt that the people of Nebraska will gladly do it. I think the invitation should go to them. Several propositions have been made to the Senate having that object in view. The Senator from Missouri [Mr. Brown] offered the first one, the one which I am inclined to support; that submits the question to the people of Nebraska. It invites the people of Nebraska to reconsider this question and to strike that clause from her constitution. There can be no possible doubt but what, if we take that course, and the people of Nebraska assent to that act, the constitution will be as valid in every respect as it would if the constitution had been originally presented to us in that form. It matters not at all who submits a constitutional proposition to a people seeking admission into the Union if the people assent to it, and then Congress approves, and sanctions the act; there is a State, and the constitution is beyond all question a valid instrument.

It is said it will impose some inconvenience upon the people of Nebraska. So it will. It will require her citizens to go to an election upon some one day and give a vote upon this question. That is not a very great hardship. It need not postpone the admission of the State for more than sixty days. The election can be ordered on a specific day, and there need be no subsequent action of Congress. It does seem to me that this is an inconvenience to which the people of Nebraska ought to be entirely willing to submit, rather than to require that we, in this stage of our history, should assent to the exclusion which now stands in their constitution.

A shorter method of attaining the same thing is proposed by the Senator from Massachusetts, [Mr. Wilson.] He proposes to require, not the assent of the people of Nebraska, but the assent of the Legislature of Nebraska. I do not like that proposition, yet I will not undertake to say that that would not make a valid change in the constitution; but it is a work that we ought not to impose upon the Legislature of Nebraska. They were not selected for any such purpose; they have not been instructed upon that point; they ought not to be required to vote upon such a measure as that at the dictation of the General Government. They are, like ourselves, representatives, and prefer, as we do, to represent the known wishes of their people rather than to guess at their wishes upon any subject on which they are not well informed.

The Senator from Vermont [Mr. Edmunds] has offered another provision looking to the same object. He proposes that, without reference to the people of Nebraska, and without reference to their representatives in the Legislature, we, the representatives of the people of the United States, shall admit that State into the Union with this declaration: "That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the elective franchise, or of any other right to any person by reason of race or color, excepting Indians not taxed." Now, Mr. President, I do hold it to be a very grave question whether we can insert a clause in the constitution of Nebraska or any other incoming State, or whether we can override a clause in their constitution by this mode of proceeding. That question of constitutional power I do not mean to argue on this occasion. I know there are good lawyers who doubt and deny it: I think there is grave reason to doubt it myself; but if we had the clearest authority in the world for doing it, it does not seem to me a right thing to do. We have an undoubted right to

say to the people of Nebraska as a Territory, "The ballot shall be put into the hands of all your citizens, white and black." That we can say to them as a Territory, and we can say that the several agencies which they are authorized to choose in a territorial condition they shall choose by the votes of all their people. That we can say; that I think we ought to say; that is a proper thing to say. But they have chosen representatives to wield entirely different powers from what are intrusted to the Legislature of a Territory or to the Governor of a Territory. They have undertaken to say that they will not permit colored people to participate in the choice of these agencies; and we undertake to say that they shall. That is the force of the amendment offered by the Senator from Vermont. They have asked us to admit them with a constitution such as it stands, and with a government selected to wield the powers conferred by that constitution. We are called upon by this amendment to accept the State, to accept that government, to set them up in the exercise of the powers belonging to a State; making them responsible, however, to a radically different constituency from what their own constitution does. That it seems to me, in brief, is substantially the Lecompton question over again. If we have the right to impose such a condition upon the people of that State, it seems to me we ought not to do it. The precedent is a dangerous one. Certainly we could not compel them to come into the Union; certainly we could not compel them to assent to a constitution; that is not attempted to be done. But we take a constitution which they say is satisfactory to them; we take a government which they have selected; we clothe that government with the powers of a State; but in the same act by which we confer these powers upon that government we make a radical change in the organic law presented to us by the people selecting the government. It does not seem to me just; it does not seem to me necessary. It seems to me a great deal better that we should put the people of Nebraska to the slight inconvenience of once more passing upon this question of putting the ballot into the hands of their colored men; and therefore, Mr. President, I shall be compelled to vote against the amendment of the Senator from Massachusetts; I shall be compelled to vote against the amendment proposed by the Senator from Vermont, and I shall vote with great pleasure for the amendment proposed by the Senator from Missouri; and if it is adopted, I shall vote with great pleasure for the passage of the bill.

Mr. WADE. Mr. President, I hope the friends of the bill will not vote for this amendment.

THE PRESIDING OFFICER, (Mr. Hendricks in the chair.) The question is on the amendment proposed by the Senator from Massachusetts [Mr. Wilson] to the amendment of the Senator from Missouri, [Mr. Brown.]

The question being put, a division was called for.

Mr. WADE. Let us have the yeas and nays; that is the way to tell whether we have a quorum or not.

The yeas and nays were ordered.

Mr. DOOLITTLE. It seems to me we can undoubtedly come to a vote on this bill to-morrow. The Senate is not very full; there is hardly a quorum here.

Mr. WADE. Well, let us see whether there is a quorum.

The question being taken by yeas and nays, resulted—yeas none, nays twenty-four; as follows:

YEAS—0.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Creswell, Doolittle, Edmunds, Fogg, Fowler, Frelinghuysen, Hendricks, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Ross, Stewart, Sumner, Van Winkle, Wade, Wiley, and Williams—24.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cowan, Davis, Dixon, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Johnson, McDougall, Nesmith, Norton, Nye, Patterson, Poland, Pomeroy, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Trumbull, Wilson, and Yates—23.

The PRESIDING OFFICER. There is not a quorum voting.

Mr. SUMNER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, January 7, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### BILLS AND JOINT RESOLUTIONS.

The SPEAKER stated the first business in order to be the call of States and Territories for bills and joint resolutions for reference, and not to be brought back by a motion to reconsider.

#### NEW POST ROUTE IN PENNSYLVANIA.

Mr. MILLER introduced a bill establishing a post route from Mahantango to Sweet Home, in Juniata county, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### INDIAN TERRITORY.

Mr. RICE, of Maine, introduced a bill to establish a territorial government in the Indian Territory; which was read a first and second time, and referred to the Committee on the Territories.

#### ARKANSAS WESTERN JUDICIAL DISTRICT.

Mr. RICE, of Maine, also introduced a bill to divide the western district of Arkansas into two judicial districts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### RANK OF STOREKEEPER.

Mr. BLANE introduced a bill to establish the rank of storekeeper in the medical department and the quartermaster department of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

#### LOST DISCHARGES.

Mr. MERCUR introduced a bill to grant relief to honorably discharged soldiers who have lost their discharges; which was read a first and second time, and referred to the Committee on Military Affairs.

#### RETROCESSION OF ALEXANDRIA.

Mr. WELKER introduced a bill to repeal an act entitled "An act to retrocede the county of Alexandria in the District of Columbia to the State of Virginia," and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### RIGHT OF DOWER IN DISTRICT OF COLUMBIA.

Mr. DEFREES introduced a bill changing the right of dower in the District of Columbia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### FORT PILLOW MASSACRE.

Mr. HAWKINS introduced a bill for the relief of the widows and heirs of those massacred or captured at Fort Pillow; which was read a first and second time, and referred to the Committee on Military Affairs.

#### THE NATIONAL CURRENCY.

Mr. KUYKENDALL introduced a bill to provide a true national currency, and to provide for the collection and disbursement of the revenue and the liquidation of the national debt, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

#### HABEAS CORPUS.

Mr. WENTWORTH introduced a bill to repeal the act approved March 3, 1863, relating to habeas corpus, and regulating judicial proceedings in certain cases; which was read a

first and second time, and referred to the Committee on the Judiciary.

#### CHANGE OF LIGHT-HOUSES.

Mr. WASHBURN, of Illinois, introduced a bill to authorize changes in the location of lights and other aids to navigation on the southern coasts of the United States; which was read a first and second time, and with the accompanying papers referred to the Committee on Commerce.

#### TRANSMISSION OF DOCUMENTS BY MAIL.

Mr. HIGBY introduced a bill authorizing the transmission by mail of certain books and documents; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### HOMESTEAD LAW.

Mr. WINDOM introduced a bill amendatory of an act passed May 20, 1862, to secure homesteads to actual settlers on the public domain; which was read a first and second time, and referred to the Committee on Public Lands.

#### ACTUAL SETTLERS.

Mr. WINDOM also introduced a bill conferring certain rights on settlers upon the public lands of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

#### KANSAS DEAF AND DUMB ASYLUM.

Mr. CLARKE, of Kansas, introduced a bill granting lands to the Kansas Asylum for the education of deaf and dumb persons; which was read a first and second time and referred to the Committee on Public Lands.

#### FORT LEAVENWORTH MILITARY RESERVATION.

Mr. CLARKE, of Kansas, introduced a bill donating a portion of the Fort Leavenworth military reservation for the exclusive use of public roads; which was read a first and second time and referred to the Committee on Military Affairs.

#### BOUNTY LAW.

Mr. CLARKE, of Kansas, introduced a bill construing the bounty law passed July 28, 1866; which was read a first and second time and referred to the Committee on Military Affairs.

#### COAST SURVEY.

Mr. PAINE introduced a bill to provide for the publication of the reports of the coast survey; which was read a first and second time and referred to the Committee on Printing.

#### DIRECT IMPORTATION.

Mr. MYERS introduced a bill to encourage commerce and internal revenue by facilitating direct importations; which was read a first and second time and referred to the Committee on Commerce.

#### INDIAN DEPREDACTIONS.

Mr. HITCHCOCK introduced a bill for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Arrapahoe, Cheyenne, Sioux, and other hostile tribes of Indians; which was read a first and second time and referred to the Committee on Indian Affairs, and ordered to be printed.

#### MILITARY ROAD IN NEBRASKA.

Mr. HITCHCOCK introduced a bill to extend the Platte river and Niobrara river military road from its present terminus to the Kansas line; which was read a first and second time and referred to the Committee on the Territories.

#### LAND DISTRICT IN COLORADO.

Mr. BRADFORD introduced a bill to establish an additional land district in the Territory of Colorado; which was read a first and second time and referred to the Committee on Public Lands.

#### JOHN H. JAMES.

Mr. STOKES introduced a bill for the relief of John H. James, of Tennessee; which was read a first and second time and referred to the Committee of Claims.

#### ARIZONA AND NEW MEXICO.

Mr. GOODWIN introduced a bill to amend the organic acts of Arizona and New Mexico; which was read a first and second time and referred to the Committee on the Territories.

#### PAPERS IN THE POST OFFICE DEPARTMENT.

The call of the States and Territories for bills and joint resolutions on leave having been completed, the Speaker stated as the next business in order the calling of the States and Territories for resolutions, commencing with the State of Illinois, where the call rested at the expiration of the morning hour on Monday, the 17th of December last, the preceding question being on a joint resolution, offered by Mr. FARNSWORTH, to allow members of Congress to inspect papers in the Post Office Department, on which the previous question had been demanded.

The joint resolution was read, as follows:

*Be it resolved by the Senate and House of Representatives, &c., That it is hereby made the duty of the Postmaster General to allow Senators and Representatives in Congress to examine all papers and recommendations for office appertaining to all postmasters, post offices, and other postal matters in their several States and congressional districts.*

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MOULTON demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. MOULTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair will state that during the last Monday when the House was in session the call rested with the State of Illinois during the entire morning hour. No gentleman who offered a resolution during that call can offer another now except by unanimous consent.

Mr. MOULTON. I desire to offer a resolution and to demand the previous question upon it.

Mr. LOAN. I raise the point of order that the gentleman has already offered one resolution under this call.

The SPEAKER. The Chair sustains the point of order. The gentleman has introduced one resolution under this call, and but one resolution can be introduced by a member on the call of States.

#### SALE OF COIN AND BULLION.

Mr. INGERSOLL introduced a bill to regulate the sale of coin and bullion by the Secretary of the Treasury; which was read a first and second time, and referred to the Committee of Ways and Means.

#### ORDER OF BUSINESS.

Mr. WENTWORTH. I ask consent to offer a resolution.

Mr. LOAN. I object.

The SPEAKER. The gentleman from Illinois introduced two resolutions on the last Monday when the House was in session.

Mr. WENTWORTH. I asked to offer them by unanimous consent, and not under the call.

The SPEAKER. The gentleman from Missouri objects.

Mr. WENTWORTH. I wish the Speaker to state the facts.

The SPEAKER. The Chair will state that the gentleman introduced two resolutions on the last Monday when the House was in session.

Mr. WENTWORTH. Did I do it under the call?

The SPEAKER. One was introduced under the call and the other by unanimous consent.



The gentleman from Missouri (Mr. LOAN) objects, and the gentleman from Illinois can offer no further resolutions.

Mr. CULLOM. I ask unanimous consent to offer a resolution. I think I offered one the last Monday the House was in session, but I am not certain.

Mr. LOAN. I make the point of order on the gentleman.

Mr. CULLOM. I ask that my resolution may be read for information.

Mr. LOAN. I have no objection to that.

The resolution was read, and is as follows:

*Resolved*, That the Committee of Ways and Means be instructed to report a bill providing for the repeal of all laws and parts of laws giving the Secretary of the Treasury authority to withdraw any of the national legal-tender currency from circulation, except the compound-interest notes, which shall be funded in the bonds of the United States as they mature.

Mr. LOAN. I object.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. 828) to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, when the Speaker signed the same.

#### COMPENSATION FOR SLAVES ENLISTED.

Mr. McCLURG. I offer the following preamble and resolution, upon which I demand the previous question:

Whereas under the provisions of section twenty-four of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, the Secretary of War was required to appoint a commission in each of the slave States represented in Congress to award to each loyal person to whom a colored volunteer may have owed service a just compensation, payable out of the fund derived from commutations; and whereas under the provisions of section two of an act approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," so much of any money in the Treasury known as the commutation fund as may be necessary was appropriated for payment to such claimants of the amounts before or thereafter to be awarded upon the final reports of such commissions on all such claims; and whereas also it is represented that so vague and deceptive are the interpretations of the word "loyal," and so perverted the consciences of those who sympathized with the late rebellion, that oaths are unscrupulously taken, and proofs made which will compel the most watchful commissioners now in session to award millions of dollars to the most guileful enemies of the Government, contrary to the spirit of the acts before mentioned; Therefore,

*Be it resolved*, That the Committee on the Judiciary be instructed to inquire into the constitutionality and expediency of a repeal of these laws, and to report to this House by bill or otherwise.

The previous question was seconded and the main question ordered, being upon agreeing to the resolution.

Mr. HARDING, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 30, not voting 54; as follows:

YEAS—Messrs. Alcy, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Davis, Deffrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Farnsworth, Farquhar, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Leann, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McKuer, Mercut, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Ross, Sawyer, Schenck, Seofield, Starr, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernum, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Ancona, Bergen, Campbell, Chanler, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, Humphrey, Kerr, Leftwich, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, William H. Randall, Ritter, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Trimble, Andrew H. Ward, and Winfield—30.

NOT VOTING—Messrs. Anderson, Banks, Barker,

Bingham, Blaine, Blow, Boyer, Conkling, Dawes, Denison, Dumont, Eggleston, Eliot, Ferry, Goodyear, Griswold, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburt, Hunter, Johnson, Jones, Koontz, Lafin, Latham, Le Blond, Marshall, McCullough, McIndoe, Morris, Newell, Pike, Pomeroy, Radford, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Spalding, Stiwell, Nelson Taylor, Thornton, Bart Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—64.

So the resolution was agreed to.

The question recurred upon agreeing to the preamble.

Mr. McCLURG. Upon that I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble was agreed to.

Mr. McCLURG moved to reconsider the votes by which the preamble and resolution were agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### IMPEACHMENT OF THE PRESIDENT, ETC.

Mr. LOAN submitted the following resolution, upon which he called the previous question:

*Resolved*, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people as expressed at the polls during the recent elections by a majority numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take without delay such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of President of the United States of America, and his removal from said office upon his conviction, in due form of law, of the high crimes and misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department of the Government within the limits prescribed by law.

3. To provide effective means for immediately reorganizing civil governments in those States lately in rebellion, excepting Tennessee, and for restoring them to their practical relations with the Government upon a basis of loyalty and justice; and to this end,

4. To secure by the direct intervention of Federal authority the right of franchise alike, without regard to color, to all classes of loyal citizens residing within those sections of the Republic which were lately in rebellion.

Mr. BINGHAM. I would inquire in what manner this resolution comes before the House?

The SPEAKER. The gentleman from Missouri [Mr. LOAN] offers it under the regular call of States for resolutions, and demands the previous question upon its adoption.

Mr. BINGHAM. I hope the previous question will not be seconded.

Mr. ASHLEY, of Ohio. Will the gentleman from Missouri [Mr. LOAN] withdraw his call for the previous question until I offer an amendment, when I will renew the call for the previous question?

Mr. LOAN. I will hear the amendment read.

The SPEAKER. The gentleman must either withdraw or insist upon his call for the previous question. If it is withdrawn, and any member rises to discuss the resolution, it must go over under the rule.

Mr. LOAN. Then I insist upon the call for the previous question.

Mr. ANCONA. I move that the resolution be laid upon the table.

Mr. LOAN and Mr. CHANLER called for the yeas and nays upon the motion to lay the resolution upon the table.

The yeas and nays were ordered.

Mr. WILSON, of Iowa. I desire to ask the Chair whether, if the previous question should not be seconded, it will then be in order to move to refer this resolution to the Committee on the Judiciary?

The SPEAKER. If the motion to lay on the table be disagreed to, and the call for the previous question be not seconded, then a motion to refer will be in order, unless some member rises to debate the resolution, when it will go over under the rule.

Mr. ELDRIDGE. I would inquire if the

caucus of Saturday night did not determine that this and similar resolutions should be sent to the Committee on the Judiciary without debate? [Laughter.]

The SPEAKER. That is not a parliamentary inquiry. The question was upon laying the resolution on the table.

Mr. HILL. I desire to inquire of the Chair whether, under the rule, this resolution does not go to the joint committee on reconstruction without debate, as it relates to representation from the lately rebellious States?

The SPEAKER. The Chair sustains the point of order.

Mr. LOAN. I ask leave to modify my resolution.

The SPEAKER. The gentleman cannot do that; now the point of order is raised. The Chair will explain the reason for his decision sustaining the point of order. The third clause of the resolution provides that it is the imperative duty of Congress—

To provide effective means for immediately reorganizing civil governments in those States lately in rebellion excepting Tennessee, and for restoring them to the practical relations with the Government upon a basis of loyalty and justice.

During the last session of Congress the Chair ruled, upon a resolution offered by the gentleman from Wisconsin, [Mr. ELDRIDGE], alluding to the practical relations of a State with the General Government, that it included the question of representation, and therefore the resolution should go to the joint committee on reconstruction without debate under the rule. That decision was appealed from, and the decision of the Chair was sustained. According to that ruling, this resolution must go without debate to the joint committee on reconstruction.

Mr. WENTWORTH. Is it in order to move to lay this resolution on the table?

The SPEAKER. The resolution has already gone, under the rule, to the joint committee on reconstruction.

Mr. LOAN. I would inquire if any part of the resolution goes to the joint committee on reconstruction except the portion which the Chair rules has relation to representation from the lately rebellious States?

The SPEAKER. It all goes together.

Mr. ELDRIDGE. I rise to a question of order, whether it is not too late to raise this question, the previous question having been seconded and the main question ordered. I think that during the last session, when a similar question was raised by Mr. Voorhees, then a member from Indiana, the Speaker allowed the resolution to be debated.

The SPEAKER. The Chair overrules the question of order. The previous question has not yet been seconded.

Mr. ELDRIDGE. The yeas and nays have been ordered.

The SPEAKER. The yeas and nays have been ordered upon the motion to lay the resolution on the table.

Mr. LOAN. I ask leave to withdraw the third and fourth propositions.

Mr. WARD, of New York. I object.

Mr. ASHLEY, of Ohio. Has not the gentleman the right to modify the resolution?

The SPEAKER. The resolution is not now before the House; it has been referred, under the rule, to the joint committee on reconstruction.

#### PRINTING SPECIFICATIONS OF PATENTS.

Mr. BENJAMIN submitted the following resolution:

*Resolved*, That the Secretary of the Interior be instructed to inform this House if any contract has been entered into with any person or persons for the printing of the specifications of patents, and if so, by virtue of what law the same was made; and that he furnish a copy thereof, with the amount of expenditures incurred in carrying it into effect.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

Mr. BENJAMIN moved to reconsider the vote by which the resolution was adopted; and

also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to:

#### IMPEACHMENT OF THE PRESIDENT.

Mr. KELSO. I submit the following resolution, on which I demand the previous question:

*Resolved*, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people, as expressed at the polls during the late election by majorities numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take, without delay, such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office, upon his conviction, in due form, of the crimes and high misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

Mr. WASHBURNE, of Illinois. I rise to a question of order. Is not this precisely the same document that was just offered by the gentleman from Missouri, [Mr. LOAN?]

The SPEAKER. It is not. It is quite different, as it omits several things which were in the other.

Mr. WASHBURNE, of Illinois. Was not the other resolution referred to the joint committee on reconstruction?

The SPEAKER. It was.

Mr. WASHBURNE, of Illinois. Is not this the precise paper that was referred?

The SPEAKER. It is not.

Mr. CHANDLER. I call for the yeas and nays on the question of adopting the resolution.

Mr. DAVIS. I move to lay the resolution on the table.

Mr. WENTWORTH. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. GARFIELD. I desire to inquire of the Chair whether, if this motion be not agreed to, it will not be in order to move to refer the resolution to the Committee on the Judiciary.

The SPEAKER. It will be, unless the resolution should give rise to debate, in which case it will go over, under the rule.

Mr. GARFIELD. Then let us refer it.

Mr. WENTWORTH. No; let us pass it to-day.

The question was taken on the motion to lay the resolution on the table; and it was decided in the negative—yeas 40, nays 104, not voting 47; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Baldwin, Bergen, Campbell, Chanler, Cooper, Davis, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, James R. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Latham, Leftwich, McCullough, Niblack, Nicholson, Neill, Phelps, Samuel J. Randall, William H. Randall, Ritter, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, Whaley, and Winfield—40.

NAYS—Messrs. Alley, Allison, Ames, Arnell, James M. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Farquhar, Farnsworth, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Starr, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—104.

NOT VOTING—Messrs. Anderson, Barker, Blaine, Blow, Boyer, Conkling, Dawes, Denison, Dumont, Eggleston, Eliot, Goodyear, Gaiswold, Hale, Harris, Hill, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulbard, Johnson, Jones, Koontz, Laffin, Le Blond, Marshall, Marston, McIndoe, Morris, Newell, Patterson, Pike, Pomeroy, Radford, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Stilwell, Thornton, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—47.

So the House refused to lay the resolution on the table.

The SPEAKER. The morning hour has expired, and the resolution goes over till Monday next.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by his Private Secretary, Mr. ROBERT JOHNSON.

#### OCCUPANCY OF SAN JUAN.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House, the report of the Secretary of State of certain correspondence relating to the joint occupancy of the Island of San Juan, in Washington Territory; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### ARREST OF JOHN H. SURRATT.

The SPEAKER also laid before the House a message from the President, transmitting an additional report of the Secretary of State relating to the discovery and arrest of John H. Surratt; which was referred to the Committee on the Judiciary and ordered to be printed.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. ASHLEY, of Ohio. Mr. Speaker, I rise to perform a painful but, nevertheless, to me an imperative duty; a duty which I think ought not longer to be postponed, and which cannot, without criminality on our part, be neglected. I had hoped, sir, that this duty would have devolved upon an older and more experienced member of this House than myself. Prior to our adjournment I asked a number of gentlemen to offer the resolution which I introduced, but upon which I failed to obtain a suspension of the rules.

Confident, sir, that the loyal people of this country demand at our hands the adoption of some such proposition as I am about to submit, I am determined that no effort on my part shall be wanting to see that their expectations are not disappointed.

Mr. FINCK. I rise to a point of order. I want to know what the question is.

Mr. ASHLEY, of Ohio. I will state it.

Mr. FINCK. I have not heard it.

The SPEAKER. If the gentleman insists, the question must be stated.

Mr. FINCK. I do insist.

Mr. ASHLEY, of Ohio. Then, sir, on my responsibility as a Representative, and in the presence of this House, and before the American people, I charge Andrew Johnson, Vice President and acting President of the United States, with the commission of acts which, in contemplation of the Constitution, are high crimes and misdemeanors, for which, in my judgment, he ought to be impeached. I therefore submit the following—

Mr. FINCK. I propose another question of order. Is that a question of privilege?

The SPEAKER. It is. In the Twenty-Seventh Congress, by the then Speaker, it was decided, on the point raised by Horace Everett, of Vermont, that it was a question of privilege.

Mr. ELDRIDGE. Is there not a special order for to-day?

The SPEAKER. The unfinished business, which is the regular order, cannot interfere with this proposition.

The Clerk read the proposition of Mr. ASHLEY, of Ohio, which is as follows:

I do impeach Andrew Johnson, Vice President and acting President of the United States, of high crimes and misdemeanors.

I charge him with a usurpation of power and violation of law:

In that he has corruptly used the appointing power;

In that he has corruptly used the pardoning power;

In that he has corruptly used the veto power;

In that he has corruptly disposed of public property of the United States;

In that he has corruptly interfered in elections, and committed acts which, in contemplation of the Constitution, are high crimes and misdemeanors: Therefore

*Be it resolved*, That the Committee on the Judi-

ciary be, and they are hereby, authorized to inquire into the official conduct of Andrew Johnson, Vice President of the United States, discharging the powers and duties of the office of President of the United States, and to report to this House whether, in their opinion, the said Andrew Johnson, while in said office, has been guilty of acts which are designed or calculated to overthrow, subvert, or corrupt the Government of the United States, or any department or office thereof; and whether the said Andrew Johnson has been guilty of any act, or has conspired with others to do acts, which, in contemplation of the Constitution, are high crimes and misdemeanors, requiring the interposition of the constitutional power of this House; and that said committee have power to send for persons and papers, and to administer the customary oath to witnesses.

Mr. ASHLEY, of Ohio. I demand the previous question.

Mr. SPALDING. I move it be laid upon the table.

Mr. FINCK. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 105, not voting 47; as follows:

YEAS—Messrs. Ancona, Bergen, Campbell, Cooper, Davis, Dawson, Dodge, Eldridge, Finck, Glossbrenner, Griswold, Aaron Harding, Hawkins, Hise, Hogan, James R. Hubbell, Humphrey, Hunter, Kerr, Leftwich, McCullough, Niblack, Nicholson, Phelps, Samuel J. Randall, Raymond, Ritter, Ross, Shanklin, Spalding, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, Whaley, and Winfield—39.

NAYS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Deftrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Kuykendall, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Starr, Stevens, Stokes, Thayer, John L. Thomas, Francis Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—105.

NOT VOTING—Messrs. Anderson, Baldwin, Blaine, Blow, Boyer, Conkling, Dawes, Denison, Dumont, Eggleston, Eliot, Goodyear, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulbard, Johnson, Jones, Ketcham, Koontz, Laffin, Latham, Le Blond, Marshall, Marston, McIndoe, Morris, Newell, Neill, Pike, Pomeroy, Radford, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Stilwell, Thornton, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—47.

So the House refused to lay the resolution upon the table.

The question recurred on seconding the demand for the previous question.

Mr. BINGHAM. I wish to inquire if the demand for the previous question is not seconded whether it will not then be in order to move to refer the resolution.

The SPEAKER. It will.

Mr. BINGHAM. Then I hope it will not be seconded.

Mr. ASHLEY, of Ohio. I hope it will be. [Laughter.]

The question being taken on seconding the demand for the previous question, there were—aye 67, noes 49.

Mr. BINGHAM demanded tellers.

Tellers were ordered, and the Chair appointed Messrs. BINGHAM and ASHLEY, of Ohio.

The House divided; and the tellers reported—aye 75, noes 46.

So the previous question was seconded.

The main question was then ordered.

Mr. FINCK. I demand the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. MYERS called for the reading of the resolution.

The resolution was accordingly read.

Mr. HUBBELL, of Ohio. I wish to inquire whether a motion to refer the resolution to the Committee on the Judiciary would at this time be in order.

The SPEAKER. It would not, the previous question having been seconded, and the main question ordered. It could only be done by

first reconsidering the vote by which the main question was ordered.

Mr. HUBBELL, of Ohio. Can the motion to reconsider that vote be made by a member who voted in the negative?

The SPEAKER. It would be in order for any member to make the motion from the fact that the yeas and nays were not ordered upon it.

Mr. HUBBELL, of Ohio. Then I move to reconsider the vote by which the House ordered the main question, and I will notify the House—

Mr. ASHLEY, of Ohio, and others. I object.

Mr. HUBBELL, of Ohio. That I intend to move to refer the resolution to the Committee on the Judiciary.

Mr. WENTWORTH. I object to debate. I want to make a speech myself. [Laughter.]

Mr. ASHLEY, of Ohio. I move to lay the motion of my colleague on the table.

Several MEMBERS. Oh, no.

Mr. ASHLEY of Ohio. I withdraw it.

Mr. ELDRIDGE. I demand the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

Mr. WENTWORTH. I rise to a point of order. I understood the Speaker to decide that the House could not take the yeas and nays on seconding the demand for the previous question.

The SPEAKER. It can on ordering the main question.

Mr. WENTWORTH. The motion I understand is on reconsidering the vote by which the previous question was ordered. Now, if on the original question you cannot have the yeas and nays, you cannot on the other.

The SPEAKER. There are two questions. On seconding the previous question the yeas and nays cannot be taken; on ordering the main question the yeas and nays can be taken. The gentleman from Ohio [Mr. HUBBELL] moves to reconsider the vote by which the main question was ordered.

Mr. WENTWORTH. I think this is not the motion of the gentleman.

The SPEAKER. The Chair understands that it is.

Mr. HUBBELL, of Ohio. That was my motion.

Mr. BINGHAM. I wish to inquire if the House reconsiders the vote and then refuses the demand for the previous question, whether the resolution will not then be open for amendment and debate.

The SPEAKER. It would.

Mr. STEVENS. I move to lay the motion to reconsider on the table.

Mr. ELDRIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 47, not voting 50; as follows:

YEAS—Allison, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Deffrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Starr, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—44.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Bergen, Campbell, Chanler, Cooper, Davis, Dawson, Eldridge, Finck, Glossbrenner, Griswold, Aaron Harding, Hawkins, Hise, Hogan, Chester D. Hubbard, James R. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Latham, Lettwith, Maynard, McCullough, Niblack, Nicholson, Noel, Phelps, Plants, Samuel J. Randall, Raymond, Ritter, Ross, Shanklin, Spalding, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, Whaley, and Winfield—37.

NOT VOTING—Messrs. Anderson, Bingham, Blaine, Blow, Boyer, Conkling, Culver, Darling, Davies, Denison, Dodge, Dumont, Eggleston, Eliot, Goodyear, Hale, Harris, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Johnson, Jones, Kasson, Koontz,

Laffin, Le Blond, Marshall, Marston, McIndoe, Morris, Newell, Pomeroy, Radford, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Stillwell, Francis Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—50.

So the motion to reconsider was laid upon the table.

The question recurred upon agreeing to the resolution, upon which the yeas and nays had been ordered.

Mr. NIBLACK. I rise to a question of order. I submit whether the laying of the motion to reconsider upon the table does not carry the resolution with it.

The SPEAKER. It does not, by the express language of the Digest:

"In general, whatever adheres to the subject of this motion [to lay upon the table] goes on the table with it; as for example, where a motion to amend is ordered to lie on the table, the subject which it is proposed to amend goes with it. But it is not so with the Journal, where it is voted to lay upon the table a proposed amendment thereto." "Nor with the bill or other proposition, where the motion to reconsider is laid upon the table."—*Barclay's Digest*, page 109.

The question was taken on agreeing to the resolution; and it was decided in the affirmative—yeas 107, nays 39, not voting, 45; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Deffrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Starr, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—108.

NAYS—Messrs. Ancona, Bergen, Campbell, Cooper, Davis, Dawson, Dodge, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, James R. Hubbell, Humphrey, Hunter, Kerr, Latham, Lettwith, McCullough, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, Raymond, Ritter, Ross, Spalding, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, Whaley, and Winfield—38.

NOT VOTING—Messrs. Anderson, Blow, Boyer, Conkling, Davies, Denison, Dumont, Eggleston, Eliot, Goodyear, Griswold, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Johnson, Jones, Koontz, Laffin, Le Blond, Marshall, McIndoe, Morris, Newell, Plants, Pomeroy, Radford, Rogers, Rollins, Rousseau, Shanklin, Shellabarger, Sitgreaves, Sloan, Stillwell, Francis Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—45.

So the resolution was agreed to.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed without amendment a joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage.

The message further announced that the Senate had passed a bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers, and for other purposes.

Also, a joint resolution (S. R. No. 154) to provide for the exhibition of cereal productions of the United States at the Paris Exposition in April next; in which the concurrence of the House was requested.

#### EXPLORATION OF ISTHMUS OF DARIEN.

Mr. BENJAMIN. Has the morning hour expired?

The SPEAKER. It has.

Mr. BENJAMIN. Then I move to proceed to business upon the Speaker's table.

The motion was agreed to.

The SPEAKER. The first business upon the Speaker's table is the joint resolution of the Senate No. 149 to extend aid and facilities to the citizens of the United States engaged in the survey of a route for a ship-canal across the Isthmus of Darien.

The joint resolution was read a first and second time.

The question was upon ordering the joint resolution to be read a third time.

Mr. WASHBURNE, of Illinois. I move to refer this joint resolution to the Committee of Commerce.

Mr. BANKS. I move to amend that motion so as to refer the joint resolution to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. I ask that the joint resolution be read.

The joint resolution was read. It authorizes and requests the Secretary of the Navy to furnish such aid and facilities to citizens of the United States who are undertaking an exploration and survey of the Isthmus of Darien for the purpose of discovering a favorable line for a ship-canal to connect the Atlantic and Pacific oceans as he may be able to furnish without prejudice to the naval service, and without additional expense to the Government of the United States.

Mr. WASHBURNE, of Illinois. I think, upon hearing that joint resolution read, that it properly belongs to the Committee on Naval Affairs. Therefore I withdraw my motion to refer it to the Committee of Commerce.

Mr. BANKS. I move to refer it to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. I move to amend so as to refer it to the Committee on Naval Affairs.

Mr. BANKS. I ask the Chair to decide to which committee it properly belongs.

The SPEAKER. That is a question for the House to decide. The Chair is of opinion that it can properly go to either committee.

Mr. WASHBURNE, of Illinois. I ask that the rule be read establishing the Committee on Naval Affairs. I think that will determine the question.

The SPEAKER. The Clerk will read the rule establishing the Committee on Naval Affairs, and also the rule establishing the Committee on Foreign Affairs.

The Clerk read as follows:

"It shall be the duty of the Committee on Naval Affairs to take into consideration all matters which concern the naval establishment, and which shall be referred to them by the House, and to report their opinion thereupon; and also to report, from time to time, such measures as may contribute to economy and accountability in the said establishment."

"It shall be the duty of the Committee on Foreign Affairs to take into consideration all matters which concern the relations of the United States with foreign nations, and which shall be referred to them by the House, and to report their opinion on the same."

Mr. BANKS. I think that, under the rule, this joint resolution clearly belongs to the Committee on Foreign Affairs.

Mr. BIDWELL. I ask for the present consideration of this joint resolution.

The SPEAKER. The question is now upon the motion to refer. If that motion should be voted down, the question will be upon the third reading and passage of the joint resolution.

Mr. SCOFIELD. As a compromise between the different committees, I propose that the resolution be not referred at all, but that it be taken up and passed at once. It is a measure that everybody can understand, and the passage of which the interests of the country demands.

Mr. BANKS. I will agree to that.

Mr. WASHBURNE, of Illinois. I think it should take the usual course, and be referred to a committee.

Mr. BANKS. Then it should go to the Committee on Foreign Affairs.

Mr. CHANLER. I rise merely to say a word in behalf of the commercial interests of the country. I do not know that the gentleman from California [Mr. BIDWELL] or the gentle-



man from Pennsylvania [Mr. SCOFIELD] is better entitled to speak for the commercial interests of the country than a Representative from the great city of New York. Now, while I am in favor of the most extended facilities for commerce, I certainly think that to meet those interests properly and justly, and to carry out properly the dignity of this body, it should be referred to and acted upon by a committee. If the commercial interests of the country demand the passage of this joint resolution, that demand will come with more force from a committee of this body than it will by any immediate and unconsidered action asked for by any individual member of this body.

Mr. BANKS. I withdraw my motion to refer, and trust that this joint resolution will be acted upon now.

Mr. WASHBURN, of Illinois. I do not believe this House is prepared to pass this joint resolution without any further hearing or debate. I desire to call the attention of members to what this joint resolution is, which they seem to be in such hot haste to pass without reference to any committee. It is for the assistance of certain persons. What persons? The Secretary of the Navy is to be authorized and requested to furnish such aid and facilities to citizens of the United States who are undertaking an exploration and survey of the Isthmus of Darien for the purpose of discovering a favorable line for a ship-canal to connect the Atlantic and Pacific oceans which he may be able to furnish without prejudice to the naval service, and without additional expense to the Government of the United States.

Now I desire to know upon what ground we are asked to legislate in this way. Why should we call upon the Navy Department or any other Department to give these special privileges to these private individuals? Sir, I am opposed to this proposition; at least I am opposed to its being put upon its passage at the present time. I want to know something more about it; I want to know who these individuals are, and all about the matters involved in the consideration of this question. I do not see why there should be objection to having this bill take the usual reference, so that the appropriate committee may report all the facts in regard to this canal. It is, in my judgment, a mere matter of speculation.

Mr. RANDALL, of Pennsylvania. I would like to ask the gentleman who has charge of this bill what is the character of the aid which the resolution proposes to give—whether the resolution contemplates an appropriation of money for the purpose of assisting these private individuals. The proposition of the gentleman from Illinois who has just taken his seat appears to me a very proper one. In the absence of full information on this subject it is nothing more than reasonable that the bill should take the accustomed course and be referred to the appropriate committee.

Mr. SCOFIELD. In answer to my colleague from Pennsylvania, [Mr. RANDALL,] I will say that I am not advised as to who has charge of this bill, or whether anybody has charge of it. All the information I have on the subject I derive from the debate in the Senate, which I suppose most of the members have read.

It is alleged that there has been discovered a new route over the isthmus far preferable to any heretofore known, and which it is claimed will be of more advantage to this country and the world than all our Navy put together. Ten gentlemen have associated themselves together and have contributed \$1,000 each to pay an engineering party to go down and explore this route. They ask that the Secretary of the Navy, who has Government vessels lying about the isthmus doing nothing, may be authorized to detail one of those ships to carry this party of engineers up the river, until they start out upon the overland route. The matter is to be left to the discretion of the Secretary of the Navy. He felt inclined, without any special authority of Congress, to grant the use of a vessel for this purpose; but upon consideration it was thought best to ask the passage of this

resolution. That is all there is in this proposition, as I understand it. I can assure the gentleman from Illinois, from the best knowledge I have, that this is no private speculation.

Mr. MAYNARD. Mr. Speaker, the organization of Congress contemplates the investigation of all questions of legislation by both Houses. The Senate have doubtless acted upon what they thought was a sufficient reason for their action. It is our business to investigate the matter and decide for ourselves. We have all of us seen too much of hasty legislation, put through upon first impressions, especially while the war was in progress, when hasty legislation was oftentimes very imperative. There is no such imperative necessity now. Without having any opinion whether or not this is a just measure, one which ought to be passed, I do think it most manifest that we ought to refer the proposition to one of the standing committees for examination. If, as the gentleman from Pennsylvania [Mr. SCOFIELD] seems to suppose, the bill is one proper to be passed, its reference to a committee will delay its passage for only a few days at farthest. Although I have no particular preference as to the committee to which the bill should be referred, I will move its reference, at the suggestion of gentlemen around me, to the Committee on Naval Affairs, and on that motion I demand the previous question.

Mr. SCOFIELD. I have no objection to the reference of the bill, if that course shall accord with the wishes of the House.

The previous question was seconded and the main question ordered; and, under the operation thereof, the motion of Mr. MAYNARD was agreed to, and the joint resolution was referred to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES CLARK.

The next business on the Speaker's table was the joint resolution (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine; which was read a first and second time, and, on motion of Mr. BLAINE, referred to the Committee on the Judiciary.

WISCONSIN.

The next business on the Speaker's table was the joint resolution (S. R. No. 102) construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864; which was read a first and second time.

Mr. WASHBURN, of Illinois. I move that it be referred to the Committee on Claims.

Mr. PAINE. I move to amend that it be referred to the Committee on Public Lands.

The House divided; and there were—ayes 58, noes 60.

So the amendment was disagreed to.

The motion of Mr. WASHBURN, of Illinois, was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PAYMENT FOR SLAVES.

The next business upon the Speaker's table was Senate bill No. 459, suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes; which was read a first and second time.

The bill, which was read, declares that the final report of the commissioners provided for in the second section of the act of Congress entitled "An act making appropriation for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, shall be made, through the Secretary of War, to Con-

gress; and no money shall be paid from the Treasury, or from any fund therein, upon the same, or otherwise, to any claimant under the provisions of section twenty-four of the act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March 3, 1863, until such report shall be approved and confirmed by Congress.

Mr. BENJAMIN. I desire that the bill shall be put on its passage. I will merely say that at the last session of Congress an amount was appropriated to pay the owners of certain slaves who had entered the service of the United States. The terms of the act are, that loyal owners shall receive compensation not exceeding \$300; and it is made the duty of the Secretary of War to appoint a commissioner for each of the slave States then represented in Congress to pass upon these claims. The commissioner has been appointed and is now at work. I am informed by numerous letters I have received from the State of Missouri that the very worst rebels in that State are proving themselves loyal men for the purpose of getting the \$300 allowed to them. I suppose it is the same in other States. To give Congress an opportunity to look into this matter the Senate have passed this bill, suspending payment until the report of the commissioner has been received and passed upon. That is the whole of the case.

Mr. WASHBURN, of Illinois. It is very nearly the same proposition I submitted at the last session on one of the appropriation bills; and I think it ought to pass.

Mr. BENJAMIN demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading; and it was accordingly read the third time.

Mr. BENJAMIN. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. MAYNARD. I should like to inquire whether this bill if passed precludes the payment of any such persons as Congress hereafter may on investigation agree ought to be paid, or merely suspend payment until we can have an opportunity to examine the report?

Mr. BENJAMIN. This merely suspends payment of any one until Congress has an opportunity to examine the report of the commissioners sent out to investigate these claims.

Mr. RITTER demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 26, not voting 58; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blake, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Darling, Davis, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McKuer, Mercut, Miller, Moorhead, Morrill, Moulton, Myers, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Ross, Sawyer, Schenck, Scofield, Spalding, Stevens, Stokes, Nelson Taylor, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Winfield—107.

NAYS—Messrs. Ancona, Bergen, Campbell, Chandler, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Humphrey, Leitch, McCullough, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, Ritter, Shanklin, Strouse, Taber, Trimble, Andrew H. Ward, and Whaley—26.

NOT VOTING—Messrs. Anderson, Barker, Blow, Boutwell, Boyer, Bundy, Sidney Clarke, Conkling, Daves, Denison, Dumont, Eggleston, Eliot, Goodyear, Griswold, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hubbard, Hunter, Johnson, Jones, Kerr, Krontz, Latham, Le Blond, Marshall, McIndoe, Morris, Newell, O'Neill, Pike, Pomeroy, Radford, Raymond, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves,

Sloan, Starr, Stilwell, Nathaniel G. Taylor, Francis Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Windom, Woodbridge, and Wright—58.

So the bill was passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### PARIS EXPOSITION.

The next and last business on the Speaker's table was Senate joint resolution No. 154, to provide for the exhibition of several productions of the United States at the Paris Exposition in April next; which was read a first and second time.

The joint resolution was read in full. It instructs the Commissioner of Agriculture to collect and prepare as far as practicable, and with as little delay as possible, suitable specimens of the cereal productions of the several States of the Union for exhibition at the Paris Exposition and forward the same in proper order and condition for shipment to J. C. Derby, agent for the United States Government for the Paris Exposition, at New York.

Mr. BIDWELL. I hope this bill will be passed at once.

Mr. SPALDING. I would like to propose a slight amendment by providing that we shall incur no further expense than we have already appropriated money for.

Mr. BIDWELL. Why, this does not require any further appropriation.

Mr. SPALDING. Ah, but it will require it.

Mr. BIDWELL. I certainly would have no objection to the amendment only it involves the necessity of returning the joint resolution to the Senate, which will cause delay. It is important, since the United States are to be represented in the Paris Exposition, that we should without delay take every necessary step to be well represented. This resolution merely authorizes the Commissioner of Agriculture to prepare and forward to New York certain cereals.

Mr. SPALDING. I hope the gentleman will allow me to offer this slight amendment.

Mr. BIDWELL. I will not object.

Mr. SPALDING. I move to amend by adding the words "provided it shall require no further appropriation."

Mr. KASSON. Will the gentleman from California yield to me a moment?

Mr. BIDWELL. Yes, sir.

Mr. KASSON. I am opposed to the amendment of the gentleman from Ohio, [Mr. SPALDING.] This joint resolution does not make any appropriation. But even if it should require a small appropriation every member of this House representing an agricultural constituency ought to sustain it. I hope my friend from California will insist upon the passage of the resolution in its present form. The matter needs prompt action. I know the northwestern States are particularly desirous to have a comparison of their cereals with those of other countries; and in my judgment the result will be to save us from incurring unnecessary expense in the future by enabling us to ascertain by comparison what foreign cereals will be useful for introduction into this country.

Mr. BIDWELL. As I said before, I do not object to the amendment of the gentleman from Ohio, but the amount of cereals necessary to be placed in the hands of the agent of the United States at New York in order to properly represent the different portions of the country cannot be very large. A very few bushels of grain from each State will be amply sufficient, and the cost of transportation cannot amount to anything serious, therefore I do not oppose the amendment. I would, however, appeal to the gentleman, who certainly must have the interest of his country at heart and who desires undoubtedly that we shall be well represented in the Paris Exposition, to withdraw his amendment and let us act upon the joint resolution at once. What amount of grain will it take to represent all the States of the Union? What will it cost

to transport it to New York? It does seem to me that it will be so small a sum that it will be better not to add the proviso. Let us leave it as it is, and let us be well represented in that important exhibition. If there is anything that deserves to be represented at Paris it is the staff of life, of which our country is so great a producer that it is becoming the granary of the world. I demand the previous question.

Mr. FARNSWORTH. Will the gentleman yield a moment?

Mr. BIDWELL. Certainly.

Mr. FARNSWORTH. I hope the amendment of the gentleman from Ohio will be adopted. As the resolution now stands it leaves entirely to the discretion of the Commissioner of Agriculture how much shall be selected for transportation to Paris. Of course the Government will be called upon afterward to make appropriation for the transportation of these cereals. How much that appropriation may be nobody knows. Now, sir, the agriculturists of my own State are themselves without any assistance from the Government (they do not ask any) for collecting such products as they desire to have exhibited, and so I think it is throughout the northwestern States. The agricultural societies and men of wealth, if they think it necessary or important to their section of the country to be represented at Paris by the exhibition of seed, will send them over. I am entirely opposed to giving the discretion to the Commissioner of Agriculture as to what and how much shall be selected. He may send over ten ship-loads.

Mr. BIDWELL. I wish to state to the gentleman from Illinois that there is an understanding between the agent of the United States for the Paris Exposition in New York and the Commissioner of Agriculture here that certain States have furnished proper specimens, and perhaps certain other States will do it; but the idea is to secure uniformity and universal representation there. It seems that this can only be done through some great central agency, and the Department of Agriculture seems to be the proper agency. Whenever it is found that specimens have been offered from any State, of course there will be no expense incurred in obtaining other specimens from that State; but we desire to have the entire country represented.

Mr. STEVENS. I desire to ask the gentleman from California a question.

Mr. BIDWELL. I will yield for that purpose, although I desire to call the previous question.

Mr. STEVENS. I desire to know whether he understands by this resolution that the expenses are to be taken out of the present appropriation for the Agricultural Department.

Mr. BIDWELL. Yes, sir; whatever expenses may be incurred.

Mr. TROWBRIDGE. The gentleman from California will allow me to answer the question of the gentleman from Pennsylvania. I saw the Commissioner of Agriculture this morning, and he said that this expense would be taken out of the appropriation already made for his Department.

Mr. STEVENS. It happens that no appropriation has been made this year.

Mr. BIDWELL. We have passed the appropriation this year.

Mr. STEVENS. No, sir; the gentleman is mistaken. The appropriation is hung up now on an amendment to cut down the appropriation for the Agricultural Department. If that amendment is to prevail and then we are to withdraw this amount—which, I understand, cannot amount to less than five or ten thousand dollars—I do not know that I shall object; but I think we should decide what the Department shall get before we impose this additional expense upon it. A large appropriation has already been made for this purpose, under the eloquent persuasion of the gentleman from Massachusetts, [Mr. BANKS.] and I had hoped that that would be the end of the expenditures for this foreign Exposition. I do not begrudge what has been already voted,

because the knowledge we may acquire will probably be worth that much money; but I do object to taking this additional amount out of the funds appropriated to the Agricultural Department. I have a notion to send my own potatoes over there, and my friend from Connecticut [Mr. HUBBARD] would send his onions.

Mr. HUBBARD, of Connecticut. I gave my friend some onion seed this morning.

Mr. STEVENS. I acknowledge the receipt of it; but I would really like to know what is to become of the appropriation for the Department before I vote to exhaust it in this way.

Mr. BIDWELL. It is well known that the Commissioner of Agriculture has many ways in which to procure what is desired by this resolution without any great amount of expense. I presume he will have merely to request the different agricultural societies with which he is in communication to get nearly everything which he would require; but if he should have to purchase a small amount, I want to know if the gentleman expects him to get it for nothing. The sum would be so small, if there should be anything to pay, that no one could object to it.

Now, sir, as we have determined to be represented in this great Exposition, I hope the American people will insist, through their Representatives in this Congress that they shall be so represented as to have their country not surpassed by any nation under Heaven. If there is anything that would benefit this country by imparting information across the water, it would be to show the capacity of this country for producing the cereals, and for one I hope that we will do everything in our power to be represented at least in that important feature.

Mr. SPALDING. Will the gentleman allow me to ask him one question?

Mr. BIDWELL. I will; but I am occupying too much time.

Mr. SPALDING. How much have we already appropriated for this Paris Exposition? Did we not appropriate money for this very purpose?

Mr. BIDWELL. I understand that we appropriated \$100,000.

Mr. SPALDING. We appropriated \$250,000, and my object is to keep the expenditure within that amount.

Mr. BIDWELL. I now yield for five minutes to the gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. The expenditure for this purpose will be very slight indeed. The Agricultural Department can pay it out of its appropriations without interfering at all with the working of the office; or if the Commissioner cannot now do it, and the appropriations to be made for that Department hereafter shall be such as not to justify it, then he will not do it. It is left entirely to his discretion. Most of the States have already forwarded specimens of their cereals; and agricultural and other societies interested in grain in the principal States have collections which can be forwarded with very little expense. I hope the resolution, with the amendment proposed by the gentleman from Ohio, [Mr. SPALDING,] will be allowed to pass.

Mr. BIDWELL. I now call the previous question.

Mr. FARNSWORTH. As the amendment proposed by the gentleman from Ohio [Mr. SPALDING] will not change the joint resolution, I move to lay it on the table.

The question was taken; and upon a division there were—ayes 47, noes 50.

Before the result of the vote was announced, Mr. WASHBURN, of Illinois, called for the yeas and nays upon the motion to lay the joint resolution on the table.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 12, noes 70.

So, one fifth not voting in the affirmative, the yeas and nays were not ordered.

The motion to lay on the table was accordingly not agreed to.

The question recurred upon seconding the call for the previous question; and being taken, upon a division there were—ayes 63, noes 38.

So the previous question was seconded.

The main question was then ordered.

The first question was upon the amendment of Mr. SPALDING, to amend the joint resolution by adding to it the following words:

*Provided*, That it shall require no further appropriation from the public Treasury.

The question was taken, and the amendment was agreed to.

The joint resolution, as amended, was then read the third time.

The question was upon the passage of the joint resolution as amended.

Mr. WASHBURN, of Illinois. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 48, not voting 58; as follows:

**YEAS**—Messrs. Ancona, Baldwin, Banks, Barker, Baxter, Bergen, Bidwell, Blaine, Boutwell, Broomall, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Darling, Davis, Dawson, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eldridge, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Grinnell, Griswold, Hart, Hayes, Hogan, Holmes, Hooper, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, George V. Lawrence, Lynch, Marvin, McClurg, McCullough, McRuer, Mercer, Miller, Moorhead, Moulton, Myers, Neill, O'Neill, Perham, Phelps, Plants, Samuel J. Randall, Raymond, Ross, Spalding, Starr, Stevens, Strouse, Taber, Nelson Taylor, Thayer, John L. Thomas, Trowbridge, Hamilton Ward, Warner, Welker, Wentworth, Whaley, Stephen F. Wilson, Windom, and Winfield—84.

**NAYS**—Messrs. Allison, James M. Ashley, Baker, Beaman, Benjamin, Bingham, Bromwell, Campbell, Cobb, Cook, Cooper, Cullom, Culver, Eckley, Farnsworth, Aaron Harding, Abner C. Harding, Hawkins, Hill, Hise, John H. Hubbard, James R. Hubbell, Latham, William Lawrence, Leftwich, Loan, Marston, Maynard, McKee, Morrill, Niblack, Orth, Paine, Price, William H. Randall, Ritter, Sawyer, Schenck, Scofield, Shanklin, Stokes, Trimble, Upson, Andrew H. Ward, Elihu B. Washburne, Henry D. Washburn, Williams, and James F. Wilson—48.

**NOT VOTING**—Messrs. Alley, Ames, Anderson, Arnell, Delos R. Ashley, Blow, Boyer, Brandegee, Conkling, Dawes, Denison, Dumont, Eggleston, Eliot, Goodyear, Hale, Harris, Henderson, Higby, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Jenckes, Johnson, Jones, Kerr, Kuntz, Lafin, Le Blond, Longyear, Marshall, McIndoe, Morris, Newell, Nicholson, Patterson, Pike, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Rogers, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Stillwell, Nathaniel G. Taylor, Francis Thomas, Thornton, Van Aernam, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Woodbridge, and Wright—58.

So the joint resolution was passed.

Mr. BIDWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title:

Joint resolution (H. R. No. 221) authorizing certain medals to be distributed to honorably discharged soldiers free of postage; when the Speaker signed the same.

#### RIO GRANDE LAND GRANTS.

The Speaker laid before the House a communication from the Secretary of the Territory of New Mexico, transmitting a joint resolution of the territorial Legislature regarding Rio Grande land grants; which was referred to the Committee on Public Lands and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. HENDERSON asked and obtained indefinite leave of absence for Mr. DENNY, Delegate from Washington Territory.

#### ABOLITION OF SLAVERY.

Mr. KASSON. I ask unanimous consent to introduce a joint resolution declaratory of the meaning of the thirteenth amendment to the Constitution of the United States of America. If objection be made I shall move to suspend the rules.

Mr. THAYER. I move that the House adjourn.

Mr. KASSON. I think the gentleman will withdraw that motion if he will hear the joint resolution reported.

Mr. THAYER. I insist on the motion.

The motion was not agreed to; there being—ayes 40, noes 70.

Mr. KASSON. I move to suspend the rules to introduce the joint resolution which I send to the desk.

The Clerk read as follows:

Whereas the Congress of the United States at the second session of the Thirty-Eighth Congress, proposed to the several States for adoption the thirteenth amendment to the Constitution of the United States, which has now, by the ratification of three-fourths of the States of the Union, become part of the Constitution, and which by its terms forever prohibits slavery or involuntary servitude "except as a punishment for crime whereof the party shall have been duly convicted," and whereas in some parts of this Union it is asserted and maintained that, notwithstanding said amendment, it is lawful to sell or otherwise commit into unofficial subjection to slavery persons who may be convicted of offenses against the law, by reason whereof certain inferior tribunals have adjudged free citizens of the United States to be so disposed of as to reestablish chattel slavery for life or for years, against the principles of the Christian religion, of civilization, and of the Constitution of the United States, which now recognizes no involuntary servitude, except to the law and to the officers of its administration: Now therefore,

*Be it resolved, &c.* That the true intent and meaning of said amendment prohibits slavery or involuntary servitude forever in all forms, except in direct execution of a sentence imposing a definite penalty according to law, which penalty cannot, without violation of the Constitution, impose any other servitude than that of imprisonment or other restraint of freedom under the immediate control of officers of the law and according to the usual course thereof, to the exclusion of all unofficial control of the person so held in servitude; and that all orders, judgments, or decrees authorizing or directing the sale or other disposition into servitude of any person within the jurisdiction of the United States otherwise than as above declared to be lawful, are and shall be taken and held to be in violation of the thirteenth constitutional amendment aforesaid, and therefore void.

Mr. KASSON. Mr. Speaker, I suppose it is known to every gentleman in the House that in certain States of this Union, notwithstanding the constitutional amendment referred to in this joint resolution, men are being, perhaps every month, sold into perpetual slavery, under a form of law by which inferior tribunals order that a man shall be sold at public auction, and call that an execution of a legitimate sentence of the law. This seems to me to have arisen from the fundamental error of supposing that when we abolished slavery throughout the United States—

Mr. ELDRIDGE. I rise to a question of order. Is debate in order upon a motion to suspend the rules?

The SPEAKER. It is not, if any member objects.

Mr. ELDRIDGE. I object.

The SPEAKER. The question is on the motion to suspend the rules.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 111, nays 26, not voting 54; as follows:

**YEAS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McRuer, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Spalding, Starr, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—111.

**NAYS**—Messrs. Ancona, Bergen, Campbell, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hogan, Humphrey, Kerr, Leftwich, McCullough, Niblack, Phelps, Samuel J. Randall, Ritter, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, and Winfield—26.

**NOT VOTING**—Messrs. Alley, Anderson, Barker,

Blow, Boyer, Brandegee, Bundy, Chanler, Conkling, Culver, Dawes, Denison, Dumont, Eggleston, Ferry, Goodyear, Hale, Harris, Hise, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburd, Johnson, Jones, Kuntz, Lafin, Le Blond, Marshall, Marvin, McIndoe, McKee, Morris, Newell, Nicholson, Neell, Pomeroy, Radford, Rogers, Ross, Rousseau, Shellabarger, Sitgreaves, Sloan, Stillwell, Francis Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Whaley, Woodbridge, and Wright—54.

So (two thirds voting in favor thereof) the rules were suspended.

The joint resolution was accordingly introduced and read a first and second time.

Mr. KASSON. Several gentlemen desire to get the attention of the House for a few moments, and some desire the House to adjourn. As this is now before the House, if I can retain it as the first business for to-morrow, I am willing to yield to any gentleman. I yield to the gentleman from Pennsylvania.

#### RECONSTRUCTION.

Mr. STEVENS. I desire to make a motion in reference to House bill No. 543, which relates to the subject of reconstruction. As I propose to be absent from the city for a few days, I move that the bill be postponed temporarily, for one week after the adjournment to-morrow, and to be taken up immediately after the reading of the Journal.

There was no objection, and it was ordered accordingly.

Mr. STEVENS. I wish to modify my substitute so that the modification may be printed before it again comes up for consideration. I move to add after the fourth section the following:

And no person shall be deprived of the right to vote or otherwise disfranchised by reason of conviction or punishment for any crime other than for insurrection or treason or misprision of treason.

I propose to add that as a modification of my substitute, that conviction for crime except for treason shall not take away the right to vote. And if the House will indulge me, I will give reason for it now, so that gentlemen may understand it. I have received information from gentlemen connected with the Freedmen's Bureau—I knew it for weeks past, but only yesterday received the information officially—that in North Carolina and other States where punishment at the whipping-post deprives the person of the right to vote, they are now every day whipping negroes for a thousand and one trivial offenses; and one of the lieutenants now there—I need not name him, because as he fears it might be fatal to him—told me last Saturday that they are taking them up in the different counties, and in one county before he left they had whipped every adult male negro whom they knew of. They were all convicted and sentenced at once, and he ascertained by intermingling with the people that it was for the purpose of preventing these negroes from voting under the bills which have been passed.

I now move that the substitute, as modified, be ordered to be printed.

The motion was agreed to.

#### NATIONAL BANK CIRCULATION.

Mr. HOOPER, of Massachusetts. I ask unanimous consent to introduce the following resolution:

*Resolved*, That it is not expedient to increase the circulating notes of the national banks beyond the amount of \$300,000,000, as now prescribed by law; and any such notes required for organizing additional capital in national banks should be provided by reducing the proportion of circulating notes which the several banks are now entitled to receive from the Comptroller of the Treasury.

And I ask that the resolution be put upon its passage.

Mr. THAYER. I object.

Mr. HOOPER, of Massachusetts. I move to suspend the rules.

The SPEAKER. That motion is not now in order.

Mr. HOOPER, of Massachusetts. I ask the gentleman from Pennsylvania to withdraw his objection.

Mr. THAYER. I object to such hasty legislation, and I shall insist on my objection. This, sir, is not the way for this House to act upon a question of such importance.



## AMENDMENT TO THE TARIFF BILL.

Mr. ALLEY. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to report a bill, if in their judgment expedient, to repeal immediately so much of the tariff act of July 1, 1864, as is contained in the following clause of section five of that act: "On lastings, mohair cloth, silk twist, and other manufactures of cloth, woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for shoes, slippers, boots, booties, gaiters, and patterns exclusively not combined with India-rubber, ten per cent, *ad valorem*."

Mr. THAYER. Does that instruct the committee? Does it give the committee discretion, or is it peremptory?

A MEMBER. It is peremptory.

Mr. THAYER. Then I object.

Mr. ALLEY. It is merely a resolution of inquiry.

Mr. THAYER. Then I withdraw my objection.

The resolution was adopted.

## FRASER, TRENHOLM AND COMPANY.

Mr. DEMING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, by the House of Representatives, That the President is hereby requested, if in his judgment not incompatible with the public interest, to communicate to the House all correspondence between the State Department and Messrs. Adams, minister at the Court of St. James, Dudley, consul at Liverpool, Morse, consul at London, Gibbs, Treasury agent, or with any other persons respecting the compromise of certain suits instituted in the English courts in behalf of the United States against Fraser, Trenholm & Co., alleged agents of the so-called Confederate government.

## SINKING FUND.

Mr. RANDALL, of Pennsylvania, by unanimous consent, introduced a bill to authorize the issue of Treasury notes not bearing interest to be used in providing a sinking fund for the extinguishment of the national debt; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

## ABOLITION OF SLAVERY—AGAIN.

Mr. WASHBURN, of Illinois. I demand the regular order of business.

Mr. KASSON. I move to adjourn, in accordance with the understanding I have that the pending joint resolution will be the unfinished business of to-morrow.

Mr. THAYER. I object to the gentleman's making any condition with the House. If that be the legal status of the joint resolution if we adjourn now, very well.

The SPEAKER. The Chair has already stated if the House now adjourns this will be the first business to-morrow.

## MURDER OF UNION SOLDIERS.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the special committee appointed to investigate the murder of Union men in South Carolina be instructed to inquire into the facts concerning the murder of Edward M. Knowles, first lieutenant company K, forty-second Indiana regiment, at Augusta, Georgia, in December, 1864, while a prisoner of war.

## SOLDIERS' BOUNTY.

Mr. MILLER, by unanimous consent, introduced a bill supplementary to an act granting additional bounty to certain enlisted soldiers, approved July 28, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

And then, on motion of Mr. KASSON, (at three o'clock and forty-five minutes p. m.,) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of George White, and 90 others, loyal citizens of Blount county, Alabama, complaining of rebel rule, of being taxed to pay expenses of rebel conventions and Legislatures, and asking relief.

By Mr. ALLEY: The petition of William S. Boyce

& Sons, and others, for a repeal of the fifth section of the tariff act of July 1, 1864.

Also, the petition of A. F. Lindsey, and others, cigar manufacturers, for modification of the tax law.

Also, for the same object, the petition of James H. Battis, and others.

Also, the petition of mail route agents, for increase of pay.

By Mr. BEAMAN: The petition of Oliver Goldsmith, and 24 others, cigar manufacturers, journeymen cigar-makers, dealers in cigars, growers of and dealers in seed-leaf tobacco, of the city of Detroit, praying that the present tax may be changed to a specific tax, &c.

By Mr. BUCKLAND: The petition of John Ludlow, and 37 others, citizens of Springfield, Clark county, Ohio, against the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against the enactment of any law compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances.

Also, a petition from P. E. Her, and 13 others, manufacturers of cigars and journeymen cigar-makers, of the city of Tiffin, Ohio, against the present system of taxation on the manufacture of cigars, and in favor of the present tariff on imported cigars. Also asking an alteration in the present system of stamping by selling the stamps to the manufacturers at five dollars per thousand, and to increase the penalty for violating the internal revenue laws, and advocating a specific tax of five dollars per thousand on all domestic cigars.

By Mr. DARLING: The petition of James Arnold, Lewis D. Wells, S. M. Colemore, and others, writers and timekeepers, Brooklyn navy-yard, for increased pay.

By Mr. DELANO: The petition of F. C. Wright, and 100 others, citizens of Ohio, asking that the tax on barrels for the reception of fluids be repealed, because it is a tax on labor.

By Mr. DEMING: The petition of the Hartford and New Haven Railroad Company, for reduction of duty on iron used for railroad purposes.

Also, the petition of cigar manufacturers of Hartford county, Connecticut, for a specific duty of five dollars per thousand on cigars.

By Mr. FERRY: The petition of John Lewis, E. F. Grabbill, David Wilson, and 22 others, citizens of Greenville, Michigan, praying against the passage of any act authorizing the curtailment of the national currency and a return within a limited time to specie payments, and against any law compelling national banks to redeem in New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. HAYES: The petition of employees in the Cincinnati post office, for an increase of compensation.

By Mr. HUBBARD, of Connecticut: The petition of Hawes & Giddings, and others, praying for a modification of the tax on cigars.

By Mr. HOGAN: The petition of James Fugate, eighty years of age, soldier of the war of 1812, praying for increase of pension.

By Mr. JULIAN: The petition of 170 citizens of Indiana, praying the impeachment of the President of the United States for high crimes and misdemeanors.

Also, the like petition of 32 citizens of Wayne county, Indiana.

By Mr. KELLEY: The petition of 208 citizens, manufacturers and operatives of Manayunk, Philadelphia, Pennsylvania, praying Congress to repeal the internal revenue tax levied on all goods manufactured.

Also, the petition of 42 citizens, manufacturers and operatives of Manayunk, Philadelphia, Pennsylvania, praying Congress to repeal the internal revenue tax on all goods manufactured.

By Mr. KETCHUM: The petition of S. Higby, and 70 others, citizens of Hudson, New York, asking for a modification of the tax on cigars.

By Mr. LAWRENCE, of Pennsylvania: The petition of Mr. Ellis & Brother, proprietors of the Eagle Iron Works, Washington, District of Columbia, for an equitable settlement of their claim for iron work at the United States Treasury building.

By Mr. LYNCH: The petition of J. B. Brown and others, for reduction of duty on coal.

Also, the petition of C. H. Stebbins, and others, asking a change in tax on cigars.

By Mr. MERCUR: The petition of William Milner, Jr., and others, of Danville, Montour county, Pennsylvania, asking relief for said William Milner, Jr.

By Mr. MOORHEAD: A petition from 100 citizens and firms of Pittsburgh, Pennsylvania, asking that no further reduction of the currency be authorized, and against requiring the redemption of national banks in New York.

By Mr. PRICE: The petition of officers of the United States Army, for continuation of longevity rations after they shall have been withdrawn from actual service and placed on the retired list, unless such withdrawal has been at their own request.

By Mr. STEVENS: The petition of numerous citizens of Pennsylvania, praying for the abolition of all laws disqualifying on account of race or color.

Also, evidence in the case of Mrs. Mary A. Filler, mother of Henry G. Dreining, late of company K, fifty-fifth regiment of Pennsylvania volunteers, asking for back pay.

By Mr. WELKER: The petition of George K. Pardee, and 17 others, citizens of Wadsworth, Medina county, Ohio, against the contraction of the currency and the redemption of circulating bank notes in New York.

Also, the petition of Samuel Plumb, and 51 others,

citizens of Lorain county, Ohio, in relation to the impeachment of the President.

Also, the petition of W. P. Michner, and 81 others, citizens of Lorain county, Ohio, on the same subject.

By Mr. WASHBURN, of Illinois: The petition of citizens of Nora, Jo Davies county, Illinois, in reference to banking and currency.

By Mr. WILLIAMS: The petition of citizens of Armstrong county, Pennsylvania, praying for the establishment of a post route between Elderton, in the said county of Armstrong and Plumville in Indiana county.

## WITHDRAWAL OF PAPERS.

By Mr. INGERSOLL: The memorial and other papers on file in the case of Robert T. Winslow, for compensation for services in raising a regiment of infantry, were withdrawn from the files of the House and recommended to the Committee on Military Affairs.

## IN SENATE.

TUESDAY, January 8, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior and Acting Postmaster General, transmitting the report of the commissioner appointed under the joint resolution of May 16, 1866, entitled "A joint resolution relative to the courts and post office of New York city," to select a proper site for a building for a post office and for the accommodation of the United States courts in the city of New York; which, on motion of Mr. RAMSEY, was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received, and been requested to present to the Senate, the memorial of Major General Hooker and a number of officers of the United States Army, praying Congress that when officers of the Army who have honestly and faithfully served their country are placed on the retired list under existing laws, they may, in addition to the mere pittance now granted to them, be allowed to retain their service or longevity rations, which is one ration per day for every five years of service. If there be no objection, this memorial will be received and referred to the Committee on Military Affairs and the Militia.

Mr. LANE. I am requested by the Soldiers' and Sailors' Union, of Washington city, to present their memorial praying for an investigation into the affairs of the Public Printing office. I know nothing of the facts in the case except as stated in the memorial. These gentlemen are gentlemen of the highest character for intelligence, integrity, and patriotism, and I hope that their memorial will receive proper consideration. I ask its reference to the Committee on Printing.

It was so referred.

Mr. CHANDLER. I present the memorial of the Board of Trade of the city of Detroit, Michigan, protesting against the further granting of American registers to foreign-built ships or vessels of any kind, stating in conclusion:

"Your committee deem it expedient for this board to send a remonstrance to Congress against granting any further concessions to the owners of foreign-built ships or vessels of any kind or description, and a recommendation that all articles of American manufacture required for the building and equipping of steam or sailing ships shall be free from excise or internal revenue taxes."

I move the reference of this memorial to the Committee on Finance.

It was so referred.

Mr. CHANDLER presented the memorial of citizens of Louisiana, praying for aid to rebuild and repair the broken and dilapidated levees on the banks of the Mississippi and other rivers in that State; which was referred to the Committee on Commerce.

Mr. MORGAN presented two memorials of consumers of steel, remonstrating against an increase of the duty on imported steel as pro-

posed by House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

Mr. HENDERSON presented additional papers in relation to the petition of William N. Smith, praying for damages for the destruction of property by Federal troops in the town of Glasgow, Missouri; which were referred to the Committee on Claims.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. PATTERSON presented a paper to accompany Senate bill No. 454, for the relief of the widow of Jacob Harmon; also a paper to accompany Senate bill No. 476, for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased; and also a paper to accompany Senate bill No. 455, for the relief of the widow of Henry Fry; which were referred to the Committee on Pensions.

Mr. HOWE presented two petitions of citizens of Wisconsin, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

Mr. EDMUNDS. I present a petition of citizens of Swanton, Vermont, praying that Congress will refrain from the passage of any act authorizing the curtailment of the national currency or having in view the return within a limited time to specie payments, and setting forth the reasons therefor. It is proper that I should say that I entirely disagree on that subject with the sentiments of this portion of my constituents. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I present the petition of William Wells Brown and others, colored citizens of Massachusetts, in which they respectfully remonstrate against the admission of Nebraska as a State, with a constitution which disfranchises citizens on account of color, and they proceed to assign reasons therefor. As the question is now before the Senate, and there is no opportunity of this petition having the consideration of a committee, I think I shall not err if I call the attention of the Senate especially to the reasons which they assign:

"First. Denial of political rights for the accident of color is founded on the assumption of the power by a class or classes to disfranchise a class or classes of citizens numerically inferior, and this involves the disfranchisement of all inferior classes by their numerical superiors—a doctrine which is inconsistent with the fundamental ideas of our Government.

"Second. Because the experience of the last six years has taught the lesson that political power can safely be entrusted only to loyal citizens, and that it must be equally entrusted to all loyal citizens; and this same experience has proved that the colored citizens of the country have shown more uniform loyalty than any other class of people.

"Third. Because it is unjust that loyal citizens should bear the burdens of taxation without representation.

"Fourth. Because the results of the late elections show that the people of the loyal States have reached the conclusion that political power in the rebel States shall be entrusted only to loyal citizens, and because speedy and permanent peaceful reconstruction of those States can be effected only by enfranchising the loyal citizens without distinction of color.

"Fifth. Because the admission of any State with a constitution disfranchising colored citizens will prove the entering wedge to the admission of rebel States with the same proscriptive provision.

"Sixth. Your memorialists appeal to the record of their own race in this Commonwealth as proof that they may safely be entrusted with the elective franchise. For generations they have exercised all the rights of citizenship in this State, and they confidently claim that no portion of this people, as a class, have better conducted themselves as law-abiding subjects and as liberty-loving citizens; and until the contrary is proved by trial, they claim that colored citizens of other communities will prove equally good citizens if endowed with the elective franchise. In a democratic Republic all good citizens are entitled to vote."

They then conclude as follows:

"For the above reasons and many others which might be added, they earnestly pray that Congress, in the organization of all new States, will see to it that all power is derived from the consent of the governed."

I desire especially to call attention to one of the reasons assigned in this petition why Nebraska should not be admitted as a State with a constitution which disfranchises citizens on account of color. It is as follows:

"Because the admission of any State with a constitution disfranchising colored citizens will prove the entering wedge to the admission of rebel States with the same proscriptive provision."

I entreat the Senate to consider that principle. I solemnly ask the Senate to weigh it and to ponder it before they act finally on the question before them. As this question, however, is now before the Senate, I shall not move the reference of this petition to any committee, but ask that it lie upon the table.

The PRESIDENT *pro tempore*. That order will be entered, no objection being made.

#### REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a memorial of the Winona and St. Peters Railroad Company, of Minnesota, praying that certain additional duties on railroad iron imported in 1863 be refunded, submitted a report accompanied by a bill (S. No. 494) for the relief of the Winona and St. Peters Railroad Company. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### RETRENCHMENT COMMITTEE EXPENSES.

Mr. WILLIAMS. I am instructed by the Committee on Finance, to whom was referred a joint resolution (S. R. No. 151) appropriating money to defray the expenses of the joint select committee on retrenchment, to report it back and recommend its passage, and I ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to appropriate \$15,000, or so much of that sum as may be necessary, to defray the expenses of the joint select committee on retrenchment. The money is to be drawn from the Treasury as required, upon the order of the Secretary of the Senate; and money allowed by the committee to witnesses attending before it or to persons employed in its service and paid by the Secretary of the Senate in pursuance of its orders, is to be credited and allowed by the accounting officers of the Treasury.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 495) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 496) to establish certain post roads in New Mexico; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### VIOLATION OF CIVIL RIGHTS BILL.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to inform the Senate if any violation of the act entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication" have come to his knowledge, and if so what steps if any have been taken by him to enforce the law and punish the offenders.

#### PENSION AGENTS.

Mr. CRAGIN. I move to take up Senate bill No. 69, which was under consideration during the morning hour yesterday.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pen-

sions, the pending question being upon the first amendment reported by the Committee on the Judiciary to the House amendment, which was in line eleven of the House amendment to strike out the word "January" and insert "October."

Mr. SUMNER. Before the vote is taken, if I can have the attention of the Senator who has this bill in charge, I would ask him whether it would not be well to extend the same principle to other officers. The bill confines it to pension agents; but it seems to me there are many other offices which are filled by the Departments that, under the circumstances of the hour, it would be well for the Senate to place, to a certain extent, under the protection of law. I have not applied my attention particularly to this bill to see whether it can be amended in that respect; but I think that there are appointments which are made—for instance, in connection with the customs and in connection with marine hospitals—which it would be well to bring in some way under the protection of the Senate. Would it not be well, I would ask the Senator from New Hampshire, to extend the application of the bill to other officers?

Mr. CRAGIN. The Senator from Massachusetts is mistaken in supposing that I have special charge of this bill. The pending amendments to it were reported by the Committee on the Judiciary, the chairman of which committee is now out of his seat; but I think the Senator from Indiana [Mr. LANE] has more information on this subject than I have. I have a special reason why I desire that this bill should pass at an early day. I suppose that the general bill introduced by the Senator from Vermont [Mr. EDMUNDS] would cover the point suggested by my friend from Massachusetts.

Mr. LANE. The history of this matter, as I understand, is this: at the last session of Congress the Senate passed a bill taking the appointment of pension agents from the Interior Department and placing it with the President, subject to the confirmation of the Senate. That bill failed to be acted upon by the House of Representatives. At the beginning of the present session it was passed by the House of Representatives with the amendment to which the attention of the Senate is now called. They propose in that amendment to limit the number of pension agents so as not to exceed three in any one State, and also to provide that the term of office of those appointed after the 1st of January, 1866, shall expire within thirty days after the passage of this act, and that it shall be the duty of the President at once to nominate others to fill their places. When the bill came back to the Senate with this amendment it was referred to the Committee on the Judiciary, and they have reported an amendment to the House amendment, extending further back the time at which the pension agents' offices shall expire, unless reappointed and confirmed by the Senate, so as to apply to all appointed since October 1, 1865. That is the present condition of the bill.

At the last session of the Senate, upon a letter of the Secretary of the Interior, Mr. Harlan, this subject was referred to the Pension Committee. They then reported a bill providing simply that hereafter the appointment of pension agents should be by the President, by and with the advice and consent of the Senate. Prior to that time the appointment was exclusively with the Secretary of the Interior, and there was no limit as to the number which he might appoint. It was thought necessary that the nominations to offices which had grown so important should pass under the supervision of the Senate. At present there are forty-nine pension agents, and not exceeding three in any one State. It is the opinion of the Department that no additional officers are necessary. This bill restricts the appointment so as not to exceed three in any one State.

The history of the appointment of pension agents is simply this: on the passage of the act granting pensions to revolutionary soldiers

those persons were paid and disbursed by the War Department, and they appointed generally bank officers without compensation, supposing that the use of the funds in the interim would pay them for their trouble in the disbursements; but when pensions were increased growing out of the Mexican war and the Interior Department was established, the payment of pensions was given to the Interior Department and pension agents were appointed whose salary was limited by the regulations of that Department. In 1862 a law was passed making the maximum payment \$2,000. Afterward another law was passed making the maximum \$4,000, but still leaving the appointment unrestricted in the hands of the Secretary of the Interior. We thought at the last session, and I think now, that officers so important should pass the supervision of the Senate, and the Senate with great unanimity passed the bill, but it failed, as I before remarked, to be acted upon by the House of Representatives. They send it here now, with certain amendments, and those amendments have been submitted to the Judiciary Committee, and they report a bill which I think perfectly proper in all its terms.

The addition made by their amendments, the only important addition, is, that the terms of officers appointed after a certain date shall expire within thirty days from the passage of this law; and as I desire to deceive no man, and I will do nothing by indirection which I will not do directly, I will state my object at least in voting for these amendments. Honest, faithful, and competent men, simply because they have stood by the policy of Congress and refused to bow to executive dictation, have been removed. We propose now that the offices of the recently appointed officers put in their places shall expire within thirty days from the passage of this bill; and Congress surely has a perfect right to limit the number of officers, to fix the duration of their office, and the compensation for that office; and I propose to do just that by this amendment, no more and no less, so that the men who have received their reward from the President shall not have the sanction of the Congress of the United States, at least for any such arrangement or agreement. I doubt not in many instances worthy men have been appointed to these vacancies; but they have displaced men equally honest, equally competent, and equally worthy, and for no other cause than simply the fact that they have been Republicans and Union men, and have opposed the policy of the President. I propose by this amendment to vacate those offices after thirty days, and that the President shall nominate to the Senate others in their place, and that the Senate shall pass upon them. This, is as I understand, the object and scope of the bill and the amendments.

Mr. JOHNSON. I am not sure that my friend from Indiana will accomplish his purpose if the bill shall pass in the shape in which it is now upon our table. Why the President has dismissed those persons who formerly held these situations and appointed others is a matter of which I know nothing. I take it for granted he has appointed competent men, for I have not heard that there was any charge of incompetency for the duties of the office on the part of anybody. But the House amendment, if I heard it correctly read at the desk, provides that the persons who are in office are to remain in office until their successors are appointed.

Mr. LANE. The Senator will pardon me one moment. That is the very thing that the Judiciary Committee have proposed to strike out. That is the amendment that I favor.

Mr. JOHNSON. Then the object will not be accomplished, because the President can nominate the same men.

Mr. LANE. But we can pass upon them. Mr. JOHNSON. We can pass upon them, and he will continue to nominate. It is not the question what the President should do. I have a very decided opinion upon that question myself; but that is not before us now. We are not now considering what the President

should do in the case of an appointment of his during the recess, which, upon its being presented to the Senate by a nomination, has been rejected by the Senate, and he has reappointed the same man after the Senate has adjourned. As the law stood at the time these appointments were made, and as it stands now, the President had a right to appoint these officers, or the Secretary of the Interior had, which is the same thing, for he acts under the advice of the President, without consulting the Senate at all. This is not, therefore, such a case as my friend from Ohio [Mr. SHERMAN] would seem to suppose from a side remark he dropped to me; but it is a very different case. The only question here is whether the men who are in office now shall go out of office at the expiration of a certain number of days after the passage of this bill. As I said before, I do not see that that object will be accomplished, because the President can appoint them again. We can reject them, of course, but he can go on appointing, and we go on rejecting, and the office in the mean time will not be filled. My own impression is, and it was under that impression that I voted for the original bill when it passed the Senate, that these appointments should be made with the consent of the Senate. They are now much more important than they ever were before. The officers are intrusted with a large amount of money, and their competency, therefore, is a question upon which I think the Senate should have the authority to pass.

Mr. SHERMAN. If I understand the purpose of the bill, it is simply to carry out the idea expressed by the Senator from Maryland. As these pension agents have now become very important, as they disburse something like twenty-five million instead of one or two million a year, it is proper that their nomination should be communicated to the Senate and passed upon by the Senate. They are no longer "inferior officers" in the sense of the Constitution, but they are important officers, their disbursements being equal to the entire expenses of the Government thirty years ago. The main object of the bill, therefore, is clearly right—to require the nominations of these officers to be sent here. But the object of the Senator from Indiana is to have the existing officers legislated out of office at the expiration of thirty days, so that their names or those of their successors may be sent to the Senate for confirmation. I think that is perfectly proper.

While the Senator from Maryland was speaking, I made a remark to him to which he alluded. It was, that if the President would still insist upon appointing men whom the Senate had rejected, I would make the contest with him on that point. Sir, I say that if the President of the United States seeks to overthrow the authority of the Senate, clearly conferred upon it by the Constitution of the United States, I would make the point upon him. I introduced in the early part of this session a bill, which was referred to the Committee on the Judiciary, and which I hope will be acted on, to make it a criminal offense to seek thus to violate the Constitution of the United States and to override the judgment of the Senate. The Senate have the same constitutional power to pass upon nominations that the President has to make them. If the President can ignore and repudiate the deliberate judgment of the Senate, it is better to change the Constitution at once and give him the sole appointing power. If he seeks a contest or a point of that kind I am perfectly willing to accept it.

When the President makes a nomination to the Senate he has exhausted his power; and when the Senate reject that nomination there is an end to that appointment; and he cannot, after the close of the session, renominate that person to the same office without violating the spirit of the Constitution and in a measure violating his oath of office. And, in considering a question of this kind in the case of a conflict between the Senate of the United States and the President of the United States, I will not regard the opinion of the Attorney General or

any other officer. We are to pass upon it ourselves, as we have the constitutional right to do. That is all I desire to say.

Mr. JOHNSON. I suppose nothing that I said could have induced the honorable member from Ohio to think that I concurred in the propriety of reappointing a person whom the Senate had rejected. I said that I had a very decided opinion upon that question, and that is, that it is an abuse of the power of the President. Whether he has the power is a matter about which, until lately, there has been no doubt, because not only one Attorney General, but all the Attorneys General to whom the questions have been submitted, and all the Presidents since the days of Washington, have concurred in the doctrine that the President is at liberty to reappoint one who has been rejected by the Senate. My own opinion is, irrespective of that construction of the Constitution, that the Constitution warrants no such thing; and I am perfectly willing to go as far as the Senator from Ohio, if it can be accomplished by legislation, to legislate upon that subject so as to prevent what, in my judgment, is an abuse of the power if the power exists. But that is not the question here, for the reason I stated just now. The President is under no obligation to consult the Senate on these appointments.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the proposed amendment to the amendment?

Mr. HOWE. I was going to suggest, in accordance with the opinions of several Senators with whom I have conferred, that July would be a better time to introduce there than October; but I suppose the action of the Senate is confined now to either accepting or rejecting that specific word, is it not? Would it be in order to move now to amend that proposition?

The PRESIDENT *pro tempore*. The Chair thinks not. It is an amendment to an amendment.

Mr. HOWE. I supposed so. I think we had better not agree to that amendment, and I will then move to amend by inserting "July" instead of "January."

The PRESIDENT *pro tempore*. The decision just announced was hasty, inadvertent. The Chair is of opinion that under the rule the amendment of the House becomes a part of the text of the bill, and being a part of the text of the bill an amendment to it stands upon the same ground as an amendment to an ordinary bill, which is susceptible of an amendment to it as an amendment; so that the motion of the Senator from Wisconsin, if he chooses to make it, will be in order.

Mr. HOWE. Very well, sir. I move then to amend the amendment by inserting "July" instead of "October."

The PRESIDENT *pro tempore*. Then the question is on the amendment proposed by the Senator from Wisconsin to the amendment.

Mr. DOOLITTLE. I should like to have it stated what is the effect of that amendment to the amendment, or have the amendment read as it will stand if amended.

The SECRETARY. The amendment, if amended as proposed, will read as follows:

And provided further, That the term of office of all pension agents appointed since the 1st day of July, A. D. 1865, shall expire at the end of thirty days from the passage of this act.

Mr. SUMNER. Is the pending question on adopting the whole amendment as it comes from the House?

The PRESIDENT *pro tempore*. It is only on the question of striking out the word "October" and inserting "July" at the present time.

Mr. SUMNER. Very well.

Mr. HENDRICKS. I am indifferent what day shall be fixed; but now that the purpose of this amendment has been so explicitly stated by my colleague, I suppose every Senator understands exactly what he is voting upon. It is the naked proposition of legislating men out of offices—offices to which they have been appointed according to law. Where party



friends were to be provided for there have been instances where officers have been legislated out of existence, and then the office legislated into existence again with a view to provide for dependent partisans; but I think this is about the first time the Congress of the United States has undertaken, in direct terms, to legislate a class of men out of office that other men of more satisfactory views might be appointed to their offices. In other words, it is simply a question of "bread and butter." The Administration has been charged with giving some little attention to that question. It cannot now be disguised, after the very explicit statement of my colleague, that Congress proposes to give attention to the question of "bread and butter."

I am not going into any vindication of the President on the question of removals and appointments. If he intended to maintain the force of his Administration in the State which I represent, along with my able colleague, by placing the offices in the hands of his friends, he has made but a very limited effort in that direction. Compared with the entire number of office-holders in the State, those who have been appointed by him to maintain his policy are very few indeed, so far at least as I know. Of the pension agents in the State of Indiana I know of but one change; so that I do not know of any abuse of power by the President, if the President is to have the appointing power at all, that we are called upon to correct.

I am not sure that the number of agents ought to be limited, as this bill proposes. I understand that the agents are compensated by a commission, and that it makes but a very trifling difference to the Treasury whether there are three or six agents in a State; but it may make a very great difference so far as the convenience of the pensioners is concerned. I can look over the State that I represent and can see, in my judgment, that there ought to be more than three agencies there. I think my colleague will agree with me in that. The northeastern portion of the State should have an agency at Fort Wayne. There is one there now I know very well. The central portion of the State should have an agency at the capital. The southern portion of the State one at New Albany. The southwestern portion of the State one at Evansville. The northern portion of the State one at Laporte or some other convenient point. These are matters of convenience to the pensioners. But my colleague has the main responsibility of this question, he being the chairman of the Committee on Pensions. I would not, with my judgment of what will tend to the convenience of the pensioners themselves, vote to restrict the number of agencies in the State of Indiana to three. I think it will prove a matter of great inconvenience to the pensioners, and necessarily throw them into the hands of private agents to whom they will have to pay money to transact their business. If the public agencies are at remote points they must transact their business through private agents or else be at the expense of traveling a distance. That is not well; it is not necessary. It is not necessary when there is no economy to the Treasury by decreasing the number of these agencies. It is not necessary to increase the inconvenience to the pensioners when there is no saving to the Treasury. The general proposition now, because the amount of money paid out by these agents has increased to so great an extent, of subjecting them to the confirmation of the Senate I agreed to at the last session when my colleague brought the question up. I have no objection to that. I think it is proper enough.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill for the admission of the State of Nebraska into the Union.

Mr. LANE. I move to postpone the unfinished business for the purpose of getting a vote on this matter. I think it can be disposed of in a few moments.

Mr. WADE. I believe this subject is going to lead to a long debate, and I can hardly consent to a postponement of the bill for the admission of Nebraska which I have been endeavoring now for nearly six weeks to urge to a conclusion. I do not like to interpose an objection to the bill of the Senator from Indiana, but really it seems to me I ought not to permit the bill which was under consideration yesterday to be postponed. I am satisfied this subject will lead to a debate. I hope we shall proceed with the unfinished business of yesterday.

Mr. LANE. If this subject leads to debate I shall not object to its postponement.

Mr. WADE. If it is not going to lead to debate, I am very willing to let the special order lie over informally.

Mr. JOHNSON. I do not propose to debate it, but I suggest to the Senator from Indiana that he had better let the bill lie on the table for the present. It seems to me to be very defective. It would involve the most of the soldiers to whom pensions are due at times to very great inconvenience. The present pension agents, if we pass this bill, go out at a certain time, must go out, no matter what the Senate shall do.

Mr. LANE. If Senators wish to look at it further I shall not object. I withdraw my motion.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, communicating, in compliance with the requirements of the acts of April 21, 1808, and March 8, 1809, statements by the chief of ordnance showing the orders given and purchases made by the ordnance office during the calendar year ending December 31, 1866; which, with the accompanying documents, was referred to the Committee on Military Affairs and the Militia.

He also laid before the Senate a communication from the Secretary of War, communicating, in compliance with the requirements of the acts of April 21, 1808, and July 17, 1862, the Quartermaster General's statement of the contracts made by his department from July 1 to December 31, 1866; which was referred to the Committee on Military Affairs and the Militia.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men; and for other purposes; and the enrolled joint resolution (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next; and they were thereupon signed by the President *pro tempore* of the Senate.

#### SUFFRAGE IN THE DISTRICT—VETO.

The message also announced that the House of Representatives, having reconsidered its action on the bill (S. No. 1) to regulate the elective franchise in the District of Columbia, agreeably to the Constitution of the United States, had passed the bill by a vote of two thirds of the members of that body, the objections of the President to the contrary notwithstanding.

Mr. MORRILL. I desire to ask the unanimous consent of the Senate to introduce the following resolution, which is necessary to perfect the legislation of yesterday:

*Resolved*, That the Secretary of the Senate be directed to present to the Secretary of State the bill entitled "An act to regulate the elective franchise in the District of Columbia," together with the certificates of the Secretary of the Senate and the Clerk of the House of Representatives, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the same had been returned to the Senate by the President with his objections, and after the reconsideration of said act by both Houses of Congress, in accordance with the Constitution.

The resolution was considered by unanimous consent, and agreed to.

#### ADMISSION OF NEBRASKA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union.

The PRESIDENT *pro tempore*. The pending question is on the amendment proposed by the Senator from Massachusetts [Mr. WILSON] to the amendment proposed by the Senator from Missouri, [Mr. BROWN.]

Mr. GRIMES. I ask for the reading of the amendment to the amendment.

The Secretary read the amendment to the amendment, which was to strike out all after the word "color," in line five of the amendment of Mr. BROWN, and in lieu thereof to insert:

Excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act; upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act, to act upon the condition submitted herein.

Mr. WADE. This is the same amendment that was up when the Senate adjourned yesterday. I hope it will be rejected.

Mr. SUMNER. In the absence of my colleague I moved that amendment. I believe I called last evening for the yeas and nays. I am mistaken; the Senator from Ohio called for the yeas and nays. I suggest to him to withdraw the call.

Mr. WADE. I have no desire to have them. I called for them because I wanted to ascertain whether there was a quorum present, and I found there was not.

Mr. SUMNER. By unanimous consent the call can be withdrawn.

Mr. WADE. If I can have permission to withdraw the call I will do so.

The PRESIDENT *pro tempore*. The Senator from Ohio asks leave to withdraw the call for the yeas and nays. It can only be withdrawn by the unanimous consent of the Senate. Is there any objection? No objection being made, the call is withdrawn. The question is on the amendment to the amendment.

Mr. SUMNER. I would say at this stage that I should prefer to take a vote on that amendment, if possible, without bringing it in conflict with any other proposition. I think it would be better, therefore, that we should vote, if the Senate is so disposed, on each of the pending propositions without antagonizing one with the other; therefore I shall be glad to have this amendment for the present out of the way so that we can proceed at once to the consideration of the amendment of the Senator from Missouri, who is not now in his seat.

Mr. WADE. Let it be rejected, then.

Mr. SUMNER. Very well; I have no objection.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Missouri, [Mr. BROWN.]

Mr. SUMNER. I ask to have it reported.

The Secretary read the amendment, which was to insert at the end of the second section of the bill the following proviso:

*Provided*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other rights, to any person, by reason of race or color, and upon the further condition that this fundamental condition shall be submitted to the voters of the Territory of Nebraska at an election to be held on the first Tuesday of next. And at such election said voters shall declare their assent to or dissent from the condition aforesaid in such form as shall be prescribed by the Governor of said Territory. And all votes given at such election shall be returned to such Governor within days from the day of the election, who shall forthwith canvass the same. And if a majority of such votes shall be for this condition, the Governor shall certify that fact to the President of the United States, who

shall by proclamation announce the fact; whereupon, without further proceedings on the part of Congress, this act shall take effect.

Mr. WADE. I hope the friends of the bill will not vote for this amendment, because it is equivalent to rejecting the constitution. It will have to go back before the people, and will be equivalent to making a new constitution. Those who are in favor of the bill I presume will vote against this amendment.

Mr. GRIMES called for the yeas and nays on the amendment, and they were ordered.

Mr. FESSENDEN. I should like to know how this amendment stands with reference to the amendment proposed by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. WADE. That has not been offered.

Mr. FESSENDEN. Is it not on the table?

Mr. WADE. No; it has not been offered. It was only presented informally. He proposes to offer it.

Mr. EDMUNDS. If this amendment of the Senator from Missouri shall not be agreed to, then I propose to offer the amendment which has been printed, and which I submitted on the 20th of December; but I do not wish to offer it as a substitute for the pending amendment, because either of them intrinsically would produce practical justice. I prefer my own to that of the Senator from Missouri, because I believe it puts the authority of Congress over this subject on its true ground.

Mr. SUMNER. Mr. President, I shall vote for each of the propositions that have been offered to the Senate by the Senator from Missouri, my colleague, and the Senator from Vermont. But, sir, the course of the Senate on this bill fills me with anxiety. Since the unhappy perversity of the President nothing has occurred which seems to me of such evil omen. It passes my comprehension how we can require Equal Rights in the rebel States when we deliberately sanction the denial of Equal Rights in a new State, which is completely within our jurisdiction and about to be fashioned by our hands. Others may commit this inconsistency; but I will not. Others may make the sacrifice; but I cannot. "No more States with the word white." Such is the rule I have adopted, and to this I shall adhere. Let Congress adopt this rule and the future of the Republic will be secured forever.

It seems as if Providence presented this occasion in order to give you an easy opportunity of asserting a principle which is of infinite value to the whole country. Only a few persons are directly interested; but the decision of Congress now will determine a governing rule for millions. Nebraska is a loyal community, small in numbers, formed out of ourselves, bone of our bone and flesh of our flesh. In an evil hour it adopted a constitution which is bad in itself and worse still as an example. But neither the tie of blood or the fellowship of party should be permitted to save it from judgment. At this moment Congress cannot afford to sanction this wrong. Congress must elevate itself if it would elevate the country. It must be itself the example of justice, if it would make justice the universal rule. It must be itself the model which it recommends to others. It must begin "reconstruction" here at home.

It is with pain that I differ from valued friends around me, and see a line of duty which they do not see. Such is my deference to them that, if the question were less clear or less important, I should abandon my own conclusions and accept theirs. But when the question is so plain and duty so imperative I have no alternative.

Let me add that, in taking the course I do, I have nothing but friendly feelings for the Territory of Nebraska, or for the men whom she has sent to represent her in the Senate. I wish to see Nebraska populous and flourishing, and the home of Human Rights secured by irrevocable law. And as for her Senators, I know them now so well that I shall have peculiar pleasure in welcoming them on this floor. But there are voices from Nebraska which I wish you to hear. I have in my hand letters,

only recently received, from which, with your permission, I will read. Here is one:

NEBRASKA, December 4, 1866.

SIR: You will pardon me for the liberty I take in addressing you when I state that I do it in the interest of republicanism and fair dealing. The admission of Nebraska as a State will doubtless come before Congress during the session just commenced, and the action of the same will doubtless determine the question whether we are to become a State under a constitution made by a Copperhead Legislature, the provisions of which would come fully up to the prospective aristocratic idea of any southern rebel State on the continent.

When I consider that Republican counties, Nebraska for instance, which gave 350 Republican majority at the October election, gave 143 majority against the constitution; and, further, when it is remembered that many Republicans, who are in favor of its becoming a State, but were unwilling to endorse this proscription of rebel constitution, stayed at home, thereby allowing it to be adopted by default on their part; if, as is claimed, that it is desired by the people to become a State, give us an enabling act; let us make a constitution that is republican in form, and use the great desire to become a State as a lever to adopt a constitution founded upon just principles. If you admit Nebraska with her present constitution, what can you consistently demand of the rebel States, when it is a noted fact that Nebraska is cursed with a large number of the most damnable rebels and bushmen that ever cursed America? Sir, should your honorable body admit Nebraska with her present constitution, we, as a Republican party, in our efforts to amend the constitution, are to be met with your acts as a standard of republican doctrine, which will set us back ten years in elevating the republican standard to its logical and rightful point. If you reject this constitution, I will venture to say that within twelve months Nebraska will knock for admission into the Union with the first republican constitution ever offered to the Congress of the United States by a State asking admission.

HON. CHARLES SUMNER.

Mr. WADE. Who is that from?

Mr. SUMNER. A good Republican of Nebraska.

Mr. WADE. What office does he hold in the Territory?

Mr. SUMNER. None that I am aware of. Sir, these are noble words, declaring the noble ambition that Nebraska should take the lead in the file of republican States. Here is another letter:

December 20, 1866.

HON. CHARLES SUMNER: I desire to express to you and those Senators who think, talk, and act like yourself on the admission of Nebraska, with her present constitution stained with cutaneous distinctions, my warm and profound regard and admiration; and to assure you, as a citizen of Nebraska, that I most sincerely hope that Territory will be kept in her present condition until she exhibits a clean breast or chart for your approval.

Principle is ever paramount to any temporizing policy; therefore, for the honor of a just and patriotic Senate, and the present and future welfare of Nebraska, I earnestly desire that she may be taught to acknowledge equality before the law. Beside, it seems to resemble arrogant presumption, not to say insult, for her people to "knock for entrance" on any other principle, especially in view of the impressive lesson of the age and the stern logic of events.

I have had no conversation with her Senators-elect on this subject, both of whom I know personally, and whom I can indorse as radical; but I must confess that if Gabriel were asking for admission with such a stigma I would say, "Depart from me; I know you not."

Now, honorable sir, since nothing good, even on the low plane of expediency, in view of the present radical majorities in Congress, can result from the admission of Nebraska at present; and since it would save the people of that Territory from future political discussions and dissensions, and since it would prevent the Senate from the sanction of injustice and the establishment of a reprehensible precedent, I most sincerely trust that your honorable body will sanction and sustain the cause of justice and humanity by keeping Nebraska "out in the cold" until she can pronounce the American shibboleth, "Liberty and equality."

Very respectfully.

Mr. HOWARD. I beg to inquire of the honorable Senator from Massachusetts whether he is acquainted with the writer of that letter, either personally or by reputation?

Mr. SUMNER. Yes, by reputation; not personally.

Mr. WADE. Tell us who he is.

Mr. SUMNER. I think I ought not.

Mr. WADE. Then we ought to pay no attention to it.

Mr. SUMNER. Very well; the Senator will do as he pleases. He is a gentleman in the public service.

In looking at this question we are met at the threshold by the fact that in a vote of nearly seven thousand, there were little over three

thousand, with a majority of only one hundred in favor of the constitution which you are now asked to accept. It is at the call of little more than three thousand voters that you are to recognize a State government which begins its independent life by defiance to the fundamental truths of the Declaration of Independence. For myself, I am at a loss to understand the grounds on which this can be done, unless in your anxiety to gratify the desires of a few persons and to welcome the excellent gentlemen from Nebraska, you are willing to set aside great principles of duty at a critical moment of national history. It is pleasant to be "amiable," but you have no right to be amiable at the expense of Human Rights. It is pleasant to be "lenient," as the Senator from Ohio, [Mr. WADE,] who is pressing this bill, expresses it; but take care that in lenity to this Territory you are not unjust. There can be no such thing as "lenity" where Human Rights are in question. The language is entirely inapplicable.

The Senator from Ohio, over the way, [Mr. SHERMAN,] does not leave any room for discretion. He says we are bound by the enabling act passed some time ago, authorizing proceedings to form a State government. Very well; assume that the Senator is right, and that the enabling act will create an obligation on the part of Congress, all of which I deny. I insist that there has been no compliance with the enabling act, either in form or substance. I repeat there has been a failure both in form and substance.

If we look at the enabling act we shall find that it has not been complied with in form. This can be placed beyond question. By this act, which I now hold in my hands, it is provided that a "Convention" of the people of Nebraska shall be chosen by the people; that the election for such "Convention" shall be held on "the first Monday in June thereafter;" and that "the members of the Convention thus elected shall meet at the capitol of said Territory on the first Monday in July next." Now, in point of fact, such Convention was duly chosen, and it met, according to the provisions of the enabling act. Thus far all was right. But after meeting it voluntarily adjourned or dissolved without framing a Constitution. Afterward the territorial Legislature undertook to do what the Convention had failed to do. The territorial Legislature adopted a Constitution and submitted it to the people; and this is the Constitution now before you. Nothing can be clearer in this statement than this; there has been no compliance with the provisions of the enabling act, so far as they prescribe the proceedings for the formation of a Constitution. The act positively prescribes a Convention at a particular date. Instead of a Convention at the date prescribed we have the Legislature acting at a different date; so that there is plainly a failure in the proceedings for the adoption of the Constitution. The enabling act is in no respect complied with. It is vain, therefore, to refer to it. As well refer to Homer's Iliad or the Book of Job.

But the failure in substance is graver still. By that enabling act it is further provided that the Constitution, when formed, shall be "republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence." Mark especially these latter words, introduced for the first time into an enabling act. Here are essential conditions which must be complied with: the Constitution must be "republican." Now, I insist that a Constitution which denies *Equality of Rights* cannot be "republican." It may be "republican" according to the imperfect notions of an earlier period, or even according to the standard of Montesquieu, but it cannot be "republican" in a country which began its national life in disregard of received notions and the standards of the past. In fixing for the first time an authoritative definition of this requirement, you cannot forget the new vows to Human Rights uttered by our fathers; you cannot forget that our Republic is an example to mankind. Here is an occasion which must

not be lost of acting, not only for the present time and place, but for the distant also.

But there is another consideration, which, if possible, is more decisive. I say nothing now of the requirement that the new Constitution shall be "not repugnant to the Constitution of the United States;" but I call attention to the positive condition that it must be "not repugnant to the principles of the Declaration of Independence." And yet, sir, in the face of this plain requirement, we have a new Constitution which disfranchises persons on account of color, and establishes what is compendiously called "a white man's government." This new Constitution sets at naught the great principles that all men are equal, and that Governments stand on the consent of the governed. Therefore, I say confidently that this new Constitution now before us is not according to the "principles of the Declaration of Independence." Is this doubted? Can it be doubted? You must raze living words, you must kill undying truths, before you can announce any such conformity. As long as those words exist, as long as those truths shine forth in that Declaration, you must condemn this new Constitution. I remember gratefully the electric power with which the Senator from Ohio, [Mr. WADSWORTH], on a former occasion, not many years ago, confronting the representatives of slavery, bravely vindicated these principles as "self-evident truths." "There was a Brutus once who would brook the eternal devil" as soon as any denial of these "self-evident truths." Would that he would speak now as then, and insist on their practical application everywhere within the power of Congress, and thus set up a wall of defense for the down-trodden!

Thus the question stands under the enabling act. This act has not been complied with in any respect, whether of form or substance. In form it has been openly disregarded; in substance it has been insulted. The failure in form may be pardoned; the failure in substance must be fatal, unless in some way corrected by Congress.

Nobody doubts that Congress, in providing for the formation of a State Constitution, may affix conditions. This has been done from the beginning of our history. There is no instance where it has been omitted. Search the enabling acts of all the new States, and you will find these conditions. There they are in your statute-book, constant witnesses to the power of Congress, unquestioned and unquestionable.

Thus, for instance, the enabling act for Nebraska requires three things of the new State as conditions precedent:

*First.* That slavery shall be forever prohibited.

*Secondly.* That no person shall be molested in person or property on account of religious worship.

*Thirdly.* That the unappropriated public lands shall remain at the sole disposition of the United States, without being subject to local taxation.

Read the enabling act, and you will find these conditions. Does any Senator doubt their validity? Impossible.

But this is not all. In addition to these three conditions are three others, which in order, if not in importance, stand even before these. They are contained in words which I have already quoted, but which have been strangely forgotten in this debate. Here they are:

"That the Constitution when formed shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence."

Consider this clause; you will find it contains three conditions, each of vital force.

*First.* The Constitution must be "republican." It does not say "in form" merely, but "republican;" of course "republican" in substance and reality.

*Secondly.* The Constitution must be "not repugnant to the Constitution of the United States." But surely any Constitution which contains a discrimination of rights on account

of color must be "repugnant" to the Constitution of the United States, which contains no such discrimination. The text of the national Constitution is blameless; but the text of this new Constitution is not blameless; hence its repugnancy.

*Thirdly.* The Constitution must be "not repugnant to the principles of the Declaration of Independence." These plain words allow no equivocation. Solemnly you have required this just and noble conformity. But is it not an insult to the understanding when you offer a Constitution which contains a discrimination of rights on account of color?

Now in all these three requirements, so authoritatively made as the conditions of the new Constitution, Nebraska fails—wretchedly fails. It is vain to say that the people there were not warned. They were warned. These requirements were in the very title-deed under which they now claim.

Mr. President, pardon me, I entreat you, if I am tenacious in my position. At this moment there is one great question in our country on which all other questions pivot. It is justice to the colored race. Without this I see small chance of security, tranquillity, or even of peace. The war will still continue. Therefore, as a servant of truth and a lover of my country, I cannot allow this cause to be sacrificed or discredited by my vote. Others will do as they please; but if I stand alone I will hold this bridge.

Mr. COWAN. Mr. President, I am in favor of the amendment, which is, I believe, to submit this question to the people of Nebraska hereafter. I do not know that there is any necessity for such haste in the admission of Nebraska as a State that we should not take this precaution in order to be certain that we are right, especially when we find such a difference of opinion among those who have a clear claim to orthodoxy upon a subject of this kind.

I trust, too, that my brethren will take advantage of the peculiar contingency which the Senator from Massachusetts says Providence now furnishes, and that they will respond to it in the proper spirit. If I caught the drift of his remarks at that particular point, it was this: that for a long period of years Providence, for some reason or other, had not given to us an opportunity to be just to black people; had not given an opportunity to recognize the equality of black people; not given an opportunity to admit black people to coöperate with our own race in the government of sublimary things here, but that contingency has at last happened. If that be so, Mr. President, I must confess that I have had very confused views of Providence heretofore. I supposed that the world was governed by Providence, and I supposed that the word came from the fact that He did provide for the government of the affairs of men. I was perfectly willing that His ways were mysterious, very mysterious indeed. I could not understand why He allowed certain things to prevail in the world which to my mind were wrong and improper. But from the best lights that I could get, and from the closest observation I could make of things, in the end they generally came out right.

Now, if, as the Senator says—and I use his own words, in quoting the Declaration of Independence—"all men are equal," it does seem to me that Providence could have fixed that fact, if He had desired it, with such certainty as to prevent any very great mistake about it. My honorable friend, the Senator from Massachusetts, is six feet three inches in height, and weighs two hundred and twenty pounds. I am six feet three inches in height and weigh one hundred and ninety pounds, if you please. That is not equality. My honorable friend from Maine here is five feet nine inches—

Mr. FESSENDEN. And a half. [Laughter.]

Mr. COWAN. I beg the honorable Senator's pardon. I would not diminish his stature an inch or half an inch, nor take a hair from his head; and he weighs one hundred and forty

pounds if you please. Is that equality? The honorable Senator from Massachusetts is largely learned; he has traversed the whole field of human learning; there is nothing, I think, that he does not know that is worth knowing—and this is no empty compliment that I desire to pay him now—and he is so much wiser than I am that at the last elections he divined exactly how they would result and I did not. [Laughter.] He rode triumphantly upon the popular wave, and I was overwhelmed and came out with eyes and nose suffused and hardly able to gasp.

Mr. SUMNER. You ought to have followed my counsel.

Mr. COWAN. Why should I not? What was Providence doing in that? If Providence had made me equal to the honorable Senator I should not have needed his counsel, and I should have ridden, too, on the topmost wave. [Laughter.] If Providence rules the world, if Providence is acting in all these things, I should like to ask my honorable friend what Providence has been doing about this negro business for the last ten thousand years. As far as we can go back they have been terribly neglected; and even to-day in Africa, where they live, what is their condition? I suppose that Dr. Livingstone is authority, an orthodox gentleman, a clergyman, a kind of divine man who goes over there moved by the most benevolent purposes, and he gives the most terrible account of those people, who are free, one would think, there if anywhere, to act according to the dictates of Providence and to carry out the will of Providence, if He had any especial will in this matter.

There was another gentleman who went there through terrible tribulation and suffering, a certain Mr. Baker, who had a wife lovely beyond her sex; I think enduring beyond any of the sex of whom I have ever read. She accompanied Mr. Baker, and they gave us accounts of these people in Africa.

If the honorable Senator now insists upon the equality of men, the actual equality of men—I do not mean their equality as to personal rights; I agree to that; they all have a personal right to life, liberty, and the pursuit of happiness; I think that is all true; but if this equality is to extend everywhere, if they have a right to govern, if they have a right to be equal socially, I should like to know if Providence rules the world and if Providence is over all, as He unquestionably is, how the honorable Senator explains the condition of Africa to-day. How can that be done? His ancestors and my ancestors, thousands of years ago perhaps, before development had progressed as it has to end in such specimens as we are of the stock—from all we can learn I am apprehensive perhaps that they were not in a much better condition than the negroes of Africa. We cannot tell exactly that they were. Their history is lost in the mists of remote antiquity; but if they did work themselves on, if they did work themselves up and produced such a result as we see in the United States of America, as we see in France, as we see in England, as we see as the result of the race everywhere, I should like the honorable Senator to explain why it was that the race in Africa during these thousands of years did not make the same progress. Can the honorable Senator tell why they never invented an alphabet? Can he tell why they never built a city, why they never had a nationality, why they never had a history, why they never had traditions, why they never had a literature, why they never had anything of that kind which characterizes the man of progress, the civilized man? All that has been going on under the eye of Providence; but Providence now, at the prompting of Massachusetts philanthropy, I suppose, has waked up to the necessity of, at a single bound, lifting this barbarous people upon the same elevation with the advanced races in the struggle of civilization.

God knows I wish as heartily as anybody else that could be done. But, Mr. President, when that is done, and when it is done actually,



really, in good faith, and according to the laws of Providence, it will be done by that slow development which has brought this race, our race, the vanguard of civilization, to its present position; and that will be through struggle and toil and suffering, and slavery, if you please. There are a great many collar marks about our civilization of to-day. Mr. President, you are a lawyer, and you know that the language of the law even to-day is not divested of the symbols of the slavery of our race at a former period. We still retain the word "servant" and the word "villain." We still retain a knowledge at least of the tenures by which the men of our race held their lands and their rights, too, in former times.

Now, Mr. President, I am opposed to the admission of Nebraska as a State because she is not a State. That is the reason of it. Not because she has chosen for herself to exclude people of a different race from being among her governing classes; I am opposed to her admission because she is not a State. What is a State, Mr. President? A State consists of a number of distinct, independent people inhabiting over a certain Territory which they themselves own, which they have a right to own, and over which they have a right to make laws.

The people of Nebraska, if I understand it, do not form such a people. They do not own the State of Nebraska, to start with. The State of Nebraska, the large mass of it, is yet owned by the people of the United States. There are fewer people in the State of Nebraska to-day than there are in the county in which I inhabit in Pennsylvania. All the people of the United States have a right to go to Nebraska and settle there if they choose. Certainly they have a right to go there from all parts of the States of the United States, and if they go there have they not a right to form the institutions of Nebraska, to determine upon their character, to fix and mold them according to such a result as would be produced by all the people of the several States going into a new Territory? I think it was Mr. Calhoun who once asked what right has the first handful of squatters who go into a Territory to fix its institutions? No right, especially when it is not necessary for their protection, for their security; but it may be exceedingly detrimental to the old States.

Now, I might ask upon what principle of fairness is Nebraska here with fewer people than inhabit Westmoreland county, Pennsylvania? Upon what principle are they to be constituted a State? Are they not in the enjoyment now of all that which we call American liberty? Have they not courts and juries and the means of enforcing just laws? Have they not just laws themselves? Are they not safe and secure? Why do they want to be a State? Not that they are to gain anything in the way of securing their rights, but that they are to become a governing portion of the people of this Union. The same plea precisely is set up for the few people in Nebraska which my honorable friend from Massachusetts sets up with regard to the negro. There are two or three dozen negroes in the Territory, and he says they must belong to the governing class, they must have their share in the government of the country. There are fifty or sixty thousand people in Nebraska, and my honorable friend from Ohio says the people of Nebraska must have a share in the government of the country. Why? Is it because their numbers entitle them to that share? Not at all. Is it because it is necessary for their security and their welfare? Not at all. What is it for? The truth of the matter is, and that is about the whole of it, that it is to have here a member of Congress and two Senators. If you were to take away that tempting, glittering bait from the leading men of Nebraska, I very much question whether anybody there would want it to be a State; I rather incline to think from the vote they took some time ago that the majority would be against being a State.

And what are these Senators to do when they

come here on the floor of the Senate? What interest will they represent? What great interest can sixty or seventy thousand people have to be represented here upon the floor of the Senate? What are these men to do? Really do nothing except to interfere perhaps in the policies of the older States. I represent the State of Pennsylvania. Pennsylvania is a tariff State. Pennsylvania thinks that a protective tariff is essential to her interests. Whether she is right or wrong I do not stop here to discuss; but that is her belief; that is the belief of both parties in the State of Pennsylvania. What if the sixty or seventy thousand people of Nebraska have no interest in the tariff question at all, care nothing about it, do not care whether you have tariff or no tariff, and if they have any interest in it are rather interested against it? They are to come upon the floor here and to weigh in the determination of that question as much as the three and a half millions of Pennsylvania do. Is that fair? Is it according to the terms of the original compact? Is that fair in any sense of the word? Is it fair even according to the Declaration of Independence, where it is said all men are equal? That is not my reading; that is my brother's reading. I believe the language is that they were created equal.

Mr. SUMNER. In rights.

Mr. COWAN. They were created equal; that is at the very outstart the cytolast, the primal cell of all individual, was about and about. I suppose it was. I doubt whether the best microscopes would detect any difference there. But it unfortunately happened that after they left that primal stand-point, after they had progressed from the corpuscular monads, they became very unequal. And it seems this is an exceeding stretch of equality upon the part of this Government to allow a few people in Nebraska Territory to have the same weight upon this floor that New York has and that Massachusetts has, and which may be wielded to the detriment of New York and Massachusetts, and wielded without any detriment to the people of Nebraska. When the Territory of Nebraska shall have been reached by people from all parts of the United States, when it shall have that kind of society which is known to publicists as a State, when they shall become a State in fact, when they shall have such an organization as constitutes a State, I shall be willing to receive them as such. It is well known, Mr. President, to you and to others of us that it is not every collection of people which constitutes a State. A State is a thing which is not made by legislative enactment; a State is a thing which is the growth of time and the growth of society. That that exists in Nebraska I should hardly think was pretended on the part of any of those who advocate her immediate admission.

Then, as it is evident and must be evident to Senators that the admission is simply for the purpose of putting two more Senators on the floor of this body, I would appeal to the dominant majority to know what is the necessity for that. Clearly you have enough already. You have enough for all possible legislative purposes. You have enough to override the veto of the President. You have enough to carry any measure, no matter how wild, how strange, how dangerous it may seem to be to some of us. You have enough to carry it without resorting to anything of this kind, and therefore I cannot see the necessity of it. I think that those who represent here the States, the actual States of the Union, are as much interested as I am to prevent anything of this kind until we are absolutely certain that it is necessary and proper, proper not only for the people of Nebraska, but proper for the people of the Union, too. If I understand this question correctly, it is exceedingly doubtful whether there is even any great majority of the people of Nebraska in favor of it. So far as I remember the election returns, there was but a majority of simply one hundred, and that majority was contested on the ground that some precinct had been thrown out which had given

more than a hundred of a majority the other way. If this is the case, and only half the people of the Territory desire this change in their condition, it is still another reason why we should pause and not be overhasty in our action. I trust, therefore, that this question at least, in pursuance of the amendment, will be submitted to the people of the proposed State in order that we may have fairly their sense. Who knows but that this one hundred of a majority may be one hundred the other way next time, and what then? We are not to force sovereignty upon these people if they do not desire it and do not desire to pay the expenses of it.

Mr. GRIMES. Mr. President, that there may be no misunderstanding among the very few people who may feel an interest in the manner in which I shall vote on the various propositions now under consideration in the Senate, I desire to say a single word.

I shall vote with great pleasure for the amendment proposed by the Senator from Missouri, now absent, and if that shall be adopted, although I have many doubts as to whether there be a sufficient number of people in the Territory of Nebraska to entitle her to a representation in Congress, yet I shall forego those doubts and vote for the passage of the bill. If that amendment be not adopted, I, like the Senator from Massachusetts, shall not vote for the bill even with the amendment of the Senator from Vermont. I apprehend, Mr. President, that that amendment of the Senator from Vermont will amount to nothing. It is a mere declaration on the part of Congress, and a declaration, I apprehend, which Congress has no more right to make than it has to make an entirely new constitution for the State of Nebraska. At any rate, its friends—the Senator from Vermont himself as well as the chairman of the Committee on Territories, who believes it is illegal and unconstitutional, and made an argument to the Senate to prove it to be so—admit that in any event it is a legal question that must be carried before the judicial tribunals to be settled, and therefore we abandon the power which confessedly we have to put this question entirely beyond a doubt, by adopting that amendment and letting it go finally to the Supreme Court of the United States, which has recently rendered some decisions that I apprehend a majority of this body do not approve.

Mr. President, it is said—I think it has been said here to-day, I have certainly heard it in the conversation—that propositions of this kind have been submitted to other States when they have been admitted into the Union; but in every such instance there has been an ordinance of the State admitted agreeing to the terms fixed by Congress, upon which they were admitted. I agree that whenever the State of Nebraska shall have agreed to this condition it will be binding upon the State of Nebraska. But what assurance have we that Nebraska will do that? Are we willing to sacrifice the principle that we have established, and for which we contended yesterday, by passing a bill over the President's veto; are we willing, upon a mere matter of expediency, to abandon that principle which our constituents hold so dear, when it is in doubt whether or not the people of Nebraska will ratify this condition? Is there any such great pressing public necessity, any such great exigency resting upon us to-day that Nebraska should be admitted into the Union, as will justify us in giving a vote here which will be in future like Banquo's ghost, that "will not down."

Mr. President, there is not any doubt as to our power to legislate in regard to the District of Columbia, and we have exercised that power. There is not any doubt as to our power to control the constitution of the State of Nebraska and to determine the manner and form in which the constitution shall be presented to us. There is some doubt in the minds of a great many men as to our power to control the subject in some of the States that have lately been in rebellion. It may be that before we adjourn

we shall deem it to be important and necessary that we shall undertake to exercise that power in those States about which a doubt is entertained and expressed by a great many good and wise men; and are we going to foreclose ourselves to-day by saying that we will not undertake to control this question in a State where confessedly we have the power? I appeal to Senators here to decide whether they believe there is any such a necessity, any such demand on the part of the people of this Territory, for immediate admission as to require such action on our part? Do their interests imperatively demand it? Is there a sufficiency of population to require it? Do we need the votes of the men from Nebraska in the Senate and in the House sufficiently to justify us to sustain our principles and to strain the precedents that have been set heretofore in regard to this question? For my own part, having as a matter of principle voted the other day for the right of free suffrage in the District of Columbia, and having voted for it again over the presidential veto yesterday, I am not to-day to be hurried by a consideration of expediency to ignore and turn my back upon that vote and to say that I was wrong then.

Mr. EDMUNDS. Mr. President, I am not one of those who are in the least degree disposed to abandon a particle of principle in a question of this kind, or of any other kind, to save any emergency whatever. I will never, any more than the Senator from Iowa, "sell the truth to save the hour," however important or urgent may be the exigencies of that hour, because the truth and justice is, in the long run, the highest possible expediency. If I believed as the Senator from Iowa believes, that there were any doubt in respect to the efficacy of the amendment which I have proposed to control the rights of the citizens in the State of Nebraska irrespective of her constitution and irrespective of the will of her people, I should agree with him that we ought to adopt the amendment of the Senator from Missouri and not the amendment which I have had the honor to propose. But inasmuch as it appears to me to be as plain a legal proposition as any that can be asserted, that Congress, in passing an act of legislation, has a right to affix such qualifications to, and conditions upon, that act of legislation as shall seem fit to it, I have no hesitation in proposing the amendment which I shall offer as a substitute for that of the Senator from Missouri; and I do it in accordance with the idea which I entertained that, in proposing this method of legislation and putting it into the form of law, we stand upon the true constitutional grounds in exercising our duty as the guardians of the nation.

We have a right to create States; we have a right to govern Territories; we have a right to sweep them away. Now, if we think it fit to erect the people of this Territory into a State we can say on what conditions they shall be a State. That people may propose to us a constitution for their local government which may not in some of its respects agree with our notions of what is right and just; for example, they may not provide for a trial by jury in the usual form, but may organize a kind and species of jury which they may choose to prefer. In such a case we have a right to declare that anything in their laws or constitution to the contrary, if we erect them into a State at all, shall be disregarded, and that our will in these respects shall be the paramount law of the land, and the reason why we have this right is because it grows out of the necessary and essential paramount power of Congress to erect the State or not, as it pleases. It was asked the other day, suppose these people do not choose to act under it, suppose they do not choose to be a State of that description, hampered and qualified by these conditions which we impose upon them, what is their position? I say, then, let them go without being a State. It is only by the voluntary will of the people in any State that they keep up a State organization. We have no power under the Consti-

tution or without the Constitution to enforce specific performance of political duties.

If a man does not choose to go to the polls to vote we have no power to send the sheriff to compel him to vote or to compel him to vote one way rather than another; but we have the power to declare that if he does exercise the functions of a State which we and by our will only authorize him to execute, what shall be the terms on which he shall exercise those functions. That is the distinction. We are therefore not making a constitution for the people of Nebraska; we are not altering a constitution for the people of Nebraska, but we are declaring that anything in their constitution or their laws to the contrary notwithstanding, the practical exercise of certain fundamental political rights shall never be interfered with. That is what we do.

I do not claim the credit, Mr. President, of having discovered any new invention in respect to this proposition, for I undertake to declare that a majority of the instances in which Territories have been erected into States will show on investigation that in some respect, not always a fundamental respect, not always an important respect, but in some respect or other the paramount authority of Congress in declaring what shall and what shall not be in that State has been asserted in the very act of admission, and after the act of admission no ordinance of the State has been required or adopted agreeing to these propositions. Where the act of admission and the enabling act went together, an ordinance has sometimes been required and has frequently been adopted; but when the act of admission itself has come to be passed, as in this case it is about to be I hope, and in others it has been, there has almost always been incorporated some provision touching public rights, touching public lands, touching the navigation of rivers.

Mr. GRIMES. Will the Senator specify some instance where an ordinance has not been required or has not been passed on a State being admitted?

Mr. EDMUNDS. I will specify the State of Wisconsin for one, where the final act of admission, if my recollection is right, provided that the jurisdiction of the people of the United States over certain rivers should be held intact, and that the State of Wisconsin should never undertake to levy any tolls, dues, or other exactions upon the free navigation of those rivers. It was put in as a section by the force of the law of Congress.

My honorable friend from New Jersey [Mr. FREELINGHUYSEN] has furnished me with another illustration, and the acts of Congress are full of them in some form or other. He has handed to me the act for the admission of the State of Ohio, which declares, not as part of an ordinance to be submitted to the people of that State, but as a part of the paramount law of the land creating that State: "provided the same," (that is the constitution of Ohio) "shall be republican and not repugnant to the ordinance of the 18th of July, 1787, between the original States and the people and States of the territory northwest of the river Ohio."

But, Mr. President, I need not proceed to give a detailed list of the various acts of Congress in which, when the final act of admission came to be passed, Congress has exerted and exercised the power, paramount and supreme, of declaring in such and such respects as it seemed fit to them the exercise of State sovereignty over a given subject should not prevail. As I said the other day, if we were in a court discussing this question as mere lawyers, I take it it would be difficult for my friend from Iowa, or for any other gentleman learned in the law, to maintain that the power to pass a law did not necessarily include and imply the power to impress such qualifications and conditions upon the operation of that law as to the law-making power should seem fit. It is a proposition which I think I can safely defy any man, however great or learned he is, to take the contrary of.

That being the case, Mr. President, I am

not troubled by the doubts which my learned friend from Iowa seems to express. If I were, I would vote cheerfully and gladly with him, because with him I agree that there is no emergency whatever of expediency as it might be called, but it is not expediency—there is no emergency whatever which will justify an American Senator in departing from the true principles of legislation to achieve any temporary object, however necessary and desirable it may be. Thus thinking, I propose to amend the amendment of the Senator from Missouri now pending, by striking it all out and substituting for it this:

*And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right to any person by reason of race or color, excepting Indians not taxed.*

Mr. GRIMES. I suspect that if the Senator from Vermont had pursued his inquiries a little further and examined the legislative proceedings of the first General Assemblies of those States that were erected from Territories, he would have discovered that in every instance there was an ordinance passed affirming the act of Congress, ratifying and agreeing to the terms imposed upon them.

Mr. EDMUNDS. I should like to ask my honorable friend how there could be any act of a State as a State until the State should have been admitted into the Union; and how, therefore, the action of the State afterward, after she had her place, or any failure to act if she failed to act, could affect the validity of the previous act of Congress?

Mr. GRIMES. As I am by birth a Yankee as well as the Senator from Vermont, I will answer his question by asking him another. I will ask him how he expects to get this amendment which he proposes ratified and confirmed unless it is by an act of the first General Assembly of the State of Nebraska, and without that what is the effect of it? I would ask the Senator further how is a man who may be aggrieved by the people of the State of Nebraska not adopting this provision and not agreeing to it to seek his remedy? The Senator will answer me, "in the courts." He told us so the other day. The case is then carried through various courts until it reaches your supreme judicial tribunal here. How that will decide nobody knows. I object to his proposition, because we have the power now to fix this question beyond cavil and doubt, and beyond any possibility of a supreme court or any tribunal deciding against us, and I want to have it thus fixed before it goes out of our hands.

The Senator referred to the act admitting the State of Ohio. Just such a provision as that was incorporated in the act authorizing the admission of the State of Iowa into the Union. That State, which I have the honor in part to represent, was the first State created west of the Mississippi river and north of the Missouri compromise line, and Congress saw fit in its wisdom to declare that that same provision which had been contained in all the organic acts and all the legislation in regard to the Territories that now compose the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin should be extended to us, and when we came into the Union we passed a law ratifying and agreeing to the stipulations that were fixed in that act of Congress.

Mr. EDMUNDS. Suppose you should repeal your law?

Mr. GRIMES. If we were to repeal the law, and any persons were aggrieved by that repeal, then they would be in exactly the position in which the colored people would be in Nebraska if the Senator's amendment should be adopted here. They would have to seek their remedy in the judicial tribunals; and how the judicial tribunals may settle the question he does not know and I do not know. But we do know that we have the power to settle it here ourselves while the question is before us, by requiring the people of the Territory to agree to the provisions of the constitution striking out the word "white." But it is proposed that

we shall refuse to settle it for ourselves and shall allow it to be sent before a tribunal in which I think that a great many of the people of this country at this moment have not any very great confidence as to the manner in which they will decide questions of this character.

Mr. HOWARD. Mr. President, I am opposed to the amendment of the Senator from Missouri, and also to the substitute offered for it by the Senator from Vermont; and although I have already addressed the Senate on this subject at greater length than I expected to do when the discussion commenced, I shall further ask their indulgence for a few minutes while I state some of the views I entertain. I do not believe that under the Constitution Congress has any authority to impose conditions, in the nature of fundamental conditions, interfering with the political rights and powers of a State, as conditions of the admission of new States. Here is the point I take, and upon this ground I propose to stand, no matter whether the condition may relate to negro suffrage, to white suffrage, to female suffrage, or any matter or thing over which a State in the Union has jurisdiction and control in virtue of its being a State of the Union.

Now, sir, what is the amendment offered by the Senator from Missouri? He proposes to add to the very brief bill reported by the honorable chairman of the Committee on Territories for the admission of Nebraska the following provision:

"That this act shall not take effect"—

That is, that Nebraska shall not be admitted as a State—

"except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise or of any other right to any person by reason of race or color; and upon the further condition that the fundamental condition shall be submitted to the voters of the Territory of Nebraska at an election to be held," &c.

Now, sir, after this contemplated election shall have been held—and I admit the power of Congress to direct such an election to be held, because the people are in a territorial condition and subject to our laws—the mover of this amendment proceeds to say that—

"If a majority of such votes shall be for this condition, the Governor shall certify that fact to the President of the United States, who shall by proclamation announce the fact; whereupon, without further proceeding on the part of Congress, this act shall take effect."

That is to say, upon the vote of a majority of the people of the Territory being obtained in favor of this fundamental condition already mentioned, Nebraska shall be admitted into the Union. Well, sir, suppose she is thus admitted into the Union after such an election, what becomes of the objectionable feature in her constitution declaring that nobody but white persons shall vote? What at that moment is the constitution of Nebraska? Has it been altered or amended by our act? No, sir. The constitution of Nebraska under which she will have been admitted into the Union contains the following clause:

"Every male person of the age of twenty-one years or upward, belonging to either of the following classes, who shall have resided in the State, county, precinct, and ward for the time provided by law shall be an elector, namely, first, white citizens of the United States; second, white persons of foreign birth who shall have declared their intention to become citizens conformable to the laws of the United States on the subject of naturalization."

These are the classes, and these are the only classes which by the constitution of Nebraska, as it would then stand, are to exercise the privilege of voting at the polls. Now, under this amendment, although the people of Nebraska, by their votes, adopt this so-called fundamental condition and thus agree in their primary capacity, as a Territory, that there shall be no restriction of the right of suffrage on account of race or color, the legal result plainly is, that under the constitution of the State, which by that vote has not been repealed or altered in any of its features, colored persons would not be allowed to vote. So that the amendment would fail of its object entirely.

Again, Mr. President, have we the power under the Constitution to prescribe to a new

State such terms as seem to be contemplated in this amendment? I insist that we have not. The whole power of Congress over the subject of the admission of new States is contained in a single clause of the Constitution, declaring that new States may be admitted into this Union. But, says the Senator from Vermont, if Congress have the power of admission, Congress may admit upon conditions. I grant it Congress might affix this condition to an act of admission; that one half of the population of the new State should, before they became a State, visit California or China, or go to London, because until that condition antecedently imposed is complied with the State is not admitted and does not possess the faculties of a State; but after that condition is complied with, then I insist that Congress have no power or authority over the subject of State rights at all. If a State is admitted, as I have said heretofore, it must be admitted upon equal terms with other States. The very term "State" itself implies this political equality. Congress have no power, and no power has ever been claimed on the part of Congress, to interfere with the exercise of those rights which pertain to a State as a political community. If we have no such power, how can we contrive to attain, effectually and practically, the same end by insisting upon a fundamental condition subsequent? Sir, we have no such power. Congress has not received it at the hands of the people of the United States, but, on the other hand, that people have declared expressly in the Constitution that all power not therein delegated is reserved to the States respectively or to the people. Is there any power in the Constitution, express or implied, authorizing Congress to interfere with the domestic rights and privileges of the States of the Union? None whatever; and if they cannot do it directly in the shape of a positive act of Congress after the State is admitted into the Union, I ask you upon what principle of law it is that they may do it indirectly and conditionally in the shape of either of these amendments?

If we may undertake in this way to regulate suffrage in the State of Nebraska we may for the same reason, and no other reason, go still further; we may undertake to enact in our law authorizing the admission of this Territory as a State what sort of judiciary shall be organized there; we may descend to the small business of regulating the descent of property, the distribution of estates, the mode of collecting debts, the right of inheritance and of making wills, the marital rights; indeed, all the other rights which every State exercises in virtue of its sovereign power as a State, no matter what that right may be. No, sir; this principle will not bear examination, and Congress has never attempted in any essential respect to impose any such condition upon the new States, interfering with their acknowledged political powers.

The honorable Senator from Missouri, when he spoke in advocacy of his amendment, referred to the act enabling the people of Missouri to form a State constitution. It is but a recital of the provisions contained in almost every act for the admission of new States. It is not a condition, it is a positive enactment and provision of the statute; it reads as follows:

"Provided, that the same"—

That is the constitution of Missouri—

"whenever formed, shall be republican, and not repugnant to the Constitution of the United States; and that the Legislature of said State shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the titles of such soil to bona fide purchasers; and that no tax shall be imposed on lands, the property of the United States, and in no case shall non-resident proprietors be taxed higher than residents."

These are the stereotyped provisions upon which most of the new States have been admitted. Allow me to say one word upon these provisions, sometimes called conditions. The first is that the constitution shall be republican. Is that of any use? Is such a provision of any benefit or any binding force? When the State calls a convention and frames a constitution it does not become the constitution of the State until laid before Congress, and

until Congress has passed its judgment and decided whether it be or be not republican.

The second provision is, that the State Legislature shall never interfere with the primary disposal of the soil of the United States. This provision is inserted from abundant caution. There were at the commencement of the Government some persons who contended for State rights so strongly as to take the ground that a State, after having been admitted into the Union, might lawfully interfere with the right of disposal of the soil by Congress. In other words, that all the public lands lying within the limits of a new State became by the very act of admission the property of the State itself. That doctrine, however, is plainly inconsistent with the Constitution and the rights of the United States. No State, new or old, is competent to interfere with the primary disposal of the soil of the United States. The United States is the owner of land within the limits of new States. Of course, if it is the owner of land, it has the right not only of jurisdiction, if it sees fit to exercise it, but the right of disposition also. It holds it as owner by virtue of its sovereign power as a Government, and a State cannot interfere with that ownership, so that that condition is but formal and nugatory.

The next provision is, that "no tax shall be imposed on lands the property of the United States." Certainly no gentleman will pretend that there is any force or efficacy in this provision, for the reason that the property of the United States cannot be taxed by the State governments, a principle which has been decided repeatedly by the Supreme Court.

The only remaining clause which I think deserves any comment is the last, and is as follows: "In no case shall non-resident proprietors be taxed higher than residents." I do not believe that this clause is constitutional or valid, because it is undoubtedly the right of every State, in the exercise of its legislative power, should it see fit to do such an act of inequality and injustice, to make taxation unequal. Every State Legislature has full and unlimited scope and power over the subject of the taxation of property within its limits, and unless restrained by its constitution may impose unequal taxes and higher taxes upon the property of a non-resident than upon that of a resident. It grows out of the sovereign power of the State over this particular subject of taxation, and the Legislature is responsible only to its constituents for the exercise of the power.

Now, sir, I oppose both these amendments, because I think I discover in them the inauguration of a policy in regard to new States upon which we can never stand. If the old States represented in Congress have the right to impose conditions limiting and restricting the sovereign power of the new States after their admission into the Union, how long will it be before the representatives of the old States, for their own advantage—because they can plead no exemption from the frailties of human nature—will lay prostrate every new State at their feet and make them no better than hewers of wood and drawers of water to the States which happen to be in the Union? No, sir; let us embark in no such experiment, either in regard to suffrage or to any other matter over which a State Legislature has confessedly full and ample control.

I am not prepared to assert here in my seat that Congress have the power to say to the Territory of Colorado or to any other Territory applying for admission as a State, "We have a right to declare what sort of institutions of learning shall be established in your State; we have a right to declare where you shall trade and for what price you shall sell your commodities." I have no idea of entering upon this *terra incognita* of experimental legislation; and I am content to vote for the admission of Nebraska as one of the States of the Union, and am confident that she will do right on the subject of negro suffrage, just as confident as I am that the present States will correct any errors which they may have committed in this regard, if they be errors. It is enough for me



to insist, as I do insist, that Congress have no power to annex this fundamental condition to the admission of the people of Nebraska or of any other Territory as a State. We have not the power; it is withheld from us, and very wisely withheld from us. I shall therefore vote against both the amendments, and hope the bill may be passed in its naked form as it was reported from the Committee on Territories.

Mr. KIRKWOOD. I am in favor of the admission of Nebraska, pure and simple, without conditions or qualifications. I favored it at the last session of Congress, and I favored it at this session, because I believe that under the previous practice of our Government Nebraska is entitled to admission. I believe that the admission of the State will be a benefit to the people of that Territory and thus to the people of the whole country. I believe I am doing the best thing I can for the people of that Territory in voting for her admission as a State. It adds to my pleasure in doing this, that by doing it I can do two other good things, as I believe them to be: I can add to the strength of what I believe to be sound public sentiment in this Chamber, legitimately and fairly, and I can add also legitimately and fairly, as I believe, to the strength and influence in this Chamber and elsewhere of that part of the country in which I live.

But it is said that we ought not to do this thing because we voted a few days ago and yesterday in a particular way touching the condition of affairs in this District. I cannot see the force of that reasoning. The Constitution of the United States confers upon us the government of this District, and in passing the suffrage bill for this District we did what we believed to be for the best interests of the District. I never believed that this District was created and the control of it given to us for the purpose of making it an instrument on which to try experimental legislation. In the State where I live there are a great many people who believe that the prohibition of the sale of ardent spirits is just as important as the giving of suffrage to the blacks in that State. Suppose that we here, in legislating for this District, should deem it to be important to prohibit the sale of ardent spirits in the District, would that become a rule by which we should be open to act when legislating for all the Territories and for the admission of new States? I cannot look upon it so. One third of the population of this District consists of colored people, many of them wealthy, paying taxes; they were liable to be oppressed and injured in their property, perhaps in their lives, by the white people of this District, and therefore it was deemed best to give them the suffrage. I voted for it cordially and cheerfully; but I shall not be at all embarrassed by that vote in any future action I may take in regard to any other locality where a different state of affairs obtains.

Again, it is said that we must reject Nebraska because the constitution she presents to us is not republican in form. I confess I cannot so understand it. It strikes me that, in view of our past history, that statement is absurd. I think I am right in saying that there has been no new State admitted into this Union since its formation, except Vermont and perhaps Maine, in whose constitution this particular exclusion of colored men from voting has not been inserted. I think the constitution of every one of the new States, except Vermont and perhaps Maine, has contained this identical provision. Twenty of the twenty-six States now composing this Union have the same provision. Did not the men who preceded us understand whether a constitution was republican in form or not? Why did they admit Ohio, or Indiana, or Illinois, or Michigan, or Wisconsin, or Minnesota, or Iowa, if they had not republican constitutions? It is said we are bound to exclude Nebraska because we are required to guaranty to each State a republican form of government. We have the power to do that thing, and if the States I have named are not republican in form, why

do we not go to work and guaranty republican governments to States that already have provisions of this kind in their constitutions? I should be glad to know. Why is not a provision brought in here to guaranty to Indiana a republican form of government if she has not one to-day? Why is it not done? Why do not you require us in Iowa to make our constitution republican in form? You have power to guaranty to us a republican form of government. You say we have not a republican form of government; why do not you give us one? Why not? I do not know.

Again, it is said that we may be embarrassed when we come to act in regard to the lately rebellious States. Now, sir, I am free to say that when we come to act upon that subject I shall be prepared, not only to give the ballot to every black man there if it be necessary, but I shall be prepared to exclude from the ballot very many white men there, and I shall not be at all embarrassed in doing so by the vote I shall give upon Nebraska. What is the condition of affairs in those States? What must we do? What must we secure in those States? We must secure the control of those governments in the hands of loyal men. That is one thing we must do. What else must we do? We must see to it that men who have been on our side through this war are protected there in person, in property, in life, in liberty. That we must do. Now, if to do these two things, or either one of them, it is necessary to give to every black man in those States the ballot, I will give it to him. If to do both of these things, or either one of them, it is necessary to exclude four fifths of the white men there, I will do that thing. I shall not be at all embarrassed by the vote I shall give in favor of Nebraska in doing either one or the other of those things. Does the same condition of things obtain in Nebraska I should like to know? Is there any danger that that State will pass into the hands of rebels and traitors? Her sons fought side by side with the sons of Iowa all through this rebellion, for our flag, and not for the rebel flag. The men of Iowa went to Nebraska, and the men of Nebraska came to Iowa, and they fought side by side through this war, with equal bravery, and equally well.

Besides, is there any danger that the rights, the liberties, the property of the loyal men in Nebraska will be hazarded by giving this constitution to the people of that State? No sir; and I cannot stand, and I will not stand here throwing in the teeth of the people of Nebraska the foul insult, as I consider it to be, that they must be treated in a certain way because forsooth we must treat men who live in South Carolina in a certain way! They do not stand upon the same plane. They do not stand in the same condition. What may be necessary for one may not be necessary for the other.

For these reasons, sir, I shall vote for the bill as it came from the chairman of the Committee on Territories. If the sense of the Senate be that either one of these amendments ought to be added to it, I shall still vote for the bill; but I cannot vote for either one or the other of the amendments.

Mr. WADE. Mr. President, I do not propose to argue this question over again, because it has been so thoroughly investigated and debated on both the bills for the admission of Nebraska and Colorado that it seems to me scarcely possible for anybody to say anything new on the subject. Indeed I have hardly heard a word in this debate which was not put forth on several other occasions. The Senate, by a very large majority, passed their judgment two or three times upon this and a kindred question; and I have not the vanity to believe that if I were to oppose that deliberate judgment of the Senate I should have eloquence enough or influence enough to overturn and reverse it. I was therefore in hopes that when this bill again came up for the decision of the Senate this year, before identically the same members who passed upon it at a prior period, we should not have to waste so much time—no, I will not say waste, but take so much time for its consideration.

But, sir, there were some things said by the Senator from Massachusetts to which I feel bound to reply in some measure, though not at length. He called this a rebel State and a rebel constitution—

Mr. CRESWELL. No, he read from a letter in which that statement was made.

Mr. WADE. Perhaps he read it from a letter. I heard those words and supposed they were his own, or if they were not his own that he adopted them by making use of them in the Senate.

Mr. SUMNER. Those words were in a letter from a citizen of Nebraska which I read, directed against the admission of the State at this moment.

Mr. WADE. I did not see the gentleman when he was making use of these observations, but I was very sure that I heard this language repeated once or twice, "the rebel constitution of Nebraska."

Mr. SUMNER. I did not use that language myself.

Mr. WADE. I suppose not. I should think nobody here could use it, because this is one of the most republican and equitable constitutions that I ever read with the exception of this provision on the single question here in controversy. I am told and believe that it was copied almost literally from the constitution of Wisconsin. The draughtsman of it took that constitution, as I am informed, as the guide and copied its language and provisions into this, so that the two are almost identical.

The Senator read, or said without reading, that this constitution was made by the enemies of the Government, by Copperheads, or something like that.

Mr. SUMNER. I read that from a letter; I made no such statement myself.

Mr. WADE. Then I want to contradict the impression sought to be made by the letter you read; and if you dissented from the sentiment of the letter you ought not to have read it; or if you did read it you should have told us that you utterly dissented from it. That course would have relieved me from the necessity of making any observations on it. The fact, as I am informed, and do not doubt, is that all the Republican members of the Legislature voted for this constitution unanimously, and only five of what are called the Copperhead party and all the rest of that party voted against it. That is the way this constitution comes here, by the will of our friends, those who act with us, those who are Republicans, those who fought with us during the war; and it was opposed by the Democrats who favored the cause of the enemy. Therefore it has a very good parentage; it comes from a very respectable source; or at all events we ought to consider it so, for it comes from the hands of gentlemen holding the same doctrines that we hold, endeavoring to establish the same principles that we undertake to establish. But it was made at a time when this particular question had not been so much agitated as it has been now. Perhaps there was some little controversy on the subject when this constitution was adopted, but the attention of the Legislature does not seem to have been called to it particularly. They seem to have followed the usual form. Congress itself, in the enabling act, had not called any attention to it. That bill passed here, I believe, without the criticism of anybody, without the opposition of anybody so far as I can remember. All seemed to be agreed that these people might come into the Union upon the same terms that other States had formerly come in.

Mr. SUMNER. Will my friend allow me to remind him there that he is a little in error. There was this new condition inserted for the first time on this occasion, that their constitution should not be repugnant to the principles of the Declaration of Independence. I voted for that myself.

Mr. WADE. Very well; I believe that it is not repugnant to the principles of the Declaration of Independence as understood at all times since that instrument was made. The contem-

poraneous construction of it, that which has been followed by courts and public men and Legislatures in all the States, and by Congress, has been the construction which the makers of this constitution followed. If they erred, they erred in company with all the statesmen who had preceded them. It was never before supposed that a State was not republican because it excluded certain classes from the right to vote.

Mr. SUMNER. My friend does not seem to be aware of the new words that were introduced in this enabling act; they were not words requiring a republican government, but requiring that the constitution should not be repugnant to the principles of the Declaration of Independence. These words were introduced for the first time, as I understand, in the enabling act for Nebraska, and I think also for Colorado.

Mr. WADE. I do not know whether this was so or not; but I suppose there never was a constitution that was framed for our approval that was not supposed by Congress, when they acted upon it, to be in conformity with the Constitution of the United States and with their understanding of the Declaration of Independence. I do not believe any man has ever voted for the adoption of a constitution for a State when he believed that it conflicted with the principles of those great fundamental instruments. I never did, and I do not think anybody ever did. I do not think those words, if they were inserted for the first time in this enabling act, meant any more than the act would have meant if they had not been inserted. They were a caution to us not to violate this instrument, and to legislate as all our predecessors had heretofore legislated upon this subject. I do not deny that I should like the constitutions of Nebraska and Colorado better if they contained no such exclusion as the Senator speaks of; but nevertheless, when he talks of their not being in conformity to the Constitution of the United States, because they are not republican in form, I must say that, if that be so, I do not know of any State constitution that is republican. Is it any more anti-republican to exclude the colored people than it is to exclude all the female portion of your population? When you come to make exclusion a test, you cannot get a republican constitution anywhere. Has not a female this inalienable right that you talk about, and is it not tyranny and anti-republican, and everything that is bad and abominable, to deny the suffrage to all females? How do you exclude one half of your population without a thought to the contrary, and then insist that such a constitution will be made all right and republican by letting in a few colored voters? Your test will not bear scrutiny; such a test of republicanism will not answer.

I suppose that the constitution here proposed is, according to the ideas of American statesmen, republican in form, and I believe so because it has the sanction of all those who have gone before us; because no one heretofore has ever questioned the republicanism of a constitution like this.

I wish now to say a word about the insinuations which have been made by the Senator from Massachusetts against my position, as though I had changed it in some way. Sir, it would be exceedingly strange if a man, after having been as long in the councils of the nation as I have been, after having gone through such a terrible warfare—for I have seen nothing else since I have been in Congress for sixteen years past—after having battled for equal rights to the utmost of my capacity during the whole period, should all at once, without any motive in God's earth, change round and desert all those principles. That is the insinuation. Let it go for what it is worth.

Sir, I have some little confidence in the people of Nebraska and Colorado; the Senator has none. He says that I spoke of the lenity which ought to be extended to these people. I said no such thing. Lenity is not the word. They ask for no lenity. They only ask to be permitted to do that which you told them they might do. You said to them that if they would

form a constitution as other States had done, and come here and present it, they should be admitted just as the other States had been. That is all they ask of you. They ask not a particle of lenity. I would not extend any lenity to anybody where a principle was at stake. They barely ask you to live up to the agreement you made. You say, however, that they did not perform it on their part, and thus you undertake to escape it. How was that? You fixed a certain day when they should meet and perform their part of the agreement. They did not meet on that day, but they met on another day, and did substantially what you asked of them. That was not a difference which was any departure in substance from your enabling act. It was the mere ghost of a form which they violated. It was inconvenient for them to effect what was desired on the very day named. It was not named as a condition, on failure to comply with which their action should be void; but it was merely a direction by Congress that the thing should be done on or about such a time, the particular day not being important. It was a bare direction; not a condition-precedent. Now, you undertake to give the narrow construction that it failed altogether, because action was not had on the particular day named. I doubt whether ever a constitution was formed on the very day named by Congress. But these technicalities, these mere ghosts that you interpose between these people and the rights you have awarded to others, it seems to me, are not statesmanlike. If you were defending a man on an indictment for murder such a shadow would hardly avail him; and yet as a statesman you object to the formation of a State constitution that is good in all other respects, because it was not made on the very day that Congress said the people might make it. I do not think that is good logic or good law.

Now, Mr. President, why is it that I stand here the advocate for the admission of this State into the Union when I have, as the Senator says, been generally the advocate of equal rights, and have insisted very much on justice? I will tell the Senator that it is because, when I consider the condition in which the country is, and when I look to the terrible conflict that lies right ahead of us, I feel disposed to arm myself and be equipped with all the forces that are legitimately within my power. The Senator from Wisconsin said yesterday that he once voted for the admission of this State, because he thought we wanted to be reinforced by the principles that these men knocking at your doors are actuated by, as helpmates to carry out the great doctrines that we are endeavoring to establish. Sir, it was a good idea. Now he says, however, that the clouds have passed by and all is fair weather, and there will be in the future no necessity for any reinforcements.

Mr. HOWE. Permit me to say to the Senator that I did not admit that I was seeking for reinforcements of principles. I acknowledged that I was seeking for reinforcements of votes to enforce those principles; but I said that we had got votes enough now.

Mr. WADE. I think I did not misapprehend the gentleman. He did not want any new principle, but he wanted forces sufficient to carry our principles out against all opposition. So do I; but how he could come to the conclusion that we shall not want any reinforcements I am unable to say. When he gave the vote to which he referred, had the Supreme Court of the United States made a decision which lets loose upon all the Union men of the South the bloodhounds of those rebellious, unrestricted States, and denies the right of the military power to protect them? Did he know then that two of the departments of this Government, or perhaps, more properly speaking, one of its departments and the executive branch of the whole, had turned in with the adversary and were ready now to abet his cause? I tell you, sir, you want reinforcements, in prospect too, such as you ever did, to establish and carry out your principles.

Mr. HOWE. I beg leave to say that at the

time I cast that vote in favor of the admission of Colorado the Supreme Court had not made any such decision as is referred to by the Senator from Ohio. I beg leave to say further, however, that in spite of any decision that the Supreme Court has made, if bloodhounds have any of our friends by the throat in any of these lately rebellious communities, and still rebellious communities, the fault is with the Congress of the United States, and not with the Supreme Court, because there are here in both these Houses duly accredited representatives of the loyal party of the nation, sufficient, in spite of the President and in spite of the Supreme Court, to place over all our friends in every one of those communities a government springing from this authority, responsible to this authority and to this authority alone.

Mr. WADE. Very well, suppose that is so, there are enough in numbers; but yet you are in default. I want to reinforce you with some that will make no default; I want to bring you soldiers that will not shrink from any responsibility; and such are knocking at your doors to-day. They are not the limping sort that will leave your friends in peril. If Congress is delinquent, it is because you have not these reinforcements that I want to bring here. If the Senator from Wisconsin stood by his original reasoning and found Congress not sufficient in courage, in nerve, in resolution to do that which they ought to do for the protection of their friends in the southern States, he ought to be as eager to reinforce them by proper soldiery, if I may so speak, as he was when he gave his former vote.

Mr. HOWE. If my friend will indulge me in one more word I shall be glad to say that when he was talking of reinforcements I supposed he was talking of the expediency of adding to our numbers more of the same kind.

Mr. WADE. Not at all.

Mr. HOWE. If he means to say that here is an opportunity to bring in some men of a better kind, that is a new proposition, and it is one that I have not yet considered fully, and I do not know exactly upon what evidence to determine that question if I am called upon to consider it.

Mr. WADE. I determine it upon the evidence the gentleman himself presents. I did not say that Congress were insufficient to the duties we were called upon to perform; but when I stated that the executive officer of the United States and a coördinate branch of the Government had departed from us, the Senator got up and told us that they were not to blame, but that the trouble was in our own body, not being sufficient to give that protection which the time and the occasion required. So he furnished me the evidence; it is not my assertion, but his. If he is right in what he has said, we certainly do want reinforcements of a different character from somebody that is here.

I do not accuse anybody, but I take the Senator at what he himself has put forth. I do not know of any such men here who are deficient in the way he seems to suppose; I do not believe that we have them, for I am disposed to believe that the difficulty rests with others and not with us; although I believe that, by a bold, determined performance of our duty, we have the remedy in our own hands still; and I want to make sure that, if the remedy must be here, we shall have force enough to look down all opposition and see to it that there shall be no doubt that the Republic shall stand unharmed. I will not say that our force to guard these principles is sufficient when, upon the good old doctrines upon which we have always acted, I can immensely reinforce this body. I will leave nothing to doubt that I can make certain in this emergency. I think it is the business of the statesman to overlook these little small technicalities which gentlemen argue about in this body. They make a great fuss about the word "white" in a constitution of a State where there are no blacks—where the question is a simple abstraction. I should be glad to see this difference smoothed down as well as any one; but I will not sacri-

fice this Republic to the ghost of a technicality, when, by following the track beaten by our forefathers from the origin of the Government to this time, we can do an act which will be so beneficial in its results. I think that, when I stand on that ground in demanding this reinforcement I am on a pretty solid foundation.

Now, Mr. President, I think that a little confidence, not lenity, is due to the people of Nebraska. You are not at liberty to suppose that, even if you give them the power, they will act the tyrant. That has not been their habit; that has not been their conduct. They fought the common enemy side by side with us, and, according to their numbers, I am told and believe that no State in this Union furnished a larger proportion of efficient soldiery for the great cause of the war than did the Nebraskians, who some seemed to suppose are going to act the tyrant if you give them the power of a State. Sir, if the specimens of men whom they have sent here to represent them be a true criterion by which to judge of their merits, you are most uncharitable when you suggest that if these men have the right to exclude the blacks from the ballot they will do it. I tell you nay, sir. The road to universal freedom and equality is in elevating these just men and placing them in positions where they can exert influence against this evil of which you complain. I tell you that you will reach universal suffrage quicker through this magistracy being admitted here than you will by the rejection or the alteration of the constitution which Nebraska has presented. For this reason, without remitting one jot or tittle of all the vigilance and power that I could ever exert in favor of human rights, I go beyond technicalities on this occasion, and I look to the great events that may be before us. I know, and feel assured, that the way to equality for the few blacks there may be in Nebraska will be hewed out quicker by the admission of the State than by its exclusion. If, after all the expense and trouble these people have been at to comply with your own terms, you turn the cold shoulder upon them and throw them back, I do not know what the consequence may be. I do not doubt, however, that that same patriotism for which they have always stood conspicuous would overcome any feeling of resentment at your intolerance, and that they would still be as patriotic as ever, but I do not like to put human nature to this test. They have done all that you asked of them; they have come nobly up and agreed to relieve you from the burden of their government, asking that they may have it in their own hands, to mold and modify their own institutions in a way that we cannot understand here.

You all know how eager every territorial community is to become a State. Why is it? It is because when we at a great distance undertake to rule them we cannot understand their wants as they understand them themselves. There are a thousand things necessary in a new State just coming into existence, thousands of cares and troubles to be relieved, that we of the old States at a great distance off do not take the same view of that they do. In other words, they can better govern themselves than we can govern them. The people of Nebraska wish to take the burden of a State government upon themselves and relieve us from it. They have shown themselves perfectly able and capable to do it. They are rich enough; they have the power to do it; they have the will to do it; and why should we wish to retain a jurisdiction over them at great expense and trouble to ourselves, when they can better conduct their own affairs in their own way?

It is for these reasons that I favor their admission, and not because I am opposed to colored suffrage. I am as much in favor of colored suffrage as the Senator from Massachusetts or anybody else; but I do not believe the narrow view which he has taken upon this great subject will result in that meed of liberty and equality to the black man that the course which I pursue will in my judgment secure. Of course I judge only for myself; but such has

been the judgment of a large majority of the Senate upon deliberation. I know well that those members of this body who have constantly voted for the admission of Colorado and Nebraska have done so with no desire to repudiate the great principles of universal equality. There are no stronger sticklers for this great right than this majority who have voted over and over again for the admission of these States. Shall they be branded as men who have abandoned the principle of equality, and shall it be said that they are not up to the elevated position to which we seek to bring the nation up?

Sir, such a judgment will not stand before the American people, and your cause would be most hopeless if the views of the majority were as illiberal as these arguments would seem to persuade us that they were. Sir, I should have little hope if I judged this majority as some of the minority judge them; but, in my judgment, the rights of the colored people and the rights of all men are as safe in the hands of the majority who have voted for the admission of these States as with any men on God's earth. They are gentlemen of intelligence, gentlemen of great experience in statesmanship, who have had their minds turned to this subject for a great while; and they vote to admit these States into the Union. Is it therefore to be said that they have abandoned their principles? The idea is ridiculous. They judge as I do that the true course is to fortify ourselves by the power of these Territories, and to elevate their magistracy so that their influence shall be potential at home to do away with the ghost of an objection raised here, and I know the object will be accomplished in that way more quickly than in any other.

A word now as to this amendment. When the question was argued on a former occasion, I did not anticipate that any such amendment would be offered. It took me entirely by surprise when it was first presented, and I had to marshal such views of the law as I could on the spur of that occasion, without reverting to any authorities, or even to the precedents formed by the constant legislation of this country. It struck me at the time that it could not be well maintained as a constitutional provision, and I did argue that I thought it would be a restriction on these States which was applied to no other States, and that, therefore, it could not be done. That was just a *dictum* without reflection, on the spur of the occasion. I confess that when the books are produced; when the constant practice of this Government is brought here on the floor of the Senate and all in accordance with the view taken by the Senator from Vermont, it is impossible for me to believe that the constant practice of the Government from the earliest period was unconstitutional and wrong. It does not differ at all that I can see from the amendment offered by the Senator from Vermont. I am compelled, therefore, to believe that we may safely ingraft a condition upon the admission of these States just such as we all would wish, and, as I believe, without violation of the Constitution. I yield the loose opinion that I gave when the question first came up, as the authorities that have been produced, and the practice of the Government from the earliest times, are against it. Believing the thing can be done, no man is more zealous that it should be than am I. I should like to see it done, and, therefore, unless authorities and law can be brought here in support of an opposing doctrine, so as to convince me that the Constitution is involved in it, I shall vote for that amendment, and hope it will be carried, and made a part and parcel of the constitution, or, whether it is made part of the constitution or not, a valid condition on which they shall be admitted. They will not complain of it. I know very well, as a matter of fact, as I suppose everybody does, that the question never will be tested by that people, who are now as much in favor of equal suffrage, I presume, as we are, or anybody else.

Mr. HOWARD. I wish to say one word just at this point in the honorable Senator's

argument. I wish to ask him whether he believes it to be a constitutional principle that Congress may insert such an amendment as has been offered by the Senator from Vermont, that is to say, a perpetual condition restraining the people of the State of Nebraska, after she has been admitted into the Union, from regulating the suffrage of her people? I admit that a condition precedent may be enacted, but not one which is to have an *ex post facto* operation.

Mr. WADE. That was my trouble before, Mr. President. I do not believe we can make or adopt any constitution for them which the people of Nebraska may not change if they call a convention and see fit to do it. I think, however, that the condition mentioned in the amendment offered by the Senator from Vermont would be just as valid and irrevocable as any other part and parcel of that constitution; for if the suffrage had not been limited to white persons, does the Senator contend that the State, after you had admitted her, could not call a convention and restrict it to white persons or females or anybody else? It is just as strong, as valid, and as certain as any other provision in the constitution in my judgment.

Mr. HOWARD. I infer from the honorable gentleman's remarks that he thinks this is not a perpetual condition, and that the people of the State, after they have become a State under their constitution may repeal it and set it aside. That is by no means the idea of the honorable Senator from Vermont. He insists, as he expresses it in his amendment, that this restriction shall be perpetual and fundamental.

Mr. WADE. That language is well enough in an instrument of this kind, but I suppose, as a matter of fact, like any other provision in their constitution, which is not a matter of compact between the Government of the United States and the State, they may call a convention and change it. They may change any clause of their constitution they please, provided they do not make it anti-republican, and this among the rest. While I contend that it is just as valid and as lasting and everlasting as any other provision of their constitution, still the whole of it is subject to modification and change like everything else, at the will of the majority of that people changing their constitution.

Mr. HOWARD. If the gentleman will pardon me, let me call his attention to another clause in the amendment which he promises to vote for:

And if any person or persons shall, contrary to this section, in any manner abridge or prevent the exercise of such right—

Mr. WADE. That is not in the amendment now, and is no part of it. It has been modified by leaving that out.

Mr. HOWARD. I was not aware of that. Then let me say another word. The gentleman from Vermont treats this as a convention, as a compact between the people of the State of Nebraska and Congress, never to be repealed, altered, or revoked at all without the consent, of course, of both the parties to this fundamental compact. Such was the explanation he gave other day, if I recollect aright.

Mr. EDMUNDS. The Senator from Michigan does not state my position correctly by any means. I treated it as a law of the United States which Congress passes under the Constitution authorizing it to pass the law, and being thus passed, it is the paramount law of the land, above the constitution of Nebraska, or above any act which her people can affect or change. It may be also, in addition to that, in a certain, limited, and technical sense, in the nature of a compact, just as an ordinary charter of incorporation to a private corporation is, in a certain sense, a compact when they accept that charter and act upon it. But so far as any force or power that we have over it is concerned, I contend that we derive it from our constitutional power to pass the law, and it being a law, the constitution of Nebraska, the action of its people, has no effect upon it whatever. That, therefore, Mr. President, is



the quality which, in my mind, gives it the superiority that I think it has over any other mode of treating this subject, because if you introduce it by compact into the constitution of Nebraska, then it becomes, so far as it is part of that constitution, merely the constitution of that people, and whenever you can get a majority of that people to alter that constitution, so far as it is their constitution it no longer exists; but I have yet to learn from the superior learning of my friend from Michigan that it is in the power of the people of any State to change an act of Congress passed as the law of the whole land under our supreme authority.

Mr. HOWARD. Suppose that, instead of this being a statute of the United States securing the right of suffrage to the colored population, it were a high congressional statute, emanating from the sovereign power of the United States, declaring that in the State of Nebraska property, real and personal, should not descend to heirs-at-law at all, but that, on the death of the owner, following out the suggestion of Mr. Jefferson in his boyhood days, it should escheat to the State; would it be competent for the Legislature of the State to pass an act in the teeth of that congressional statute directing that the property should descend to the heirs-at-law? And if it would be competent for them to do it, upon what ground can the Senator from Vermont uphold the supremacy of this congressional statute of his in relation to the right of suffrage, because the political power of the State over both subjects is precisely the same—the sovereign power of the State as a State?

Mr. EDMUNDS. I will answer my friend. I say it would not be competent for the Legislature of Nebraska to interfere at all with that law; and the only reason why we do not insert such a principle into the act of admission is because it does not commend itself to our sense of fundamental justice and right. That is the reason. I admit that we have the perfect right to impress any condition that we please when we create a State, which is nothing but a political corporation. We can give it just such a life as we choose to give it. If it does not choose to live under that law, let it stay dead. If it does not choose to accept that life and act upon it, then it only acts upon it under the law of the life we have impressed upon it.

Mr. HOWARD. Then the argument leads directly to this conclusion, and it is irresistible and unavoidable, that in reference to the new States that are to come into this Union hereafter, Congress is clothed with omnipotent, despotic power over everything, no matter what it may be, which has heretofore been regarded as subject only to the power of a State. Sir, tell me not that this is not a despotic doctrine; tell me not that the new States of the far West will agree to it. Sir, I am astonished—I say it, of course, with great respect to the Senator from Vermont—to hear a doctrine so tyrannical and despotic advocated upon the floor of the Senate.

Mr. EDMUNDS. Mr. President, all power to make law is despotic, because it is the power to impress the will of the law-maker upon whoever may happen to be the subject of it, and a republican power, unless it be wisely exercised for the equal protection of law, without respect to race or color, is just as despotic as if it were exercised by a single sovereign. The phantom, therefore, of despotic power which we are to exercise has no terrors for me at all. The reason why we do not exercise all legislative power for the Territories is because, consistently with our notions of appropriate democratic government, it is fit to leave to the people of the Territories the regulation of their ordinary internal affairs in their own way; but we have thought it fit for many years, in the regulation of the Territories, to declare that their internal regulations should be equal with respect to each other. We have thought it fit to declare that there shall no more be involuntary servitude except for crime. We have not chosen

to leave it to the people of the Territories to declare that half of them, because they differ from them in the color of their skin, should be the hewers of wood and drawers of water for the white men; and the reason why we have exercised that power which the gentleman calls despotic is because, as representing the public will of the nation, whose citizens the people of the Territories are as well as the people of the States, we have thought that it was a fundamental wrong; while no mere majority of a section should impose upon the minority of that section. Now the question returns, whether this right to vote among men of equal conditions in every respect except color, among citizens equally citizens of the United States in this Territory, is one of those fundamental regulations in which there ought to be equality. That is the question. We may safely leave to the people of a new State which we create, or to the people of a Territory, the right to regulate the descent and distribution of real estate so long as the people of that State or Territory regulate it, so that it operates equally upon the black man and the white man, upon the woman and the child.

Mr. HOWARD. Where do we get the power to leave it to them?

Mr. EDMUNDS. We get the power to leave it to them under the same Constitution under which we get the power to create the State. We may endow them, as I said before, with precisely the faculties that it pleases our supreme will to give them, and our supreme will is only controlled by that high sense of political justice and equality which ought to be inborn in the breast of every American Senator, if not every American citizen. That is where we get the power. The confusion in the mind of my friend—and it is rare that there ever is any confusion in his mind—grows out of his not paying attention to the distinction between the faculties and the powers which may be exercised by a political or any other corporation after we have granted them their charter, and fixed the law of their existence, and while we are in the act of fixing it. Take a bank, if you please. We incorporate a bank. We clothe it with certain functions and faculties which are contained in its charter. We may fix those faculties and functions at any point we please, as it commends itself to our prudence and policy. Once granted, unless we reserve the express right of amendment or repeal, it has passed upon our faith and by the law beyond our control, and we have then no right further to interfere with it. Therefore it is that we have no right in the State of Michigan or the State of Iowa to declare that black men shall vote against the wishes of the majority of their fellow-citizens who are white. We have not the power—I admit it—because when we gave them their creative existence, when we breathed into them the breath of life, we left it to the white men there to say how that thing should be.

But now, when the people of Nebraska, as they are called—not the black people, I take it, but the people of Nebraska, as they are called—come here with a constitution which excludes from the right of voting a portion of their own fellow-citizens, who have had no voice in the question of whether they should be excluded or not, I am not to be told that I am merely fighting a shadow because there happen to be only a few of them. There will be little value indeed in any Government if the rights of men are to depend upon how small the minority happens to be to-day who are to be affected by an unequal or an unjust distinction. I believe, if my memory serves me right—and the Senator will correct me if I am wrong—it was only one citizen of the mighty empire of Rome who defended himself by the proclamation that he was a Roman citizen. The whole power of the State in every Government that deserves the name protects the rights of the last man as well as it does, and equally with the rights of the majority; Government is not worth a straw otherwise.

Mr. FESSENDEN. I should like to ask my

friend from Vermont a question. He knows very well that I agree with him in not only what he has been saying, but with reference to the leading idea of his amendment. I wish, however, to ask him a question to resolve a doubt of mine, a difficulty in my own mind. His proposition to say that this State, if it comes in, shall only come with this fundamental provision that they shall do so and so, is, to a certain extent, overruling their constitution. They come here with a constitution; that provision is not in it; something is in it entirely at war with that provision. Now he says: "You may come in as a State, but when you come as a State, that provision of your constitution shall be of no effect whatever; we so provide, and you must so understand it." I agree with him that if, after that, they, by any action which can be called State action, agree to it and say that it is satisfactory to them so to come in, it will have all the binding force of law; but the Senator will see that he cannot compel a State to come into the Union with any provision that they have not adopted. The question therefore is, in the peculiar circumstances of this case, what will be effected? If Nebraska had not already elected its Senators and its Representatives under the Constitution, but was to act upon that subject, and we should provide that they might become a part of the Union but with this fundamental condition, and they should then elect Senators and Representatives and send them here to their seats, that, undoubtedly, would be considered an adoption of it; they would agree to the condition; they would agree to what we impose upon them. But, as I understand it, they have already elected Senators and a Representative. The practice of electing Senators and Representatives before a State is admitted is a very bad one, and it ought not to be countenanced; but they have done so. Now, suppose we pass this bill with the Senator's amendment, and thereupon, as soon as it is passed, without the question going back to Nebraska in any shape, to the Legislature or the people in any way whatever, these gentlemen choose to take the oaths and take their seats; have they any power to agree to this condition which is imposed upon them? May not the people of Nebraska turn around and say, "We do not choose to come in under those circumstances, and this action of these gentlemen whom we elected under a different provision does not bind us at all?" Is there, in other words, that kind of action, that kind of adoption of what may be called an amended constitution, that would be held, under those circumstances, as a sufficient adoption of it to make it binding in its effect upon the State? Otherwise, if not, we have imposed this condition and we have admitted Senators and Representatives from that State, and they have taken their seats, and there is no action whatever, express or implied, on the part of the State that they accede to the condition thus imposed. I state this to my friend in order that he may be able to dissipate, as he undoubtedly will, any doubt I may have on the subject owing to the peculiar circumstances of the State itself as now represented here, or attempted to be.

Mr. EDMUNDS. The question submitted by my friend from Maine, reduced to a simple point, is: at what period of time have we a right to assume that these people become a State under this fundamental condition which we impose upon them, and what is the evidence that they have so become a State? And he inquires whether the entry and representation by Senators in this body will be evidence which will bind the people to the performance of this condition, and to the complete creation and erection of that State. As I have said before in the course of this debate, the people of any State, whatever may be the limitations in their government, whether as to slavery or anything else, may choose to become dissolved and not to exercise the political functions with which they are endowed, whether they are old or new; and when they cease to exercise those func-

tions, to hold elections, to send Senators and Representatives, and to exercise the other acts which are necessary in political communities, of course as an organized political community that State becomes dissolved, and there is no power in the Government at all, because in the nature of things there cannot be, to compel those people to exercise those functions.

Now, if we admit this State with this fundamental condition, which becomes a part of the act of admission; then any action which her agents and representatives may take under it is *prima facie* evidence that they are exercising political power under the charter of incorporation which we have chosen to grant them. If it turns out afterward that the agents who have thus assumed to represent the State and to exercise those functions with which we have invested them are repudiated by their people, their stockholders, to use an apt illustration, and the stockholders choose to dissolve the corporation, then of course the representative functions of those agents must cease, and we shall only be in the condition that we often are for a short time of having had representatives in this body who, it finally turned out, had no right to be here. We have frequently expelled men, we have frequently rejected the claims of men who have sat as members of this body for a long time upon the ground that they had no lawful authority to sit here at all. Therefore, if these Senators should come in and thus *prima facie* give vital action to the functions of this State under this law, and their action should be repudiated, (and it would be no new thing if it should be,) and the State should choose to dissolve itself rather than to work under the charter of liberty which we give it, the not new thing will happen that for a short time persons will have sat in this body who it turned out had no right to seats.

That is all the difficulty there is about it, and it is the same difficulty that might have existed, allow me to tell my friend from Maine, under almost every one of these previous acts in some form or other, because the final acts of admission of many of these States have authorized the Senators and Representatives to come in immediately, although there were conditions imposed upon their admission which were not to be submitted to the people of the State. Take, if you please, the State of Michigan, a State which is much better represented in this body, according to my judgment, than it used to be. Its Senators and Representatives had been elected irregularly by the people without the sanction of law at all, without the form or color or pretext of law for it, in opposition to law; and the State came here with its constitution, with its Senators and members elected. We passed an act on the 15th of June, 1836, admitting that State into the Union with certain changed boundaries. We sent it back to the people of that State upon the sole question of boundaries alone, that they should assent to those boundaries and nothing else. Then we proceeded, after having sent it back upon that one point, to enact further:

"That nothing in this act contained, or in the admission of the said State into the Union as one of the United States of America upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, Legislature, or other authorities of the said State of Michigan, any authority or right to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State, but that the subject of the public lands, and the interests which may be given to the said State therein, shall be regulated by future action between Congress, on the part of the United States, and the said State, or the authorities thereof. And the said State of Michigan shall in no case, and under no pretense whatsoever, impose any tax, assessment, or imposition of any description upon any of the lands of the United States within its limits."

Mr. FESSENDEN. Was that at war with any express provision of their constitution?

Mr. EDMUNDS. No, sir; it was not at war with any express provision of their constitution, except that general declaration (not an express provision) of the right of the people of the State to exercise complete political sovereignty over all the subjects within its terri-

tory. And I need not say to my honorable friend from Maine that the erection of a sovereignty and giving political power to the people of a certain district conclusively implies that all the political domain in that territory becomes the public domain of the new sovereignty, unless there be in the act creating it, or in the compact by which the act of union is formed, if it be one, some provision to the contrary, because the *prima facie* and fundamental principle of political communities is, that dominion over all public lands within the borders of that community resides in the sovereign power that controls it; and therefore it is that the very subject of the public lands is an instance and a case in point of the exercise of the highest possible power on the part of the Government of the United States in declaring that, notwithstanding this general principle of politics, the State of Michigan should exercise no such control. Her Senators came in; she has not exercised the control; and now, as the Senator from Michigan would put it, suppose she should turn around and undertake to tax the lands of the United States, to exercise disposal over them on the ground that upon the general principles of politics, being a sovereign and independent State and never having assented to this condition imposed upon her by the Government of the United States, her political power was complete; I do not think her Legislature or her people will do it; but if they should, they would discover I fancy, even as the Supreme Court is now constituted, that their road would be a short one to success in a matter of that kind.

Mr. DOOLITTLE. Before the Senator from Vermont takes his seat, there is one point to which I wish to call his attention. It is this: the Constitution of the United States as it is, and the Constitution as it is proposed to be, should the constitutional amendment be adopted by the States, expressly admits the right of the States under the Constitution to restrict the franchise. You remember the provision of the Constitution as it stands.

Mr. EDMUNDS. Yes.

Mr. DOOLITTLE. And the provision of the constitutional amendment which is proposed to be adopted, and which several of the States have already ratified.

Mr. EDMUNDS. Yes.

Mr. DOOLITTLE. That latter provision is in these words:

"But when the right to vote at any election for the choice of electors for the President and Vice President of the United States, Representatives in Congress, the Executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

This constitutional amendment recognizes expressly the power of a State to restrict its suffrage and to deny it to a portion of its male citizens for various reasons. Now, the point to which I call the Senator's attention, and the question I wish he would answer, is this: can Congress by any law, or a State by the ratification of any law of Congress, in any way whatever affect or change that constitutional power which is here admitted to exist in the States? Would not a provision adopted by a State Legislature or the Congress of the United States, or both together, be absolutely void in view of this provision of the Constitution of the United States? Could they alter that? Could they limit the State so that it would not have this power which the Constitution gives? It seems to me it is impossible.

Mr. EDMUNDS. I will answer that question by asking my friend one: whether he thinks that constitutional amendment has been legally adopted yet?

Mr. DOOLITTLE. I do not think it has.

Mr. EDMUNDS. Then if it has not been adopted we will reserve the discussion of that question until it arises.

Mr. DOOLITTLE. The gentleman does

not answer the whole question. Under the Constitution as it is the right of each State to define the qualification of its voters is expressly recognized; and as I stated in the beginning, not only the Constitution as it recognizes that right, but the Constitution as it is proposed to be in case the amendment shall be adopted. So I propose to cover both grounds, and it is equally strong whichever you take, the Constitution as it is or the Constitution as you propose to make it.

Mr. EDMUNDS. I shall be glad to have my friend from Wisconsin point out to me that clause of the Constitution as it is, as he calls it, which declares that the people of a Territory, who are about being erected into a State shall have the right, against the will of Congress, to prescribe any qualification whatever to any of its citizens.

Mr. DOOLITTLE. That is not the question I put at all about the people of a Territory.

Mr. EDMUNDS. No; it is a question I put.

Mr. DOOLITTLE. The question I put is: whether the people of a State by any act which Congress or the Legislature of the State, or both of them together, can pass can be deprived of a right conferred by the Constitution of the United States. Is not such a provision in conflict with the Constitution of the United States? The Constitution of the United States is the supreme law.

Mr. EDMUNDS. If my friend from Wisconsin got up for the purpose of asking me whether I think Congress can pass a law in conflict with the Constitution of the United States, I shall be obliged to admit, without much reluctance, that I do not think they can.

Mr. FESSENDEN. They can pass one.

Mr. EDMUNDS. No; it would not be a law, because it could not have the effect of a law. The question, then, is, not whether Congress can pass a valid law in violation of the Constitution of the United States, but, as my friend now puts it, whether in erecting the people of a Territory into that political corporation which we call a State we can provide by law that there shall be equality among men in that State. I undertake to declare, without the fear of successful contradiction, either here or in the Supreme Court, that there is no clause in the present Constitution which prevents us from passing such a law. The present Constitution, it is true, declares that representation in the various States shall be based upon certain principles, which implies, inasmuch as it is based upon the principle of the qualified electors to the most numerous branch of the State Legislatures, that the people of those States may define what are the qualifications of the electors to the most numerous branch of the Legislature; but it does not prove any inequality in the State if when we create a new one we require equality among its citizens any more than the same argument would apply on the subject of slavery which the present Constitution, but for the late amendment, gave the States the right to dispose of. If we choose to erect a Territory into a State, it does not imply that we may not impress upon it, as a part of the fundamental charter under which it shall act, that equality among men in respect to servitude and in respect to the political right of voting should prevail. There is nothing in the Constitution which can be argued on that point.

Mr. DOOLITTLE. I understand the Senator from Vermont to concede that under the Constitution as it is the States have a right to prescribe the qualifications of their electors. Now, the point is, can we, by an act of Congress which shall be accepted and ratified by the Legislature of Nebraska, change that constitutional provision so that Nebraska cannot define the qualification of her electors when she becomes a State?

Mr. EDMUNDS. Yes; because she becomes a State of a particular character, a State to whom there never has been imparted the power to act in violation of the law of her existence which we give to her. That is the reason.

Mr. DOOLITTLE. My answer to the Senator would be this: Nebraska is a State under the Constitution or she is not. If she is a State under the Constitution, having the rights of a State which the Constitution gives, she must have the right to define the qualification of her electors after she is admitted.

Mr. EDMUNDS. The Constitution gives to a State which we create under an express power of the Constitution just such rights as we choose to remit to her and no others. That is the very point upon which we have been arguing; and therefore, when we create a State of this description, it is too late for her to say, or for any advocate of hers to say, "although I have been born into life with this complexion and this character as the method upon which I must act, I will now go back to some other State and say that she has privileges which I have not."

Mr. DOOLITTLE. Will my friend allow me to say one word further?

Mr. EDMUNDS. Certainly.

Mr. DOOLITTLE. It is this: I think he falls into a fundamental error when he speaks about Congress creating States at all. States grow; States are born; Congress does nothing but recognize their existence and admit them into the Union under the Constitution. Vermont did not grow out of an enabling act of Congress. She came here, growing out of a revolution against the States of New York and New Hampshire, and set up a government of her own, which was recognized by the Congress of the United States, and she was admitted. So was Tennessee; so was Michigan; and so were many of the other States, not in virtue of enabling acts; they grew. It was the people growing up into society that constituted the States, which were recognized, it is true, by Congress, and admitted when Congress in their good pleasure thought proper to recognize and to admit them. I deny altogether that Congress creates a State. It has not the power to create a State. It has only the power to admit those communities which have grown into States or the Territories of the Union into fellowship under the Constitution, with the rights of other States under the Constitution; but when admitted the Constitution is the supreme law which governs every State. Anything that Congress can enact or the Legislature of the State enact to the contrary is as nothing—has no effect whatever; and when Nebraska comes in under the Constitution of the United States, that Constitution reads just the same in Nebraska that it reads in Vermont or in Virginia; and it says to the Legislature of Nebraska and the people of Nebraska that the State has the right to define the qualifications of its electors, and no law of Congress can change it or interfere with it.

Mr. EDMUNDS. I am very much obliged to my friend from Wisconsin for having interpolated into the middle of my plain observations a sufficient amount of eloquence to give them a color to the people. Now, I want to ask my friend from Wisconsin for a little more eloquence in which he shall tell me, supposing then his idea of a State is true, that we reject this bill altogether, is Nebraska a State still or a Territory?

Mr. DOOLITTLE. In a territorial condition.

Mr. EDMUNDS. Then I take it there is no State of Nebraska now, as he admits. He admits that there will be no State of Nebraska until we pass this law. What then makes the State of Nebraska? What gives it its life? It must necessarily be, on his own premises, the law which sets it up; and it is a mere quibble and a play upon words which talks about admitting a State as if it preëxisted. It is the act of admission that creates the political corporation which is a State. There is not anything about the idea of a State except that it is a mere political person created by certain rules for certain purposes. That is all there is of a State. It is not any myth, it is not any huge bugbear the people cannot understand, but it is simply and practically a business corpora-

tion, endowed with the faculties which are given to it by the law that creates it. If it is the will of the people of Nebraska that creates it, then they may give it such an existence and such a law and such faculties as they please in spite of us. If it is our will that creates it and brings it into life, we may modify and limit the exercise of its will according to our notions of justice and propriety.

Therefore, Mr. President, I have to say that the fundamental difference between the honorable Senator from Wisconsin and the honorable Senator from Michigan and the honorable Senator from Iowa, who have addressed themselves to this amendment, and myself, is, that while they seem to suppose that the State is a State in spite of us, and that we merely make a bargain and a treaty with her by which we come into an alliance, my own position is, and on my side the simple proposition is, that it is the law of Congress that creates the State.

Mr. WADE. Mr. President, I gave way for an explanation; but there has been a good deal of eloquence and a good deal of argument and a good deal of good law illustrated since I gave way. However, I had pretty much got through with what I had to say. All I wished to say was, that I am willing to take the bill as it originally stood without any amendment; but I was in hopes that these amendments would tend to harmonize and unite us all if they could be adopted, especially this one of the Senator from Vermont, which I know met the approbation of many very good lawyers in the Senate who believed it could be done, and if it could be done properly it would perhaps reconcile all the difficulties that have been surrounding this matter. I hope, therefore, that the amendment of the Senator from Vermont, if it shall be adjudged to be constitutional and right, will be adopted and ingrafted upon this bill; and if that will tend to unite us all, so much the better. If it should be rejected, then of course the bill will stand as when we voted for it before; and I presume the minds of the Senate are not changed upon that subject. I do not wish to say anything more about it, and am prepared to vote.

Mr. HOWARD. I have but a word to say, Mr. President, and shall detain the Senate but a moment. The honorable Senator from Vermont cited the case of Michigan as one in point and as supporting his principle. It is new as a historical fact, at least quite new to me, that the constitution and government of Michigan were originally formed "without a shadow of law." I am at a loss to know where he gets his information. I happened to be residing in the Territory of Michigan at the time when that somewhat noted event took place, one which was followed by the Toledo war, which my friend from Ohio may have some recollection of. The fact was this: the Territory of Michigan was fairly and equitably entitled, both on account of her population and her conventional rights, to admission into the Union in 1835. By the ordinance 1787 the right was reserved to her to be admitted whenever her population should reach sixty thousand. She had that population, and a population far exceeding that number; but Congress for some reason did not see fit to admit her, notwithstanding the efforts on her part to obtain admission. In the winter of 1835 her territorial Legislature passed an act calling a convention for the purpose of framing a new constitution and State government for the future State of Michigan. The members of the convention were regularly elected at an election held according to the laws of the Territory, under all the usual sanctions. The members of that body were thus chosen: they held a convention and framed a constitution for the State of Michigan in due form. Under that constitution a temporary State government was organized, and the Legislature of the so-called State of Michigan elected members of this body, and the people elected a member of the House of Representatives. She was not admitted as a member of the Union, however, on account of a very serious controversy which

existed between her and the State of Ohio in reference to the southern boundary of the Territory. Congress, at the following session, in 1836, enacted a law for the purpose, among other things, of settling the northern boundary of the State of Ohio, and of course the southern boundary of the Territory of Michigan. That part of the statute the Senator did not see fit to read to the Senate. The first section of it defines with exactness the southern boundary of Michigan and the northern boundary of the State of Ohio. Congress then went on in the same statute to provide that the people of Michigan, at a regular convention to be called by them, should give their assent to this change of boundaries, and ultimately that assent was given, and in the year 1837 the State was formally admitted into the Union by act of Congress. So that, instead of being without any shadow of law, the honorable gentleman will find that from the beginning to the end of these proceedings they were all in perfect accordance with law.

It is very true, sir, that in the preliminary act of admission, that is, the act of 1836, the State of Michigan, like other new States, was prohibited from passing any law interfering with the primary disposal of the soil of the United States lying within her limits. That is one of the conditions imposed upon every new State, and for the purpose of getting rid forever of the once mooted question of the power of the State thus to interfere.

My friend from Massachusetts has for the fortieth time placed his opposition to this bill on the ground that it is not according to the "principles of the Declaration of Independence," without undertaking to define very clearly what those principles are, so far as they are applicable to the right of suffrage; but if I understand him correctly, he means to say that the principles of the Declaration of Independence, which declare that all men are created equal, require that every created human being shall have the right of suffrage. I endeavor to put his proposition in its broadest as well as its most exact form, so far as I can understand it. I do not propose to argue it again, having already said quite enough about it, but I cannot resist the temptation to call the attention of that eminent Senator to the fact that the State of Massachusetts is composed of human beings who have been created; all of whom are endowed by their Creator, according to the Declaration of Independence as understood by him, with the right of life, liberty, and the pursuit of happiness, and also the further right of voting. Now, sir, it is confessedly the law of Massachusetts that none but persons who are able to read and write shall be allowed the exercise of the suffrage. I ask him, and I ask his friends upon this floor who are moving along in the same groove with him, how it is that they can reconcile with the principles of the Declaration of Independence a law which excludes a considerable portion of the created human beings of the State of Massachusetts from the right of voting? If the fact of creation and of birth, of being the common children of a common Creator, gives the right of suffrage as one of the inalienable rights of man, then I shall be very much inclined to recommend to that honorable Senator to correct the legislation of his own State in this respect before he attempts to enforce these theories of his upon the people of Nebraska or Colorado or any other Territory about to come into the Union.

Look at it. An aged man in Massachusetts, paralytic, blind, perhaps unable to walk, but in every other respect fit to exercise the right of suffrage, comes, or is brought, to the poll, and is asked by the inspector whether he can read and write, and the old man says he cannot do either. Disease has disabled him; age has rendered him blind; he has not the ability to comply with the requisitions of the Massachusetts statute; he is turned away from the polls and informed that in that ancient and most respectable land of liberty, he, on account of his misfortune, is not permitted to partici-



pate in the exercise of the political powers of the Commonwealth.

Or take the case of a man who is not educated at all; who can neither read nor write, but is guilty of no crime and is no pauper; a useful citizen of the community. He, too, applies for the exercise of the same privilege, and he receives the same answer. Can the Senator from Massachusetts, with his mind full of his theories of universal liberty and universal perfectability, say that the legislation of his own State is in accordance with the principles of the Declaration of Independence, if his view of those principles be correct? Certainly not. I would say then to him, but of course in the best spirit and without any design to reproach him or those who follow him: "Physician, heal thyself." I regard it as quite as flagrant a departure from the principles of the Declaration of Independence, if they have any application here, to exclude ignorant white men from voting as to exclude black men from voting.

Sir, there is no use in continuing this discussion of the abstract principle. We find ourselves at every step "in wandering mazes lost," and there will be no end to the discussion. I have but to say that I shall vote against this amendment of my friend from Vermont, believing it to be, unwarranted by the Constitution and of dangerous example for the future, a precedent which may lead to great evils in the future of the new States. I shall vote against the amendment of the Senator from Missouri for the same reason. I do not think we have the power; but still if it should be the will of a majority of the Senate to adopt either of these amendments, I shall not, under existing circumstances, seeing as plainly, I think, as the Senator from Ohio does, the necessity which hangs over us, feel at liberty to vote against the bill upon its final passage.

Mr. CRESWELL next addressed the Senate. [His remarks will be found in the Appendix.]

Mr. JOHNSON. I ask for the reading of the pending amendment.

The SECRETARY read the amendment proposed by Mr. EDMUNDS.

Mr. JOHNSON. I suggest to the mover of the amendment that perhaps he had better make the exception narrower than it is by striking out the words "or any other right," for if it passes in its present shape the Indians may have every right taken from them. The State is to be prohibited from interfering with the question of suffrage, or interfering with any other right, except in the case of Indians. I am sure the honorable member did not mean to place them under the absolute control of the State, so as to enable the State to do with them with reference to any rights which the Constitution secures, just what she thinks proper.

After having made that suggestion I will proceed now very briefly to state why I am unable to vote for the amendment, if the Senate are desirous of taking the vote on the bill this evening. If it is the pleasure of the Senate that the debate should go over until to-morrow, it would be equally agreeable to me, but I do not ask it on any account personal to myself. I do not therefore ask for an adjournment; but if any other Senator thinks proper to move an adjournment I will yield the floor for that purpose.

Mr. CONNESS. I think it must appear clear to the Senator having this bill in charge that we cannot come to a vote to-day; and I move, therefore, that the Senate do now adjourn.

Mr. WADE. I cannot argue that question—

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. WADE. But it seems to me we shall never get through unless we hold on. We have been now, I believe, four times endeavoring to reach a vote on this subject.

The question being put on the motion to adjourn, a division was called for.

Mr. WADE. If the Senator from California

will withdraw the motion I will see if we cannot come to an agreement as to the time when we shall take the vote. It seems to me that unless we do that there is no hope of ever reaching a conclusion.

Mr. JOHNSON. I have no objection to that; and I suggest that we take the vote to-morrow at four o'clock. ["Agreed."]

The PRESIDENT *pro tempore*. The motion is that the Senate adjourn. It is not debatable.

Mr. CONNESS. I suppose I have a right to withdraw that motion.

The PRESIDENT *pro tempore*. Certainly.

Mr. CONNESS. I desire to say to the Senator from Ohio that this motion was a friendly motion to the measure he has in charge.

Mr. WADE. I understand that.

Mr. CONNESS. I withdraw the motion now.

Mr. WADE. I am very anxious to have a time fixed, if it can be done by consent of the Senate, when at some hour to-morrow we may agree to take the vote.

Mr. JOHNSON. If the honorable member will propose four o'clock to-morrow I think it will be acceded to.

Mr. WADE. If it is understood that we are to take the vote to-morrow at four o'clock I shall not resist an adjournment.

Mr. SUMNER. Say that debate shall close at three o'clock.

Several SENATORS. Three o'clock.

Mr. WADE. Is three o'clock satisfactory? ["Yes."] Very well.

Mr. CONNESS. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, January 8, 1867.

The House met at twelve o'clock m. Prayer by Rev. Dr. PATON, of New Haven, Connecticut. The Journal of yesterday was read and approved.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, was received, announcing that the President of the United States, having returned to the Senate, in which it originated, the bill entitled "An act to regulate the elective franchise in the District of Columbia," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same, and resolved that the said bill do pass, two thirds of the Senate agreeing to pass the same.

The message further announced that the Senate had agreed to the amendment of the House to the joint resolution of the Senate No. 154, to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next.

### CORRECTION.

Mr. SHANKLIN. I rise to correct the Journal of yesterday. Upon the passage of the resolution offered by the gentleman from Ohio [Mr. ASHLEY] I am recorded as not having voted. I was in my seat, and voted in the negative.

The SPEAKER. The Journal will be corrected accordingly.

Mr. WASHBURN, of Illinois. I call for the regular order.

### ADJOURNMENT.

Mr. NIBLACK. I rise to a privileged question. To-day is the anniversary of the battle of New Orleans. The day has been usually observed as a holiday. Congress has always, I believe, observed it as such. I therefore move that the House adjourn.

Several MEMBERS. Oh, no. The question was put, and the Chair decided that the yeas had it.

Mr. FINCK. I demand the yeas and nays. Upon the demand for the yeas and nays there were—yeas 19, nocs 90; not one fifth of a quorum.

Mr. FINCK. I call for tellers.

Tellers were ordered; and the Chair appointed Messrs. FINCK and DEFREES.

The House divided; and the tellers reported—yeas 22, nocs 88.

The SPEAKER. The Chair votes in the negative, so one fifth not having voted in the affirmative the yeas and nays are not ordered. [Laughter.]

### ORDER OF BUSINESS.

The SPEAKER. The regular order having been insisted on, the House will resume the consideration of the unfinished business of yesterday, on which the gentleman from Iowa [Mr. KASSON] is entitled to the floor.

Mr. KASSON. If there is no objection I will yield to the gentleman from Maryland, [Mr. J. L. THOMAS.]

### PATAPSCO RIVER.

Mr. J. L. THOMAS offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be, and is hereby, requested to transmit to the House all information in the possession of the War Department as to the cost of completing the ship channel of the Patapsco river near the harbor of Baltimore city, and particularly whether the proper estimates and surveys authorized and directed by an act of the last session of Congress have been completed.

### LIGHTING OF PUBLIC BUILDINGS.

Mr. HUBBARD, of West Virginia. I ask unanimous consent to offer a resolution for which I have the consent of the Committee on Public Buildings and Grounds.

Mr. WASHBURN, of Illinois. I called for the regular order of business supposing that it would be the call of the committees for reports. I hope the gentleman from Iowa [Mr. KASSON] will move to postpone his joint resolution and allow the committees to be called in order that we may be able to get at the presidential veto.

The SPEAKER. The Chair will lay before the House the veto message without interrupting the regular order.

Mr. HUBBARD, of West Virginia, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds be directed to inquire into the best and most economical mode of lighting the public buildings and grounds, and that they have leave to report by bill or otherwise.

### PERSONAL EXPLANATION.

Mr. NEWELL. I desire to state that, apprehending I should be absent yesterday, I paired with my colleague [Mr. ROGERS] on the vote on the resolution offered by the gentleman from Ohio, [Mr. ASHLEY.]

Mr. ROGERS. I should have voted in the negative of course. [Laughter.]

Mr. KOONTZ. I will state that I was detained from the House yesterday by sickness. If I had been present I should have voted for the resolution of the gentleman from Ohio [Mr. ASHLEY] in reference to the impeachment of the President.

### MASSACRE AT FORT PHIL. KEARNEY.

Mr. RANDALL, of Kentucky, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Indian Affairs inquire into and report to the House the circumstances attending the reported massacre of three officers and ninety-one enlisted men at Fort Phil. Kearney on the 20th of December last, and that they inquire and report whether in their opinion the continued commission of outrages by the Indians is in consequence of or has excuse or palliation in any mismanagement or improper conduct by Government officials or citizens; and that they also inquire into the expediency of providing by law for an immediate or early transfer of the superintendency of our Indian affairs to the War Department, and report by bill or otherwise.

### PROTECTION OF SHIPPING INTERESTS.

Mr. LYNCH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the agricultural and manufacturing interests of the country were during the war of the rebellion protected and stimulated and improved, while our great commercial interests were nearly ruined

for lack of that protection which the Government was unable to afford; and whereas the restoration of our commerce is of great national importance and essential to the maintenance of our position as a first-class Power; Therefore,

*Resolved*, That the Committee of Ways and Means be, and they are hereby, instructed to inquire into the expediency of allowing a drawback on all duties and taxes upon all articles used in the construction of steam and sailing vessels.

#### PORT OF CRESCENT CITY.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire into the expediency of constructing a breakwater at the port of Crescent City, California, and report by bill or otherwise.

Mr. BIDWELL. I have a memorial on this subject, and I move that it be referred to the Committee on Commerce.

The motion was agreed to.

#### ELECTION IN DISTRICT OF COLUMBIA.

Mr. WENTWORTH. I ask the unanimous consent of the House to offer the following resolution:

Whereas differences of opinion are manifested upon the subject of universal suffrage; and whereas it has been legalized only in the District of Columbia, and must be tested there if anywhere; Therefore,

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of providing by law for an immediate election of all officers in said District.

Mr. RANDALL, of Pennsylvania. I object.

#### ENROLLED BILL AND RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled an act (S. No. 459) suspending the payment of moneys from the Treasury as compensation to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes; and

Joint resolution (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next; when the Speaker signed the same.

#### JOHN B. COTHRAN.

Mr. STOKES. I ask the unanimous consent of the House to introduce a bill for the relief of John B. Cothran, for the purpose of putting it upon its passage.

Mr. RANDALL. I object.

#### MURDER OF UNION SOLDIERS.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the committee appointed by this House to investigate into the facts and circumstances of the murder of Union soldiers in South Carolina, be instructed further to investigate into all the facts and circumstances connected with the murder of a United States soldier named Crego, at Nashville, Tennessee, in December last; also to investigate into all the facts and circumstances connected with the murder of Frank Erickson, a Union soldier at Somerville, Tennessee, in December last, and to report to this House.

#### WILLIAM M. ELLIS AND BROTHER.

Mr. LAWRENCE, of Pennsylvania, by unanimous consent, introduced a bill to authorize the Secretary of the Treasury to examine and settle the claim of William M. Ellis & Brother; which was read a first and second time, and referred to the Committee of Claims.

#### JOHN B. COTHRAN.

Mr. STOKES. I ask that the bill for the relief of John B. Cothran, of Tennessee, to which objection was made by the gentleman from Pennsylvania, [Mr. RANDALL,] be referred to the Committee on Invalid Pensions.

Mr. RANDALL, of Pennsylvania. I have no objection to that.

The bill was accordingly received, read a first and second time, and referred to the Committee on Invalid Pensions.

#### SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. WASHBURNE, of Illinois. I must now insist upon the regular order of business.

The SPEAKER. The Constitution of the United States requires the Senate and House of Representatives to proceed at once to the reconsideration of a bill returned with the ob-

jections of the President thereto. The Chair asks leave to lay before the House a message from the Senate.

No objection was made.

The Clerk read as follows:

IN SENATE OF THE UNITED STATES,  
January 7, 1867.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to regulate the elective franchise in the District of Columbia," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and

*Resolved*, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

J. W. FORNEY,  
Secretary of the Senate.

Mr. INGERSOLL. I ask that the message of the President, accompanying the message from the Senate, be now read.

The message was read, as follows:

To the Senate of the United States:

I have received and considered a bill entitled "An act to regulate the elective franchise in the District of Columbia," passed by the Senate on the 18th of December, and by the House of Representatives on the succeeding day. It was presented for my approval on the 26th ultimo—six days after the adjournment of Congress—and is now returned with my objections to the Senate, in which House it originated.

Measures having been introduced, at the commencement of the first session of the present Congress, for the extension of the elective franchise to persons of color in the District of Columbia; steps were taken by the corporate authorities of Washington and Georgetown to ascertain and make known the opinion of the people of the two cities upon a subject so immediately affecting their welfare as a community. The question was submitted to the people at special elections, held in the month of December, 1865, when the qualified voters of Washington and Georgetown, with great unanimity of sentiment, expressed themselves opposed to the contemplated legislation. In Washington, in a vote of 6,556—the largest, with but two exceptions, ever polled in that city—only 32 ballots were cast for negro suffrage; while in Georgetown, in an aggregate of 813 votes—a number considerably in excess of the average vote at the four preceding annual elections—but 1 was given in favor of the proposed extension of the elective franchise. As these elections seem to have been conducted with entire fairness, the result must be accepted as a truthful expression of the opinion of the people of the District upon the question which evoked it. Possessing, as an organized community, the same popular right as the inhabitants of a State or Territory to make known their will upon matters which affect their social and political condition, they could have selected no more appropriate mode of memorializing Congress upon the subject of this bill than through the suffrages of their qualified voters.

Entirely disregarding the wishes of the people of the District of Columbia, Congress has deemed it right and expedient to pass the measure now submitted for my signature. It therefore becomes the duty of the Executive, standing between the legislation of the one and the will of the other, fairly expressed, to determine whether he should approve the bill, and thus aid in placing upon the statute-books of the nation a law against which the people to whom it is to apply have solemnly and with such unanimity protested, or whether he should return it with his objections, in the hope that, upon reconsideration, Congress, acting as the representatives of the inhabitants of the seat of Government, will permit them to regulate a purely local question as to them may seem best suited to their interests and condition.

The District of Columbia was ceded to the United States by Maryland and Virginia, in order that it might become the permanent seat of Government of the United States. Accepted by Congress, it at once became subject to the "exclusive legislation" for which provision is made in the Federal Constitution. It should be borne in mind, however, that in

exercising its functions as the law-making power of the District of Columbia, the authority of the national Legislature is not without limit, but that Congress is bound to observe the letter and spirit of the Constitution, as well in the enactment of local laws for the seat of Government as in legislation common to the entire Union. Were it to be admitted that the right "to exercise exclusive legislation in all cases whatsoever" conferred upon Congress unlimited power within the District of Columbia, bills of attainder and *ex post facto* laws might be passed and titles of nobility granted within its boundaries. Laws might be made "respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," might with impunity be violated. The right of trial by jury might be denied, excessive bail required, excessive fines imposed, and cruel and unusual punishments inflicted. Despotism would thus reign at the seat of Government of a free Republic, and, as a place of permanent residence, it would be avoided by all who prefer the blessing of liberty to the mere emoluments of official position.

It should also be remembered that in legislating for the District of Columbia, under the Federal Constitution, the relation of Congress to its inhabitants is analogous to that of a Legislature to the people of a State, under their own local constitution. It does not, therefore, seem to be asking too much that, in matters pertaining to the District, Congress should have a like respect for the will and interests of its inhabitants as is entertained by a State Legislature for the wishes and prosperity of those for whom they legislate. The spirit of our Constitution and the genius of our Government require that, in regard to any law which is to affect and have a permanent bearing upon a people, their will should exert at least a reasonable influence upon those who are acting in the capacity of their legislators. Would, for instance, the Legislature of the State of New York or of Pennsylvania or of Indiana or of any State in the Union, in opposition to the expressed will of a large majority of the people whom they were chosen to represent, arbitrarily force upon them, as voters, all persons of the African or negro race, and make them eligible for office, without any other qualification than a certain term of residence within the State? In neither of the States named would the colored population, when acting together, be able to produce any great social or political result. Yet, in New York, before he can vote, the man of color must fulfill conditions that are not required of the white citizen; in Pennsylvania the elective franchise is restricted to white freemen; while in Indiana negroes and mulattoes are expressly excluded from the right of suffrage. It hardly seems consistent with the principles of right and justice that representatives of States where suffrage is either denied the colored man, or granted to him on qualifications requiring intelligence or property, should compel the people of the District of Columbia to try an experiment which their own constituents have thus far shown an unwillingness to test for themselves. Nor does it accord with our republican ideas that the principle of self-government should lose its force when applied to the residents of the District merely because their legislators are not, like those of the States, responsible, through the ballot, to the people for whom they are the law-making power.

The great object of placing the seat of Government under the exclusive legislation of Congress was to secure the entire independence of the General Government from undue State influence, and to enable it to discharge, without danger of interruption or infringement of

its authority, the high functions for which it was created by the people. For this important purpose it was ceded to the United States by Maryland and Virginia, and it certainly never could have been contemplated, as one of the objects to be attained by placing it under the exclusive jurisdiction of Congress; that it would afford to propagandists or political parties a place for an experimental test of their principles and theories. While, indeed, the residents of the seat of Government are not citizens of any State, and are not therefore allowed a voice in the Electoral College or representation in the councils of the nation, they are nevertheless American citizens, entitled as such to every guarantee of the Constitution, to every benefit of the laws; and to every right which pertains to citizens of our common country. In all matters, then, affecting their domestic affairs, the spirit of our democratic form of Government demands that their wishes should be consulted and respected, and they taught to feel that, although not permitted practically to participate in national concerns, they are nevertheless under a paternal Government, regardful of their rights, mindful of their wants, and solicitous for their prosperity. It was evidently contemplated that all local questions would be left to their decision, at least to an extent that would not be incompatible with the object for which Congress was granted exclusive legislation over the seat of Government. When the Constitution was yet under consideration it was assumed by Mr. Madison that its inhabitants would be allowed "a municipal Legislature, for local purposes, derived from their own suffrages." When for the first time Congress, in the year 1800, assembled at Washington, President Adams, in his speech at its opening, reminded the two Houses that it was for them to consider whether the local powers over the District of Columbia, vested by the Constitution in the Congress of the United States, should be immediately exercised, and he asked them to "consider it as the capital of a great nation, advancing with unexampled rapidity in arts, in commerce, in wealth, and in population, and possessing within itself those resources which, if not thrown away or lamentably misdirected, would secure to it a long course of prosperity and self-government." Three years had not elapsed when Congress was called upon to determine the propriety of retroceding to Maryland and Virginia the jurisdiction of the territory which they had, respectively, relinquished to the Government of the United States.

It was urged, on the one hand, that exclusive jurisdiction was not necessary or useful to the Government; that it deprived the inhabitants of the District of their political rights; that much of the time of Congress was consumed in legislation pertaining to it; that its government was expensive; that Congress was not competent to legislate for the District, because the members were strangers to its local concerns; and that it was an example of a government without representation—an experiment dangerous to the liberties of the States. On the other hand, it was held, among other reasons, and successfully, that the Constitution, the acts of cession of Virginia and Maryland, and the act of Congress accepting the grant, all contemplated the exercise of exclusive legislation by Congress, and that its usefulness, if not its necessity, was inferred from the inconvenience which was felt for want of it by the Congress of the Confederation; that the people themselves, who it was said had been deprived of their political rights, had not complained and did not desire a retrocession; that the evil might be remedied by giving them a representation in Congress when the District should become sufficiently populous, and in the meantime a local Legislature; that if the inhabitants had not political rights they had great political influence; that the trouble and expense of legislating for the District would not be great, but would diminish, and might in a great measure be avoided by a local Legislature; and that Congress could not retrocede the inhabitants

without their consent. Continuing to live substantially under the laws that existed at the time of the cession, and such changes only having been made as were suggested by themselves, the people of the District have not sought, by a local Legislature, that which has generally been willingly conceded by the Congress of the nation.

As a general rule, sound policy requires that the Legislature should yield to the wishes of a people, when not inconsistent with the Constitution and the laws. The measures suited to one community might not be well adapted to the condition of another; and the persons best qualified to determine such questions are those whose interests are to be directly affected by any proposed law. In Massachusetts, for instance, male persons are allowed to vote without regard to color, provided they possess a certain degree of intelligence. In a population in that State of 1,231,066, there were, by the census of 1860, only 9,602 persons of color; and of the males over twenty years of age, there were 339,086 white to 2,602 colored. By the same official enumeration there were in the District of Columbia 60,764 whites to 14,316 persons of the colored race. Since then, however, the population of the District has largely increased, and it is estimated that at the present time there are nearly 100,000 whites to 30,000 negroes. The cause of the augmented numbers of the latter class needs no explanation. Contiguous to Maryland and Virginia, the District, during the war, became a place of refuge for those who escaped from servitude, and it is yet the abiding place of a considerable proportion of those who sought within its limits a shelter from bondage. Until then held in slavery, and denied all opportunities for mental culture, their first knowledge of the Government was acquired when, by conferring upon them freedom, it became the benefactor of their race; the test of their capability for improvement began when for the first time the career of free industry and the avenues to intelligence were opened to them. Possessing these advantages but a limited time—the greater number perhaps having entered the District of Columbia during the later years of the war or since its termination—we may well pause to inquire whether, after so brief a probation, they are as a class capable of an intelligent exercise of the right of suffrage, and qualified to discharge the duties of official position. The people who are daily witnesses of their mode of living, and who have become familiar with their habits of thought, have expressed the conviction that they are not yet competent to serve as electors, and thus become eligible for office in the local governments under which they live. Clothed with the elective franchise, their numbers, already largely in excess of the demand for labor, would be soon increased by an influx from the adjoining States. Drawn from fields where employment is abundant, they would in vain seek it here, and so add to the embarrassments already experienced from the large class of idle persons congregated in the District. Hardly yet capable of forming correct judgments upon the important questions that often make the issues of a political contest, they could readily be made subservient to the purposes of designing persons.

While in Massachusetts, under the census of 1860, the proportion of white to colored males over twenty years of age was one hundred and thirty to one, here the black race constitutes nearly one third of the entire population, while the same class surrounds the District on all sides, ready to change their residence at a moment's notice, and with all the facility of a nomadic people, in order to enjoy here, after a short residence, a privilege they find nowhere else. It is within their power, in one year, to come into the District in such numbers as to have the supreme control of the white race, and to govern them by their own officers, and by the exercise of all the municipal authority—among the rest, of the power of taxation over property in which they have

no interest. In Massachusetts, where they have enjoyed the benefits of a thorough educational system, a qualification of intelligence is required, while here suffrage is extended to all, without discrimination, as well to the most incapable, who can prove a residence in the District of one year, as to those persons of color who, comparatively few in number, are permanent inhabitants, and, having given evidence of merit and qualification, are recognized as useful and responsible members of the community. Imposed upon an unwilling people, placed, by the Constitution, under the exclusive legislation of Congress, it would be viewed as an arbitrary exercise of power, and as an indication by the country of the purpose of Congress to compel the acceptance of negro suffrage by the States. It would engender a feeling of opposition and hatred between the two races, which, becoming deep-rooted and ineradicable, would prevent them from living together in a state of mutual friendliness. Carefully avoiding every measure that might tend to produce such a result, and following the clear and well-ascertained popular will, we should assiduously endeavor to promote kindly relations between them, and thus, when that popular will leads the way, prepare for the gradual and harmonious introduction of this new element into the political power of the country.

It cannot be urged that the proposed extension of suffrage in the District of Columbia is necessary to enable persons of color to protect either their interests or their rights. They stand here precisely as they stand in Pennsylvania, Ohio, and Indiana. Here, as elsewhere, in all that pertains to civil rights, there is nothing to distinguish this class of persons from citizens of the United States; for they possess the "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens," and are made "subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding." Nor, as has been assumed, are their suffrages necessary to aid a loyal sentiment here; for local governments already exist of undoubted fealty to the Government, and are sustained by communities which were among the first to testify their devotion to the Union, and which during the struggle furnished their full quotas of men to the military service of the country.

The exercise of the elective franchise is the highest attribute of an American citizen, and, when guided by virtue, intelligence, patriotism, and a proper appreciation of our institutions, constitutes the true basis of a democratic form of government, in which the sovereign power is lodged in the body of the people. Its influence for good necessarily depends upon the elevated character and patriotism of the elector, for if exercised by persons who do not justly estimate its value and who are indifferent as to its results, it will only serve as a means of placing power in the hands of the unprincipled and ambitious, and must eventuate in the complete destruction of that liberty of which it should be the most powerful conservator. Great danger is therefore to be apprehended from an untimely extension of the elective franchise to any new class in our country, especially when the large majority of that class, in wielding the power thus placed in their hands, cannot be expected correctly to comprehend the duties and responsibilities which pertain to suffrage. Yesterday, as it were, four million persons were held in a condition of slavery that had existed for generations; to-day they are free-men, and are assumed by law to be citizens. It cannot be presumed, from their previous condition of servitude, that, as a class, they are as well informed as to the nature of our Government as the intelligent foreigner who makes our land the home of his choice. In the case of the latter, neither a residence of five years and the knowledge of our institutions which it gives, nor attachment to the principles of the Constitution, are the only conditions upon



which he can be admitted to citizenship. He must prove, in addition, a good moral character, and thus give reasonable ground for the belief that he will be faithful to the obligations which he assumes as a citizen of the Republic. Where a people—the source of all political power—speak by their suffrages, through the instrumentality of the ballot-box, it must be carefully guarded against the control of those who are corrupt in principle and enemies of free institutions, for it can only become to our political and social system a safe conductor of healthy popular sentiment when kept free from demoralizing influences. Controlled through fraud and usurpation by the designing, anarchy and despotism must inevitably follow. In the hands of the patriotic and worthy our Government will be preserved upon the principles of the Constitution inherited from our fathers. It follows, therefore, that in admitting to the ballot-box a new class of voters not qualified for the exercise of the elective franchise, we weaken our system of government instead of adding to its strength and durability.

In returning this bill to the Senate, I deeply regret that there should be any conflict of opinion between the legislative and executive departments of the Government in regard to measures that vitally affect the prosperity and peace of the country. Sincerely desiring to reconcile the States with one another, and the whole people to the Government of the United States, it has been my earnest wish to co-operate with Congress in all measures having for their object a proper and complete adjustment of the questions resulting from our late civil war. Harmony between the coordinate branches of the Government, always necessary for the public welfare, was never more demanded than at the present time, and it will therefore be my constant aim to promote, as far as possible, concert of action between them. The differences of opinion that have already occurred have rendered me only the more cautious, lest the Executive should encroach upon any of the prerogatives of Congress, or, by exceeding in any manner the constitutional limit of his duties, destroy the equilibrium which should exist between the several coordinate departments, and which is so essential to the harmonious working of the Government. I know it has been urged that the executive department is more likely to enlarge the sphere of its action than either of the other two branches of the Government, and especially in the exercise of the veto power conferred upon it by the Constitution. It should be remembered, however, that this power is wholly negative and conservative in its character, and was intended to operate as a check upon unconstitutional, hasty, and improvident legislation, and as a means of protection against invasions of the just powers of the executive and judicial departments. It is remarked by Chancellor Kent that—

"To enact laws is a transcendent power; and, if the body that possesses it be a full and equal representation of the people, there is danger of its pressing with destructive weight upon all the other parts of the machinery of Government. It has therefore been thought necessary by the most skillful and most experienced artists in the science of civil polity that strong barriers should be erected for the protection and security of the other necessary powers of the Government. Nothing has been deemed more fit and expedient for the purpose than the provision that the head of the executive department should be so constituted as to secure a requisite share of independence, and that he should have a negative upon the passing of laws; and that the judiciary power, resting on a still more permanent basis, should have the right of determining upon the validity of laws by the standard of the Constitution."

The necessity of some such check in the hands of the Executive is shown by reference to the most eminent writers upon our system of government, who seem to concur in the opinion that encroachments are most to be apprehended from the department in which all legislative powers are vested by the Constitution. Mr. Madison, in referring to the difficulty of providing some practical security for each against the invasion of the others, remarks that—

"The legislative department is everywhere ex-

tending the sphere of its activity, and drawing all power into its impetuous vortex." "The founders of our republics" \* \* \* "seem never to have recollected the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by Executive usurpations." "In a representative republic, where the executive magistracy is carefully limited, both in the extent and the duration of its power, and where the legislative power is exercised by an assembly which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions." "The legislative department derives a superiority in our governments from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with the greater facility mask, under complicated and indirect measures, the encroachments which it makes on the coordinate departments." "On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature, and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is this all. As the legislative department alone has access to the pockets of the people, and has in some constitutions full discretion, and in all a prevailing influence over the pecuniary rewards of those who fill the other departments, a dependence is thus created in the latter which gives still greater facility to encroachments of the former." We have seen that the tendency of republican governments is to an aggrandizement of the legislative, at the expense of the other departments."

Mr. Jefferson, in referring to the early constitution of Virginia, objected that by its provisions all the powers of government—legislative, executive, and judicial—resulted to the legislative body, holding that—

"The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one." \* \* \* "As little will it avail us that they are chosen by ourselves. An elective despotism was not the Government we sought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis: that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislature for their subsistence in office, and some of them for their continuance in it. If, therefore, the Legislature assumes executive and judiciary powers, no opposition is likely to be made, nor, if made, can be effectual; because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judiciary controversy; and the direction of the Executive during the whole time of their session is becoming habitual and familiar."

Mr. Justice Story, in his Commentaries on the Constitution, reviews the same subject, and says:

"The truth is, that the legislative power is the great and overruling power in every free Government." "The representatives of the people will watch with jealousy every encroachment of the Executive Magistrate, for it trenches upon their own authority. But who shall watch the encroachment of these representatives themselves? Will they be as jealous of the exercise of power by themselves as by others?" "There are many reasons which may be assigned for the engrossing influence of the legislative department. In the first place, its constitutional powers are more extensive, and less capable of being brought within precise limits than those of either of the other departments. The bounds of the executive authority are easily marked out and defined. It reaches few objects, and those are known. It cannot transcend them without being brought in contact with the other departments. Laws may check and restrain and bound its exercise. The same remarks apply with still greater force to the judiciary. The jurisdiction is, or may be, bounded to a few objects or persons; or, however general and unlimited, its operations are necessarily confined to the mere administration of private and public justice. It cannot punish without law. It cannot create controversies to act upon. It can decide only upon rights and cases as they are brought by others before it. It can do nothing for itself. It must do everything for others. It must obey the laws; and if it corruptly administers them, it is subjected to the power of impeachment. On the other hand, the legislative power, except in the few cases of constitutional prohibition, is unlimited. It is forever varying its means and its ends. It

governs the institutions and laws and public policy of the country. It regulates all its vast interests. It disposes of all its property. Look but at the exercise of two or three branches of its ordinary powers. It levies all taxes; it directs and appropriates all supplies; it gives the rules for the descent, distribution, and devises of all property held by individuals. It controls the sources and the resources of wealth. It changes at its will the whole fabric of the laws. It molds at its pleasure almost all the institutions which give strength and comfort and dignity to society. In the next place, it is the direct, visible representative of the will of the people in all the changes of times and circumstances. It has the pride as well as the power of numbers. It is easily moved and steadily moved by the strong impulses of popular feeling and popular odium. It obeys, without reluctance, the wishes and the will of the majority for the time being. The path to public favor lies open by such obedience; and it finds not only support, but impunity, in whatever measures the majority advises, even though they transcend the constitutional limits. It has no motive, therefore, to be jealous or scrupulous in its own use of power; and it finds its ambition stimulated and its arm strengthened by the countenance and the courage of numbers. These views are not alone those of men who look with apprehension upon the fate of republics; but they are also freely admitted by some of the strongest advocates for popular rights and the permanency of republican institutions. "Each department should have a will of its own." "Each should have its own independence secured beyond the power of being taken away by either or both of the others. But at the same time the relations of each to the other should be so strong that there should be a mutual interest to sustain and protect each other. There should not only be constitutional means but personal motives to resist encroachments of one or either of the others. Thus ambition would be made to counteract ambition; the desire of power to check power; and the pressure of interest to balance an opposing interest." "The judiciary is naturally, and almost necessarily, (as has been already said,) the weakest department. It can have no means of influence by patronage. Its powers can never be wielded for itself. It has no command over the purse or the sword of the nation. It can neither lay taxes nor appropriate money nor command armies nor appoint to office. It is never brought into contact with the people by constant appeals and solicitations and private intercourse, which belong to all the other departments of Government. It is seen only in controversies or in trials and punishments. Its rigid justice and impartiality give it no claims to favor, however they may to respect. It stands solitary and unsupported, except by that portion of public opinion which is interested only in the strict administration of justice. It can rarely secure the sympathy or zealous support either of the Executive or the Legislature. If they are not (as is not unfrequently the case) jealous of its prerogatives, the constant necessity of scrutinizing the acts of each, upon the application of any private person, and the painful duty of pronouncing judgment that these acts are a departure from the law or Constitution, can have no tendency to conciliate kindness or nourish influence. It would seem, therefore, that some additional guards would, under such circumstances, be necessary to protect this department from the absolute dominion of the others. Yet rarely have any such guards been applied; and every attempt to introduce them has been resisted with a pertinacity which demonstrates how slow popular leaders are to introduce checks upon their own power, and how slow the people are to believe that the judiciary is the real bulwark of their liberties." "If any department of the Government has undue influence, or absorbing power, it certainly has not been either the executive or judiciary."

In addition to what has been said by these distinguished writers, it may also be urged that the dominant party in each House may, by the expulsion of a sufficient number of members, or by the exclusion from representation of a requisite number of States, reduce the minority to less than one third. Congress, by these means, might be enabled to pass a law, the objections of the President to the contrary notwithstanding, which would render impotent the other two departments of the Government, and make inoperative the wholesome and restraining power which it was intended by the framers of the Constitution should be exerted by them. This would be a practical concentration of all power in the Congress of the United States—this, in the language of the author of the Declaration of Independence, would be "precisely the definition of despotic Government."

I have preferred to reproduce these teachings of the great statesmen and constitutional lawyers of the early and later days of the Republic rather than to rely simply upon an expression of my own opinions. We cannot too often recur to them, especially at a conjuncture like the present. Their application to our actual condition is so apparent that they now come to us a living voice, to be listened to with more attention than at any previous period of our history. We have been and are yet in the midst of popular commotion. The passions

aroused by a great civil war are still dominant. It is not a time favorable to that calm and deliberate judgment which is the only safe guide when radical changes in our institutions are to be made. The measure now before me is one of those changes. It initiates an untried experiment for a people who have said, with one voice, that it is not for their good. This alone should make us pause; but it is not all. The experiment has not been tried, or so much as demanded by the people of the several States for themselves. In but few of the States has such an innovation been allowed as giving the ballot to the colored population without any other qualification than a residence of one year, and in most of them the denial of the ballot to this race is absolute, and by fundamental law placed beyond the domain of ordinary legislation. In most of those States the evil of such suffrage would be partial; but, small as it would be, it is guarded by constitutional barriers. Here the innovation assumes formidable proportions, which may easily grow to such an extent as to make the white population a subordinate element in the body-politic.

After full deliberation upon this measure, I cannot bring myself to approve it, even upon local considerations, nor yet as the beginning of an experiment on a larger scale. I yield to no one in attachment to that rule of general suffrage which distinguishes our policy as a nation. But there is a limit, wisely observed hitherto, which makes the ballot a privilege and a trust, and which requires of some classes a time suitable for probation and preparation. To give it indiscriminately to a new class, wholly unprepared by previous habits and opportunities, to perform the trust which it demands, is to degrade it, and finally to destroy its power; for it may be safely assumed that no political truth is better established than that such indiscriminate and all-embracing extension of popular suffrage must end at last in its destruction.

ANDREW JOHNSON.

WASHINGTON, January 5, 1867.

The question was: Shall the bill pass, the objections of the President to the contrary notwithstanding?

Mr. INGERSOLL. Upon that question I call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The Constitution requiring that upon the reconsideration of bills returned by the President with his objections thereto, the vote shall be taken by yeas and nays and entered upon the Journal, the Clerk will call the roll.

The question was accordingly taken by yeas and nays; and it was decided in the affirmative—yeas 113, nays 38, not voting 41; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Dawes, Deffrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koozts, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McRuer, Mercut, Miller, Morrill, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Seofield, Spalding, Starr, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and the Speaker—113.

NAYS—Messrs. Acona, Bergen, Campbell, Chandler, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Hogan, Chester D. Hubbard, Humphrey, Hunter, Kerr, Kuykendall, Latham, Leftwich, McCullough, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, and Winfield—38.

NOT VOTING—Messrs. Anderson, Blow, Boyer, Conkling, Davis, Denison, Dumont, Eliot, Good-year, Griswold, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hurlburt, Johnson, Jones, Laffin, Le Blond, Marshall, McIndoe, McKee, Moorhead, Morris, Pomeroy, Rollins, Rousseau, Shellabarger, Sitgreaves, Sloan, Ste-

vens, Stilwell, Thornton, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Whaley, Woodbridge, and Wright—41.

The SPEAKER. On the question whether the House, on reconsideration, agrees to the passage of this law, the yeas are 113, the nays 38. It having been certified that the Senate, upon a reconsideration of the passage of this bill, agrees to its passage by a two-third vote, and the House of Representatives, upon a similar reconsideration, having agreed to its passage by a two-third vote, I therefore, according to the Constitution of the United States, do declare that, notwithstanding the objections of the President of the United States, the act to regulate the elective franchise in the District of Columbia has become a law. [Applause on the floor and in the galleries promptly checked by the Speaker.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a joint resolution (S. R. No. 151) appropriating money to defray the expenses of the joint select committee on retrenchment, in which the concurrence of the House was requested.

#### ORDER OF BUSINESS.

The SPEAKER. The first business in order is the consideration of the joint resolution in relation to the abolition of slavery, pending at the adjournment of yesterday, and upon which the gentleman from Iowa [Mr. KASSON] is entitled to the floor.

Mr. NIBLACK. Will the gentleman yield to me for a moment to make a suggestion?

Mr. KASSON. I think I probably know the motion the gentleman desires to make. If I am not mistaken the gentleman proposes to move an adjournment in honor of the 8th of January. I propose, by the passage of this joint resolution in the interests of the free citizens of the United States, to celebrate the 8th of January better than it was celebrated originally at New Orleans.

Mr. NIBLACK. The gentleman then proposes to honor the colored people, and not the memory of General Jackson.

Mr. SCHENCK. It will be in honor of the negroes who fought under him.

#### MRS. M. B. HUMPHREY.

Mr. WILSON, of Iowa. Will my colleague [Mr. KASSON] yield to me for a moment?

Mr. KASSON. I will.

Mr. WILSON, of Iowa. I submit the following resolution, and ask that it may be considered at the present time:

*Resolved, That the Sergeant-at-Arms of the House be directed to pay Mrs. M. B. Humphrey, widow of the late Hon. James Humphrey, the amount of increased compensation provided by law from the commencement of the present Congress to the date of the death of her husband.*

Mr. DAWES. Will the gentleman allow me to move an amendment to his resolution to insert a provision for paying to Hon. D. W. Gooch increased compensation from the time of his election to the date of his resignation?

Mr. WILSON, of Iowa. No, sir; I cannot yield for that purpose. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ABOLITION OF SLAVERY.

The House, agreeably to order, resumed the consideration of the following joint resolution declaratory of the meaning of the thirteenth amendment to the Constitution of the United States of America:

Whereas the Congress of the United States at the second session of the Thirty-Eighth Congress, proposed to the several States for adoption the thirteenth amendment to the Constitution of the United States, which has now, by the ratification of three

fourths of the States of the Union, become part of the Constitution, and which by its terms forever prohibits slavery or involuntary servitude, "except as a punishment for crime whereof the party shall have been duly convicted," and whereas in some parts of this Union it is asserted and maintained that, notwithstanding said amendment, it is lawful to sell or otherwise commit into unofficial subjection to slavery persons who may be convicted of offenses against the law, by reason whereof certain inferior tribunals have adjudged free citizens of the United States to be so disposed of as to reestablish chattel slavery for life or for years, against the principles of the Christian religion, of civilization, and of the Constitution of the United States, which now recognizes no involuntary servitude, except to the law and to the officers of its administration: Now therefore,

*Be it resolved, &c.* That the true intent and meaning of said amendment prohibits slavery or involuntary servitude forever in all forms, except in direct execution of a sentence imposing a definite penalty according to law, which penalty cannot, without violation of the Constitution, impose any other servitude than that of imprisonment or other restraint of freedom under the immediate control of officers of the law and according to the usual course thereof, to the exclusion of all unofficial control of the person so held in servitude; and that all orders, judgments, or decrees authorizing or directing the sale or other disposition into servitude of any person within the jurisdiction of the United States otherwise than as above declared to be lawful, are and shall be taken and held to be in violation of the thirteenth constitutional amendment aforesaid, and therefore void.

Mr. KASSON. Mr. Speaker, the proposition now before the House is, in my judgment, second in importance only to the amendment of the Constitution itself, which was adopted, prohibiting slavery in the United States. I apprehend that few members of this House or of Congress, at the time of the passage of the amendment, supposed that in the very sentence abolishing slavery throughout the United States they had also made provision for its revival under another form and through the action of the courts of the country. The facts certified to us by the newspapers of the South, from week to week, show that the result of that action, as it is there construed, is to revive the institution of chattel slavery with all its odious characteristics; that free men, declared to be free by this clause of the Constitution, are put upon the auction-block to-day and sold to the highest bidder into slavery.

Now, sir, I have felt the conviction—which I have no doubt is shared by every loyal member of this House—that this was not within the intention of that anti-slavery amendment of the Constitution, and that to tolerate it in this land of liberty is to tolerate a usurpation by inferior judicial tribunals directly in the face of the Constitution of the United States. Sir, this clause, as we know, was drawn from the ordinance of 1787.

Mr. ELDRIDGE. Will the gentleman from Iowa yield to me for a question?

Mr. KASSON. Yes, sir.

Mr. ELDRIDGE. I desire to inquire of the gentleman, in the first place, whether this is intended as an additional amendment to the Constitution? I ask this question as preliminary to another.

Mr. KASSON. The gentleman is well aware that it is not.

Mr. ELDRIDGE. Then I wish to inquire of the gentleman whether in his judgment this Congress has the power to give construction to a constitutional amendment which shall be binding upon the States which have adopted that amendment?

Mr. KASSON. I was proceeding to answer that question at the moment I was interrupted. I will now proceed to answer it, and afterward all other questions which may be put in good faith.

This clause was adopted from the language of the ordinance of 1787. At the time that that ordinance became the law of the land, the institution of slavery did exist *de facto* in the several States of this Union—in fact, in the majority of the States of this Union. There was, therefore, at that time, according to law, an existing condition of slavery, into which men could be sold if necessary, according to the language of that ordinance. Since that time the Congress of the United States, supported by three fourths of the States of the Union, and indorsed by the people of the country, has abolished the condition of slavery

into which a freeman could under any circumstances be sold. The consequence is that the reason for that construction of this language has failed; and, according to an old legal maxim, the law itself fails, so far as it could under other circumstances receive that interpretation.

I affirm, sir, without fear of successful and reasonable contradiction, that, in this condition of things, since the anti-slavery amendment was adopted, you cannot find a condition of chattel slavery existing in the United States into which a freeman can be sold under this language of the Constitution. On the contrary, a freeman can be condemned by the law only to the involuntary servitude now existing within the United States, within the walls of prisons, and within the jurisdiction of the law and the officers of the law. And it is upon this principle, in view of this fact of construction, that I assert that the interpretation given to that clause of the Constitution has been erroneous wherever it has been adopted; that there is no longer found within the United States any such description of slavery as that into which, according to the construction in the southern States, free men may justifiably be condemned.

Well, sir, further than that, further than the general right we have to construe any statute in the creation of which we have taken part as the Congress of the United States, I also affirm, under the second section of that amendment the Congress of the United States has the right to enforce that anti-slavery amendment, and in that right of enforcement we have the right to say what falls within the terms of that amendment as being slavery or involuntary servitude.

This is the clause to which I refer: "Congress shall have power to enforce this article by appropriate legislation;" and aside from the general right to which I have referred, I find the right in the second clause of the amendment to define the species of slavery or involuntary servitude into which a free man may be lawfully condemned by the laws of the country.

Now, I will hear what the gentleman has to say.

Mr. ELDRIDGE. I must beg the gentleman's pardon if he has answered my question. It seems to me he has not answered it. The question I propounded is this: if we have adopted a constitutional provision which has also been adopted by the requisite number of States to put it in force as a part of the fundamental law, whether by the simple act of Congress we can enlarge that provision or change it in any form so as to give an effect to it different from that which its language and spirit must bear?

Mr. KASSON. The question, as now presented, is modified in form from what it was before, as well as in substance, thus showing I have effectually answered the question as to our right to give effect to that clause of the amendment. And I now answer the second form of the question. While I must confess, and, as I cheerfully do, admit that he cannot, by a construction we give to the Constitution, overrule the right of the sovereign judicial tribunal of the country to pass as it thinks right upon a constitutional clause, I do assert that Congress, as the power originally creating the clause, has the right to construe it, and that there is not a loyal tribunal in this country that will dare to treat with disrespect the construction given by this body to this clause of the Constitution, if you admit it to be doubtful in its construction. And I should have added this, sir, if the question had not been put, that it is the duty of this great branch of the Government, which originates legislation, to affirm what they meant by that legislation whenever it shall be called into doubt by existing facts in the country.

This construction will have, as I have shown by the terms of the amendment including the second clause, the legal force necessary, and in addition to that I trust it will have a vast moral force throughout the United States, particularly if the gentlemen on that side of the

House will, at this late day and hour of repentance for their opposition to the original amendment, come in and affirm now, in harmony with the great sentiment not only of the United States, but of the whole civilized world, that the construction of every doubtful law in this free country shall be in the interest of freedom and for the protection of individual rights.

Mr. FINCK. I wish to inquire of my friend from Iowa whether he claims there is power in the legislative department of this Government to declare the judgment and decree of a court to be void and to be set aside?

Mr. KASSON. If the decree be valid the action of this body cannot defeat it. We have the right to declare invalid what is so in itself; but the effect of this proposed action of Congress, by virtue of the construction I have attempted to show we had the right to give, will be to declare the consequences of the other construction to be void and of no account in the execution of the law.

Mr. FINCK. It is proposed by this joint resolution to declare that all orders, judgments, or decrees authorizing or directing the sale or other disposition into servitude of any person within the said section of the United States otherwise than as above declared to be lawful, are and shall be taken and held to be in violation of the thirteenth constitutional amendment aforesaid, and therefore void.

Now, I ask whether there is any precedent in the history of the legislation of this Congress to authorize by legislative enactment the setting aside of the judgments and decrees of a court, whether Federal or State? I ask whether the appropriate jurisdiction of this branch of Government is not to make laws and to allow the judiciary to determine what the law is?

Mr. KASSON. I answer, Mr. Speaker, that from the beginning of this Government to this day, whenever a law which justified arrest and imprisonment of a citizen has been repealed and ceased to exist, the party imprisoned must be set free. I further say that by virtue of the legislation proposed, the effect will be that men who are held in servitude under color of this false construction of the law will be inevitably entitled to their freedom.

Mr. FINCK. One more question. I ask my friend whether this question does not belong appropriately, legitimately, and constitutionally to the Supreme Court of the United States and not to Congress?

Mr. KASSON. I am glad my friend has put that question for it presents an additional reason which I intended to present for the prompt action of Congress on the subject. There are questions now pending in inferior tribunals which are soon to be determined probably by the superior tribunals of some of the States of this Union, and by the supreme judicial tribunals of the United States, on appeal from the decision of the lower tribunals in question. But before that is done it is the duty of Congress to exhaust its power, whether originally to construe such amendment, or deliberately, under the second clause, by actual legislation, to declare what shall be the law of the land. If we adopt this joint resolution, and it becomes law prior to the final decision of the question referred to, we vastly strengthen the grounds on which the United States judiciary can decide this to be the right construction, supported as it is by the construing and positive legislative power of the United States.

Why, sir, if this be not done, you not only fail to construe your own act and exhaust your power in the interest of the liberty of the citizen, but you leave the local laws which we believe to be in contravention of that clause of the Constitution in full force and effect over the State tribunals, while we ourselves are silent on the subject to the extent of our power of legislation.

I wish to add, as I have already stated, that the final decision of this question rests in each case properly presented to it with the supreme judicial tribunal of the country.

Mr. FINCK. I wish to ask a further ques-

tion: whether there is not a complete remedy for the cases to which the gentleman has referred in the courts, State and Federal—complete redress for the grievances of which he complains?

Mr. KASSON. No, sir; I state emphatically, no, in point of fact. Why, sir, within sight of the eyes of the very Goddess of Liberty—if they possessed the power of seeing—that stands on the dome of this Capitol, we find these barbaric enormities transpiring, almost within the hearing of our own ears, in the State of Maryland.

Mr. FINCK. One more question. I ask the gentleman whether this very question of the true construction of the constitutional amendment is not now pending before the judicial tribunals arising out of a case in the State of Maryland?

Mr. KASSON. I understand it to be pending before inferior tribunals, and I understand they have a right to bring it to the highest Federal tribunal.

Mr. FINCK. Certainly, that is all I want.

Mr. KASSON. But prior to that being done, I insist on the argument I have offered, that in the interest of freedom this Congress should exhaust its power, alike of construction and of legislation, in aid of the determination of the rights of these citizens under the laws of the United States to personal freedom from any control except that of the law and its officers.

I now ask the Clerk to read, in justification of the necessity for some legislation, an extract from a paper showing what has been done near us in the State of Maryland:

The Clerk read, as follows:

NEGROES SOLD AS A PUNISHMENT FOR CRIME.

PUBLIC SALE.—The undersigned will offer for sale at the court-house door in the city of Annapolis, at eleven o'clock a. m. on Saturday, the 22d of December, a negro man named John Johnson, aged about forty years. The said negro was convicted at the October term, 1866, of the circuit court of Anne Arundel county, of larceny, and sentenced to be sold.

WILLIAM BRYAN, Sheriff.

BALTIMORE, December 24.—Four negroes convicted of larceny, and ordered to be sold by Judge Magruder at Annapolis, were sold on Saturday last.

Mr. THAYER. Will the gentleman allow me to ask a question?

Mr. KASSON. Yes, sir.

Mr. THAYER. I wish to inquire whether he intends to give an opportunity for amendment of this resolution.

Mr. KASSON. I have modified it in the last clause, and I will ask the Clerk to read it as modified before the gentleman offers his amendment.

Mr. THAYER. I understand the gentleman intends to afford an opportunity to propose amendments.

Mr. KASSON. I prefer first to hear them lest they may defeat the object of the joint resolution. I ask the Clerk to read my modification.

The Clerk read as follows:

Strike out of the last part of the proposed joint resolution the following:

And that all orders, judgments, or decrees authorizing or directing the sale or other disposition into servitude of any person within the jurisdiction of the United States otherwise than as above declared to be lawful, are and shall be taken and held to be in violation of the thirteenth constitutional amendment aforesaid, and therefore void; and insert in lieu thereof the following:

And that all orders, judgments, or decrees authorizing or directing any disposition into involuntary servitude of any person within the jurisdiction of the United States otherwise than as above declared to be lawful, or authorizing or directing the sale of any person in any case whatever into slavery or involuntary servitude, are and shall be taken and held to be in violation of the thirteenth amendment to the Constitution aforesaid, and void.

Mr. KASSON. The point to which I wish to call attention in the proposed amendment is this, that it proclaims distinctly, while it was left slightly in doubt in the former draft before the country, that no such thing as selling a man into slavery can possibly exist in the present condition of the Constitution and laws of the country; that there must be a direct condemnation into that condition under the control of the officers of the law, like the sentence of a



man to hard labor in the State prison in the regular and ordinary course of law, and that is the only kind of involuntary servitude known to the Constitution and the law. I will now yield to the gentleman from Pennsylvania [Mr. THAYER] to have his amendment read.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

That any person or persons who shall hereafter sell, or offer for sale, or attempt to sell any person or persons whomsoever within the limits of the United States, or who shall make or issue any order for such sale, or who shall in anywise participate in such sale or attempted sale, shall be held to be guilty of felony, and shall, upon conviction thereof, be imprisoned for a period of time not exceeding ten years, or fined in a sum not exceeding \$10,000, or both, in the discretion of the court by which such offender shall be tried.

Mr. THAYER. I desire, with the permission of the gentleman, at some time when convenient to himself, to say a very few words in support of my amendment.

Mr. KASSON. I will say that if that were added as an additional section to the bill and the title were altered so as to conform to it, I should have no objection to that legislation to enforce what I have declared to be the present state of the law. I want this construction as a matter of justice to the Congress of the United States and the people who adopted the constitutional amendment, to show that they never intended chattel slavery to be reestablished under any circumstances; and I have no objection to taking the amendment of the gentleman from Pennsylvania as a second section to enforce the construction which I insist on.

Mr. THAYER. If the gentleman will allow me a single moment I will say that I think the construction sufficiently appears from his preamble.

I do not like, I must confess, the idea of laws being passed purporting upon their face to construe the Constitution. But I assume and I presume no man doubts that the true interpretation of the constitutional amendment is exactly that which is proposed by the gentleman from Iowa. I propose to assume that it is a gross violation of the Constitution of the United States and of the liberties of the citizen of the United States to attempt to sell a man at public auction, either in fee-simple or for a term of years. I propose to assume this and to enact a law which shall punish any violation of that constitutional provision.

Mr. KASSON. I wish to say, before yielding for this amendment, that while I think this construction ought to be given as a matter of justice to the Congress and people of the United States, I also agree that we ought to impose penalties upon every man who takes part in a violation of the law which is presumed to have been established by the constitutional amendment. I shall probably adopt the amendment of the gentleman from Pennsylvania, but I wish further time to examine it.

I desire, if possible, to get a unanimous expression from this House, whether or not they are in favor of this construction of the Constitution. Why, sir, every single step that any man in this body or out of it has taken to protect these southern people in what they call their "rights," every single movement that comes under the denomination of "magnanimity to the South," has been met by them with such action as has destroyed the political character and reputation of every man who has attempted to befriended them; they have destroyed every Republican who has attempted to hold back what have been called "radical" measures; they have destroyed the Democratic party, that has attempted to insist upon their immediate right of representation; and they will continue to destroy the political reputation of every man who attempts to stem this great current of civil rights and individual freedom throughout the United States.

And yet they come here and claim from us that they must have their State rights; that if they wish to sell negroes into slavery, we shall let them sell them; that if they wish to whip them into exclusion from all possible right of voting, we shall let them whip them into that

condition; that if they wish to drive loyal men out of the South, we must let them drive them out of the South. And then, when we point to outrages like those to which I have referred, they come to us and say, "Why, you must not hold this community responsible for the act of an individual—a justice of the peace, or the judge of a single court."

Sir, I hold that for every organic expression of this hostility to the United States that community is to be held responsible. In my judgment there exists to-day in many parts of the South a rebellion against the lawful authority of the United States. They are attempting, by trickery and deception such as would do dishonor to that imaginary Yankee who is ever present in the brains of the South to-day, they are attempting, by that deception and trickery, odious and horrible in character, to defeat the wisest and most humane laws which we are passing for the protection of free citizens of the South. And if they tell me that it is not their organic will, and that we must not hold innocent men responsible for the acts of the guilty, I say to them, "Point me to your public press for any articles that denounce these outrages; point me to your political conventions that denounce them; point me to any public meetings that attempt to create a better public sentiment; point me to your pulpits that dare denounce outrages of life and limb to the innocent sufferer on account of his color; point me to your courts that construe one solitary law of the United States in the sense and interest it was designed to enforce and protect; do this, and then I will excuse the individual outrage; but until you do that, I hold the body organic and politic of the South responsible for the infamous crimes and misdemeanors they are daily perpetrating against what we regard as the rights of the citizen under the Constitution and the laws." When they shall thus reform their organic action, then they can come to us and ask for magnanimity in our treatment of them. But first they must take care that all free men, white or black, who adhere to the Government of the United States shall be protected as fully as one of their own class of citizens. Until that is done they have no claim to represent themselves in the Congress of the United States, for the simple reason that there is a continual moral, political, and organic rebellion going on in the South to-day, characterized by every act of rebellion except the act of armed and organized military resistance.

Mr. ROSS. Will the gentleman allow me to ask him a question?

Mr. KASSON. Certainly.

Mr. ROSS. I would like to inquire of the gentleman if he is aware that there are some three thousand Indians held in slavery at this time in the Territories of New Mexico and Colorado?

Mr. KASSON. I understand they are held in what they call peonage, which is very like slavery, and this side of the House, within a few days past, has taken action with a view to remedy that evil.

Mr. ROSS. I am very glad to hear of it.

Mr. KASSON. And I have no doubt my excellent friend from Illinois [Mr. Ross] will have his name recorded against any action which will tend to abolish that system. [Laughter.]

Mr. ROSS. Is the gentleman aware that Government officers are owning and buying and selling these Indians in slavery in New Mexico and Colorado?

Mr. KASSON. If so, the President of the United States, as Chief of the Army, should take the advice of my friend and have them court-martialed for violating the Constitution and laws of the United States. [Laughter.] I hope the gentleman will advise the President in good faith to adopt that course. Sir, I wish we could convert my friend and all on his side of the House to an enlightened view of these subjects. Do they not see that they are daily descending into party ruin by attempting to oppose or ignore the great principles of human liberty and human progress? Do they not know

that an idea of liberty and progress will ride right over any amount of Democratic flesh and crush it under its invisible wheels? There is nothing that can stand in the way of the progress of these ideas except folly, and that must be crushed as they go on to victory. Every party that chooses to stand in this country for an hour must adopt something at least of these progressive ideas. They must accept the new interpretations of the Constitution and laws that arise from a new condition of facts to which the Constitution and laws apply. The great infirmity of the executive administration to-day is, that it does not accept this light thrown upon the duties connected with their office. They adhere to opinions that were buried in the war, in the graves of the rebellion. The southern statesman has always been guided simply by formal dogmatic declarations from which he argued to results. The northern mind, the great loyal and Union intellect of the country, argues from ideas as the foundation of statesmanship, and hence has risen to power and will hold power supremely in this country until it abandons these ideas and crystallizes itself in arbitrary forms, without progress for the future. I make this earnest request—this supplication even—to my friends on the other side, in the interest of that freedom, which can be greatly aided by the unanimous action of this House, which will have its effect over all the people of this country, and even the judicial tribunals themselves, to take this step with us for the interest of personal liberty.

Now, sir, I desire a vote on this subject, and though I am willing to yield to other gentlemen I desire to retain the floor for the purpose of moving the previous question. I am ready to yield to the gentleman from Pennsylvania, [Mr. THAYER.] How much time does he desire?

Mr. THAYER. Not more than ten minutes.

Mr. KASSON. Mr. Speaker, how much time have I remaining?

The SPEAKER. Thirty minutes.

Mr. KASSON. I yield to the gentleman.

Mr. THAYER. Mr. Speaker, the proposition which is embraced in the pending measure is, in my judgment, peremptorily demanded by the present circumstances of the country. It was to be apprehended, sir, I suppose, that an institution so deeply rooted as was the institution of slavery, which was for so many years apparently so invulnerable, and which, although it has received at the hands of the people of the United States its mortal wound, yet continues even amid the throes of its last agony to assert something of its former malignant power; I say it was to be apprehended that such an institution would even yet make some feeble struggles for vitality, in opposition to the great decision of the people against its future existence. We were prepared for it; and the occasion which calls for and demands the instant passage of the proposed law is one which we might naturally have anticipated.

Sir, we have been told by the gentleman from Ohio [Mr. FINCK] that legal proceedings have been instituted against the judge in Maryland who had the audacity, in the face of the constitutional amendment and in the face of the civil rights law, to offer for sale four human beings, citizens of the United States and protected by its laws. But, sir, does not the gentleman know that in the Senate of the State of Maryland a bill has already been introduced to indemnify that judge against the consequences of his unlawful conduct, and to save him harmless from the outrage which he has attempted to inflict under color of State law.

Mr. PHELPS. The gentleman will allow me to inquire whether he does not also know the fact that a bill has been introduced in the Maryland Senate for the purpose of repealing those provisions of the legislation of that State which now authorize penal slavery.

Mr. THAYER. I do not know how that is.

Mr. PHELPS. Such is the fact.

Mr. THAYER. I will say, in reply to my honorable friend, that, however that matter may be, I have been credibly informed that the statement I have made is the fact, and that

the Legislature of Maryland in all probability is about to attempt, so far as it has the power so to do, to indemnify this cruel and insubordinate judge for his outrages against American citizenship.

Mr. FINCK. I wish to inquire of my friend from Pennsylvania, as a lawyer, whether that bill, if passed, would in any manner affect the legal right which the men sold would have to appeal to the courts.

Mr. THAYER. I will answer my friend. I do not know what the details of that bill may be; I have never seen it; but the information which I have received, that such a bill has been introduced into the Maryland Senate, is of a reliable character.

Mr. FINCK. One word more.

Mr. THAYER. I must ask the gentleman to excuse me, as my time has nearly expired. I have but a moment left, and I wish to explain to the House the object of my amendment. I was about saying when I was up before, that I have a repugnance to the passage of a law the sole object and purport of which is to construe an article of the Constitution of the United States. In my judgment, a law which is to enforce a particular construction of the Constitution of the United States should assume that that construction is not only the just and true construction, but the only construction—in a word, that the evil intended to be prevented by the proposed law is already prohibited by the Constitution. We do not sit here, sir, to enact general views in regard to what may or may not be the proper and legal construction of the Constitution of the United States. Nor would it be of any use to do so, for the evil would, notwithstanding our general abstractions, remain unpunished and unredressed. Now, sir, I propose as a substitute for the several declarations contained in the resolution of the gentleman from Ohio a law to enforce the Constitution of the United States; a law making those monstrous cruelties which are already plainly unconstitutional, and the perpetration of which is a violation of the dearest rights of citizenship, a crime punishable as a felony. I propose to rear an effectual safeguard in the future against these atrocious violations of the thirteenth article of the Constitution. Let us punish the offense; in that way we shall abolish it. The courts of the United States and the officers of the United States must be charged with the duty of enforcing the Constitution in this respect in their several jurisdictions, and those who violate the Constitution and insolently trample upon the rights and immunities which are guaranteed by it to the humblest citizen who dwells beneath its protecting shelter must be made, by adequate laws, to feel its power in the condign punishment which it can inflict. I propose, therefore, to strike out the pending resolution, leaving the preamble to stand as it is, and to substitute in the place of the resolution a law making this offense a felony against the United States, and punishable in the manner specified in my amendment.

Mr. KASSON. I wish to suggest to my friend from Pennsylvania, that perhaps his proposition covers all the points I desire, with one exception. It does not touch the case of those who are now held in bondage. I propose to modify it by inserting these words: "or who shall hereafter hold in servitude any person so sold."

Mr. THAYER. I accept that modification.

The SPEAKER. Does the gentleman from Iowa accept the amendment, as modified, for his own resolution?

Mr. KASSON. Yes, sir.

Mr. PHELPS. Mr. Speaker, I do not rise for the purpose of discussing the proposition submitted by the gentleman from Iowa, in all its length and breadth, for on that question my opinion is very clear that the Government of this country, deriving its powers from the Constitution of the United States, is divided between the executive, legislative and judicial departments, that it is a Government of defined and limited powers, and that any enlargement

or encroachment upon the part of any one of these departments beyond its constitutional province is an usurpation that ought not to be countenanced. I believe, sir, it is the province of the legislative department to make laws, of the executive to administer them, and of the judiciary to expound them. I do not believe that a proposition, such as I understand this one to be, assuming virtually upon the part of Congress the power and right to construe a provision of the Constitution admitted to be doubtful, is a legitimate exercise of the powers of this branch of the Government. For that reason, and for that reason only, I shall vote against the proposition of the gentleman from Iowa.

But, sir, I wish it to be distinctly understood, while these are my views of the constitutional aspect of the question, I fully concur with him in the ideas he has suggested in regard to the necessity of some constitutional, proper legislation for the purpose of preventing that form of involuntary servitude known as penal slavery, or the sale of a convict's labor for crime. That legislation, in my opinion, belongs to the States concerned; and I have no hesitation in saying that, if I were a member of the Legislature of Maryland, I should promptly vote for a proposition involving the same principles that he has introduced here. Such a provision has already been introduced into the Legislature of that State. And I may be permitted to say there is no State of this Union which has accepted emancipation in better faith than the State which I have the honor in part to represent upon this floor. Maryland pioneered the path of constitutional emancipation for the General Government by the amendment of her own constitution, which preceded the action in the same direction of the Thirty-Eighth Congress. And it may be doubted whether the constitutional amendment abolishing slavery throughout the United States could have secured the requisite majority in the Thirty-Eighth Congress but for the impetus given to that movement by the example of Maryland.

In regard to the statute providing for involuntary servitude for crime, which has been brought into controversy, I have to say that, so far from the act referred to as passed by the Legislature of Maryland having been enacted in any spirit of hostility or opposition to the constitutional amendment abolishing slavery, or to the constitutional provision incorporated into the organic act of that State, it is an old act, passed originally in 1835, amended and reenacted in 1858, and again amended and reenacted in 1862, by a Legislature the complexion of which gentlemen will understand when I tell them it was the one that raised money and regiments for the defense of the Government. It was that Legislature which reenacted that part of the code of Maryland, and that act was passed in the Senate by the vote of all the members but two, and in the House of Delegates by the vote of all but six, including in the majority many of the most eminent and conspicuous loyal men, even upon the radical side. I need do no more than mention as one who voted in the majority on that question the gentleman who was selected by Congress to deliver, before the two Houses and before the Supreme Court of the United States, a eulogy upon the life and character of my lamented predecessor, Mr. Davis.

Mr. KASSON. I do not understand in what year the action to which the gentleman refers was taken.

Mr. PHELPS. In 1862.

Mr. KASSON. Prior to the adoption of the constitutional amendment?

Mr. PHELPS. Prior, of course.

Mr. KASSON. I wish to state that my objection is not to what was done before, but that judges are adhering so closely to the old ideas, notwithstanding the amendment.

Mr. PHELPS. The gentleman will pardon me for telling him that I think he has hardly followed me in my remarks, or has misapprehended their scope. The law to which he refers was not originally passed and is not

now adhered to in any such spirit as is supposed by the gentleman.

Mr. KASSON. Will my friend state whether or not these condemnations have not occurred under that law?

Mr. PHELPS. I have not come to the subject of those condemnations. I am about reaching that. They have certainly been made under that law. In regard to the particular cases to which the gentleman refers, it was a question of grave doubt in the minds of the judges before whom the question was brought whether, by the terms of the clause in the constitution of Maryland, which is in the same language as is contained in the ordinance of 1787 and in the constitutional amendment now under review, it was lawful for the State of Maryland to sell a person of color convicted of crime into involuntary servitude. And I can tell him that among those foremost in arguing that question in behalf of the power of the courts to decide that law were the prisoners' counsel themselves. In one case, at least, a gentleman prominently connected with the Freedmen's Bureau in Maryland, a well-known friend of the negro race, appealed to the court upon the ground of humanity to the negroes not to confine them within the walls of the penitentiary, which had been filled to overflowing by reason of the sudden emancipation—a large number of them persons reduced to vagrancy and theft—but to sell them for a limited time into involuntary servitude. Accordingly, in some cases, where there were extenuating circumstances, the sentence of imprisonment at hard labor was, as it was supposed by the prisoner, his friends, and the court, mitigated to a sale of the convict's labor for a limited period. It was, therefore, on the ground of humanity to the negro himself that this action was taken by the courts, and at the instance and advice of the prisoner's counsel and friends. Of the truth of this assertion I defy contradiction.

I am not here to oppose the adoption of any appropriate legislation which shall wipe away at once and forever every vestige of the institution of slavery. The people that I represent would not sustain me in assuming any such attitude on this floor, even if it were not repulsive to my own feelings and convictions. I desire simply to vindicate these people against unfounded, unjust, and uncalled for imputations.

Mr. THAYER. Will the gentleman yield?

Mr. PHELPS. Yes, sir.

Mr. THAYER. I wish to know whether the gentleman is in favor of or opposed to the humane practice which he has referred to; whether he is in favor of that system of law which requires humane people to buy their friends, or whether he is opposed to it.

Mr. PHELPS. I will answer the gentleman. If he had done me the honor to attend to the remarks I have been making it would not have been necessary for him to put that interrogatory. I have already said I am unequivocally opposed to the system of penal servitude, as to all other forms of human slavery, and if the occasion offered would, without a moment's hesitation, sanction any appropriate measure for its removal.

Mr. THAYER. I wish to say that my reason for asking the gentleman the question was because I understood him to eulogize the system, while in a few moments afterward he pronounced himself unconditionally opposed to it.

Mr. PHELPS. The gentleman misunderstood me entirely. If I had been the judge of the court I should have refused to accede to the request of the prisoners' counsel, and instead of ordering them into the custody of their friends for a limited period, under the nominal title of slaves, to range at liberty and commit other crimes, I would have consigned these negroes—I beg the gentleman's pardon; I do not know if it is in order now to call such persons negroes—I would have consigned these colored convicts to the penitentiary for such term of imprisonment at hard labor, within the limits prescribed by law, as their offenses deserved. But I can at the same time make

allowance for the judge who presided, when appeals of the kind I have referred to, founded on motives of humanity, were made to him, for giving that construction to the law if his judgment approved it. I have said all I desire to say upon this question.

Mr. KASSON. I will yield for a moment to my colleague, [Mr. GRINNELL,] who desires to ask the gentleman from Maryland a question.

Mr. GRINNELL. I understood the gentleman from Maryland to eulogize the spirit and temper of the Maryland judiciary. I wish to inquire whether the statement is true, made by Judge Bond, that twelve churches and school-houses belonging to the colored people were burnt in that vicinity during a recent period?

Mr. PHELPS. We have had in our State unfortunately, as in every other State of the Union, cases of arson. There are vicious, turbulent, and lawless men in the State of Maryland as well as in every other State. I do not claim that all the people I represent are without exception either cherubim or seraphim or angels or the descendants of angels. I have heard that there have been such outrages as the gentleman has referred to. It was to be expected in the abrupt transition from a state of slavery to one of freedom that individual cases of aggression should occasionally occur on the part of thoughtless or reckless men.

Mr. GRINNELL. I would ask the gentleman whether any attempt has been made, to his knowledge, to arrest and punish those who committed these outrages? The assertion is made by the friends of the colored race in Maryland that there has been no attempt at a conviction of those who have driven these people from the temples of God and burnt their school-houses and churches. I state that against the spirit which he commends in Maryland and which I proclaim barbarism, and therefore I thank my colleague for the introduction of this resolution and the gentleman from Pennsylvania [Mr. THAYER] for his amendment, which would punish by fine and imprisonment these outrages of the law.

Mr. KASSON. I was about to say, in response to the gentleman from Maryland, [Mr. PHELPS,] that if all his people are not cherubim and seraphim there ought to be a sufficient approximation to that condition—even if only two or three can be gathered together—there should be enough of the spirit of liberty and regard for individual rights among his people to condemn these outrages as against humanity and civilization. The difficulty is that no action of that community condemns them. This occasions the necessity for the Congress of the United States not only to condemn them but to legislate for their punishment. But for that no man more cheerfully than myself would leave the entire legislation to the people of the State, the majority of whom ought to have some regard for human rights.

Mr. PHELPS. I do not wish to intrude on the time or attention of the House, but I would simply say that there is no State within the limits of this Union the people of which exercise toward the unfortunate race to which the gentleman refers a kinder or more liberal and humane spirit than the State of Maryland. I venture to say for the district which I represent, comprehending the larger portion of the city of Baltimore, and for the whole city, that there has been at all times, and is now, as liberal, just, and friendly a spirit exhibited toward this colored race, and that the relations between that race and the white race have been as satisfactory and creditable to both as in any other city in this great country. And I will tell the gentleman further, in reply to the charges of arson in remote and thinly-settled portions of the State, that in the great city of New York, in one, two, and three days' of riot, at the very height and crisis of the war, when men were needed to suppress the rebellion and when the people of that city were called upon to furnish them, more colored men, women, and children were assaulted, outraged, and massacred, and more of their houses burned and sacked in that short period of time

than have been done in the whole State of Maryland during the whole period since the war.

Mr. KASSON. But in the city of New York, if I remember rightly, the ringleaders of the riot were arrested, true bills were found against them, and they were tried, convicted, and imprisoned in the penitentiary of the State within thirty days from the commission of the offense. Can the gentleman point me to such action in the State of Maryland?

Mr. PHELPS. Yes, sir; many of such offenders there have been similarly punished.

Mr. KASSON. And has the property destroyed been paid for, as in New York? That is the distinction between a community organically opposed to such outrages and the community that tolerates them.

Mr. Speaker, I desire to obtain the action of this House upon this bill this morning. I think the measure has been sufficiently explained to meet the sentiments of the entire House, if their sentiments are in favor of the honest construction of the anti-slavery amendment to the Constitution. There is but one man that I know of in the United States to-day who has dared to propose a restoration of slavery, and he, I apprehend, must be some lunatic, found in the district of my friend from the Chicago district of Illinois, [Mr. WENTWORTH,] who has sent a memorial for that purpose to the Congress of the United States. Now, sir, I wish by the passage of this resolution, so far as it may, to put the question completely at rest in relation to the proper construction of this amendment to the Constitution.

Before I call the previous question, I ask unanimous consent to change the enacting clause from "Be it resolved," &c., to "Be it enacted," &c.; and to change the title so that it will read, "A bill to enforce the thirteenth amendment to the Constitution of the United States."

No objection was made.

Mr. KASSON. I now call the previous question.

The previous question was seconded, and the main question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. KASSON. I call the previous question.

The previous question was seconded and the main question ordered.

MESSRS. KASSON, SHANKLIN, NIBLACK, and TRIMBLE called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 121, nays 25, not voting, 45; as follows:

YEAS—Messrs. ALLEY, ALLISON, AMES, ARNELL, JAMES M. ASHLEY, BAKER, BALDWIN, BANKS, BARKER, BAXTER, BEAMAN, BENJAMIN, BERGEN, BIDWELL, BINGHAM, BLAINE, BOUTWELL, BRANDEGER, BROMWELL, BROOMALL, BUCKLAND, BUNDY, READER W. CLARKE, SIDNEY CLARKE, COBB, COOK, CULLUM, CULVER, DARLING, DAVES, DEFREES, DELANO, DEMING, DIXON, DODGE, DONNELLY, DRIGGS, ECKLEY, EGGLESTON, FARNSWORTH, FARQUHAR, FERRY, GARFIELD, GRINNELL, GRISWOLD, ABNER C. HARDING, HAWKINS, HAYES, HENDERSON, HIGBY, HILL, HOLMES, HOOPER, CHESTER D. HUBBARD, JOHN H. HUBBARD, JAMES R. HUBBELL, HUMPHREY, HUNTER, INGERSOLL, JENCKES, JULIAN, KASSON, KELLEY, KELSEY, KETCHAM, KOONTZ, KUYKENDALL, LATHAM, GEORGE V. LAWRENCE, WILLIAM LAWRENCE, LONGYEAR, LYNCH, MARSTON, MARVIN, MAYNARD, McCLURG, MCKEE, McRUE, MERCUR, MILLER, MORRILL, MOUTON, MYERS, NEWELL, O'NEILL, ORTH, PAINE, PATTERSON, PERHAM, PIKE, PLANTS, PRICE, RADFORD, WILLIAM H. RANDALL, RAYMOND, ALEXANDER H. RICE, JOHN H. RICE, ROSS, SAWYER, SCHENCK, SCOFFIELD, SPALDING, STARR, STOKES, NATHANIEL G. TAYLOR, THAYER, JOHN L. THOMAS, TROWBRIDGE, UPSON, VAN AERMAN, BURT VAN HORN, HAMILTON WARD, WARNER, ELIHU B. WASHBURN, HENRY D. WASHBURN, WELKER, WENTWORTH, WILLIAMS, JAMES F. WILSON, STEPHEN F. WILSON, WINDOM, and WINFIELD—122.

NAYS—Messrs. ANCONA, CAMPBELL, COOPER, DAWSON, ELDRIDGE, FINCK, GLOSSBRENNER, AARON HARDING, HISE, HOGAN, KERR, LEFTWICH, MCCULLOUGH, NIBLACK, NICHOLSON, NOELL, PHELPS, SAMUEL J. RANDALL, RITTER, ROGERS, SHANKLIN, SROUSE, TABER, TRIMBLE, and ANDREW H. WARD—25.

NOT VOTING—Messrs. ANDERSON, DELOS R. ASHLEY, BLOW, BOYER, CHANLER, CONKLING, DAVIS, DENISON, DUMONT, ELIOT, GOODYEAR, HALE, HARRIS, HART, HOTCHKISS, ASABEL W. HUBBARD, DEMAS HUBBARD, EDWIN N. HUBBELL, HUBBARD, JOHNSON, JONES, LAFIN, LE BLOND, LOAN, MARSHALL, MCINDOE, MOORHEAD, MORRIS, POMEROY, ROLLINS, ROUSSEAU, SHELLBARGER, SIT-

GRAVES, SLOAN, STEVENS, STILLWELL, NELSON TAYLOR, FRANCIS THOMAS, THORNTON, ROBERT T. VAN HORN, WILLIAM B. WASHBURN, WHALEY, WOODBRIDGE, and WRIGHT—44.

So the bill was passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### BURNING OF THE NEW IRONSIDES.

Mr. BRANDEGEE. I rise to what I suppose to be a privileged question. Prior to the late recess of Congress the Committee on Naval Affairs, of which I am a member, was charged by the House with the duty of investigating the facts connected with the destruction by fire of the United States steamer New Ironsides in the Delaware river. It is necessary for a proper and thorough investigation of those facts that the committee should go to Philadelphia and be absent for a few days. I therefore ask the leave of this House for the members of the Committee on Naval Affairs to be absent, say from Thursday morning until the beginning of next week.

Mr. WASHBURN, of Illinois. I wish to ask if it is desired that the whole of the committee shall go.

Mr. BRANDEGEE. That is to be optional with the members of the committee.

There being no objection, leave was accordingly granted.

#### PURCHASES BY ORDNANCE OFFICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the acts of April 21, 1808, and March 3, 1809, a statement of the purchases made by the Ordnance office during the year ending December 31, 1866; which was laid on the table and ordered to be printed.

#### QUARTERMASTER GENERAL'S CONTRACTS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with the acts of April 21, 1808, and July 17, 1862, the contracts made by the Quartermaster General from July 1, 1866, to December 31, 1864; which was laid on the table and ordered to be printed.

#### PUBLIC BUILDINGS IN NEW YORK CITY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior and Acting Postmaster General, transmitting the report of the commission appointed under a resolution of Congress, approved May 16, 1866, to inquire concerning a suitable site for buildings for courts and post office in New York city; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### ROCK AND ILLINOIS RIVERS.

The SPEAKER also, by unanimous consent, laid before the House a communication of the Secretary of War, transmitting, in compliance with a resolution of the House of January 3, 1867, the report of the chief of engineers on the subject of the surveys of the Rock and Illinois rivers; which was, on motion of Mr. WENTWORTH, referred to the Committee on Commerce, and ordered to be printed.

#### MINERAL RESOURCES OF THE WEST.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a preliminary report by Mr. J. Ross Browne upon the mineral resources of the States and Territories west of the Rocky mountains; which was referred to the Committee on Mines and Mining, and ordered to be printed.

#### PRINTING REVENUE DOCUMENTS.

Mr. CLARKE, of Ohio, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the House twenty thousand copies of the report of the



special commissioner of the revenue, and ten thousand copies of the form of bill accompanying the same; and for the use of the Treasury Department one thousand copies of the report, and five hundred copies of the form of bill.

BREAKWATER AT CRESCENT CITY, CALIFORNIA.

Mr. BIDWELL. I desire, by unanimous consent, to move the printing of the memorial presented this morning relative to a breakwater at the port of Crescent City, California.

Mr. WASHBURN, of Illinois. I object. I see no necessity for printing things of this sort.

Mr. BIDWELL. There is great necessity for it.

#### RECONSTRUCTION.

Mr. ASHLEY, of Ohio. I call for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights, on which the gentleman from Ohio [Mr. BINGHAM] is entitled to the floor. The pending question is on the motion to refer the bill and amendments to the joint committee on reconstruction.

Mr. BINGHAM. I yield to my friend from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. Mr. Speaker, in the spring of 1865 the military forces of the late confederate States of America surrendered themselves as prisoners of war to the arms of the Federal Government. As a civil power the pretended confederacy then ceased to exist, and the Commander-in-Chief of the forces of the United States took military possession of the conquered country. That year and the next have passed away, and yet, except in the case of Tennessee, the supreme power of the conqueror has done nothing to relieve the subjugated people from their condition as prisoners of war, nothing to give them civil governments, or to enable them to form such governments for themselves.

It is not without cause that all parties in the South complain of this unreasonable delay. It is not without cause that the friends of the Executive reproach the national Legislature with condemning his policy without setting up something in its stead. We accuse the President of having surrendered the fruits of our victories to the enemy, yet we take no steps to rescue them out of his hands. We charge the President with having deserted our allies, the loyal men of the South, and placed them under the control of organizations as thoroughly rebel as those which formed constituent parts of the late confederacy, yet we content ourselves with simply inquiring into and publishing the enormities daily perpetrated by those organizations and the men who uphold them. We know that the loyal people of the South have no protection for life or property. We know that they are being murdered by hundreds for no other offense than that of having fought on the side of their country, and the fact that they wear its uniform is the sufficient evidence against them. We know that a convention of unarmed men, met under the guarantee of the Constitution of the United States to deliberate on public affairs, has been dispersed by violence and its members shot down in the public streets in open day by those who pretended to act under the authority of the Government, yet we do nothing to provide tribunals and laws for the adequate punishment of the perpetrators of these deeds.

Surely the time has come for action. The loyal citizen of the United States, residing in the territory which he aided to reclaim from the public enemy, has a right to demand protection at the hands of his Government. We are called upon to act by the duty, which even savages recognize, of shielding allies against a common foe. We are called upon by our condition as conquerors to give civil governments to the conquered. We are called upon by our immense national debt to organize the South, that its resources may be developed, and thereby may aid in lessening the public burdens.

The bill now before the House proposes to relieve the inhabitants of the conquered country from their condition as prisoners of war, and to declare all of them citizens of the United States except a small minority of the more active participants in the late rebellion. It proposes to treat these people in the manner most favorable to themselves, to consider them residents of territory within the limits of the United States and not embraced in any organized State. It proposes to enable them to form for themselves State governments, to be admitted into the Union on a footing with the other States thereof as soon as they shall have been ascertained to be republican in form and so constituted as to secure equal rights to all citizens.

It provides a process similar to the naturalization of persons of foreign birth by which those exempted from the general operation of the bill may become again citizens of the United States. This class embraces the comparatively small number who voluntarily accepted office under the late confederacy, and took upon themselves its allegiance by actual oath, and who cannot now swear that on and at all times after March 4, 1864, they desired to return to their old allegiance, and that they gave no voluntary aid or encouragement to the rebellion after that date.

The right to place these men on a footing with men of foreign birth cannot be denied. We have always maintained the right of expatriation. Any American citizen may lawfully renounce his allegiance and take upon himself that of another Government, but it is only at our option that he may do so and still remain in the country. The crime of these men was not the formation of the southern confederacy. To that there could be no legal or actual objection. Their crime was the taking of our soil, our property, forming their new government within our borders. If they had established it within the limits of Mexico, as some of their predecessors once did, it might have still existed, and that without cause of complaint on our part unless we were bound to prevent it by treaty stipulations with Mexico. In that event surely they would, at least at our option, have ceased to be American citizens. True, their government has fallen, but this was no merit of theirs. They did what they could to establish it, and it is not for them to say that it never had a legal existence. In short, we but take them at their word. They declared themselves no longer citizens of the United States. They acted against us upon that declaration. We admit it, and they are estopped from denying it now.

It is urged against the bill under consideration that it proposes to destroy existing State governments, and to create new ones in their stead, and that this is beyond the constitutional power of Congress. This objection is based upon the assumption that there are existing State governments in the territory reclaimed from the military forces of the late confederacy. Let us examine the foundation for this assumption. Take the case of North Carolina, and that pretended State stands upon precisely the same footing with all the others. If the organization existing in that district of the conquered country is a State of the Union in the sense in which that term has always been understood it must be either because it was a party to the original compact or because it has been admitted to participation in that compact by legitimate authority since. If it ever was a State of the Union it is necessary also that nothing which has since transpired should have deprived it of its rights as a member of the compact. These positions will not be controverted. To fix upon its legal status all that is needed therefore is to consult its history.

There was a State of North Carolina, a party to the original compact. Let us admit for the present that this organization is that one. Under this view the inquiry will be: has it lost its position by anything which has transpired since?

In 1861 North Carolina passed an ordinance

of secession dissolving the connection with her fellow States. It is urged that this ordinance was void. I grant it, and I grant, too, that if no act had followed the ordinance, North Carolina would still be a State of the Union. But she took up arms to maintain by force what she had resolved by legislation. She formed an alliance with other States and levied public war against the Government. These acts, however wrongful, were not void. It is a fact not to be explained away that war existed for four long years, and that she and her allies constituted one belligerent and the Government of the country the other. Now, the existence of war, according to all the writers upon public law, terminates all treaties, all compacts, puts an end to all civil relations that existed between the belligerents and the ending of the war of itself does not revive them.

If the war terminates by treaty, the treaty fixes the future relations of the parties. If it terminates by conquest, the law of nations fixes those future relations. That law holds the conquered to be mere prisoners of war with no civil rights whatever as against the conqueror. It was certainly competent for the war to end by treaty, and if it had done so, what lawyer would now look to the Constitution of the United States for the present status of North Carolina? If the supposed treaty had restored the *status ante bellum*, then, indeed, the Constitution would be looked to to ascertain that status, but when ascertained it would be founded upon the treaty and nothing else. Ending, as the war actually did, by victory on the one side and unconditional submission on the other, the laws of war leave the parties as the war leaves them until the supreme power of the conqueror grants civil rights to the conquered.

It is sometimes alleged that the surrender of the rebels was not unconditional, and an attempt has been made in certain quarters to give the terms of the surrender the force and effect of a treaty restoring the *status ante bellum*. This position is too absurd for serious consideration. The surrender was as prisoners of war, than which nothing can be more unconditional. And if this were not so, who gave the commanding General the power to make such a treaty, either in terms or by implication? Who gave the President the power to make such a treaty or indeed any other, except with the consent of the Senate? General Grant knew his duty as a soldier too well to usurp the highest law-making power of the country, the right to make treaties. His power to contract with the enemy was limited to the purposes and the duration of the war, and he did not transcend that power.

It is contended by some that the State of North Carolina did not rebel; that during the war the State remained loyal, but with its functions suspended, and that only the citizens rebelled. This is a possible assertion, but it is not true. Individual citizens do not levy war. Rebellions are organized bodies of men, not necessarily States, nor even preëxisting organizations; but always organizations. It is a question of fact, to be settled by the history of the times, whether the organization that rebelled in North Carolina was or was not the State. It claimed to be the State. It performed the functions of the State. It had the necessary elements of the State. It was the only similar organization within its limits; the only organization within its limits that possessed executive, judicial, and legislative departments. Its various offices were held and exercised by those who had held and exercised the corresponding offices of the State, and their successors. If it was not the original State wrongfully out of its line of duty and in rebellion against the Government, it is difficult to conceive what it was, and where and what that State was whose functions it was performing.

The State of North Carolina did rebel, did repudiate the Constitution of the United States, did form an alliance with the public enemy, did levy war against the Government, and

finally did become reduced to the condition of a conquered province by our victorious arms. Did she lose no rights by all this? Did the mere fact of rebellion suppressed remit her back to all her old privileges as a member of the Union? She violated the compact. Is this attended with no forfeiture? Can a State of the Union thus play with her rights and duties; thus violate the one without losing the other? Is her condition as a party to the compact a thing like a garment, to be put off and on at will? Common sense and the common law of nations justify the statement of the whole matter in a single plain proposition: she broke the compact and therefore can claim no rights under it.

This conclusion results from the hypothesis that the present body-politic is the old State of North Carolina, but the hypothesis is not true. The friends of the President say a State cannot be destroyed; "once a State always a State" is their favorite theory. It might be interesting to debate this as an abstract proposition, but when we find the State actually destroyed an argument for or against its eternal duration would be labor thrown away. Physicians do not dispute about the mortality of the disease over the dead body of the patient.

The President of the United States in his proclamation of May 29, 1865, uses the following language:

"The rebellion which was waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government."

To make sure that the President means what his language imports, that the organization theretofore known as the State of North Carolina had ceased to exist, I quote from the same proclamation, the following:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of the said State to organize a State government whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in their rights of life, liberty, and property, I, Andrew Johnson, President of the United States and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint William W. Holden, provisional governor of the State of North Carolina," &c.

Here is the assertion as plain as language can make it, that somehow or other the State of North Carolina, that was a party to the old compact, had ceased to exist; and although it rests upon the declaration of Andrew Johnson, it is nevertheless true. The forces of the United States had crushed out the old body-politic and driven away those who had performed its functions, leaving the people, considered in the best possible aspect for themselves, as so many citizens of the United States occupying territory within the limits of the United States and not embraced within any organized State.

It is only in this capacity that the people of North Carolina could be enabled to create a State *de novo*, as they were invited to do by the proclamation, by meeting in their primary capacities and electing delegates to a convention to frame a constitution and form of government. Such a convention did meet and did perform the functions assigned to it by the proclamation, and the body-politic now claiming rights under the old compact is the creature of that convention.

I admit that the convention took up the old form of government and adapted it to their purposes by modification, and they might have taken the constitution of Pennsylvania as a groundwork and changed it to suit them. I repeat, it is the organization that came from their hands which is here claiming rights. Now, the creature of the convention can have no legal status except upon the hypothesis that the convention was a legal body, and the convention could not have been a legal body except upon the hypothesis that the old State had ceased to exist.

Grant, for the benefit of the argument of the

opposition, that the President could do what he attempted and what it has always been supposed could only be done by act of Congress, that is to say, could enable citizens of the United States to organize a State government. Very certain it is that neither Congress nor the President can enable citizens of the United States to organize a State government within the limits of an organized State. A different question would have been presented if the action had been by the Legislature of the State pursuant to its laws and the design to change a form of government already existing. The product might then have been the old State or its legitimate successor. But this was not done, and the champions of the present body-politic are involved in this dilemma, either that the convention was an illegal body and its creature a non-entity, or that the old State had ceased to exist when the convention was called, and that the present one never was a party to the old compact and can claim no rights under it.

Let me now ask, what is the difference in condition and legal rights between the body-politic claiming to be admitted to the rights of the State of North Carolina and that asking recognition as the State of Nebraska? Both were formed by the people of the respective districts, or some of them, of their own motion and without enabling acts. In the case of Nebraska such an act was passed, but the citizens saw fit to reject it, and some time afterward, in a totally different manner, that is to say, by and through the territorial Legislature prepared, submitted to the people, and are now presenting here their constitution and form of government. As the territorial Legislature had no power to act in the premises, the legal result is that the whole matter comes from the people of the Territory without an enabling act.

In the case of North Carolina there was no enabling act whatever. It is true there was the President's proclamation, but nobody who does not hold a lucrative office at the will of the President would concede to that the force and effect of an act of Congress. In that document the Executive gives himself his twofold title of President of the United States and Commander-in-Chief of the Army and Navy, as if uncertain in which capacity he was acting and too anxious for the end to leave out any source of power. In his civil capacity, it is very clear he had no power to create States by proclamation, or to enable citizens of the United States to create them. In his military capacity, his functions are limited to carrying out the laws of war, and a law of war which empowers the head of an army as such to create civil government is something new in the history of legal science.

Before any action was had in either of these communities, the people composing each occupied precisely the same legal position, not taking into the account the fact, immaterial in the present argument, that in one of them very many of the people had been guilty of high crimes. In both cases the inhabitants were citizens of the United States. In both they occupied territory within the limits of the United States, and in both they had no organized State government.

Does it alter the case that in North Carolina a State government had previously existed? Certainly not, unless the present organization is its legitimate successor. But it is not. History is clear upon that point. The old State contained in its constitution a provision by which that instrument could be changed even to the making of a new government. It had to be done by act of the Legislature, passed by both branches of the body by a vote of three fifths of the members; advertised six months before the next meeting of the Legislature; passed again by a vote of two thirds of both branches, and finally ratified by a vote of the people. In this manner, and this only, could a State government be organized possessing the rights of the old one or being its legitimate successor.

But there was no Legislature. Its members had been driven from their seats as felons never to meet again. There was no executive. The

Governor had been deposed and banished. There was no judiciary. The courts had been broken up and the judges threatened with imprisonment if they should ever again attempt to exercise their functions. In fact, the whole body-politic had been destroyed and the people were "without civil government."

Where then is the legal difference between the cases of Nebraska and North Carolina? There is none—certainly none in favor of the latter. Both require congressional legislation to give them the rights of States, and Congress may admit both, reject both, or admit either, and reject the other.

I have already said that the pretensions of the other organizations now claiming to be States rest upon precisely the same legal grounds with those of North Carolina. If they come as old States, former members of the compact, claiming reinstatement in their old position, the answer is: they have broken faith with their cocontractors, violated the articles of copartnership, so to speak, and cannot have them renewed except with the consent of the other parties. If they come as new States, as their history would indicate, gotten up under the authority of the President's proclamations, the answer is: first, new States cannot be created in that manner; and second, new States have no rights under the Constitution until they are conferred by legislation.

It is said that this line of argument admits the right of secession, admits that the States in question have succeeded in getting out of the Union, notwithstanding the fact that the war waged to prevent it has resulted in success on our side. Those who raise this objection are involving themselves in a series of blunders. We never denied the physical power of a State to secede; we never denied its physical power to violate the Constitution and to set up an independent sovereignty within our borders. Nothing but the experiment could settle that question. We resolved that these States should not form a new government within our territory, and we succeeded in preventing it. But it does not follow that the States so violating the Constitution have lost no rights under it. It does not even follow that they have survived the clash of arms.

The States, in the sense of people and territory, are still within the limits of the United States, and therefore not "out of the Union." It is only that their organizations have ceased to be component parts of the Government of the United States.

The war was not waged to keep the rebel States from losing any of their rights under the Constitution. They had already renounced those rights under the delusive hope of getting something better by an appeal to arms. This something better they attempted to get from us and we resisted the attempt with success. The war was not waged on our part to prevent the rebels from doing injury to themselves, but to prevent them from doing injury to us. The result, therefore, does not reinstate them in the positions they renounced, though they have failed to secede, in fact, and are not "out of the Union."

The important feature of the bill under consideration is that which proposes to give the people of the States lately in rebellion governments strictly republican in form, by giving to every adult male who has not disqualified himself by crime the right of suffrage. The precise meaning of that clause of the Constitution which requires Congress to guaranty to every State a republican form of government has never been judicially determined, and every Senator and Representative who takes upon himself the obligation to support the Constitution must interpret that clause so as to satisfy his own conscience.

What is a republican form of government? If I were to attempt a definition it would be this: it is that form of government in which the rulers are chosen by the suffrages of the people, and in which every citizen may either exercise the right of suffrage himself or have it exercised for him by some one who may be

fairly considered as representing his interests by reason of legal, social, or family relations to him. Under this definition, if the right of suffrage be exercised by all the adult males, the women and children may be considered as mediately represented in the government, and hence the form would be republican. But it would meet the requirements of the definition much better if the right of suffrage were extended to all adults without regard to sex; and I am ready to advocate this extension whenever the women of America shall believe themselves unfairly treated by this mediate representation and shall demand the right of suffrage for themselves.

I ask now with what kind of consistency can the government of South Carolina, now so imperiously demanding recognition here, be considered republican in form when four out of every seven adult males are denied the right of suffrage? Who represents the interests of the four? Who represents the interests of their wives and children? Under the slave system there was at least the pretense of mediate representation. The slave in contemplation of law occupied the position of the apprentice, the minor. He was a part of the family of the master, and to the dominant southern mind was considered as fairly represented in the government by the head of the family. Recent events have demonstrated that the slave himself looked upon the matter in a different light. But the slave system has passed away and the farce of mediate representation of the negroes has gone with it. The late slave and the late master stand upon the same legal footing, and as well might the former claim the right of voting for the both as the latter. We must now either violate our obligations to support the Constitution or we must refuse to recognize as republican in form any State government which denies the right of suffrage to any of its adult male citizens who are not disqualified by crime.

If it be said that this argument applies with equal force to my own State I admit it, and with some sense of humiliation. Possibly, as but one in sixty is there excluded from participation in the government, the maxim *de minimis non curat lex* might reconcile easy consciences. But Pennsylvania was liable to no such reproach when she became a party to the compact. That anti-republican principle was incorporated in her constitution afterward by the same political party that would have built up an aristocracy of race in the South.

But gentlemen on the other side of the House say that this is a white man's Government, and they raise their hands with an affectation of holy horror at the idea of extending political rights to the negroes. Do they not know that our Government is emphatically the Government of the governed? And are none but white men governed by it? Do they not know that at the time of the adoption of our Constitution negroes voted in every State of the Union but one? Do they not know that members of the Convention that framed that instrument were voted for by negroes, and that there was no law and no principle of our institutions which would have prevented a negro from sitting in that Convention if he had been duly elected? Do they not know that there is not now and that there never has been any law to prevent a negro from holding the office of President of the United States if he should be otherwise qualified?

These gentlemen would like to make this a white man's Government. They seem actuated by a fear of the negro amounting to monomania. Negro equality is Banquo's ghost to them, and if ever the negro should outstrip them in the race of civilization it will be no fault of theirs that he has had the opportunity. They will point, upward of course, to the dusky column and exclaim—

"Thou canst not say I did it."

These gentlemen know best what their chances would be in a fair and even race with the negro under equal laws, and if they really fear his

competition it is but just to them to admit that they have good reason to fear it. It may not serve to allay their terror of negro equality to remind them that the American negro has advanced in civilization more within two hundred years than their own race has within two thousand.

With an affectation of consistency that might well be envied, the same men who exhibit this fear of fair competition with the negro under equal laws object to his right of voting on account of his ignorance. There is doubtless a great degree of ignorance among the negroes of the South; but who is responsible for it? Not they. Until recently it was a crime punishable by fine and imprisonment in every one of the States lately in rebellion to teach negroes to read. Even the Bible was by law a sealed book to them. Certain portions of it, selected with especial reference to the pecuniary advantage of their masters, might be read to them by judicious ministers of the Gospel; but if some simple-minded philanthropist should attempt to open its full light upon their benighted understandings it would be well for him if he could obtain the advantage of the punishment meted to his crime by law, and thereby avoid the hemp and the bowie-knife.

But I deny that any man should be deprived of political rights on account of his ignorance. Governments are intended to equalize, as far as possible, the weak with the strong, the poor with the rich, the ignorant with the intelligent. Political rights are intended to enable men to preserve that portion of their natural rights which is the especial object of government; that is to say their civil rights of life, liberty, and property; and the only valid reason that can be urged for denying political rights to any man is that he is capable of preserving his civil rights without them.

Can the negro in the South preserve his civil rights without political ones? Let the convention riot of New Orleans answer; let the terrible three days in Memphis answer. In the latter city three hundred negroes who had periled their lives in the service of their country and still wore its uniform, were compelled to look on while the officers of the law, elected by white men, set their dwellings in flames and fired upon their wives and children as they escaped from the doors and windows. Their churches and school-houses were burned because they were their churches and school-houses. Outrages which the tongue refuses to describe in language, were perpetrated upon their women; and the dead mother, who was killed because she resisted, and her living child were thrown together into the flames of the building that was burned because it had afforded them a home. Yet no arrest, no conviction, no punishment awaits the perpetrators of these deeds, who walk in open day and boast of their enormities, because, forsooth, this is a white man's Government.

Let it not be said that these occurrences are unusual and extraordinary. The history of the last eighteen months will exhibit their parallel in every State and in every city of the subjugated South; and the present organizations in that territory, the base offspring of northern perfidy and southern treason, cannot, and will not, afford the adequate remedy. It is quite time that this Government should recognize the rights of the black man, and should arm him with the ballot, that he may not be compelled to arm himself with the pistol and the knife in defense of those whom his duty to his God requires that he should defend.

Certain gentlemen have made the strange discovery that the extension of the right of suffrage to negroes will render them eligible to office; and they ask with an air of confidence, as if the question contained an unanswerable argument, how we would like to sit in this House with a black Representative? Well, if we have been content to sit here with gamblers and lottery brokers, it is too late to become fastidious now. These gentlemen make the mistake which, it is charitable to suppose, was made by a distinguished Cabinet officer in his

letter directing the people of the United States not to sanction the pending constitutional amendment. They suppose that there is some necessary connection between the right of suffrage and eligibility to office; such that, granting or withholding the one of itself, grants or withholds the other. No position can be more unsound. Women and minors may hold office under the Government of the United States, but may not vote. Men between the ages of twenty-one and twenty-five may vote, but may not hold the office of Representative in Congress. Naturalized foreigners may vote, but are not eligible to the Presidency.

In fact, the principle they so much dread in the future is already part and parcel of the laws of the land. A negro, otherwise properly qualified, is now and always has been eligible to Congress. Nothing but the want of a due election prevents any of our seats from being now occupied by black Representatives. This question has been always heretofore left with the citizens of the several congressional districts. They have repeatedly elected worse men than an average negro, but they have never yet elected a negro.

Of the eight million inhabitants of the country lately in rebellion, five millions may be considered as devotedly attached to the cause of the Government, and the remaining three millions are as inimical to it as they were in the proudest days of the confederacy. Of the five millions but one million and a half are white. By limiting political power to the white element alone, therefore, an average preponderance of two to one will be given to the enemies of the Government. The object of the bill under consideration is to place the destinies of the South in the hands of the entire eight millions, in order that the loyal majority may protect themselves and the country against their and its implacable foes, rendered more deadly hostile by their humiliating defeat in the field. A measure so just, so reasonable, and so necessary cannot fail to receive the sanction of Congress.

Mr. MAYNARD. Will the gentleman allow me to interrupt him?

Mr. BROOMALL. Certainly.

Mr. MAYNARD. I will detain the gentleman but a moment. I wish to make a suggestion at this point to see how he will meet it. As I understand his remarks, he estimates that of the southern people, supposed to be eight millions in all, the loyal portion numbers about five millions and the disloyal about three millions. He proposes to put governmental control into the hands of the whole of them, supposing that the loyal five millions will more than counterbalance the disloyal three millions. This undoubtedly would be the fact if the loyal and disloyal were distributed in the same proportion throughout the entire South. The suggestion to which I wish to call the attention of the gentleman is, that the two classes of population are not distributed everywhere in the same proportion; that in some localities the loyal sentiment is largely predominant, while in many other localities the rebel spirit has the decided preponderance. To leave the loyal men, white and black, in any community subject to the domination of the rebel element would place them in an attitude which the gentleman can well understand from the part which he took in an investigation in my own State. Take, for example, my own State, some portions of which are very largely loyal, while in others the predominant temper is of that malignantly disloyal type of which the gentleman himself saw the evidences. I would ask him how he would meet that state of things, if he proposes to place the government in the hands of the whole population, without discrimination as to loyalty or disloyalty?

Mr. BROOMALL. I see the difficulty presented by the gentleman from Tennessee, and I can only say in answer to him that the bill to some extent provides against it by disfranchising a portion, probably too small a portion, of the rebel element; certainly the most malignant portion. If the gentleman will propose such



an alteration as will remedy the difficulty, he will have my assistance.

Mr. MAYNARD. I will call the gentleman's attention to a principle we enunciated in this House this morning in the District suffrage bill, for that bill is based on the principle of loyal suffrage, irrespective of race or color.

Mr. BROOMALL. If the loyal men of the South ask the disfranchisement of every rebel, they have the right to require it at our hands, and I for one will grant it to them as far as my vote goes. No loyal man, of any race or color, should be subjected to the rule of the disloyal without his consent. A thorough remedy for the evil in all localities by general law is probably impracticable at the present time.

If there is any significance in the late verdict of the people—the tribunal of final resort upon all political questions—it is, that the civil authorities shall not surrender to the rebels all that was gained by arms at so much cost of blood and treasure, and upon so many battle-fields; that our Government dare not, in the face of the nations of the world, desert its allies in the South, of whatever caste or lineage, nor make peace with the enemy, except upon terms satisfactory to them; and finally, that treason is odious, and though it may be pardoned by a faithless Executive, it is still treason, and as such shall never be allowed to disgrace any official position, State or national; and the man who undertakes to stay execution of the judgment upon this verdict had better ask the history of his country in mercy to omit his name from its pages.

Mr. BINGHAM. I hope the House will not take out of my time what has been consumed by the gentleman from Pennsylvania.

The SPEAKER. The Chair will understand that the gentleman from Pennsylvania was ready to proceed while the gentleman from Ohio was not, and that the latter will be entitled to the floor for one hour on next Tuesday, to which time the subject has been postponed.

MRS. SALLIE GRIDER.

Mr. HARDING, of Kentucky. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, directed to pay Mrs. Sallie Grider, widow of Henry Grider, deceased, late a member of this House, the amount of compensation unpaid and due to said Henry Grider, as a member of this House at the time of his death, on the 7th of September, 1866.

Mr. WILSON, of Iowa. I suggest to the gentleman to amend the resolution by making it include the extra compensation, so as to save all further question.

Mr. HARDING, of Kentucky. I accept that modification.

The resolution, as modified, was adopted.

#### JUDICIAL PROCEEDINGS.

Mr. BOUTWELL, by unanimous consent, introduced a bill concerning judicial proceedings; which was read a first and second time, and referred to the Committee on the Judiciary.

#### ASSAY OFFICE IN ST. LOUIS.

Mr. HOGAN, by unanimous consent, introduced a bill to establish an office in the city of St. Louis for the assay of gold and silver; which was read a first and second time, and referred to the Committee of Ways and Means.

#### INCREASED PAY OF CLERKS.

Mr. GARFIELD. I ask unanimous consent that House joint resolution No. 224, relating to the increased pay of clerks, may now be taken up and put on its passage. It is the special order, and will take but a few moments.

Mr. WASHBURN, of Illinois. I object.

Mr. GARFIELD. I move to postpone all previous orders.

Mr. WASHBURN, of Illinois. I move that the House adjourn.

The motion was agreed to; and thereupon (at ten minutes to four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees: By the SPEAKER: The petition of Madison Newton, asking allowance for extraordinary medical expenses and personal attention caused by wounds of his son received in the service.

By Mr. ALLISON: The petition of the McGregor Western Railroad Company for aid to extend their road from O'Brien county, Iowa, to Yankton, Dakota, &c.

Also, the petition of 100 citizens of Clermont, Fayette county, Iowa, protesting against contraction of the currency, &c.

By Mr. AMES: The petition of Harvey T. Litchfield, for change of name of steamer *Eveline* to *Nantasket*.

By Mr. BALDWIN: The petition of the Worcester Horse Railroad Company, for relief from internal revenue tax on gross receipts.

Also, the petition of citizens of Grafton, Massachusetts, concerning the currency and the national banks.

By Mr. BANKS: The memorial of Charles Colburn, of Massachusetts, to be compensated for services as yeoman on board the United States receiving ship *Ohio* during the year 1845, and subsequently.

By Mr. BERMAN: The petition of J. B. Bloss and Moses W. Field, of Detroit, Michigan, praying that Congress will refrain from the passage of any act authorizing a curtailment of the national currency.

Also, the petition of Henry Underwood, and others, jurors, serving in the district and circuit courts of the United States sitting at Detroit, Michigan, praying for increased compensation.

Also, the petition of George R. Smith, of Detroit, Michigan, praying for the passage of the bankrupt bill now pending in Congress.

Also, the report of the Board of Trade of the city of Detroit, touching the subject of registering Canadian-built vessels in the United States, remonstrating against granting further concessions to the owners of foreign-built ships, and recommending that all articles of American manufacture for ships be free from excise or internal revenue taxes.

By Mr. DRIGGS: The petition of Emil Scheurman, and 20 others, citizens of Saginaw, Michigan, praying for a reduction of tax on cigars.

By Mr. DARLING: The petition of Samuel & I. Schiffer, merchants in New York city, praying compensation for leather held by them in payment of debts due them at Savannah, Georgia, and taken and sold by the United States.

By Mr. ECKLEY: The petition of citizens of Wells-ville, Ohio, against any decrease of national currency, and against requiring the national banks to redeem their circulation in the city of New York.

By Mr. FARNSWORTH: The petition of a large number of the citizens of Aurora, Kane county, Illinois, for impeachment of Andrew Johnson, acting President of the United States.

By Mr. GARFIELD: The memorial of J. D. Moore and John N. Moulder, hospital stewards, United States Army, asking that the act of July 28, 1866, may be amended and made applicable to soldiers remaining in service after that date.

By Mr. HOLMES: The petition of Smith & Post, of Oswego, New York, for American registers for Canadian-built vessels Champlain, Hookelagu, Monarch, Sea Gull, and Smith & Post.

By Mr. HUMPHREY: The petition of Colonel E. W. Benson, and 1,400 others, citizens and tax-payers of Buffalo, New York, asking for the passage of a law granting pensions to the soldiers and sailors of the war of 1812.

By Mr. HUNTER: The memorial of R. L. Allen, R. H. Allen & Co., John W. Douglass, Edward B. Leverich, and others, against the increase of duties upon importations of steel.

By Mr. INGERSOLL: The petition of William E. Phelps, S. M. Farren, H. P. Tracy, and others, citizens of Elmwood, Illinois, protesting against the passage of any act for the reduction of the currency, or any act requiring the national banks to redeem their circulation in the city of New York.

By Mr. KELLEY: The memorial of 766 loyal Union citizens of Arkansas, praying that in view of the unwillingness of the late insurrectionists in that State to render a prompt compliance with the measures taken by the loyal people of this nation, Congress do declare the unrecognized government of the State of Arkansas, as at present existing, abolished and of no effect; and to confer upon the loyal people of that State, and such other persons as may be deemed worthy, the authority to reorganize a State government upon a basis which shall insure to its loyal citizens, without regard to color, the full enjoyment of their rights and privileges, &c.

By Mr. LAWRENCE, of Pennsylvania: The petition of citizens of Lawrence county, Pennsylvania, asking for the passage of an increase of duties on foreign goods.

By Mr. MARVIN: The petition of L. L. Dean, John Carmichael, Henry Quithot, and others, citizens of Amsterdam, Montgomery county, New York, protesting against the act compelling national banks to redeem in New York, and against any contraction of the currency.

Also, a petition of similar import from T. N. Miller & Co., G. A. Streeter & Co., and many others, citizens of Johnston, Fulton county, New York.

By Mr. MOULTON: The petition of citizens of Assumption, Christian county, Illinois, praying that Congress refrain from any curtailment of the currency.

By Mr. O'NEILL: The memorial of General Grant, Major General Meade, and others, officers of the United States Army, respectfully asking that when officers are withdrawn from active service and placed on the retired list, under existing laws, they may be allowed, in addition to their pay, their service or lon-

gevity rations, which is one ration per day for every five years' service.

By Mr. PAINE: The memorial of the Soldiers' and Sailors' Union of Washington, District of Columbia, asking for an investigation into the affairs of the Government Printing Office.

Also, the memorial of Joseph Henry, George G. Meade, J. E. Hilgard, Charles Whittlesey, and I. A. Lapham, a committee of the American Association for the Advancement of Science, for the publication of the Lake Surveys in separate form.

By Mr. PRICE: The petition of manufacturers and dealers in cigars, and dealers in and growers of seed-leaf tobacco, asking for a modification of the internal revenue law in reference to the same.

By Mr. SCHENCK: The petition of Major General Lorenzo Thomas, Adjutant General United States Army, praying that he may be allowed double rations.

Also, the petition of 30 officers of the United States Army, praying that officers placed on the retired list may be allowed to retain their longevity rations.

By Mr. RAYMOND: The memorial of Major General Hooker, and other military officers, praying for a continuance of service or longevity rations to officers placed on the retired list, in addition to the pay now allowed.

By Mr. UPSON: The petition of David Lillianfield, and others, of Kalamazoo, Michigan, praying for a reduction of the tax on cigars.

By Mr. WENTWORTH: The petition of David Quinn, of Chicago, Illinois, for reestablishment of slavery.

By Mr. WASHBURN, of Illinois: The petition of citizens of Rush, Jo Daviess county, Illinois, asking that no act be passed curtailing the national currency, or compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances.

#### WITHDRAWAL OF PAPERS.

By Mr. INGERSOLL: The memorial and other papers on file in the case of Robert T. Winslow, for compensation for services in raising a regiment of infantry, were withdrawn from the file of the House, and recommended to the Committee on Military Affairs.

#### IN SENATE.

WEDNESDAY, January 9, 1867.

Prayer by Rev. WILLIAM PATON, D. D., New Haven, Connecticut.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented two petitions of citizens of Vermont, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

Mr. FESSENDEN presented a petition of merchants of Wilmington, North Carolina, praying for a change in the internal revenue laws; which was referred to the Committee on Finance.

Mr. SHERMAN presented thirty-two petitions from citizens of Ohio, Indiana, Illinois, Kentucky, and Wisconsin, praying for the imposition of an increased duty on flaxseed; which were referred to the Committee on Finance.

He also presented a petition of citizens of Erie county, Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. HENDERSON presented a memorial of citizens of Johnson county, Missouri, praying that Congress will not provide for any further curtailment of the national currency; which was referred to the Committee on Finance.

Mr. RAMSEY. I present a memorial of merchants of the city of St. Paul, Minnesota, protesting against the passage of any act authorizing the curtailment of the national currency, or having in view the return, within a limited time, to specie payments. They respectfully represent that the further reduction of the volume of currency at present would prove highly injurious to the banking, manufacturing, and mercantile interests of the country, and would entail suffering upon nearly every member of the community; and they express the opinion that if such currency shall now be contracted we are near the time when the lawful obligations of citizens cannot be met. They also ask Congress to refrain from the enactment of any law compelling all national banks, where

ever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances. I move that this memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Berkshire county, Massachusetts, interested in woolen manufactures, praying for relief under the existing tariff; which was referred to the Committee on Finance.

Mr. SUMNER. I also offer the petition of loyal citizens of Norfolk, Portsmouth, and adjoining counties of eastern Virginia, without distinction of color, in which they ask Congress to remove the anti-republican form of government now existing in Virginia, which deprives them of exercising the right of the elective franchise and all other rights guaranteed to them as citizens. I understand that this petition, which is signed by a respectable number of names, is the forerunner of a much larger petition from the same community and for the same purpose. I move its reference to the joint committee on reconstruction.

The motion was agreed to.

Mr. SUMNER. I also offer the remonstrance of Rev. George H. Washington, and two hundred and seventy-five other colored citizens of Boston, against the admission of Nebraska as a State with a constitution which disfranchises citizens on account of color. In this petition the signers dwell particularly on the dangerous character of such an admission as an entering wedge to that of the rebel States. I also offer a similar remonstrance from Lieutenant Charles L. Mitchell, late of the fifty-fifth regiment of Massachusetts volunteers, and now a representative in the Massachusetts General Court, a colored citizen, with other colored citizens of Boston. As this subject is now before the Senate I move that these remonstrances lie on the table.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of the New England Emigrant Aid Company, a corporation under the laws of Massachusetts, in which they ask indemnification for property of theirs to the amount of \$25,000 unlawfully destroyed at Lawrence, in the Territory of Kansas, by a mob acting under the direction of one Samuel Jones and in the presence of one Donaldson, said Jones and Donaldson being there respectively as deputy marshal and marshal of the United States for that Territory, and the said Jones being also a territorial sheriff, and declaring said mob to be their official posse, the same being also declared by the then territorial Governor, Wilson Shannon, his protection having been invoked against the unlawful violence threatened by said mob, and having been refused by him on the ground that it was the legally constituted posse of the United States marshal and sheriff of Douglas county. This case was before the Senate some years ago, but to the best of my knowledge there was never any action upon it. It is a historic case. The parties interested in it at the time were generous and patriotic; they lost what they could not afford to lose, and they now wish to have it returned. They have asked me to request the Senate to have their memorial printed for its better consideration. I therefore, in presenting it and moving its reference to the Committee on Claims, move that it be printed for the use of the Senate.

The PRESIDENT *pro tempore*. That order will be entered if there be no objection.

Mr. GRIMES. Does not the motion to print necessarily go to the Committee on Printing?

The PRESIDENT *pro tempore*. It does unless by unanimous consent that rule be dispensed with.

Mr. GRIMES. I insist on the rule.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on Claims, and the motion to print to the Committee on Printing.

#### REPORTS FROM COMMITTEES.

Mr. WADE, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia, reported it with amendments.

Mr. LANE, from the Committee on Pensions, to whom was referred the memorial of William Blake, a soldier in the war of 1812, praying to be allowed back pension from the date of his discharge from the service, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Henry M. Buell, praying to be allowed a land warrant for one hundred and sixty acres of land for services rendered to the Government during the late rebellion, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 465) for the relief of Mary Stanley, reported adversely thereon.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 206) in relation to the pensions of widows of revolutionary soldiers, reported it without amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 15) to repeal certain laws and ordinances in the District of Columbia, and for other purposes, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (S. No. 872) supplemental to an act relating to the admission of patients to the Hospital for the Insane in the District of Columbia, approved January 28, 1864, reported adversely thereon, the subject having been already acted on by the Senate in a bill from the House of Representatives, and moved the indefinite postponement of the bill; which was agreed to.

#### WIDOWS OF TENNESSEE SOLDIERS.

Mr. LANE. I am directed by the Committee on Pensions, to whom were referred the bill (S. No. 454) for the relief of the widow of Jacob Harmon, the bill (S. No. 455) for the relief of the widow of Henry Fry, and the bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased, to report them back without amendment, and to ask that they may now be put on their passage. These are bills that will excite no debate and no opposition. They have been examined by the committee, and the facts are sufficiently clear and are known to a Senator on this floor.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 454) for the relief of the widow of Jacob Harmon. It directs the Secretary of the Interior to place the name of Mrs. Jacob Harmon, of Greene county, Tennessee, on the pension-roll at the rate of eight dollars per month, to commence on the 16th of December, 1861, and to continue during her widowhood.

Mr. LANE. These three bills all depend upon the same statement of facts, and I will state in a few words what they all are. In 1861 these three soldiers of East Tennessee were mustered into service. They were ordered by their commanding officer to burn a bridge. They were captured, after having burned the bridge, and hung up without trial and murdered in the streets of Knoxville and Greenville. We propose now to put their widows on the pension-roll by special act, simply because their muster-in and all the papers were destroyed when their commanding officer was captured. That is the whole case.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 455) for the relief of the widow of Henry Fry. It proposes to authorize the Secretary of the Interior to place the name of Mrs. Henry Fry, of Greene county, Tennessee, on the pension-roll, at the rate of eight dollars per month, to commence on the 27th of December, 1861, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased. The bill authorizes the Secretary of the Interior to place the names of William A. Hinshaw and Jacob M. Hinshaw, of Greene county, Tennessee, minor children of Jacob M. Hinshaw, deceased, on the pension-roll at the rate of eight dollars per month, to commence on the 27th of December, 1861.

Mr. LANE. I move to amend that bill so as to provide that this pension shall continue until the children arrive at the age of sixteen. The general law provides for it, but I think it is better, perhaps, in a special law like this to insert it.

The PRESIDENT *pro tempore*. No objection being interposed, the bill will be so amended, by adding "this pension to continue until they severally attain the age of sixteen years."

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PENSION AGENTS.

Mr. CRAGIN. I move that the Senate proceed to the consideration of Senate bill No. 69, which was under consideration during the morning hour yesterday.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pensions, the pending question being on the amendment proposed by Mr. Howe to the first amendment reported by the Committee on the Judiciary to the House amendment, by striking out the word "October" and inserting "July."

The PRESIDENT *pro tempore*. In the impression of the Chair, the Senator from Indiana is entitled to the floor on this bill, his remarks having been cut short on the expiration of the morning hour yesterday.

Mr. HENDRICKS. I had almost completed what I desired to say upon the bill. I intended only to add that I have no objection to that part of the bill which requires the appointment of pension agents to be made by the President, subject to confirmation by the Senate. Perhaps these officers have become of such importance as justifies this, although I know nothing in regard to the public service and the disbursement of public money by those agents that seems to make it necessary thus to legislate. I am not aware of any defaults on the part of pension agents under their present appointments. Therefore I do not vote for that feature of the bill from any distrust of the agents already appointed, or because of any failure on their part properly to account for the moneys in their hands. But I think the Senate ought to consider a little before the limitation is agreed to of three agents only in a State, and I wish the attention of my colleague on that subject for a moment, as it is of importance to our citizens.

Of course I cannot judge of the condition of other States upon this question; but I think in Indiana we ought to have more than three pension agents, and as it is a matter of convenience to the pensioners to have the agencies

near to them so as to avoid the expense of travel or the expense of employing private agents to attend to their business, that they may go in person to the public agencies and transact their business, I think that in the State of Indiana we ought to have at least five agencies, one for the northeastern, one for the central, one for the southern, one for the extreme southwestern portion at Evansville, and one for the northern part of the State. I cannot think that my colleague will differ with me upon that subject. I think it will be unfortunate if we restrict the number to three, especially as the interests of the Treasury do not require it. I understood from my colleague, as I had also before understood the law to be, that whether there be three or five agents in a State makes but little difference to the Treasury, inasmuch as the agents are paid a commission. The fact that there is a maximum fixed will create a little difference in favor of the small number, but that is so inconsiderable as to make no consideration as against the convenience of the pensioners themselves. The amendment proposed by the Senator from Wisconsin I have no objection to if the Senate is willing to go into this kind of legislation. I suppose he wishes to strike some particular officer who happened to be appointed by the present Administration prior to the month of October. If the Senate considers that of such importance as to make the amendment, I have no objection to it of course.

Mr. HOWE. I beg leave to say, for the satisfaction of my friend from Indiana that the object is rather to save friends appointed.

Mr. HENDRICKS. To save them! I am not able to see exactly how this proposition will save anybody. I understand the amendment to be to strike out October and insert July of 1866—to go back a few months; in other words, to legislate all agents out of office who were appointed between July and October. That is his proposition. I think, sir, that we ought just to say in general terms that agents to be appointed hereafter shall be confirmed by the Senate treat these officers just as Congress has always been in the habit of treating the public officers, and not descend to the business of legislating one set of men out of office to put another set of men in.

Mr. LANE. In reference to the number of agencies in particular States, I will say that as the bill was reported by myself at the last session from the Committee on Pensions, and as it passed the Senate, there was no limit as to the number. I thought at that time it was improper to limit the number, although the Secretary of the Interior thought three agencies quite enough for any one State; but the limitation as to the number of agents to be appointed in a State has been put on in the House of Representatives.

If the matter were left to myself, I would prefer no limitation as to the number, but to leave it to the discretion of the President to appoint one wherever he supposed it might be necessary. I do know that in my State four agencies would be much more convenient to the people than three, the number contemplated by this bill. The increased expense would be something, to be sure, because, in addition to the commissions which pension agents are allowed, there must be added the expense of office rent and clerk hire; that would be the only additional expense for an additional agent. I should have preferred no limitation as to number, but the limitation was put on in the House of Representatives.

Mr. DOOLITTLE. In relation to the amendment, I regret that my colleague has thought proper to introduce it, or at all events to give the reason for the amendment which he has just avowed. There are but two pension agents, I believe, in Wisconsin; one is Colonel Reynolds, located at Madison, and the other is Colonel Fitch, at Milwaukee. Why there should be a disposition to make an amendment that might affect one and not affect the other I certainly am at a loss to

know. I do not see the reason why one should be stricken at and the other not. Both were appointed by Mr. Harlan, the late Secretary of the Interior, I believe.

Mr. HOWE. I have only to say that the amendment I have moved does not strike anybody in Wisconsin. It is a saving measure, not a destroying measure; it saves all alike.

Mr. DOOLITTLE. I understood my colleague to state that it was to save a pension agent—to save his being sent into the Senate for confirmation. That is the only saving there is about it. I do not know why one should be saved and the other not.

The question being taken on Mr. Howe's amendment to the amendment of the committee, there were—14 ayes, and 7 noes; no quorum voting.

Mr. FESSENDEN. I should like to hear a statement of what the amendment is. I do not know what it is.

The PRESIDENT *pro tempore*. The division discloses the fact that no quorum is present; business cannot proceed until it is ascertained that there is a quorum.

Mr. CONNESS. Let us have the yeas and nays.

Mr. LANE. I move a call of the Senate.

Mr. JOHNSON. There is never a call of the Senate.

Mr. ANTHONY. I think there is a quorum present if Senators will vote.

The yeas and nays having been called, were ordered.

Mr. FESSENDEN. I should like to have a statement of what the question is. I do not understand it, and that was the reason I did not vote. I did not know what the question before the Senate was.

The proposed amendment was read.

Mr. DOOLITTLE. The Judiciary Committee reported for the month of October.

Mr. FESSENDEN. Eighteen hundred and sixty-five or 1866?

Mr. HOWE. Eighteen hundred and sixty-five. I want July, 1866.

Mr. DOOLITTLE. I do not understand the reason of my colleague's amendment. He says he proposes to go back to July for the purpose of saving somebody. I only referred to my own State; I know there are but two agents there, both colonels who served in the Army; both appointed under Mr. Harlan when Secretary of the Interior. I do not know any reason for applying this law to one and not to the other. If one must come in and be confirmed by the Senate, I think it fair that the other should also. I have no particular feeling about the question; but it seems to me that if one pension agent is to be confirmed by the Senate all ought to be confirmed by the Senate.

The Secretary proceeded to call the roll.

Mr. FESSENDEN, (when his name was called.) I wish to state, if I may be allowed to do so, that I desire to fix a later day; but the call began so quick that it was impossible for me to make a suggestion to my friend from Wisconsin, [Mr. Howe.] The call of the roll having been concluded, the result was announced—yeas 16, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Howard, Howe, Kirkwood, Lane, Ramsey, Ross, Stewart, Sumner, Wade, Wiley, and Williams—16.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Edmunds, Fessenden, Foster, Grimes, Henderson, Hendricks, Johnson, Morgan, Morrill, Norton, Patterson, Riddle, and Van Winkle—17.

ABSENT—Messrs. Brown, Cattell, Davis, Fogg, Fowler, Frelinghuysen, Guthrie, Harris, McDougall, Nesmith, Nye, Poland, Pomeroy, Saulsbury, Sherman, Sprague, Trumbull, Wilson, and Yates—19.

So the amendment of Mr. Howe was rejected.

Mr. FESSENDEN. I move that the further consideration of the bill be postponed until to-morrow. I wish to look at it. I do not know that I have any objection to it; but I should like time to look at it further.

The motion was agreed to.

Mr. SUMNER. With the consent of the

Senate, I send to the Chair an amendment to that bill, which I should like to have printed, so that it may be before us to-morrow.

The proposed amendment was received informally and ordered to be printed.

#### ADMISSION OF NEBRASKA.

The PRESIDENT *pro tempore*. The morning hour has not fully expired, but as no motion is made, the Chair will call up the unfinished business of yesterday, which is the bill (S. No. 456) for the admission of the State of Nebraska into the Union, the question pending being on the amendment proposed by the Senator from Vermont [Mr. EDMUNDS] to the amendment offered by the Senator from Missouri, [Mr. BROWN.] Upon this question the Senator from Maryland [Mr. JOHNSON] is entitled to the floor.

Mr. JOHNSON. As I stated yesterday, I rise with no view to discuss the merits of the measure itself to which the proposition upon the table is offered as an amendment. My opinion upon that measure and the reason on which it rests was stated to the Senate when the subject was under discussion at an earlier day of the session. I rise merely to discuss the question which as I suppose the particular amendment now before the Senate presents. The honorable member who proposed it [Mr. EDMUNDS] has stated the ground upon which he thinks we have the authority to adopt it. As in my view that ground is not only wholly untenable, but is positively mischievous, I desire as well as I may be able to state the considerations which lead me to that conclusion.

The ground taken by the honorable member from Vermont is this: as Nebraska is now a Territory and subject to the jurisdiction of Congress, either under the clause of the Constitution which gives to Congress the authority to pass rules and regulations in relation to the disposal of the public property, or because of the implied power that the possession of a Territory involves necessarily the right to govern it, he maintains that we are at liberty to keep the Territory in the condition in which it now is, and govern it at all times hereafter as long as we may think proper so to govern it as a Territory; and, being under no obligation to admit it as a State, we are at liberty, if we are asked to admit it, to impose any condition upon that admission which we may think proper.

The error of that doctrine consists, I think, in not understanding correctly the purpose of the clause in the Constitution which gives to Congress the authority to admit new States. It has never that I am aware of been maintained until now, if it is now maintained by my friend from Vermont, that under that authority Congress has any right to form a constitution for the people of a Territory who may desire to come in as a State; and if he be in error, it consists in confounding two things that, in my judgment, are clearly distinct. The power which we have is to admit new States, that is all, and the extent of that power which is implied in the authority to admit is to be ascertained by recurring to the subject to which it is made applicable, to the thing which is to occur if the power is exerted. The subject to which the term applies in express language is a State, not in the general acceptance of the term, not in the sense in which that term may be understood elsewhere than in the United States, not in the sense in which it may be understood geographically, but in the sense in which, when admitted, it is to become one of the States of the United States; and one would suppose, when the authority is to admit a State into the existing Union of States, that the sole purpose of the Constitution was to give to Congress the authority to bring into the Union a State not within it before, but partaking precisely of all the characteristics and possessing all the powers and having all the rights that characterize and are possessed by the States that were in the Union when the Constitution was ratified.

The question then is, what is a State admitted after the ratification of the States by the



original thirteen? What must it be? It is a State required only, so far as the Constitution prescribes anything in relation to its character, to be republican in point of form. That form being possessed, then the only other qualification, if qualification it can be called, is that it is in all respects to possess all the powers and all the rights that belong to the original States. If it was otherwise we should have composing the States of the Union gross inequalities; some States would possess rights, political rights and civil rights, that would not be possessed by other States. Instead of constituting a harmonious whole there would be anything but harmony, so far as harmony is to be conferred or is to result from the unity of the States each with the other.

But there is another reason which I submit to my friend from Vermont. If he is right, it would follow that the amendment to the Constitution which received the unanimous sanction of the people of the several original States would be practically of no importance to the new States: I mean the amendment, without the anticipated adoption of which we have every reason to believe the Constitution never would have been ratified, which says that all powers not delegated to the United States are reserved to the States or the people of the States. Now, I suppose it will hardly be denied that every State in the Union, irrespective of the time when she becomes a State of the Union, is equally entitled to the protection which that amendment was intended to confer upon the States. I suppose that the State of Vermont, for example, although I believe not a State in the Union when that amendment was adopted, has now all the rights as a State, and her citizens have all the rights as citizens under that clause, that Maryland and her citizens have under the same clause. I am sure the honorable member from Vermont will not be heard to contest that.

If, then, the reservation clause applies to the new States as well as to the original thirteen, the question is, what were the rights delegated to the Government of the United States; or, to make myself more easily understood, what were the powers conferred upon the Congress of the United States of a legislative character by the Constitution? The moment we ascertain the extent of those powers, as no other department of the Government is clothed with any legislative power, we ascertain the extent of the reservation clause to be found in the amendment; and we therefore necessarily reach the conclusion that if Congress has not the particular power which may be disputed in any instance, it is because it is not delegated; and we come necessarily to the conclusion that because it is not delegated it belongs to the States as contradistinguished from the Congress.

Then, Mr. President, in the logical arrangement of the argument, which nobody better comprehends than my friend from Vermont—his mind and his profession have made him strictly logical—the next question that arises is, is the right which this amendment deals with a right delegated to Congress? for, as I have said, if it is not, it is a right possessed by the States; and if Nebraska, when she comes into the Union, will be entitled to the whole extent of the authority reserved under the amendment, then Nebraska will be made to surrender, if she can do it, or rather we attempt to force upon her a surrender of a right which the reserved clause secures to her.

Then, Mr. President, has Congress any authority over the subject to which the amendment applies? I have not as yet heard any argument, I was about to say any plausible ground, upon which such a proposition has been maintained. I do not know that it has been maintained at all, except I believe by my friend from Massachusetts, [Mr. SUMNER,] and that only because the regulation of the suffrage is material in order to the proper discharge of the obligation to guaranty a republican form of government, and secondly, because that regulation is involved impliedly, if not express-

edly, in one of the resolutions accompanying the amendment to the Constitution abolishing slavery. I do not propose to discuss the question now. I assume that over the right of suffrage in the States Congress has no power. I say I decline to discuss it, and will content myself with stating very briefly the simple grounds upon which, as I think, that proposition rests.

In the first place, there is nothing in the Constitution which in terms gives to Congress any such power. In the second place, the clause which confers upon Congress all its powers confers only such as are there delegated. In the third place, the only provision in the Constitution which relates to elections at all relates exclusively to the election of members of Congress and of Senators of the several States, and in relation to the first the provision is that they are to be elected by the people of the several States who are by the laws of the several States or the constitutions of the several States to be the constituents of the members of their House of Delegates, or their popular assembly, whatever that may be called. So there is not only the absence of any express authority to interfere with the right of suffrage in the States, but there is a clear implication of the absence of any such purpose by incorporating into the Constitution a provision that the electors of the members of Congress are to have the qualifications required for the electors of the popular branch of each State Legislature; and nobody has ever pretended that Congress can prescribe the qualifications of the voters in State elections for State officers.

But my friend from Vermont says—and he will pardon me for saying that as I view it his proposition is entirely novel, not sanctioned by the precedents to which he has adverted when they come to be distinctly understood—that as we have the authority to admit, and are not compelled to admit, we may, with the assent of the State which is to be admitted, prescribe just such conditions as we think proper. Where does that lead us? If I am right in saying that over the question of suffrage Congress has no power, it is because over that question the States have the exclusive power; it is because the Constitution of the United States never intended to interfere with that power at all as it was originally framed; and because the people of the United States recently, after the adoption of the Constitution by a sufficient number of States and the organization of the Government, passed the amendment to which I have referred, expressly leaving with the States, as a right, everything which was not delegated by the Constitution of the United States to the General Government.

But it is said you may impose a condition. Let us see where that will lead us logically, or, to use the language of the books, what is the logical sequence of that proposition? Any condition may be made a fundamental condition of the admission of the State, irrespective of the inquiry whether the subject to which the condition refers is one over which the States were intended to have exclusive authority, and consequently irrespective of the question as to what the nature of that condition may be in its operation upon the power of the State. This amendment deals with suffrage; but the States have the same authority over the question of suffrage that they have over every subject submitted to their jurisdiction by the Constitution, or reserved for their jurisdiction by the Constitution, not parted with by themselves, over the laws of contract of every description, the laws of marriage, the laws of divorce, the manner in which conveyances of real estate are to be executed and acknowledged, the civil and the criminal code. Every particular to which the power of the States was supposed to extend may be, if the honorable member is right, taken away as regards new States by attaching to the act for their admission into the Union a fundamental condition that such rights are not thereafter to be exercised.

But it is not only true in relation to all the

rights which belong to the States, because not transferred to the United States; it is equally true of the particular right conferred upon a State by the Constitution itself. Every State is to have two Senators upon this floor. That right is no more secured to a State than is the right to legislate exclusively upon the subjects to which I have alluded. They stand precisely upon the same ground—the authority of the Constitution; in the one case because of the reservation of the power to the States; in the other case because of the express delegation of the particular power to the people of the State of being represented upon this floor. Now, will my honorable friend assert that we could in the act for the admission of Nebraska say that it is to be considered as a fundamental condition of the act admitting her that at no time shall Nebraska have more than one Senator or have any Senator?

Mr. EDMUNDS. I will not say that we could make such a provision as that, because the Constitution of the United States expressly declares that no State without her consent shall be deprived of her equal representation in the Senate. That is a subject, therefore, in respect to which we are bound by the Constitution. It does not say when it gives that equality that we may not declare that there shall be no slavery in the new State, and that we may not declare that there shall be equal suffrage in the State.

Mr. JOHNSON. That, if my friend will pardon me for saying it, is altogether an unsatisfactory answer.

Mr. EDMUNDS. I have no doubt it is to my friend from Maryland.

Mr. JOHNSON. I mean unsatisfactory logically, not to me individually. It is nothing to me more than it is to the honorable member.

If I am right in saying that there is nothing in the Constitution of the United States which interferes with the power of the State to regulate its suffrage, and if I am right in saying that the reserved clause to be found in the amendment places the States over that subject in the condition in which they were before the Constitution was adopted, then it follows that they have precisely the same right over the question of suffrage that they have over the question as to their right to be represented in the Senate by two Senators. But the Senator says that he would not for a moment contend that a State could be deprived of her right to be represented upon this floor by two Senators, because the Constitution provides against that by saying that such a power shall not be exerted without the consent of the State. What has been his argument; what has been the argument before in support of the proposition which is now before us? That the State, if she comes in after we have adopted his amendment, is considered as assenting. If she can consent to divest herself of every other right which she possesses under the Constitution except the right to be represented by two Senators, why cannot she assent to divest herself of that right?

Mr. EDMUNDS. If the Senator will allow me, the reason is this: my proposition was, not that the State, as a State, after being created, assents to these fundamental conditions which we impose, but that the people, who ask us to give them this charter of liberty to work upon, in the very act of adopting that charter and proceeding to work upon it, assent to the foundations which we have laid down. But the idea of my friend from Maryland presupposes that there must be a State to assent to this dismemberment of her senatorial representation when she must have assented to that proposition in the act of becoming a State; and my friend will see there is in point of law a distinction between the two propositions.

Mr. JOHNSON. There may be; but I am unable to see it. I had thought that the honorable member considered that the State of Nebraska would be bound, if she came in, because of an implied assent on her part. That was the ground taken by some of the friends of the proposition; and that is the ground, let me

say to the honorable member, upon which all the conditions heretofore imposed upon the States which have been admitted have been placed in the past. Now, what are they? In some of them the condition has been that the navigable waters within their limits shall be free. Under what authority was that imposed upon the State? Under the authority which the Constitution gives to the Congress of the United States to regulate commerce. That authority, in the case of *Gibbons vs. Ogden*, as the honorable member knows very well, was, by the unanimous decision of that high tribunal, the Supreme Court of the United States, decided to include the navigable waters, the vehicle upon which as well as in which commerce was to be carried on; and therefore that condition which, in some of the instances has been applied to the admission of some of the States, was to reserve, in order to avoid any possible conflict, that which was the right, and was intended to be the right, of Congress exclusively to regulate the commerce between the States and the commerce between foreign nations and the United States.

What are the other classes? There is another class which says that the public lands which may be within the limits of the State admitted shall not be liable to taxation. Upon what ground was that placed or might it have been placed? In almost the beginning of the Government, in the case of *New Jersey vs. Wilson*, reported in 7 Cranch, I think the court decided that it was competent for a State to enter into a contract to exempt from State taxation, for a valuable consideration, any of her lands. The State of New Jersey, being anxious to get possession of a considerable quantity of land that belonged to the Indians, made a treaty in the form of a law, which provided that if the Indians would agree to sell the lands which New Jersey desired they might buy other lands in that State, and that those lands should forever thereafter be exempt from taxation. They were not authorized to sell the lands, however, under the original act, which I have called a treaty. In 1804 New Jersey passed an act authorizing them to sell the land, but omitted to say anything in relation to taxation; and the question arose when the State of New Jersey attempted to exert her taxing power upon the lands in the hands of purchasers under the Indians. The Supreme Court decided that it could not be done; that the contract was one which followed the lands, no matter who might thereafter become the holder.

The Supreme Court at the present term has decided a case upon the same ground; a case which I argued in behalf of the holders of the land involved in that case. The United States granted to Arkansas all the swamp lands which were owned by the United States within the limits of Arkansas. As swamp lands they were valueless; they could only become valuable by being converted into tillable lands; and the State of Arkansas, with a view to bring about that conversion, passed an act authorizing any persons who would undertake the work to do it to be paid out of the treasury the value of the work, if they thought proper to be paid; to be paid in the bonds of the State if they preferred that mode of being paid; or to take certificates which would entitle the holder, the certificates being upon their face transferable, to locate the amount called for in his certificate upon these lands, and that they thereafter should be exempt from taxation. The work was undertaken. A great many of the parties who performed the work chose to take certificates, and they located their certificates upon these recovered lands, and as soon as they became valuable Arkansas thought proper to tax them. The Supreme Court have decided here at this term, against the unanimous decision of the court of the State of Arkansas, that she could do no such thing; that the exemption from taxation was a consideration moving from the man who performed the work and accompanied the land in the hands of whoever might become the pro-

prietor of the land during the period for which the exemption was provided.

That is upon this ground, and upon this ground only, that a State is competent to divest herself, for a valuable consideration of her taxing power in particular cases; and that is all that she does when she comes in upon a condition that she is not to tax the land of the United States. As a State, when she came in she would have a perfect right to say to the United States in the form of a contract, "We will not tax your land;" and as she would have a right after coming in to enter into a contract of that description, there was nothing inconsistent with any sovereignty of her own in providing in advance, in the form of a condition to which she assents in coming in, that she will not exercise that particular right; but this is a slightly different question.

Mr. EDMUNDS. But taxation is a sovereign power.

Mr. JOHNSON. A right, too. She had a right to tax. She is to judge herself whether she will execute the power; but the power necessarily involves the support of the State. The State government must be supported, and the only mode of supporting it is through some form of taxation. It was contended in the two cases to which I have referred that the State could not part with the taxing power. The answer which the Supreme Court gave, and the answer was satisfactory to the whole bench on each occasion, was, that the State could enter into a contract in relation to any subject which did not impair her sovereignty and take away her ability to hold an equal place among her sister States; and as she could do it in relation to the two subjects to which I have adverted after she came in, she could do it the moment of coming in.

But my friend says they are not States. In one sense they are not States. That very amendment, however, deals with Nebraska as a State now. She is not in now. The bill upon your table deals with her, of course, as a State now. In the amendment and in the bill itself she is spoken of as a State, and yet she is not in. She is a State, having no control, however, over Congress, having no right to interfere with the authority which Congress is exerting through its power to regulate the public Territories of the United States; but she is a State in the sense of the clause which gives to Congress the power to admit her; because, I was about to say, it is an absurdity to suppose that Congress can admit as a State that which is not a State; at least I think so. Here is Nebraska. She says she is a State of the Union; a State that should be admitted into the Union. She has formed her constitution either under the authority of your enabling act, or she has formed it upon the authority which is implied from what has occurred over and over again in the admission of new States; that is to say, the authority to form a constitution without an antecedent enabling act. She has elected her Senators. Now my friend proposes to admit Nebraska. What will he do the moment Congress passes the bill for the admission of Nebraska? Will he make any objection to the swearing in of the two Senators who have been elected? I am sure he will not; but yet they have not been elected, if he is right, by any State, and Senators can only be elected by a State. He persists in telling us—and of course he is sincere in that opinion—that they have been elected by a mere concourse of citizens who have no political power whatever, but are entirely subject to the territorial laws which they have passed under the authority of Congress, and which alone they were justified in passing; and in the laws which Congress have passed for the government of the Territory they have given to them no power to elect Senators. Now—

Mr. EDMUNDS. If my friend will allow me on this subject of the nature of the precedent action, which I contend, as he says, is irregular, I desire to refer him to the opinions of the Attorneys General on this very subject, in which they have advised the Administration,

whenever they have been called upon to give advice, that—

"The territorial Legislatures cannot, without permission from Congress, pass laws authorizing the formation of constitutions and State governments. All measures commenced and prosecuted with a design to subvert the territorial government, and to establish and put in force in its place a new government, without the consent of Congress, are unlawful. But the people of any Territory may peaceably meet together in primary assemblies, or in conventions chosen by such assemblies, for the purpose of petitioning Congress to abrogate the territorial government, and to admit them into the Union as an independent State; and if they accompany their petition with a constitution framed and agreed on by their primary assemblies, or by a convention of delegates chosen by such assemblies, there is no objection to their power to do so, nor to any measures which may be taken to collect the sense of the people in respect to it; provided such measures be prosecuted in a peaceable manner, in subordination to the existing Government, and in subserviency to the power of Congress to adopt, reject, or disregard them at their pleasure."

That is to be found in the second volume of the Opinions of the Attorneys General. My proposition therefore is, that although all this preceding action is irregular and without any sanction of law, yet, like any other act which the law-making power having supreme administration of the subject sanctions, when it receives the sanction of law, the law does in a certain sense retroact and make that valid which before the action of the law had no validity at all. My friend will pardon me for interrupting him, as I do not wish to speak after he is through.

Mr. JOHNSON. Certainly. I am perfectly aware of that opinion, and one or two others to the same effect. That does not interfere with the view which I am endeavoring to present to the Senate, and particularly to the honorable member. Nobody has ever questioned that the people of a Territory have no right, strictly speaking, to form themselves into a State government and get clear of the obligation that they are under to the Government of the United States because of the territorial government which the United States have provided for them without the consent of Congress; but, as we all know, and as that opinion admits, from time to time the people of the Territories have, not casting off their territorial allegiance, their allegiance to the United States as the citizens of a Territory, formed governments for themselves, and they have been admitted. Now the honorable member gets clear of the difficulty which I suggested in answer to his objection that this was not a State, by saying that when we pass the law it retroacts. That is an extraordinary power on the part of Congress. The power in Congress is to admit; that is all; admit an existing State. Nobody has ever pretended that Congress has any authority to constitute a State. As was said by the honorable member from Kansas [Mr. POMEROY] before the recess, Congress has no authority, nor has the Government of the United States in all its departments any authority to form a State constitution or to create a State. That must be the work of the citizens; and if the citizens, either with or without an enabling act, form a State government and Congress admit that State government, they, by the very act of admission, concede that that is a State at the moment of admission, which should be one of the States of the Union, not a crippled member of the Union, but one possessing all the powers possessed by any other of the States of the Union.

I have therefore, Mr. President, been unable to agree to this amendment, because, as I think, Congress has no authority, with or without the assent of a State, to impose any such condition. The right of equal power is a right not intended only to be given and therefore to be disposed of by the people of the State for the time being who may be there when they are admitted into the Union as a State, but it is to follow them and their descendants to the last generation as long as the Government endures. The doctrine which maintains that we have the authority to impose conditions deals with the subject as if the people for the time being were

alone concerned in having their State possess equal powers with the rest of the States; but that is not the theory of the Constitution. There are some other rights which are inalienable; the Declaration of Independence says life, liberty, and the pursuit of happiness; but that is relied upon for a different purpose. There are other rights, political in their character, which are also inalienable as long as our Government endures, and those rights are the political rights secured to States in order to enable them to be the equals of all their sisters, and to bring to the preservation of the Government through all time precisely an equal amount of authority which may be possessed politically by any other member of the Union. In other words, Mr. President, and to conclude, we were intended to be equal as States—equal individually as men. Equality is impressed by the Constitution upon both characters—upon the political character of the citizens composing a State, and upon their individual character as citizens. No distinction was designed to be created. It was the purpose of the Constitution to place all upon the high, elevated ground of equality of political and individual rights; and that being the case, in my judgment, it necessarily follows that the amendment upon the table cannot be constitutionally supported.

Mr. SUMNER. Mr. President, I had intended yesterday, had I been recognized by the Chair, to say something in reply to the Senator from Ohio, [Mr. WADE;] but the occasion passed, and I have no desire to-day to recall that controversy. I shall content myself, therefore, with one word to explain the vote which I propose to give.

I prefer the amendment moved by the Senator from Missouri; but if that be voted down I shall gladly accept the amendment moved by the Senator from Vermont. I prefer that moved by the Senator from Missouri, because it is in conformity with fixed precedents in the Congress of the United States. It places the equality of all men before the law under the protection of a compact between the United States on the one part and the State on the other part. It therefore has not only the validity of legislation, but the further supremacy, if I may so express myself, of Compact. On this point I desire to call attention to the language which was once uttered in this Chamber by Mr. Webster; and indeed I doubt if in all his utterances he ever expressed himself with more power and felicity. I believe on another occasion I called the attention of the Senate to this same passage; but it will bear repetition. Alluding to the ordinance for the Northwest Territory, by which slavery was forever prohibited there, Mr. Webster uses the following language:

"It fixed forever the character of the population in the vast regions northwest of the Ohio by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to bear up any other than freemen. It laid the interdiction against personal servitude, in original compact, not only deeper than all local law, but deeper also than all local constitutions."

Those are the words of Mr. Webster, and they are strictly applicable to the amendment of the Senator from Missouri, should it be adopted by Congress and become a part of the statute admitting Nebraska into the Union. It is therefore on account of its positive, recognized efficacy, according to the approved precedents of our history, that I prefer that amendment.

But, sir, should the Senate not agree with me, should it be voted down, then I shall take the next best thing; I shall take the amendment of the Senator from Vermont. I shall try to regard that also as in the nature of a compact, but not of so positive and express character as the other form of the proposition. But whatever may be its validity, the amendment of the Senator from Vermont, if adopted, will have at least this efficacy: it will keep the Congress of the United States on the record clear and above reproach; it will save the nation from being stultified by an act of Congress which, as it now stands, is in absolute defiance

of the first principles of the Declaration of Independence. It is, therefore, because it will have the effect of bringing the statute at last into harmony with the Declaration of Independence that I shall vote for it. I accept it reluctantly as a settlement of this question, but I am willing to accept it. Preferring, however, the amendment of the Senator from Missouri, I shall be obliged to vote against the proposition of the Senator from Vermont if it is moved as a substitute for that. I had hoped that he would not antagonize his proposition with that of the Senator from Missouri, but that he would allow us to vote on each separately. I now think that would be the best form of proceeding; but if the Senator perseveres in antagonizing his proposition with the other, I shall be obliged, at the first stage, to vote against it.

Mr. WADE. The amendment of the Senator from Missouri, of course, defeats the great object of the bill, because it requires the people throughout this vast Territory to assemble together and hold another election. That is equivalent, in my judgment, to a total rejection of the constitution and a defeat of the very purpose I had in view in urging the bill now. That amendment will put the people to the trouble and expense of another election, and put the whole matter at large again. So nothing will be gained by fastening this amendment on the bill. Therefore I take it that the friends of this bill who think it is best that the State of Nebraska should be admitted at once will vote against that amendment.

As to the amendment offered by the Senator from Vermont, I find that there is some disagreement in regard to the law and Constitution on the subject; but the amendment is certainly a very harmless one, and it lies in the direction that we almost all approve. I want such a provision affixed in this case as much as the Senator from Massachusetts, if it can be done; and that will not prevent the immediate admission of the State. I hope, therefore, the friends of the bill who think that amendment is right and proper will vote for it, as I shall myself.

I make these observations only because I desire it may be perfectly understood what we are doing. If you adopt the amendment of the Senator from Missouri you defeat the immediate purpose of the bill, and send the people back to take the whole subject under consideration again, really defeating the measure. If you adopt the amendment of the Senator from Vermont you simply conform to the opinions of those who are in favor of universal suffrage. I believe that is calculated and designed to harmonize all the friends of that principle. I hope, therefore, the Senate will reject the amendment of the Senator from Missouri, and adopt that of the Senator from Vermont.

Mr. HOWE. Mr. President, now I want to add a word. I want to say that if we adopt the amendment offered by the Senator from Missouri, we impose upon no inhabitant of Nebraska any other sacrifice in the world than that of attending an election, which at the most will occupy one day of his time. No man who lives in Nebraska will have to attend to an election that costs him any more time than that, and the vast majority of them can attend the election without spending an hour; and the question is whether this matter of suffrage or no suffrage for colored men in Nebraska is of sufficient importance, is of sufficient moment, to ask that amount of sacrifice of the different citizens of Nebraska. That is all there is of that; and if you adopt the amendment proposed by the Senator from Missouri, and the people of Nebraska acquiesce in it, then that will be the law of Nebraska, and you know it, and no man denies it; but, if on the other hand, you adopt in lieu of that the amendment offered by the Senator from Vermont it will not be the law of Nebraska, and the Senator from Vermont admits that it will not be.

Mr. EDMUNDS. I do not admit anything of the kind. I say, on the contrary, that it will

be the law of Nebraska, just as every other act of Congress regularly passed is the law over the people of every State in the Union.

Mr. HOWE. Mr. President, I do not understand that we pass a law if we adopt the Senator's amendment declaring that colored men shall have the right of suffrage in Nebraska, but we simply say that Nebraska may come into the Union as a State if she will allow colored men to vote in that State. But I did understand him to say, and I have his remarks before me now, I have looked them over, and I do still understand him to have said yesterday in reply to the Senator from Maine, [Mr. FESSENDEN,] that the colored suffrage would not be decreed in Nebraska if we adopted his amendment; that it would still be optional with the State of Nebraska to give them suffrage or to withhold suffrage from them.

Mr. EDMUNDS. Will my friend read the remarks?

Mr. HOWE. Yes, sir, I will:

"As I have said before in the course of this debate, the people of any State, whatever may be the limitations in their government, whether as to slavery or anything else, may choose to become dissolved and not to exercise the political functions with which they are endowed, whether they are old or new; and when they cease to exercise those functions, to hold elections, to send Senators and Representatives, and to exercise the other acts which are necessary in political communities, of course, as an organized political community, that State becomes dissolved, and there is no power in the Government at all, because in the nature of things there cannot be, to compel those people to exercise those functions."

"Now, if we admit this State with this fundamental condition, which becomes a part of the act of admission, then any action which her agents and representatives may take under it is *prima facie* evidence that they are exercising political power under the charter of incorporation which we have chosen to grant them. If it turns out afterward that the agents who have thus assumed to represent the State and to exercise those functions with which we have invested them are repudiated by their people, their stockholders, to use an apt illustration, and the stockholders choose to dissolve the corporation, then of course the representative functions of those agents must cease, and we shall only be in the condition that we often are for a short time of having had representatives in this body who, it finally turned out, had no right to be here."

If I understand that, it means simply this: that if we accept the State upon this fundamental condition there is yet reserved to Nebraska—I do not understand whether to the people or the Legislature or the Governor or the courts of Nebraska—but to Nebraska in some shape there is yet reserved the power to say, notwithstanding, we have taken her representatives in here, whether she consents to that condition or not.

Mr. EDMUNDS. Allow me to say to my friend, that if we admit Nebraska without this condition at all, if we pass the bill just as it is, precisely the power that I was speaking of yesterday is reserved to her still because we cannot enforce the specific performance of political duties. That is all there is of that.

Mr. HOWE. The question is, if by adopting this amendment we make it a part of the organic law of Nebraska that colored men shall vote; or rather, if we make it a law which supersedes, which is paramount to the organic law of Nebraska that colored men shall vote, colored men can then vote, whether we take in the representatives of Nebraska here or not. What I want to know is, will it be the law of Nebraska, in spite of anything that she may say herself, that colored men can vote?

Mr. EDMUNDS. I say it will be the law of Nebraska, provided she exists as a State at all, irrespective of her State will.

Mr. HOWE. If we put this amendment upon the pending bill and then pass the bill, two things will certainly happen: first, that two men will come upon this floor to represent Nebraska in making laws for the United States, and one will come upon the floor of the other House to perform the same functions. That is one thing which will happen certainly. Another thing is that there is a Governor elected for the State of Nebraska, a Legislature and courts provided, and they will take upon themselves the functions of that State, and there will be these two machines in full motion cer-



tainly. But will colored men vote in Nebraska or not?

Mr. EDMUNDS. They will.

Mr. HOWE. They will—sure?

Mr. EDMUNDS. Sure.

Mr. HOWE. Then what was the meaning of the Senator when he said they may choose to dissolve themselves?

Mr. EDMUNDS. It is because in the case supposed they do not choose to dissolve themselves, but choose to go on.

Mr. HOWE. But who choose to go on? A couple of gentlemen choose to take seats here and draw their salaries and their mileage, and another gentleman chooses to take his seat in the House of Representatives and draw his salary and mileage. That is what they choose; but they were not selected by the State of Nebraska or the people of the State of Nebraska for the purpose of committing her on this question of accepting or rejecting the proposition of colored suffrage. There is a Governor chosen in Nebraska, and he may choose for himself to take upon himself the functions of Governor. But do these acts commit the people of Nebraska to the law of negro suffrage?

Mr. EDMUNDS. They commit the people of Nebraska just as long as they choose to submit to that Governor and to that representation. If they do not choose to submit to that Governor and to that representation, and do not continue that organization on the ground that it has exceeded its powers, or on any other ground that seems to be suitable to the people, then there will not be any State government there. The Governor derives his power to act at all from the act of Congress which gives the State vitality; and if he does act, we must take it, as long as he acts by the sufferance of the people, that there is a State government in Nebraska. If he does not choose to act, or the people do not choose to permit him to act, then there will not be any such organized government in Nebraska.

Mr. HOWE. Now, Mr. President, let us look at it. So long as he acts by the sufferance of the people of Nebraska we are to understand that the people of Nebraska assent to colored suffrage. But he does not act a day by the sufferance of the people of Nebraska, simply because the people of Nebraska have no power to touch him in his official character. By the constitution of that State which we have sanctioned an election is to take place for some other Governor at a future day, I do not know when; and the people cannot touch him until that day comes round; and can the people of Nebraska touch their Senators who are here? Nay, Mr. President, there is a government for Nebraska existing to-day by virtue of a law of Congress, with a Governor and judicial officers and legislative officers; and when you pass this act you withdraw from that Territory that government, the members of which are the only tribunals that can dispute the action of the State government created by the people of Nebraska. Now, I want to speak with entire respect of every proposition to amend a law here, and therefore I will not say that it is a snap game, but it looks the most like it of anything I ever saw in my life. Still I do not feel myself at liberty to call it so.

Mr. EDMUNDS. I hope my friend will not restrain himself on my account.

Mr. HOWE. Not at all. I know my friend from Vermont will not take offense; but it is a proposition pending here and I feel bound to treat it with the utmost respect. I do not see, however, yet what opportunity the people of Nebraska have to determine this question of suffrage for themselves.

Mr. CONNESS. I am interested to the extent of having a vote on this subject, and by the kindness of the Senator from Wisconsin I hope he will permit me to make a suggestion on this point.

Mr. HOWE. Certainly.

Mr. CONNESS. As I understand the Senator from Vermont, he holds that the act of admission with this amendment which he pro-

poses has the full force of a national statute, and subordinates to it the constitution under which Nebraska is to be a State if admitted by this act; and therefore it follows according to his proposition, as I understand it, that it will not be in the power of the people of Nebraska, whether they consent to it or not, to prevent colored persons from voting, because the national statute obligates them to submit to it, and confers the power. That is my understanding of the proposition of the Senator from Vermont and his arguments in its favor; and it is in view of that understanding that I propose to vote on the subject when the question comes to a vote. I make this suggestion to the Senator from Wisconsin rather for my own benefit.

Mr. HOWE. Now, my friend will allow me to say that I am interested in bringing this question to a vote, and therefore I take the liberty of saying to him that I do not understand the Senator from Vermont to assert any such thing as that the adoption of this amendment will make a law which is paramount to the constitution of Nebraska.

Mr. CONNESS. He declares that he does say so.

Mr. HOWE. If that is what he says, I do not find it in his language here; he does not reply that to me; but on the contrary he does argue that there is reserved to the State of Nebraska somewhere the power to exclude colored men from suffrage, and he says that if she does exclude them from suffrage it works a dissolution of the State.

Mr. EDMUNDS. Allow me to correct the Senator?

Mr. HOWE. Certainly.

Mr. EDMUNDS. What I say, Mr. President, is that the only power which is reserved to the people of Nebraska to exclude colored men from suffrage is the same power that is reserved to them and the people of every other State to exclude themselves from suffrage by not having any government in which suffrage can be required. They have the power to do nothing at all and become dissolved.

Mr. HOWE. No, Mr. President; there must be a power in Nebraska independent of that of dissolution. As I said before, when we pass this bill a new government goes into operation, and there will be municipal elections held under the protection of that government; colored men will come to the polls and offer their votes; they will be received or rejected by municipal officers responsible to that local government and not responsible to us. If they have under this law the right to vote, excluding their votes would be a wrong which that local government there should redress. Will they redress it? The Senator says if they do not redress it they will be no body; but if the court should happen to decide, on suit brought by a negro who complained that his right to vote had been abridged, that the negro had no right to vote, I take it that would not abolish the court at once. That judgment would stand, the court would go on and try the remaining cases on the calendar; and yet what would become of the right of the negro?

Mr. EDMUNDS. I trust my friend from Wisconsin will excuse me when I remind him that the colored man claiming the right to vote under an act of Congress would be entitled to take the opinion of the national tribunals as to what his rights were. I admit, certainly, as we must all admit in every case of passing a law, that if it turns out in the end by the judgment of the last tribunal that that law has not any force, nobody has any rights under it. That is clear enough, and so far as private rights are concerned those decisions must be binding; but when those decisions go so far to trench on legislative and political power as to interfere with the just prerogative of other branches of the Government, I trust we shall find means to set them right.

Mr. HOWE. So do I. Now, Mr. President, if that is what the Senator means, if it is a right conferred by a national statute, and therefore to be enforced in a national court, this talk

which he indulged in yesterday in reply to the Senator from Maine, and which I have read here, about dissolving themselves by refusing this right to vote, is out of place, because refusing the right to vote does not have any tendency to dissolve the Government.

Mr. EDMUNDS. I did not say yesterday that refusing the colored man the right to vote dissolved the Government. I said that if the people did not choose to exercise the functions which we authorized them to exercise by setting up that government, they would be dissolved just as the government of Wisconsin would be if her people did not exercise the rights of a State.

Mr. HOWE. I understood the Senator from Maine yesterday to ask the Senator from Vermont substantially these two questions: first, whether adopting his amendment and then passing the bill would confer the right to vote on these negroes beyond the power of Nebraska to deny it; and if it did not, what remedy would be employed in case Nebraska should refuse to grant them the right to vote.

Mr. EDMUNDS. If my friend will recur to the remarks of the Senator from Maine he will perceive that he does not precisely understand the interrogatory that was put. It related to the question of evidence as to whether we were to treat this State as set up in respect of being a State itself, irrespective of what should be done with colored men afterward, on this condition; and I was endeavoring to show that the action of these Senators and Representatives in going on with the government we should treat as *prima facie* evidence of the existence of that government. That was the point to which the remarks of the Senator from Maine were directed.

Mr. HOWE. I think on the contrary that my own understanding of the question put by the Senator from Maine is the nearest right, and so I thought I could not be mistaken in the answer given by the Senator from Vermont; but now I understand him to say that if we put this amendment into the bill we shall put the people of Nebraska under the government of a State, and put them into the Union in that shape, but with the elective franchise in the hands of a different body of people from what they have ever agreed to.

Mr. CONNESS. Subject to that condition.

Mr. HOWE. Subject to no condition in the world. That is the law; there is no condition about it. They become a State; and then that government has just the same authority that the government of New York has in New York and the government of Wisconsin has there. They can die, as we are told now; they can have no government whatever. The territorial government is withdrawn; they have a State government set up; they must submit to that, with the elective franchise in the hands of a different body of people from what they have adopted. The only alternative to them is dissolution, death, the death of the State. Now, I do not think that is giving the people of Nebraska, as I said the other day, a fair chance. Putting an alternative to them which they are bound to accept or die, seems to me driving them into rather a sharp corner.

Mr. EDMUNDS. Allow me to suggest that if we pass the bill with the amendment of the Senator from Missouri we do exactly the same thing.

Mr. HOWE. Not at all.

Mr. EDMUNDS. Yes, we say take that or die.

Mr. HOWE. No, sir.

Mr. EDMUNDS. Most certainly we do for this reason: we say we admit you upon a condition which you must agree to; if you do agree to it, you are in; if you do not agree to it you are a Territory still; you are nothing as respects a State. Therefore we compel the people of the Territory, or rather that part of the people who come here, to accede to this condition before they shall exercise the functions of a State.

Mr. HOWE. We leave them with the protection of the government they have, the gov-

ernment of a Territory, until they have deliberately passed upon the question of suffrage or no suffrage for colored men; but we do not breathe the breath of life into their body one moment and then require them to submit to this fundamental law upon peril of dying the next moment. We leave them the protection of a territorial government; we leave them as they are till they have passed upon it and made up their minds. There is no work of dissolution about it; there is simply a withholding of the work of creation; that is all.

The PRESIDING OFFICER. (Mr. ANTHONY.) The question is on the amendment of the Senator from Vermont to the amendment of the Senator from Missouri.

Mr. JOHNSON called for the yeas and nays, and they were ordered.

Mr. HOWARD. The question, I understand, is on the substitution of the amendment of the Senator from Vermont for the amendment of the Senator from Missouri. ["Yes."]

The question being taken by yeas and nays, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Edmunds, Fogg, Lane, Morrill, Ramsey, Ross, Stewart, Van Winkle, Wade, and Willey—15.

NAYS—Messrs. Buckalew, Dixon, Fessenden, Foster, Grimes, Hendricks, Howard, Howe, Johnson, Morgan, Nesmith, Norton, Patterson, Poland, Riddle, Sumner and Williams—17.

ABSENT—Messrs. Brown, Cattell, Cowan, Davis, Doolittle, Fowler, Frelinghuysen, Guthrie, Harris, Henderson, Kirkwood, McDougall, Nye, Pomeroy, Saulsbury, Sherman, Sprague, Trumbull, Wilson, and Yates—20.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Missouri, [Mr. Brown.]

Mr. WADE. I hope all the friends of the bill will vote against this amendment.

Mr. SUMNER. I hope all the friends of the bill will vote for it, and all the friends of human freedom.

Mr. JOHNSON. I ask that the amendment be reported.

The Secretary read the amendment, as follows:

At the end of the second section of the bill insert the following proviso:

*Provided*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other rights, to any person by reason of race or color; and upon the further condition that this fundamental condition shall be submitted to the voters of the Territory of Nebraska at an election to be held on the first Tuesday of — next. And at such election said voters shall declare their assent to or dissent from the condition aforesaid in such form as shall be prescribed by the Governor of said Territory. And all votes given at such election shall be returned to such Governor within — days from the day of the election, who shall forthwith canvass the same. And if a majority of such votes shall be for this condition, the Governor shall certify that fact to the President of the United States, who shall by proclamation announce the fact; whereupon, without further proceedings on the part of Congress, this act shall take effect.

The PRESIDING OFFICER. There are blanks in the amendment.

Mr. SUMNER. I think those can be filled up afterward, at the next stage. The vote on the amendment in its present form will try the principle.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri, upon which the yeas and nays have been ordered.

Mr. SUMNER. I have received this morning at my desk a telegraphic dispatch from the Senator from Missouri now absent, which I will read:

"Detained in Kentucky by illness of my father. Will leave to-morrow. "B. GRATZ BROWN."

And this is dated January 9.

The question being taken by yeas and nays, resulted—yeas 8, nays 24; as follows:

YEAS—Messrs. Brown, Edmunds, Fessenden, Grimes, Howe, Morgan, Poland, and Sumner—8.

NAYS—Messrs. Anthony, Buckalew, Chandler, Conness, Cragin, Creswell, Dixon, Doolittle, Hendricks, Howard, Johnson, Kirkwood, Lane, Nesmith, Norton, Patterson, Ramsey, Riddle, Ross, Stewart, Van Winkle, Wade, Willey, and Williams—24.

ABSENT—Messrs. Brown, Cattell, Davis, Fogg, Foster, Frelinghuysen, Guthrie, Harris, Henderson, McDougall, Morrill, Nye, Pomeroy, Saulsbury, Sherman, Sprague, Trumbull, Wilson, and Yates—20.

So the amendment was rejected.

Mr. EDMUNDS. I now move to amend the bill by proposing an additional section in the words of the amendment which I offered as a substitute for the amendment of the Senator from Missouri before:

*And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed.

Mr. JOHNSON. Is that precisely in the language of the previous amendment?

Mr. EDMUNDS. The same.

Mr. JOHNSON. Then I wish to make the suggestion to my friend from Vermont that I made yesterday, but perhaps he did not hear me or did not understand me. I do it with no view of defeating the amendment; but if it passes in the terms in which it is written it places the Indians in the absolute disposal of the people of the Territory. The language of the amendment is, that the State shall be admitted upon the fundamental and perpetual condition "that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed." Do you mean to leave it to the State to dispose of any of the rights of the Indians other than the mere right of suffrage?

Mr. EDMUNDS. I do not mean to leave the Indians to the States at all; they never are left to the States.

Mr. JOHNSON. They would be by this.

Mr. EDMUNDS. No; they would not. They are foreign nations; the States have no jurisdiction over them at all.

Mr. JOHNSON. That is a question of law on which I differ from the honorable member. If that is his view and the view of the Senate, it would be a different thing; but supposing that Indians may now, those who are not taxed, be made subject to the legislation of the State, then according to this provision the State could do with the Indians just as it might think proper. They are not only denied the right of franchise, but they are denied any other right; or at least the State is authorized to deny them any other right which the State may think proper. If the honorable member thinks there is no necessity for modification on this point, I shall not press the matter.

Mr. WADE. I hope all those who want the bill to pass now will vote for this amendment; it is pure and simple and I hope they will vote for it.

Mr. HOWARD. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOWARD. If I understand the amendment presented by the Senator from Vermont, it is exactly the same question as that upon which we have just passed, on the substitution of this precise language now before us for the amendment offered by the Senator from Missouri. I hope it will not pass.

Mr. WADE. Let us have the vote.

The question being taken by yeas and nays, resulted—yeas 18, nays 18; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Henderson, Lane, Morrill, Poland, Ramsey, Ross, Stewart, Sumner, Van Winkle, and Wade—18.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Foster, Grimes, Hendricks, Howard, Howe, Johnson, Morgan, Nesmith, Norton, Patterson, Riddle, Saulsbury, Willey, and Williams—18.

ABSENT—Messrs. Brown, Cattell, Davis, Fowler, Frelinghuysen, Guthrie, Harris, Kirkwood, McDougall, Nye, Pomeroy, Sherman, Sprague, Trumbull, Wilson, and Yates—16.

So the amendment was rejected.

Mr. BUCKALEW. Mr. President, I discussed this bill upon its merits before the holiday adjournment, and treated all the points which I think material with the exception of a single one upon which we have since obtained information. I am now satisfied that not only

is this proposed State deficient in population; not only is this measure open to objection because it deals unequally with the Territories, admitting one with 50,000 population when we do not propose to admit another with 100,000, and still another with 120,000; but in addition, this constitution was rejected upon a fair vote of the qualified electors of the Territory of Nebraska. The evidence for that opinion is furnished in a statement made by a large part of the members of the Legislature of that Territory. They vouch for the facts, from which the conclusion is inevitable that this constitution was in point of fact rejected.

Now, sir, within the limited period to which by common consent debate is limited on this bill, it will not be convenient, it will not even be possible for me to go over the whole field of inquiry upon this important and vital question. But it would be a very singular thing, indeed, if a subject of this importance should undergo debate in the Senate for a very considerable period of time and should be finally committed to the judgment of the country without one word upon this point which I have now mentioned.

It is stated by the gentlemen of the Nebraska Legislature that at the Rock Bluffs precinct, in Cass county, there was a majority given against this constitution of 78 votes; that in Poll Creek precinct, in Merrick county, there was given against it a majority of 11 votes; and the returns for both these precincts were set aside by the county canvassers, so far as I can perceive, without any warrant of law whatever. By the territorial act under which those boards proceeded the returns were to be made to them of the elections in the several precincts, and the simple duty charged upon them by the statute was that they should count up those returns, declare results, issue certificates to candidates elected, and make returns to the territorial officers named in the law; but without any authority whatever those officers charged with these duties set aside the two election returns which I have mentioned; and they set them aside upon no allegation of fraud nor for any other objection which was fundamental or material to the validity of those elections. They set aside the main one of Rock Bluffs, as I understand the case, on two grounds alone. The first was that the election officers had adjourned one hour during the election for the purpose of getting their dinners, and afterward, later in the day, again one hour for the purpose of obtaining their suppers; but during those recesses the election boxes were in charge of two of the officers of the election. The other objection was that all the election papers were not certified by the election officers. They united them together in a single bundle, roll, or book, and certified the whole mass by one general certificate; whereas upon the construction which these canvassers gave to the law it was directory upon them that they should certify each paper separately. Such objections, under election laws as they are understood in the various States, were not material. They were at most only irregularities, not affecting the validity of the election. In the smaller precinct of Poll Creek the rejection of the return was for similar slight irregularities, and it was equally unwarranted and unjust.

Then, sir, it is alleged that an Indian agent in the Territory, named Matthewson, holding an appointment under this Government and who had been there only four months, not only voted himself, but polled the votes of eighteen half-breed Indians who were under his control. Here we have 19 illegal votes in favor of this constitution under which the State is to be admitted, if admitted at all. Six months residence in the Territory is necessary to the right of voting, and the Indians or half-breeds, of course, were not qualified electors.

Then, as to the point discussed at the last session, relative to the voting of Iowa soldiers: their votes were cast at Fort Kearney, I believe. At that election poll, which was opened for the first regiment of Nebraska volunteers, 134 votes were cast for the constitution and 24

against it. At that poll it is alleged that 40 of the soldiers who thus voted for the constitution were Iowa soldiers, who had never resided in Nebraska except for the purposes of the military service; and by the fifth section of the organic act of Nebraska Territory it is provided "that no soldier shall be allowed to vote or hold office in said Territory by reason of being in service therein;" so that there can be no question that these 40 votes also are to be deducted in coming to a proper conclusion upon the question whether this constitution was adopted by the people of Nebraska or not.

These several corrections amount to 148 votes. As there was reported in favor of the adoption of the constitution a majority of only 100, it follows, upon the making of these corrections, that the constitution was in fact rejected by a majority of 48. We are not concluded by the proceedings of the territorial officers, by the action of the boards of election, nor by the action of the county canvassers, through whose hands the returns passed. When these facts are called to our attention we are obliged to investigate them as far as the information in our power will enable us to do, and to determine the case as if no result had been certified to us by the officers of the Territory to whom the general returns were sent.

Observe, sir, that election was not held under any act of Congress. It had no sanction of public law other than that of the territorial Legislature itself; and under the regulations of the territorial law there was no authority to pervert and to change returns any more than to poll improper votes. But not only were illegal votes taken in the two cases mentioned, but the election returns were changed in an unauthorized and unjust manner by the boards of canvassers.

I have called these facts distinctly to the attention of the Senate, in order that they may accompany the volume of our debates and enable those who examine our proceedings to judge whether the weight of the argument in this case is in behalf of or in opposition to the passage of the bill. I will state further, that the exhibit of facts from which I have quoted is signed by five members of the Senate and sixteen members of the House or delegates of the Territory of Nebraska, constituting a very large part of the members of the Legislature. They certify and declare that, at the election in their Territory on the question of adopting or rejecting this constitution, it was in fact rejected; that the actual and honest votes given by qualified citizens upon the question is represented by a majority of 48 votes against the constitution, instead of a majority of 100 votes in its favor.

Mr. CRAGIN. Mr. President, before recording my vote on the passage of this bill, I desire to say just a word or two. At the last session I supported and voted for the admission of Colorado under circumstances similar to those now connected with this bill proposing the admission of Nebraska. I then supposed, and now believe, that under the enabling acts which Congress had passed heretofore these Territories coming here in good faith were entitled to admission as States. I believed the enabling act was a continuing invitation to the people of these Territories, and notwithstanding they may have been irregular in their proceedings and not have adopted a State constitution at the first trial, I still believe that Congress is bound in good faith to receive them into the Union.

The objection then urged to the constitution of Colorado, that it excluded blacks from the right of suffrage, is now urged to the constitution of Nebraska. I felt fully the force of that objection before, and feel it now; but I believed then and believe now that this right will sooner be guaranteed to these few individuals by admitting these States into the Union than by rejecting them. I shall therefore vote cheerfully for the admission of this State whether the bill be amended or not. I voted for the amendment proposed by the Senator from Vermont, not because I am fully persuaded that

that amendment has any force whatever; I am inclined to doubt it; but I believed that it might harmonize the friends of the measure here so that we should be able to carry it. I shall now vote most cheerfully under the circumstances for the bill as it comes from the committee.

Mr. SUMNER. I wish to renew the last proposition on which the Senate voted, that moved by the Senator from Vermont.

The PRESIDING OFFICER. That can be done when the bill shall have been reported to the Senate, but it is not now in order.

Mr. SUMNER. I see that the Senator from Vermont is here now, and I call his attention to it.

The bill was reported to the Senate without amendment.

Mr. EDMUNDS. I now move the same amendment which I offered in committee, to add the following as an additional section:

*And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgement or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed.*

Mr. WADE called for the yeas and nays, and they were ordered.

Mr. SHERMAN. I do not intend to prolong the debate; but I was absent when the vote was taken on this same proposition a while ago, and I wish now simply to state that I am in favor of admitting Nebraska without any amendment, without any qualification, without any condition, and I think it is an unwise policy to impose conditions on the admission of Nebraska; but still, as the friends of the measure think that the declaration drafted by the Senator from Vermont will strengthen the bill, I am rather disposed to vote for it. I believe it will be entirely nugatory. I do not think that we have the power by an act of Congress to restrain the people of Nebraska from framing such a constitution, republican in form, as they choose. I have no doubt they can amend this constitution, or they can disregard this condition; it does not operate on them; it is not really in the nature of a condition. I vote for it simply because I believe its adoption will strengthen the main measure and enable us to admit the State of Nebraska into the Union with her Senators and Representatives.

The question being taken by yeas and nays, resulted—yeas 20, nays 18; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Fowler, Lane, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Van Winkle, and Wade—20.  
NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Foster, Grimes, Hendricks, Howard, Howe, Johnson, Morgan, Nesmith, Norton, Patterson, Riddle, Saulsbury, Willey, and Williams—18.

ABSENT—Messrs. Brown, Davis, Frelinghuysen, Guthrie, Harris, Henderson, Kirkwood, McDougall, Nye, Pomeroy, Sprague, Trumbull, Wilson, and Yates—14.

So the amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BUCKALEW. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 15; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fogg, Fowler, Henderson, Howard, Kirkwood, Lane, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Van Winkle, Wade, Willey, and Williams—24.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Foster, Grimes, Hendricks, Howe, Johnson, Morgan, Nesmith, Norton, Patterson, Riddle, and Saulsbury—15.

ABSENT—Messrs. Brown, Davis, Fessenden, Frelinghuysen, Guthrie, Harris, McDougall, Nye, Pomeroy, Sprague, Trumbull, Wilson, and Yates—13.

So the bill was passed.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, in answer to a resolution of the Senate of the 5th ultimo, calling for copies of orders, instructions, and directions issued from the Navy Department in relation to the employment of officers and others at the navy-

yards of the United States; which was referred to the Committee on Naval Affairs.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington, with an amendment, in which the concurrence of the Senate was requested.

#### ADMISSION OF COLORADO.

Mr. WADE. I move to take up Senate bill No. 462, for the admission of Colorado.

Mr. EDMUNDS. I think the unfinished business which was laid aside for the Nebraska bill now comes up regularly.

Several SENATORS. Do not call that up. We can act on Colorado without discussion.

Mr. EDMUNDS. I have no objection to my friend from Ohio taking up his bill informally without displacing the business to which I allude.

The motion of Mr. WADE was agreed to; and the bill (S. No. 462) to admit the State of Colorado into the Union was considered as in Committee of the Whole. It recites that on the 21st day of March, 1864, Congress passed an act to enable the people of Colorado to form a constitution and State government, and offered to admit the State, when so formed, into the Union upon compliance with certain conditions therein specified; and that it appears by a message of the President of the United States, dated January —, 1866, that the people of Colorado have adopted a constitution, which upon due examination is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union. It is therefore proposed to declare that the constitution and State government which the people of Colorado have for themselves shall be, and is hereby, accepted, ratified, and confirmed; and the State of Colorado is declared to be one of the United States of America, and admitted into the Union upon an equal footing with the original States in all respects whatsoever.

Mr. EDMUNDS. I move to amend the bill by adding a section which I will read, as follows:

*And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Colorado there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed.*

Mr. WADE. I inquire of the Senator if that is the same amendment we have just fixed on the other bill.

Mr. EDMUNDS. Precisely the same.

Mr. WADE. Very well.

Mr. HOWARD. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Fowler, Henderson, Lane, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Van Winkle, and Wade—21.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Foster, Grimes, Hendricks, Howard, Howe, Johnson, Morgan, Nesmith, Norton, Patterson, Riddle, Saulsbury, Willey, and Williams—18.

ABSENT—Messrs. Brown, Davis, Frelinghuysen, Guthrie, Harris, Kirkwood, McDougall, Nye, Pomeroy, Sprague, Trumbull, Wilson, and Yates—13.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HENDRICKS. Before the passage of this bill I intend simply to refer to the facts that were brought out in debate at the last session. The proceedings by which the constitution was adopted in this case were much more irregular, if possible, than those upon the adoption of a constitution in Nebraska. There was not even the action of the territorial Legislature upon the subject. The people first rejected the constitution that was adopted by a



convention pursuant to the enabling act; and after that, after such rejection, the chairman of the committees of the political parties of the Territory called another convention, and upon that most irregular proceeding a constitution was presented and was voted upon by the people, I believe not according to law. I do not recollect certainly upon that subject; but I believe that even the vote upon the constitution was not at any regular election or pursuant to any law of the Territory whatever. Upon that vote less than six thousand persons voted, and it was claimed that a majority of one hundred and fifty was cast in favor of the constitution. Now, upon that showing it is claimed that the State ought to be admitted. I cannot bring my judgment to agree to that. Nor has it ever been claimed that in the Territory of Colorado there is nearly so large a population as in Nebraska. I think the evidence before the Senate shows the fact that in Colorado there is less than 80,000 people. I judge, sir, by the census of 1860 the census taken in 1860, the vote taken in 1861, and the vote at the subsequent elections. When by the census of 1860 she had a population of 25,000 the vote was 10,000. When the people of the Territory came to vote upon this constitution it was less I believe than 6,000; I may not be exactly correct; less perhaps than 7,000; much less, at any rate, than at the election of 1861, showing, so far as we may judge by the popular vote, a less population at the time this constitution was voted upon than when the census was taken, which showed the entire population of the Territory to be but 25,000.

Now, sir, as a representative from the State of Indiana, a State with a population very nearly if not quite a million and a half, I cannot vote to give thirty thousand people in the Territory of Colorado the voice in the Senate which is given under the Constitution to the million and a half of people that I in part represent.

It is not right, Mr. President. There is no evidence before the Senate that shows the population to be larger than I have suggested; and I understood this morning, though I will not say that it is certainly so, that in a recent message delivered to the Legislature by the Governor of the Territory he makes the population to be twenty-nine thousand. I have not seen that message or communication, but I understood that such an opinion has been expressed by the Governor of the Territory, that the population is about twenty-nine thousand; not, in his judgment, to exceed that. If I am misinformed upon this subject I should like to be corrected; but taking the evidence that we have before us the population cannot exceed thirty or thirty-five thousand at the very extreme. I believe thirty-five thousand was claimed at the last session by the advocates of this bill.

Then, Mr. President, it is proposed now to bring into the Union as a State a section of country with a population of thirty or thirty-five thousand. I submit to Senators whether this is according to the spirit of our institutions, or whether, as between the States, it is just and right.

But, sir, if the population were ever so sufficient I could not vote for the bill with the amendment which has just been adopted—the amendment proposed by the Senator from Vermont. That amendment is simply on the part of Congress a proposition to change the constitution of the proposed State, to incorporate a provision not found there when it came from the hands of the people.

So far as I know this is the first time that the Congress of the United States has undertaken to change the constitution adopted by the people upon a bill proposing to admit a State. The Senator from Vermont claims that this provision of the bill will pass into the State constitution, or rather will control it and be permanent in its character, for he uses the word "perpetual," I believe, in the amendment.

Mr. STEWART. If the Senator will allow me, I think there is a precedent here of very nearly the same character in the admission of the State of California. The third section of that act is—

"That the said State of California is admitted into the Union upon the express condition that the people of said State, through their Legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to and right to dispose of the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States; and in no case shall non-resident proprietors who are citizens of the United States be taxed higher than residents."

Mr. HENDRICKS. I think that the answer made by the Senator from Michigan—

Mr. STEWART. Allow me to call attention to the point. The question of State taxation is admitted by all to be especially within the jurisdiction of a State; but here Congress provided that non-resident proprietors should not be taxed higher than resident proprietors in a State. The subject of taxation is certainly within State jurisdiction, and yet here Congress imposes a condition that a State shall not do a thing clearly within State jurisdiction. It seems to me it is an analogous power to the one proposed to be exercised in this case.

Mr. HENDRICKS. Mr. President, I thought the answer to the logical force and legal force of those precedents had been so fully given by the Senator from Michigan [Mr. HOWARD] that I was justified in saying that Congress had never before undertaken to do what is now proposed, to change the constitution, which it is claimed the people have agreed to. The provision to which the Senator from Nevada has referred I believe is found in most of the laws admitting the States, or if not in the laws admitting the States, in the enabling acts; and I should think there would be no occasion to provide in the admission of any State as is provided in the section read by the Senator from Nevada. The Constitution of the United States gives to Congress in express terms the disposal of the public lands, the right to control the public lands; to regulate the public lands in every respect. But at one time, as was said by the Senator from Michigan, it was claimed that after a State had been admitted and had become a sovereign in the Union, it then might have a control over the lands within her limits. That doctrine, however, has long since been abandoned. For thirty years I believe it has not been claimed by any Senator or Representative. Congress has the exclusive and entire control of the public lands, their disposal as the owner of the public lands, and may make all laws necessary to protect its own interests as owner of the lands therein. It may not only provide for the sale of the lands, but it may provide for the protection of the lands while it owns them; and in order to secure a sale of the lands upon advantageous terms, it may protect its purchasers. It is upon that ground that Congress has claimed the right to secure the persons to whom it may sell the lands exemption from unequal taxation.

It was the interest of Congress to dispose of the lands in California. In order to secure the disposal of those lands upon advantageous terms, Congress provided that the persons who purchased the lands, whether they lived in California or elsewhere, should not be exposed to unequal and unjust taxation. It is under the power to control the public lands and to dispose of them that Congress undertakes to protect the purchaser when he may not be a resident of the State, and it is not claimed for Congress under any power to control the constitution of a State simply because her people ask for admission into the Union.

Mr. STEWART. Allow me to ask, is the question of suffrage any more within exclusive State jurisdiction than the question of State taxation?

Mr. HENDRICKS. Is that all you wish to ask?

Mr. STEWART. Yes.

Mr. HENDRICKS. In my judgment they

both belong to the State so far as her own revenue is concerned; but the question of the Senator simply calls upon me to repeat what I have said. Congress controls the disposal of the public lands. In order to secure that disposal it may do whatever is necessary to protect its interests; and to protect its interests as the owner of the lands, with a view to their disposal, upon advantageous terms, it provides that non-residents of the State who may buy them shall not be exposed to unequal taxation.

Mr. STEWART. But how does the interest of Congress in that question give it the right to interfere with the State power of taxation? May we not say upon the same principle that it is the interest of Congress, in order to guarantee republican government and enforce republican principles, to see that all men shall have a voice in the Government? But how does the fact of either provision, being for the interest of this Government, affect the power of Congress to interfere with the action of the State? If the question of taxation is exclusively within State jurisdiction, it does not make any difference for what reason Congress exercises the power to impose a condition on the exercise of that jurisdiction of the State. It is a question of power and not of the reason for using the power. If the question of taxation is entirely with the State, and it is partially taken away by the act of admission, Congress exercises a power which the State would otherwise have under our system. That matter is no more a question of State jurisdiction than the matter of suffrage is claimed to be entirely within State jurisdiction. In either case, admitting that the power is with the State, Congress imposes upon the State a condition that she shall not exercise that power in a certain way. I cannot see that the cases are not entirely analogous.

Mr. HENDRICKS. Mr. President, it is disagreeable for me at any time to repeat an argument which has been made more ably than I can make it myself; and as I thought the argument upon this very question, made by the Senator from Michigan the other day, was exhaustive in its character, I very reluctantly answered the question of the Senator from Nevada.

Without reference to precedents, none of which I think do bear upon the question now before the Senate, I cannot vote for a bill which proposes to change a constitution which it is claimed has been adopted by the people of a new State. What is the force of this amendment? If the State be admitted, she is a State, having the control, after her admission, of her own constitution. Can she amend that constitution? It has always been conceded that the States, by proper proceedings, had the power to amend their constitutions; but if Congress has the power to impose a perpetual condition upon the State in regard to any one matter, then in regard to that matter the power of amendment is taken away from the State and from the people.

Mr. President, I have said all that I feel it my duty to say upon this question, and shall be satisfied now to give my vote. I think the people of Colorado have not sufficient population to justify a representation in the Senate and a representation in the other House. I think that the adoption of this constitution was so irregular as to give it no moral force before this body. It was not pursuant to the enabling act; it was not in accordance with the requirements of the enabling act; but it was a party political movement in the Territory, not regulated by law and the polls not guarded by the provisions of law. In every respect I consider the bill objectionable.

Mr. WILLEY. I desire, sir, to explain the vote which I propose to cast on this bill. I voted against the amendment offered by the Senator from Vermont, but I shall vote for the bill now that the amendment has been made a part of the bill. I am anxious that Colorado shall be admitted as a State into the Union. I do not think that the amendment offered by the Senator from Vermont and which has been attached to the bill amounts to anything. As

I understand the Constitution, the right to regulate suffrage belongs exclusively to the States themselves. That is the law paramount; and any bill which Congress may pass proposing to regulate for a State the right of suffrage or to require a State to regulate the right of suffrage in any particular manner, is in my opinion nugatory, unavailing, amounts to nothing; and therefore the bill, if it pass with this amendment to it, will simply result in the admission of Colorado into the Union as a member of the Union, and the amendment attached to it will have no effect upon the State of Colorado in reference to suffrage. Being desirous that Colorado should be admitted now, and believing that the amendment is nugatory, I shall vote for the bill with the amendment to it, notwithstanding I voted against the amendment itself.

Mr. GRIMES. For precisely the same reason assigned by the Senator from West Virginia why he shall vote for the bill, I shall vote against it. He admits, as is admitted by everybody, I believe, on the floor of the Senate, except the Senator from Vermont, that the amendment which has been adopted to the Colorado bill, as well as the one that was adopted to the Nebraska bill, is entirely nugatory. Even the chairman of the Committee on Territories, the Senator from Ohio, [Mr. WADE,] spent an hour or two the other day in convincing us that it was of no effect, unconstitutional, and void. Now, sir, my conscience on this subject of impartial suffrage in the Territories cannot be quieted, as it seems some gentlemen's consciences can be, by the incorporation into this organic act of a provision which I know cannot be enforced, and which, according to the testimony of the opinion of almost every one who has spoken on the subject at all, merely consigns the colored man who happens to reside within these Territories to a law-suit rather than to the ballot-box. Therefore, for the reason which the Senator from West Virginia has assigned why he will vote for the bill, that he believes that amendment to be entirely void and of no effect, I shall vote against this bill for the admission of Colorado.

Mr. DOOLITTLE. Mr. President, there are certain facts in relation to the Territory of Colorado which do not exist to the same extent in relation to the Territory of Nebraska; and the facts to which I should like to call the attention of the Senate, if it were possible to get it, are those facts which bear upon the population of Colorado and which bear upon the question of whether the population of Colorado do or do not desire to assume the burdens of a State government.

I shall not go over the ground, nor repeat what was said by me when the bill for the admission of Colorado was before the Senate on another occasion. The facts which I then stated I believe to be true; but I have some further additional facts and testimony bearing on those two questions, testimony which comes from an official source; testimony which it seems to me every Senator in his place here is bound to regard at least with respect, though he may not concur entirely in the opinions which are expressed. I refer to the statement of the Governor of Colorado made on the 18th of the last month, of December, in his message to the Legislature of Colorado, a copy of which I have now before me. The Governor of Colorado states that—

"It would be idle to attempt to conceal the fact that there are two parties to this issue in the Territory, although strenuous efforts have been made to create the impression abroad that the people were united on the question. But here, where the evidence is readily attainable, it would be equally idle to deny that the party desiring a State government forms a very small portion of the population, and is represented by those who seek personal aggrandizement and place at the expense of the welfare of the Territory."

"It may not be amiss to give a brief history of this question from the beginning.

"Congress, in 1864, passed a law to enable the people to form a State government if they desired to do so. After a very thorough discussion of the subject, they decided that it was inexpedient to adopt a State government.

"This seemed to close the question; the power under the act of Congress, being completely exhausted; but in 1865 a movement was made by a few aspiring

men to effect, if possible, a reconsideration of this decision. A convention was called in which only eleven counties out of seventeen were represented. By this convention a constitution was framed, which it is pretended was adopted by a majority of one hundred and fifty-five. There was no law governing this vote and no restraints whatever surrounded the proceedings, and the so-called vote was no indication of the sentiment of the people."

"The Legislature at its last session, feeling the wrong that was attempted to be put upon them by forcing a State government on the people under the representation that there was a population numbering between fifty and sixty thousand to bear the expenses, authorized a census to be taken by the assessors of the different counties, paying them a compensation per capita of six cents for every name returned, the work to be done in connection with the annual assessments. Returns have been received from the following counties, namely:

Gilpin.....	6,847
Jefferson.....	1,782
Boulder.....	1,456
Conejos.....	2,269
Costilla.....	2,192
Las Animas.....	935
Fremont.....	508
Summit.....	456
Park.....	552
El Paso.....	565
Arapahoe.....	4,145
Douglas.....	542
Weld.....	1,192
Pueblo.....	890

Amounting to.....24,331

"These returns all show upon their face marked evidence of the care with which the work has been done and the population enumerated, and their accuracy is acquiesced in by every portion of the Territory with the exception of a single county, and of the correctness of that one there is no reason to doubt.

"From the following counties no returns have been received, and the population is estimated by persons conversant with the condition of the counties, including members of the Legislature representing them, namely:

Larimer.....	600
Clear Creek.....	1,600
Huerfano.....	1,000
Lake.....	600

Making.....3,800

Making an aggregate of 27,931.

"This result will doubtless produce great disappointment in the public mind because of the studied effort to create the impression that the population was much larger, although the prudent, thinking portion of the community—those who have the taxes to pay and the burden of the government to sustain—felt assured all the while that the effort was a merely selfish one to support the ambitious schemes of designing men. The exaggerations of the population have been but a small portion of the misrepresentation by which they sought to accomplish their purpose.

"The fact that the population is small does us no harm; the truth never does injury; it is only the perversion that does mischief."

"Since the adjournment of the last Legislative Assembly I have traversed almost the entire area of the Territory, mingling freely with every portion of its citizens, among the miners and in the agricultural districts, and I am convinced that at least two thirds of the people are adverse to the formation of a State government. In whole sections the entire population are opposed to it with scarcely a dissenting voice, while in no portion is there any considerable degree of unanimity in its favor. If this opinion is doubted its accuracy can be easily ascertained by affording the people a fair opportunity to speak for themselves.

"If Congress desires the admission of the State, and the people of the Territory wish it, the admission can be consummated at the next session with equal advantage to every interest that could be obtained by admitting it now."

Now, Mr. President, I have read at some little length the statement made by the Governor of Colorado as to a census which was taken under a law of the last Legislative Assembly of that Territory requiring the assessors to take an enumeration of the population, and by that enumeration all told there are but twenty-seven thousand inhabitants in this Territory of Colorado. There is not a dollar in the treasury. The people are not in a condition to bear the burdens of a State government; they will of necessity be involved in debt; and if it is admitted into the Union the scrip of this new State within one year from this date will be selling at less than fifty cents on the dollar beyond all question, and the people burdened with a taxation they cannot well bear.

Mr. President, when such are the facts why is it that the admission of this Territory as a State should be so pressed upon the Senate of the United States? The Senator from Ohio [Mr. WADE] has over and over again declared

the real purpose of bringing this Territory in as a State, although he himself, in the beginning of the discussion, and before the political necessities had pressed upon him as they have been pressing upon him of late, in an argument which he has not answered and which has not been and cannot be answered, showed conclusively that this Territory of Colorado was in no condition to be admitted as a State into the Union. But, sir, there are other reasons, pressing reasons, reasons of political necessity he would have us understand. It is necessary to reinforce a majority of three fourths in this body by the admission of new members from the new State of Colorado, and that is the reason why this is to be pressed. Sir, I should not speak of this if the honorable Senator had not over and over again avowed that his purpose was to bring in reinforcements; and this is the great anxiety which he has for the passage of this bill. Sir, it is a new argument in the Senate of the United States to press upon the Senate what their judgment does not approve, from considerations of political necessity, to strengthen a party or for any political purpose whatever. And, Mr. President, a new style of argument has arisen, too, in reference to constitutional questions, which I never heard before, to wit: that the Senate are called upon to vote in favor of measures conceded to be unconstitutional because it is said being unconstitutional they are perfectly nugatory. Of course I will not assume to judge for other persons; but I do not see how it is possible for me to consent to vote for a proposition which I believe to be unconstitutional because its being unconstitutional will make it nugatory and of no account. It is in vain to say that if we vote for an unconstitutional law it is null and void, and therefore it may be disregarded by the people who are to be affected by it, or it may be overruled by the judgment of the Supreme Court or any other tribunal. That does not excuse us in my judgment. I do not know but that others can see their way clear to excuse this matter to their own consciences in view of the oath they have taken to support the Constitution of the United States; but I cannot see how I can vote for a proposition which violates the Constitution when I have sworn to defend it. It seems to me that it is illogical, it is preposterous; and I for one cannot reconcile it with my sense of the obligations which I owe to the oath that I have taken.

Now, Mr. President, I shall not go over the argument as to the proposed amendment to show its unconstitutionality, and that with the exception of perhaps two or three gentlemen who have expressed their opinion upon this subject it is conceded to be unconstitutional. If Congress has this power on the admission of a new State to propose by an ordinance or a law perpetually binding forever upon the State that the State shall make no distinction between its citizens on the ground of color so far as the exercise of the franchise is concerned, Congress may say the same thing in relation to any distinction of sex. Congress has the power to impose upon a new State equal, universal woman suffrage as well as negro suffrage or Indian suffrage. There is no limit. But, sir, the answer given is that being against the Constitution it is of no account, it amounts to nothing; and therefore we can vote for it. Why, Mr. President, this is the strangest argument I have ever heard anywhere. I am certain that such an argument is a very novel one in the Senate of the United States.

Mr. President, I fear that it is another evidence of that revolution through which we are passing, which may in its progress involve all our institutions, Constitution and all; for if men here can disregard it, how shall we expect that the Constitution will be respected elsewhere?

Mr. SHERMAN. Mr. President, the Senator from Wisconsin seems to assume that somebody has said that he was at liberty to disregard the Constitution of the United States in voting upon propositions pending in this body.

Mr. DOOLITTLE. I did not refer to anything said by the Senator from Ohio.

Mr. SHERMAN. The Senator says he did not refer to the remarks I made. Well, sir, let me state my view of the proposition under debate. We have the undoubted constitutional power to admit the State of Colorado with or without conditions. We have the right to impose such conditions on the State of Colorado as we see proper. It is clearly within our constitutional power to do so. In this case it is proposed to impose a condition, without requiring Colorado to accept it, and it therefore has no force or validity whatever. We may impose conditions upon the admission of a State, and if those conditions are assented to they become a part of the compact between the State and the United States. Every law for the admission of a State into the Union has contained conditions declared to be fundamental in their character. The act for the admission of the first State that was admitted, the State of Tennessee, contained such conditions. When the State of Ohio was admitted there were three or four fundamental conditions, and the people of that State were required to assent to them before Ohio was admitted into the Union. In this case a proposition is made to declare a certain doctrine a fundamental condition, but the State is not asked to assent to it, and it therefore, in my judgment, has no force or effect whatever.

Still, that Congress has power to make this condition or to declare this condition I have not a doubt. Congress may ingraft upon the Colorado bill the Ten Commandments or the Lord's Prayer, or a great many other good things for which I should be willing to vote at all times and in all places, but yet unless we required the people of the State to assent to those conditions they would be of no force whatever. Therefore when a proposition is made to declare any fundamental doctrine, or any fundamental principle, or any code of ethics or law a condition, I do not feel restrained from voting for it, because I do not believe it will have any effect; and if other Senators who are also in favor of the main proposition will be inclined to vote for it if this be adopted as a part of the bill, I am not disinclined to give them that opportunity. I think there is no inconsistency in the position that I have occupied, nor in the position occupied by the Senator from West Virginia. He was opposed to a certain amendment; he voted against it. That is done constantly. Propositions and amendments are offered against which Senators vote, and yet they vote for the original proposition even if amended. I see nothing inconsistent in this and nothing to call for unreasonable criticism.

A word now in regard to the population of Colorado. The Governor of the Territory of Colorado, who will be legislated out of office by this bill, is very much opposed to the passage of the bill. I saw him myself when I was in Colorado recently. It seems he got up a census upon his own authority of the number of inhabitants there. It was a matter of common remark that in some of the counties the census was not taken at all, in many of the counties it was imperfect, and no reliance and no attention was paid to it whatever. No one took the pains to be enrolled on his census, and I think that no sufficient steps were taken to secure a full enumeration of the inhabitants of Colorado; and yet I feel bound to state that from the best information I could get in Colorado there were not more than forty or fifty thousand people in the Territory who were permanent citizens. I do not think the highest estimate I heard placed upon it by disinterested men was over fifty thousand. Still they have all the elements of a State. The town of Denver is a flourishing little city, well built, well constructed. The Pacific railroad is rapidly approaching Colorado, and next summer will enter upon its northern border. What is called the Kansas branch of the Pacific railroad is pushing out rapidly toward Colorado and will soon reach it. The capital invested in mining in Colorado amounts

to many million dollars and needs protection. Indian wars are about to occur in that immediate neighborhood. There is no doubt that we shall soon have collisions with the Cheyennes, as I believe they are called, and also with the Sioux, and perhaps the Utes and other tribes on the immediate border and in Colorado. The military authorities will be moving there in their military operations. It seems to me that under these circumstances it is important for the protection of the white people of Colorado that some kind of a government other than a territorial government shall be found there.

It is a well-known fact that there is great hostility between the present territorial government and a large portion, and I think a majority of the people of Colorado. Who is at fault in this matter I cannot state; but it is certain, in my judgment, although that is a disputed point, that a majority of the people of Colorado desire to get rid of that territorial government. That territorial government is now an expense to the nation. I believe a majority of the people of Colorado desire to substitute for it a State government. There is no practical objection against the adoption of a State government in Colorado except that it gives them for a time at least undue representation in the Senate and House. Under the circumstances by which they are surrounded, with a large amount of capital developing their mining industry, with a rapidly growing population, with Indian hostilities springing up all around them, when they ask us for a State government which will compel them to pay the expenses of that State government, it seems to me not unreasonable that we should waive the meagerness of their population, the undue political power it will give them for the time being, and admit them as a State. Within two years from this time, perhaps within less, they will have the requisite population to elect a member of the House of Representatives under the existing law. They will then have the right, by the precedents that we have already adopted, to admission. We now waive for one or two sessions of Congress the meagerness of their population and the undue political power they will have in this body and in the House. I do not think that the case of Colorado is as strong as the case of Nebraska. Nebraska, in my judgment, is better prepared and better fitted for a State government, and their people are more united on the question of a State government, than they are in Colorado; but still I think, under the circumstances by which these people are surrounded, it would be an act of wisdom on the part of Congress to give them the management of their own affairs by the organization of a State government, and I shall therefore vote for it.

Mr. WADE. Mr. President, I do not presume now to go into the arguments which have been made on the bill over and over again on the other side of the Chamber as to the want of population in this Territory and a great many other things; but I have a letter here from the executive clerk of the Governor of Colorado, which reveals some facts that perhaps throw some light on the opinions contained in the Governor's message, which gentlemen have handed around here. The Governor feels, I believe, a little interest in keeping the position that he has got; but let us hear the letter, which I have sent up, from his executive clerk, as regards the vote in Colorado.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The letter will be read, no objection being interposed.

The Secretary read as follows:

DENVER, COLORADO TERRITORY,  
November 10, 1866.

SIR: I desire to inform you that my certificate affixed to the false table of the different votes cast in Colorado, which was laid before Congress at the last session, was obtained from me by fraud, as follows: I made a table of the votes from the retained copy on file in the office of the secretary of the Territory for the New York Tribune Almanac, by order of Governor Cummings, and one of his household, writing at the same table, made a duplicate, or professed to do so. The copy made by me was compared with the original and sent to the room of the Governor.

After some hours, a paper represented to me as the

duplicate was returned to my table by the party who had made it, with the request from Governor Cummings that I would officially certify to it, and with the remark that it had been compared and was correct. I complied with the request, without accurate examination and without suspicion of treachery, as it was mailed, as I then believed, to the New York Tribune Almanac.

The table of votes thus certified to by me is the one that was laid before the last session of Congress, and is false and grossly unjust to this Territory.

I was not aware of the imposition practiced upon me until too late to correct the false impression it created; but I avail myself of the first opportunity to do so and to vindicate my own character, and I confidently trust that you will lay this letter before Congress as an act of justice to this Territory and to myself.

I have the honor to be, very respectfully, your obedient servant,  
D. A. CHEEVER,

*Late Executive Clerk Colorado Territory.*  
Hon. BENJAMIN F. WADE, *United States Senate, chairman Committee on Territories, Washington, D. C.*

Mr. WADE. I have another letter from the Secretary of the Territory which throws some light upon the question of the population of the Territory, which I should like to have read in this connection.

The Secretary read as follows:

EXECUTIVE DEPARTMENT,  
COLORADO TERRITORY,  
GOLDEN CITY, November 10, 1866.

DEAR SIR: I have the honor to acknowledge the receipt of your favor, bearing date the 5th instant, in relation to the census returns now on file in my office, and asking for a statement of the same if compatible with the public interest.

In responding to your desire for information on this subject, it would perhaps be proper to give a general synopsis of the result, so far as they have been received, but not having immediate access to my official records, I can only furnish the total footings of the twelve counties thus far reported. These exhibit a population of twenty-two thousand souls. Six of the most important in wealth and numbers—excepting Gilpen and Arrapahoe—are yet to be heard from. In this connection it may be well to state that many of the assessors while in the prosecution of their assessments were entirely ignorant of the duties imposed by the law regulating census returns, copies of which, though promptly forwarded, failed to reach them in time to be of service. Others were not advised by any recognized authority that such a law had been passed until after their assessment rolls had been returned to the county clerks. I am also informed that in not a few localities no effort was made to record the non-tax-paying residents, and that only such names were taken down as came properly within their jurisdiction as assessors of taxable property. In the second largest and most populous mining county (Clear Creek) no census has been made because of the refusal of the officer assigned to that duty to act for the sum specified in the law. I am further assured by prominent citizens of Denver that a private census has been taken which places the population of that city alone at a greater number than was returned by the assessor for the entire county. The interest you have manifested in the material prosperity of our Territory induces me to present these facts in vindication of the people from the gross misstatements now in circulation throughout the eastern States, fomented by disloyal politicians with the express design of defeating the admission of the State at the coming session of Congress.

Your obedient servant,  
FRANK HALL,  
*Secretary and Acting Governor of Colorado.*  
Hon. JOHN EVANS,  
*United States Senator-elect for Colorado.*

Mr. WADE. I do not propose now to make any comments on those two papers unless some other gentleman should see fit to do so. I am anxious for a vote, although under other circumstances I should think it well enough to reply to some things that the Senator from Wisconsin has said; but I will take some other occasion for that.

Mr. WILLIAMS. Mr. President, no doubt the action of Congress upon these two bills will be hereafter referred to as a precedent, and I desire simply to say enough to show that while I vote for the bills, I do not acquiesce in the doctrines of the amendment or the views of the gentlemen who support it. Nobody will contend—I presume the author of this amendment will not contend—that Congress has any power to regulate the right of suffrage in the State of Vermont; and if so, then when Nebraska becomes a State in the Union Congress has no power to regulate the right of suffrage in the State of Nebraska by any legislation prior to or subsequent to the date of its admission, unless Nebraska stands in the Union in an inferior condition to the State of Vermont. I find in the second section of the first article of the Constitution this provision:

"The House of Representatives shall be composed



of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Now, according to all construction, that has ever been put upon that section of the Constitution, the right of a State to prescribe the qualifications for the electors of the most numerous branch of its own assembly has been recognized. Does the Senator or anybody else pretend that Congress can prescribe the qualifications for the voters in the State of Nebraska for the members of its own Legislature? If the Constitution of the United States confers that power upon one State, it confers the same power upon all the States; and when Nebraska is changed from a Territory to a State, the Constitution, independent and regardless of any legislation by Congress, endows that State with this constitutional right. No law of Congress can deprive a State of any constitutional right. If this act of admission should prescribe as a fundamental condition that the State of Nebraska should have but one Senator in Congress, I will ask the honorable Senator if it would be a valid and binding condition?

Reference has been made to conditions attached to other acts of admission; but the honorable Senators who have referred to those acts as precedents have failed to make a palpable distinction between the two cases. I undertake to say that no reference can be made to any condition attached to any act of admission that was at the time in conflict with the constitution of the State or of the United States. The point which I make upon this amendment is, that it is in conflict with the Constitution of the United States as well as in conflict with the constitution of the State. Nebraska at this time is a Territory. Congress has an undoubted right to prescribe the qualifications of voters in that Territory; but when Nebraska becomes a State the right of Congress ceases. Otherwise there is no difference between a State and a Territory, and both stand upon the same footing so far as the power of Congress is concerned. That is the view that I take of this proposed condition; that it cannot be valid because it is in conflict with the Constitution of the United States, and the State, when it is changed from a Territory, acquires under the Constitution a right that cannot be taken away by any legislation on the part of Congress.

Now, it is claimed that at this time, because Nebraska is a Territory, Congress can enact some law that will operate in Nebraska after Nebraska becomes a State which Congress cannot enact after the act of admission is passed. I think there is a gross fallacy in that position. It is for these reasons, in brief, without undertaking to elaborate the subject, as it has been very thoroughly discussed, that I have opposed these amendments. I cannot consent to vote in this Senate for a doctrine which recognizes the right of Congress to say that a new State admitted into the Union shall not have the same rights in the Union under the Constitution that any of the old States have. I do not believe that it is right or constitutional for Congress to make any distinction between States; and I say that when Nebraska is admitted into the Union and her Senators and Representatives take their seats on the floors of Congress, Nebraska in the Union has precisely the same power under the Constitution of the United States to control the right of suffrage that Vermont or New York has.

These are my views of the amendment; but I shall vote for the bill as amended. These views have been overruled by a majority of the Senate. I believe it is of great importance to the people of Colorado that that Territory should be made a State, and I do not intend to allow a measure of this importance to be defeated, so far as my vote is concerned, because an amendment has been attached to the bill which I have opposed, and which, in my judgment, will have no force and effect.

I will state one other objection to this amend-

ment. When Colorado is admitted with this amendment attached to the bill the people of that State will be unable to determine what right or power they have over this question. Send this constitution with this amendment attached to it, accompanied by the conflicting views that have been expressed here to-day upon the subject, to the people of Colorado, and what decision can they make as to their rights? Controversy, confusion, and possibly disorder will be introduced into that Territory by the various constructions that may be put upon this amendment. Some will contend that this amendment, as has been admitted by some of its supporters here, is invalid; and so the people will be divided; doubts upon the subject will obtain; controversies will arise; and it will be, as it seems to me, more, of an injury to the people than an advantage; and I doubt very much whether it will secure to the class of persons for whose benefit it is brought forward those rights which it is intended to secure to them. So long as so many of the honorable Senators here have stood upon this floor and acknowledged that it was invalid, those who are opposed to it in Colorado will take advantage of that exposition of the amendment in the Senate and claim that it has no force and effect.

My opinion is that this application ought to have been rejected or it ought to have been adopted; the State ought to have been compelled to change its constitution in accordance with the wishes of Congress, or it should have been admitted with a constitution such as the people choose to make; and I regret that this amendment has been adopted, not because I think it will affect anything in Colorado, but I am apprehensive that we have put upon the record a precedent here to-day that will return to plague the inventors.

Mr. WILLEY. Mr. President, I do not know how far the moral criticism of the Senator from Wisconsin [Mr. DOOLITTLE] was designed to be applicable to me. I have only to say, however, in reference to the vote which I gave, that I cast it in accordance with my convictions of what I conceived to be right and proper under the circumstances; and further to say that in casting that vote, as in casting any vote which I may see proper to do, I hold myself responsible to my own conscience, and not to the Senator from Wisconsin. I imagine that honorable Senator will have quite as much as he will find himself able to do if he takes care of matters that affect himself, and allows his brother Senators to be the judges of what is proper in the discharge of their own duty.

I have now nothing to take back in regard to the remarks which I made. I simply voted in the first place against the amendment of the Senator from Vermont because I was opposed to it. I shall vote for the bill with that amendment attached to it because I am in favor of the principle of the bill and of the admission of Colorado as a State into the Union. I believe that the amendment is simply nugatory and no more; that it can have no effect upon the people of Colorado. If I believed that it could have, I would be the last man to attempt to impose upon them a law which I believed to be unconstitutional so as to affect in anywise their interests contrary to the Constitution of the United States; but I say now, as I said then, that I consider the amendment simply and only as nugatory, having no effect whatever to affect the interests or the rights of the people of Colorado; and desiring the admission of that Territory into the Union as a State, and desiring it now, I propose, being responsible to my own sense of what is right and to my own conscience, not to the Senator from Wisconsin, to cast my vote in favor of the bill.

Mr. DOOLITTLE. The honorable Senator from West Virginia certainly misunderstood all that I said if he understood me to question at all the sincerity of his views or his conscientious convictions in voting upon this or any other bill. I never have entertained any such idea of the Senator from West Virginia. For his high moral sense and convictions of duty I have an exceedingly high respect, and always have

entertained it. What I did say, substantially, was this: that I could not see how I could reconcile it, in my view of my duty, to the oath which I had taken, to vote for a proposition which I saw was unconstitutional, and then justify my vote upon the ground that by being unconstitutional it was simply nugatory and of no effect. I cannot reconcile that for myself. Other gentlemen, perhaps, may do so. I do not question the sincerity of their convictions, nor have I assumed to do so; but so far as my judgment is concerned, as it seems to me, in the line of my duty, having sworn to support the Constitution of the United States, I cannot vote for a proposition which I conceive to be in violation of the Constitution of the United States, although, because it is in violation of the Constitution, it is null and void, and amounts to nothing.

Mr. EDMUNDS. I do not propose to go into any further argument on this subject with my friend from Oregon or with any other gentleman who is disposed to disagree with the views which I have advanced. Posterity will decide between them and me. The principles of liberty which the amendment contains, I think, will have some little growth out of this bill. It is now, having been adopted, as they suppose, the body of Moses to us all. I am not disposed to bring against them any railing accusation, but to leave another tribunal to administer the necessary rebuke.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GRIMES and Mr. JOHNSON called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 23, nays 11; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fowler, Henderson, Howard, Kirkwood, Lane, Morrill, Poland, Ramsey, Ross, Sherman, Stewart, Sumner, Van Winkle, Wade, Willey, and Williams—23.

NAYS—Messrs. Buckalew, Doolittle, Foster, Grimes, Hendricks, Johnson, Morgan, Nesmith, Norton, Patterson, and Riddle—11.

ABSENT—Messrs. Brown, Cowan, Davis, Dixon, Fessenden, Fogg, Frelinghuysen, Guthrie, Harris, Howe, McDougall, Nye, Pomeroy, Saulsbury, Sprague, Trumbull, Wilson, and Yates—18.

So the bill was passed.

#### TERRITORIAL GOVERNMENTS.

Mr. WADE. I move now to take up House bill No. 508. It relates to this same subject, and I want to get through with it as quick as I can.

Mr. EDMUNDS. What is that?

Mr. WADE. It is a bill to prevent hereafter any distinction on account of color in any of the Territories belonging to the United States.

Mr. EDMUNDS. That will be debated.

Mr. SUMNER. Oh no, I think not. Let us pass it through now. Let us crown what we have done to-day with this.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 508) to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico.

Mr. WADE. I move to strike out all after the enacting clause of the bill and to insert what I send to the Chair.

The PRESIDENT *pro tempore*. There is an amendment pending to the bill, which will be read.

Mr. WADE. Would it not be in order to amend by striking out the whole bill and the pending amendment and inserting this substitute?

The PRESIDENT *pro tempore*. While the present amendment is pending, the motion of the Senator from Ohio would not be in order. It will be in order immediately after disposing of the amendment now pending, which is to strike out the [ninth] third section of the bill, as follows:

SEC. [9] 3. And be it further enacted, That within the Territories aforesaid there shall be no denial of the elective franchise to citizens of the United States because of race or color, and all persons shall be equal before the law. And all acts or parts of acts, either

of Congress or of the Legislative Assemblies of the Territories aforesaid, inconsistent with the provisions of this act, are hereby declared null and void.

Mr. SUMNER. Let that be stricken out.

Mr. WADE. Very well; let it be struck out, then.

The amendment was agreed to.

Mr. WADE. Now I move to strike out all of the bill after the enacting clause, and to insert the following:

That in all the Territories of the United States there shall be no denial to citizens of the United States of the elective franchise by reason of race or color, and all persons shall be equal before the law. And all acts or parts of acts, either of Congress or of the Legislative Assembly of any Territory, inconsistent with the provisions of this act, are hereby declared null and void.

Mr. WILLIAMS. I object to hurrying this bill through without any consideration. It seems to be a new proposition, and there is some phraseology employed that may be more comprehensive than Senators suppose. In all the Territories, according to this proposed amendment, all persons are to be equal before the law. I should like to know what that means before I vote to incorporate into the organic acts of the Territories such phraseology as that. What is the precise meaning and effect of it? Suppose an Indian should insist upon the right to sit upon a jury. He is authorized to do so, and his right cannot be denied by that amendment. All persons are to be equal before the law, without distinction of race or color or sex, according to that amendment. I wish Senators to remember that in the Territories there is a very large population of wild, untamed Indians, and in attempting to provide for the black race within the States I think Senators ought not to use language that will put those Indians in the Territories who are wholly unfit to perform any of the duties of a citizen, who are wholly unable to perform any of the duties of a citizen, on an equal footing, and entitle them to all the rights and privileges which the white people of the Territories enjoy.

Mr. WADE. That is not the intention. Does not the amendment use the word "citizen?" I believe it does.

Mr. WILLIAMS. No, sir; it says "all persons shall be equal before the law;" and I think that such phraseology as that in legislation is exceedingly dangerous. Specify what particular rights you intend the people of the Territories should possess. If you will say that the citizens of the Territories shall have the right to vote, then I will agree to the proposition.

Mr. WADE. I am willing to restrict it in that way. That is what it means.

Mr. WILLIAMS. Or if you desire that they shall have any other rights, and you specify them, then I can understand for what I vote; but to use that sort of phraseology, that "all persons shall be equal before the law," when there are so many ramifications of government and society to which the language applies, seems to me to be a dangerous mode of legislation. I hope this amendment will not be adopted in this hasty manner.

Mr. LANE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 9, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### QUESTION OF PRIVILEGE.

Mr. CHANLER. I rise to a question of privilege, but as several gentlemen wish to submit a few matters by unanimous consent I will yield for that purpose.

### PAY OF A MEMBER.

Mr. DAWES, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Sergeant-at-Arms be, and is

hereby, authorized and directed to pay to Hon. D. W. Gooch the amount of increased pay of a member of this House provided by law, from the commencement of the Thirty-Ninth Congress to the date of his resignation.

Mr. DAWES moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### TOWN OF SHASTA.

Mr. BIDWELL, by unanimous consent, introduced a bill respecting the town of Shasta, California; which was read a first and second time, referred to the Committee on Public Lands, and, together with the accompanying papers, ordered to be printed.

### INDIAN AFFAIRS.

Mr. KASSON, by unanimous consent, introduced a bill to restore the jurisdiction of Indian affairs to the Department of War; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

### FREE SCHOOLS IN THE DISTRICT.

Mr. WELKER, by unanimous consent, introduced a bill to provide a system of education for the public schools of the District of Columbia; which was read a first and second time, referred to the committee on free schools in the District of Columbia, and ordered to be printed.

### COMPENSATION OF LIGHT-HOUSE KEEPERS.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of giving increased compensation to keepers of light-houses and light-vessels in the United States, and that said committee report by bill or otherwise.

### HARBOR OF NEW YORK.

Mr. DODGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to inform this House if any and what steps have been taken for removing the wreck of the steamer Scotland, recently sunk in the entrance of the channel of the harbor of New York, and what is necessary in order to secure the early removal of the wreck, which is endangering the navigation of the channel.

### HOMESTEADS FOR COLORED MEN.

Mr. GRINNELL, by unanimous consent, submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to inquire whether any modification of the third article of the treaty with the Choctaw and Chickasaw Indians, ratified June 23, 1866, can be made whereby the eight thousand persons of color now without homesteads may have their status as citizens defined, and they be allowed at an early day to select homesteads from the unoccupied lands.

### TAXATION OF NATIONAL BANK SHARES.

Mr. HUBBARD, of Connecticut, by unanimous consent, offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether so much of the forty-first section of the act concerning banking associations as limits the right of State authority to tax shares of such associations at the place where the bank is located, ought not to be so amended as to permit the taxation of the shares in any town where owned in the State where the bank is located instead of at the place of said bank, and that they have leave to report by bill or otherwise.

### MICHAEL McCANN.

Mr. BROOMALL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be, and is hereby, directed to furnish to the House of Representatives all written agreements, contracts, and papers, or copies thereof, relating to the claim of Michael McCann against the Government for the services of the barge Charles Warner, with a statement of the amount of money paid and the amount yet due according to the contract, and of whatever action may have been had upon the account by the proper auditor.

### LAND OFFICE REPORT.

Mr. LATHAM, by unanimous consent, submitted the following resolution; which was read and referred, under the law, to the Committee on Printing:

*Resolved*, That there be printed for the use of the members of this House thirty thousand extra copies of the last report of the Commissioner of the General Land Office.

### CLAIMS OF LOYAL TENNESSEANS.

Mr. MAYNARD. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That a resolution passed by the House on the 18th of January, 1866, in the substance following: "That until otherwise ordered the Committee of Claims be instructed to reject all claims referred to them for examination by citizens of any of the States lately in rebellion," &c., be, and the same is, so modified as not to embrace any claims presented by loyal citizens of Tennessee.

Mr. WASHBURN, of Illinois. I object, and call for the regular order of business.

### NAVAL BOUNTIES.

Mr. TAYLOR, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of so amending an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866, as will allow seamen and marines of the Navy, under the same limitations and restrictions, the bounty allowed by said act to soldiers, and to report by bill or otherwise.

Mr. WASHBURN, of Illinois. Has the morning hour commenced?

The SPEAKER. It has not. The gentleman from New York [Mr. CHANLER] is upon the floor on a question of privilege.

Mr. WASHBURN, of Illinois. Then I hope we shall dispose of his question of privilege.

### THE INCOME TAX.

Mr. CULLOM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the revenue laws that incomes to the extent of \$1,000 shall be exempt from taxation, and that all incomes above that amount shall be taxed five per cent. and no more.

Mr. WASHBURN, of Illinois. I now insist on the regular order.

### QUESTION OF PRIVILEGE.

Mr. CHANLER. Mr. Speaker, I hold that a vote given in this House by a member of this body is one of the most important acts that a member can possibly perform; and the record of that vote I hold to be a matter of the first importance. And I rise to ascertain from the Speaker the position held upon this floor by the reporters of the Associated Press; if they are officers of this House under the resolution which admitted them to this floor, or whether they are not. If they be officers of this House, I hold that the Journal, the record of the proceedings of this House, is the only standard whereby they can publish to the press of the country the votes given upon this floor. Have the reporters of the Associated Press the right, by changing the record of this House and interpolating their opinion relative to a vote here given, thereby to change the position of a member of this body, so far as their act can do it? That is the question. Now, sir, the special instance in regard to which I rise is the record of the vote taken on the resolution of impeachment.

Mr. WASHBURN, of Illinois. I call the gentleman to order. I want to know whether this is a question of privilege or not.

Mr. CHANLER. I wish to know whether it is or is not.

The SPEAKER. The gentleman from New York is stating his question of privilege.

Mr. CHANLER. I wish to know if the privilege of a member of this House includes the record of his vote as published by the reporters of the Associated Press, who are upon this floor by the permission of the House.

Mr. WASHBURN, of Illinois. If it is in the nature of a personal explanation then I do not object.

Mr. CHANLER. It is in the nature of a personal explanation, but involves a question of privilege.

Mr. WASHBURN, of Illinois. Then it is not in the nature of a question of privilege?

Mr. CHANLER. It includes a question of privilege also in my opinion, and I wish to have my full privileges here upon a matter of personal explanation.

Mr. WASHBURN, of Illinois. If the gentleman asks for that I shall not object.

Mr. CHANLER. I have put the question, and I believe the Chair understands it. Now I wish to leave the question there. If it be within the privileges of this House, I will now go on with the personal explanation.

The SPEAKER. The Chair will state that if the question involved was a correction of the Journal of the House, then it would be a question of privilege. The Chair has examined the Journal of the House and finds the gentleman's name recorded in the affirmative, upon the passage of the resolution of the gentleman from Ohio [Mr. ASHLEY] in regard to impeachment. The Journal, therefore, is correct.

The Chair will answer the other question of the gentleman, in regard to the position of the reporters of this House. The reporters of the Globe have been regarded as officers of this House. They have been so recognized in various ways, in appropriation bills, &c. The reporters of the two associated presses, by a vote of this House, have been granted seats upon the floor instead of in the reporters' gallery, that they may be able to give more elaborate reports, by means of access to the records of the House and to documents they may have occasion to copy. In the opinion of the Chair, the reporters of the associated presses are not officers of the House.

As to any statement in reference to the action of the gentleman not being correctly stated by the reporters, that is a question for the gentleman and the House to determine. If the gentleman claims that he has been intentionally misrepresented, then it is a question which he can bring before the House for their action.

Mr. CHANLER. Does the Chair rule that a misrepresentation of a vote given on this floor by a member is a question of privilege, or does he decide that it is not?

The SPEAKER. The Chair would not regard it as a question of privilege, which the gentleman would have a right to present to this House for its action, overruling all other questions, as questions of privilege always do, unless he presents it for the action of the House as the Chair has just indicated. A question of privilege generally refers to the right of a member to his seat, and questions arising therefrom. A correction of the Journal, being a record of the votes and action of members here, is always regarded as a question of privilege. Corrections of reports in the Globe have not been regarded as questions of privilege, but have always been entertained by Speakers who have preceded the present occupant of the chair that these reports may be as correct as possible.

In regard to any misstatements which may have been made by other reporters, they have not been regarded as questions of privilege unless the member interested states that he has been intentionally defamed by the reporter, and therefore desires action of the House to protect himself.

Mr. CHANLER. Then I will first ask to be heard as a question of privilege, upon a misrepresentation in the Globe of a vote given by myself in this House.\* My vote upon the adoption of the resolution of the gentleman from Ohio [Mr. ASHLEY] is misrepresented in the report published in the Globe. That misrepresentation I understand came from the suggestion of a reporter of the Associated Press,

who undertook to direct the reporters of the Globe. Now you can change it and divide it and refine it as you please; and the gentleman from Illinois [Mr. WASHBURN] may seek to prevent me from having my rights upon this floor; but I claim that under the practices of this House I am speaking here upon a question of privilege.

Now, sir, all that I ask is that as the reporters of the associated presses have been courteously admitted to seats upon this floor by a vote of this House, their position here shall be defined. And also if the reporters of the Globe are under the influence and direction of the Associated Press reporters, they shall be put in the same category, either for good or for evil; and that the reporters of the associated presses shall hold themselves strictly bound by the Journal and official records of the proceedings of this House made by the clerks of this body. That is all I ask. I protest against any proceeding by which a member can have the record of his vote changed and misrepresented by any person who is admitted to the privileges of the floor of this House.

And with all due deference to the Chair, I look upon it as a strange ruling which allows a reporter, admitted by courtesy to this floor, to state, as is stated in the paper which I hold in my hand, [the New York Herald,] the result of a vote, excluding by his report a member of this body from appearing as voting at all upon this floor. By the statement which the Clerk will read I am excluded by the reporter for the Associated Press from a vote given in this body.

The SPEAKER. The Chair could not have been as clear as he supposed he was in his statement; for certainly the gentleman has misunderstood that statement. The Chair has stated that the gentleman has the right to ask the action of the House against any reporter who he thinks has intentionally misrepresented him.

Mr. CHANLER. I do not put it on that ground. I put it on the ground of an error. I do not wish to enter into any controversy whether the reporter on this floor meant or did not mean to misrepresent me. I wish to hold the reporter strictly to the record of the Journal of this House. He has no option in the matter. He cannot at his own option go outside of the record and state as a fact that which is not a fact. I am not going into an examination of his intentions, nor do I wish to do so. I believe that this misrepresentation arose from an error; I am willing to admit it. I make no charges against him on the question of intention.

The SPEAKER. What action does the gentleman desire from the Chair?

Mr. CHANLER. I wish the Clerk to read.

The SPEAKER. The gentleman has expressed himself as not satisfied with the decision of the Chair. What action does he desire from the Chair?

Mr. CHANLER. I wish to offer a resolution to the effect that the reporters for the press on this floor shall be subject to the same rules as the reporters of the Globe.

The SPEAKER. The Clerk will read the newspaper extract which the gentleman has sent up.

The Clerk read as follows:

"The question then recurred on the adoption of the resolution. The vote was taken by yeas and nays and resulted—yeas 107, nays 39. It was announced as 108 to 38; but as the official list showed Mr. CHANLER voting in the affirmative, and as that was evidently a mistake, the transfer of his vote to the negative makes the first figures the correct ones."

[Laughter.]

Mr. CHANLER. I wish to call attention to the further fact that in the list of yeas and nays, as contained in the paper from which the Clerk has read, my name is omitted.

Now, sir, I do not wish to be considered as having made any mistake. I voted on due consideration and with a fixed determination. I voted for the purpose of bringing before this body a full statement of the facts relative to the charges made against the first Magistrate of the country. I wish to be understood here

and everywhere as being neither the friend nor the foe of that Chief Magistrate. As a representative of the people, I feel that when there are preferred in this House charges of the importance of those presented by the gentleman from Ohio [Mr. ASHLEY] against the President of the United States, it is the duty of each member here to favor and insist upon a full investigation. Even if I were the champion of the Chief Magistrate of the nation I should have insisted upon an examination as a matter concerning his honor. When suspicious rest upon him, when grave charges are urged against him, how can his fitness and capacity for the position which he holds be demonstrated except by the constitutional method of examination? That method being proposed here, I am willing to accept it as proposed in good faith.

I have no political sympathy with the gentleman who introduced that resolution; but I assert that the vote given by me on that occasion was no mistake. It was the result of mature judgment. I acted upon what I deem to be a very sound principle. Whether the President of the United States be innocent or guilty of the crimes and high misdemeanors charged upon him in the resolution is a question for determination in the future; and the grand jury of the nation, when it refuses to initiate an indictment against a person subjected to such charges, does not, in my opinion, fulfill its duty. Without regard to any political combinations or partisan purposes, I stand here ready to initiate an examination into the conduct of any officer of the Government who may be charged in good faith with impeachable offenses. I am ready to push the investigation to the highest tribunal we recognize here to punish crimes and high misdemeanors, such as are charged against the President.

Now, sir, I desire that other members of this House may not be subjected in the future to such mistakes as that of which I have in the present case been the victim. My object, in presenting this question of privilege, as I believe it to be, has been to bring the matter to the knowledge of the House and elicit an investigation. I desired to obtain from the Presiding Officer of the House a statement of the exact position in which the Associated Press, by their reporters, stand here. I therefore move that the reporters for the Associated Press, admitted to seats on this floor, be under the same rules and regulations as the reporters for the Globe; that all questions of privilege arising in regard to the alteration of votes made in the records of the Associated Press be under the same rule as that which regulates reports in the Globe.

The SPEAKER. The gentleman will send it up in writing and the Clerk will read it.

Mr. CHANLER. I move that the resolution be referred to the Committee on the Rules.

The Clerk read the resolution, as follows:

*Resolved*, That the reporters of the Associated Press be under the same rules and regulations as reporters of the Globe.

The SPEAKER. If the gentleman from New York will turn to page 157 of Barclay's Digest he will see, in corroboration of what the Chair decided, that it is declared to be a question of privilege if a false and scandalous report of proceedings in the House be made by any of its reporters. If a gentleman alleges a reporter has intentionally and falsely misrepresented him, it will be a question of privilege. If an error has been made unintentionally, as in this case, the Chair doubts whether it would be a question of privilege.

Mr. CHANLER. I do not charge it was intentional.

Mr. WASHBURN, of Illinois. I ask that the resolution be again read.

The resolution was again read.

Mr. CHANLER. I modify it so as to say, "reporters and reports made by them."

Mr. WASHBURN, of Illinois. I do not understand the gentleman charges that the official reporters of the Globe have made any intentional mistake.

\* The misrepresentation complained of by Mr. CHANLER appeared in the Daily Globe of January 8, but the correction was made for this edition. See page 321.



Mr. CHANLER. I have specially denied making any such charge. My object in rising was to bring in this resolution.

The resolution was referred to the Committee on the Rules.

#### ADDITIONAL COMPENSATION OF CLERKS.

Mr. GARFIELD. I call for the regular order of business.

The SPEAKER stated the regular order of business to be a motion to postpone previous orders to take up House joint resolution No. 224, giving additional compensation to certain employes in the civil service of the Government at Washington.

Mr. WILSON, of Iowa. I ask whether the joint resolution as it is intended to be presented has been printed?

Mr. GARFIELD. The committee have only one or two amendments to propose to the printed bill.

Mr. BLAINE. I rise to a point of order. I wish to inquire of the Chair whether it is competent for the House to assign the consideration of this joint resolution immediately after the morning hour? I want the House to have a morning hour this morning.

The SPEAKER. It can by unanimous consent only, as there are special orders anterior to this one in date which came in after the morning hour. But, if taken up, the House can then, by a majority vote, postpone it till any other hour of the day.

Mr. COBB. Is this the same joint resolution introduced by the gentleman from Ohio and referred to the Committee of Ways and Means?

Mr. GARFIELD. It is the joint resolution which I reported from the Committee of Ways and Means a few days ago. It was set for yesterday. I hope it will be taken up and passed as it will take but a few moments.

Mr. ALLEY. When the proposition was made I asked whether it would interfere with the morning hour, and I was told it would not, otherwise I should have objected.

Mr. GARFIELD. If taken up yesterday it would not have interfered with the morning hour.

Mr. WILSON, of Iowa. Will the gentleman consent, if the joint resolution be taken up, to have it postponed until after the morning hour?

Mr. GARFIELD. I do not want to interfere with the morning hour.

The joint resolution was taken up and then postponed till after the morning hour.

#### CALIFORNIA MAILS.

The first business in order during the morning hour was the call of committees for reports.

Mr. ALLEY. I am directed by the Committee on the Post Office and Post Roads to report a joint resolution directing the Postmaster General to adjust and settle the claim of the ocean steamship line running between New York and San Francisco, via Panama, and to allow such sum as in his judgment shall be equitable and just for extra mail service performed by said steamship company during the interruption of the overland service by Indian hostilities in 1864 and 1865, provided the allowance shall not exceed \$10,300; which was read a first and second time.

Mr. WASHBURN, of Illinois. Let the report be read.

The SPEAKER. The Chair is informed there is no report.

Mr. ALLEY. There is no report. I will state the circumstances of the case. This service was performed by the Pacific Mail Steamship Company during the interruption of the overland service, occasioned by Indian hostilities, in 1864. The claim which the company made on the Government was \$50,000. The then Postmaster General recommended to Congress to pay the sum of \$22,000, I think. The committee, feeling that that was too much, based their estimate of the amount of pay for the service upon the price which was charged for first-class freight, inasmuch as the company were not required to do anything extra, and in-

asmuch as the company would have been willing to have performed the same service for any individual or corporation at that rate. The committee were of the opinion that the Government should be called upon to pay no more for service rendered than for the same service rendered to individuals, and upon that basis it was found that the sum should be \$10,300. Upon conference with the Postmaster General he concurred with the committee in the opinion that that was the right basis on which to settle the claim.

I am not advised whether the company will accept the proposition or not, but the committee are clearly of the opinion after a full investigation of the case that the sum proposed is sufficient, and they are unanimous I believe in reporting that this sum at least should be paid. Some of the committee were of the opinion that a larger sum should be paid for the service, but the majority thought otherwise, and all thought that this sum was the smallest that should be allowed. Therefore, I suppose there can be no objection to it, and I will call the previous question if no further explanation is desired.

Mr. WASHBURN, of Illinois. I think there will be some little objection to this bill as it now stands. I do not know much about this matter. It involves an appropriation of \$10,000, but from the statement of the gentleman, if I understood it, there is no just claim whatever. The Pacific Mail Steamship Company are obliged under their contract to perform the mail service, and the complaint is now that they were compelled to do a little more than they were willing to do, and so they come back here and ask the modest sum of \$50,000 to do what they were obliged to do for nothing, and they have finally cut down their claim to \$10,000; and now the gentleman proposes to pay this sum and to gag the bill through under the previous question.

Mr. MAYNARD. I would ask the gentleman from Illinois whether it will not be cheaper to pay this \$10,000 than to be called upon to pay this claim several years hence.

Mr. WASHBURN, of Illinois. I am not responsible for the future, only for the present.

Mr. ALLEY. The gentleman from Illinois is famous for talking about gagging in this House under the previous question. Mr. Speaker, I stated only the facts in the case; and allow me to say that the gentleman from Illinois has shown by his remarks that he knows nothing whatever of the merits of the case or the contract under which the company were acting. I will only say further that I stated to the House most distinctly that if any further questions were asked of the chairman of the committee I would cheerfully answer them, and that I would give any gentleman an opportunity to make any remarks he chose; but if no further questions were to be asked, and no further remarks to be made, I should call the previous question. Under those circumstances I thought it rather ungenerous that the gentleman from Illinois should make the remarks he did. I will now yield to the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. I ask to have the joint resolution read. I have a suggestion to make, unless I find it unnecessary after hearing the joint resolution read.

The joint resolution was accordingly read.

Mr. KASSON. I will say that upon the facts as I understood the provisions of this joint resolution, the limitation which I feared was not in it will probably tend to accomplish the object sought. I recollect that in the contract that was made this company for a certain sum, I think \$160,000, were obliged to carry the printed mail matter, and that they made the contract for about \$10,000 less, or about \$150,000. The company, however, were obliged also to carry such letters as should be marked to go by that route. That did not contemplate the transfer of the entire letter mail by that route to California. Owing to the interruption by the Indians of the overland service they were obliged to take the entire letter

mail, including all those letters, a majority of which were not directed to go by the steamer route to California. From an examination which I made of this matter some days ago, I admit that we ought to limit the appropriation substantially to the amount originally authorized by Congress to be paid for the transportation of printed matter to California, and this joint resolution so limits it: it provides that they shall be paid in accordance with an equitable adjustment made by the Department, against the remonstrance of the company carrying the mails.

Mr. WASHBURN, of Illinois. There is one consideration which I think is worthy of the attention of this House. This joint resolution for the appropriation of this \$10,000 is not accompanied by any written report whatever. We have only the statement of the chairman of the Committee on the Post Office and Post Roads, the gentleman from Massachusetts, [Mr. ALLEY,] who reported the joint resolution. It is simply his statement. There is nothing to go upon the records or files of the House to show upon what grounds we voted this money. And the gentleman did ask the previous question, but he afterward gave way.

In regard to that, let me say that perhaps I spoke a little hastily, but I did not forget that at the last session of Congress the gentleman from Massachusetts [Mr. ALLEY] brought forward a proposition here which inflicted the greatest injury on my constituents and the eight million people of the Northwest in the interest of a railroad company to dam up the Mississippi river, and he called the previous question on that measure and endeavored to shut off all discussion.

Mr. ALLEY. I rise to a question of order. My point of order is that the gentleman is not discussing the question now before the House.

The SPEAKER. The Chair sustains the point of order.

Mr. WASHBURN, of Illinois. Was the gentleman from Massachusetts discussing the question before the House when he administered his rebuke to me?

The SPEAKER. The gentleman from Illinois did not raise the question of order on the gentleman from Massachusetts, or the Chair would have ruled as he now does. The gentleman from Illinois must confine himself to the joint resolution before the House.

Mr. WASHBURN, of Illinois. I wish the gentleman from Massachusetts had confined his remarks to the pending resolution. There are some things which the gentleman says that I do not understand. I wish, before I am compelled to vote upon this question, to know what the contract is with this Pacific Mail Steamship Company. I wish to have the contract here so that I may judge for myself whether they have any claim on us or not. I want to know whether there was not an obligation on the part of this company which has drawn from the Treasury nearly two hundred thousand dollars a year to carry the letter mail.

I understand from the remarks of the gentleman from Iowa [Mr. KASSON] that there was a temporary interruption of the overland mail, which only carries letters, and this steamship company was compelled for a few months to carry the letters which otherwise would have gone overland; and for that service, which on the face of their contract they were compelled to perform, they come here and ask for this appropriation, which is to be disbursed by the Postmaster General.

Sir, I am opposed to this kind of legislation, to this giving away of the authority we have ourselves into the hands of somebody else. I will not say anything against the Postmaster General. I believe he would adjust this matter fairly and honestly; but I do not propose to trust this power to him, to abdicate the powers which we have ourselves and give them into the hands of this man. Let the gentleman ask to recommit his resolution, and make a full written report showing all the circumstances, so that we may know what claim this

steamship company has and act upon it intelligently.

Mr. KASSON. Let me state one other fact. The principle upon which this examination, which resulted in the proposed allowance of \$10,300, was made was this: the Post Office Department in effecting this proposed adjustment, or in the negotiations for it—for it is not yet an adjustment—took the weight of the letter mail as compared with the weight of the printed matter carried by this company; and this resolution only proposes to allow them a *pro rata* compensation by weight for carrying the letter mail.

Mr. WASHBURN, of Illinois. Will the gentleman from Iowa [Mr. KASSON] state to the House what are the terms of the contract, whether or not this steamship company were not bound by the very terms of the contract to carry all the mail matter that the Department may choose to send by them?

Mr. KASSON. I have not the contract here, but will state my recollection of its provisions. This steamship company agreed to carry all the printed mail matter that should be sent by the Department by the sea route; they also agreed to carry all letters that should have written upon the envelopes a direction for them to be carried by the sea route instead of by the overland route. In point of fact it was expected that the most of the letters would go by the overland route, as being the shorter and quicker route; but the doubts which were raised about the safety of the overland route induced many merchants and others to desire to have their letters go by the sea route, although it would require more days in their transmission. When the overland route was entirely interrupted, in consequence of Indian troubles, the Department sent all the letters by the sea route. In consequence of that the company claims a large sum, several times the amount proposed here. The Department insist that if any sum is paid it should be only in proportion to the weight of the letters as compared with the weight of the printed matter carried by the company. If such an adjustment can be adhered to, I think it would be a very favorable one for the Department.

I would call the attention of the gentleman from Massachusetts [Mr. ALLEY] to the only defect in his bill, if I understood it correctly when it was read. I think it does not provide that this sum, if paid, shall be in full satisfaction of the claim of this steamship company for this service.

Mr. MAYNARD. I would like to ask the gentleman, as he was formerly connected with the Post Office Department, whether the terms of the contract do not require that this company shall perform such occasional additional service as the exigencies of the Department might require? I was connected with the Committee on Private Claims in former Congresses, and I remember that we had a great many claims brought before us by mail contractors for some extra service they had performed, occasioned by reason of low water or some other temporary cause; but, as I recollect, the Department had in their contracts guarded against any such demands for extra compensation in such cases.

Mr. KASSON. The general practice of the Department has been as the gentleman from Tennessee [Mr. MAYNARD] has stated. But this was an exceptional contract. Originally the overland mail was to take all matter printed and written; but it was discovered that often the drivers of the mail stages, when they got into any very bad place, were in the habit of taking the printed mail matter and use it to fill up the holes and sloughs over which they had to pass, so as to furnish a means for their teams to transport the stages across. In consequence of that the Department made provision for relieving the overland route from this great amount of printed mail matter, consisting mostly of public documents, &c., which lumbered the coaches exceedingly. I do not speak now of the policy of thus relieving them from that portion of the contract, but it was so done.

They arranged to have the entire printed mail matter, except such as was to be distributed along the route, sent by sea; and in that case an exceptional contract was made in reference to printed mail matter.

Mr. ALLEY. If it is in order, to meet the suggestion of the gentleman from Iowa, [Mr. KASSON,] I will move to amend by adding the following:

*And provided further, That this shall be accepted by said company as full satisfaction for all claims against the Government for this service.*

The facts have been stated correctly by the gentleman from Iowa, [Mr. KASSON.] There is no report, and the contract is not here. But the House will bear me witness that it has been the custom of committees frequently to report bills and joint resolutions without written reports to accompany them. This joint resolution was considered one where it was not necessary to have a report accompanying it. The facts are as stated; and the company would, by a *pro rata* estimate, be entitled to \$50,000 or more for the services rendered; and it is the opinion, as I know, of some of the best lawyers in the country that they can claim and recover that sum. But upon the principles of equity and justice I believed, as did the Postmaster General, as well as nearly all the members of the committee, that the company were not entitled to more than \$10,300. The company regard this as a mere bagatelle, and feel great dissatisfaction with the award of the committee and of the Department. But be that as it may, we all felt, without a dissenting voice, after a full investigation of all the facts, that the company were entitled to at least \$10,300. Nobody disputed that; but there was a difference of opinion in the committee, and there is a difference of opinion in other quarters, with regard to the amount, the company believing themselves entitled (as well as many others) to a much greater amount than the one awarded by the committee. Certainly it seems to me that no honest person can, in view of the facts of the case, deny the justice of awarding the company at least \$10,300. With this explanation I call for the previous question.

Mr. HARDING, of Illinois. I move that the bill and pending amendments be laid on the table.

Mr. SCOFIELD. Would it be in order now, Mr. Speaker, to move to refer the bill to the Committee of Claims?

The SPEAKER. It would not be. Two undebatable motions are now pending.

The question being taken on the motion of Mr. HARDING, of Illinois, there were—ayes 45, noes 46; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. HARDING, of Illinois, and Mr. ALLEY.

The House divided, and the tellers reported—ayes 63, noes 34.

So the motion to lay the bill and pending amendments on the table was agreed to.

Mr. HARDING, of Illinois, moved to reconsider the vote just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 454) for the relief of the widow of Jacob Harmon;

An act (S. No. 455) for the relief of the widow of Henry Fry; and

An act (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased.

#### PUBLIC BUILDING IN NEW YORK CITY.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a joint resolution to procure a site for a building to accommodate the post office and United States courts in New York city; which was read a first and second time.

The joint resolution, which was read at length, provides that the mayor and postmaster of the city of New York, the district attorney for the United States at New York city, the president of the Chamber of Commerce of the State of New York, and Jackson S. Schultz, Charles H. Russell, and Moses Taylor, of New York city, shall be appointed a commission to purchase the site for a building to accommodate the post office and United States courts in the city of New York, in accordance with their report submitted to the Secretary of the Interior and the Postmaster General, and by them approved, namely: the lower portion of the City Hall park, containing land equal to twenty-six city lots, or over ninety-six thousand square feet; and that they be authorized to purchase the same for the sum of \$500,000, subject to the condition that the Government of the United States shall stipulate that it shall be used for public purposes only; and that the commission procure plans and estimates for a suitable building upon the site, to be submitted to the Postmaster General and Secretary of the Interior, who, if the plans and estimates meet their approval, are to communicate them to Congress with such additional suggestions as they may think proper; and the Secretary of the Treasury is authorized to pay, out of money hereafter to be appropriated, such sum as may be necessary to carry this resolution into effect.

Mr. ALLEY. Mr. Speaker, it will be recollected by the House that at the last session this commission was appointed to select a site for a new post office and court-house in the city of New York. From that time to this the gentlemen composing the commission have been engaged in endeavoring to procure a suitable site. They have succeeded in having placed at the disposal of the Government for this purpose some twenty-six lots at the lower end of the park, containing some sixty-six thousand square feet. The city of New York proposes to sell to the Government this property for \$500,000, to be used for the purposes of the post office and courts of the United States. This is a very small sum in comparison with the real value of the property. I have conversed with gentlemen well qualified to determine the value of such property, and they say that upon a fair estimate it is worth at least \$4,000,000. One gentleman upon this floor, who is known to be possessed not only of excellent judgment, but amply able to back up pecuniarily whatever he says, declared to me that he would give \$3,000,000 for this property which the city of New York proposes to sell to the Government for \$500,000.

This commission, as all are aware, is composed of some of the most high-minded gentlemen of the city of New York, all of whom have the entire confidence of the whole community. These gentlemen propose, in case the Government should desire to make this purchase and to erect this building, to serve until it is completed gratuitously. And if gentlemen observed the names, as read, they will recognize the fact that they furnish a sufficient guaranty that the work will be done in the most expeditious and economical manner, without charge and without a fat job to anybody.

This joint resolution does not propose, as was recommended by the Secretary of the Interior and the Postmaster General, to appropriate \$1,500,000 to erect the building. In the opinion of the committee it was thought best to authorize this commission to procure estimates and plans and to submit them for the approval of the Secretary of the Interior and the Postmaster General, and by them to be communicated to Congress, when such appropriation could be made as the facts merit and estimates might justify. The committee thought it best to go no further than to recommend the purchase of the site, and that the commission should be continued to procure estimates and plans.

Mr. RAYMOND. I desire merely to inquire whether the report of this commission, called for by the resolution under which they were appointed, accompanies the joint resolution.

Mr. ALLEY. The report was sent to the House yesterday and ordered to be printed, and was placed in my hands.

Mr. RAYMOND. I ask that the papers be read.

The Clerk read as follows:

WASHINGTON, D. C., January 8, 1867.

SIR: Congress, by joint resolution entitled "Joint resolution relative to the courts and post office of New York city," approved May 16, 1866, appointed a commission to select a proper site for a building for a post office and for the accommodation of the United States courts in the city of New York.

The commission has selected a site and reported to the undersigned the price at which it can be purchased.

We approve the report, and we have the honor to communicate it to Congress.

The facts and considerations submitted in the report are, in our opinion, conclusive as to the expediency of purchasing, on the terms proposed, the site selected. We respectfully recommend an additional appropriation of \$1,500,000 for the erection of a building for the purpose mentioned in the joint resolution. An urgent necessity exists for early action, and we are of opinion that economy and policy require that the United States should be the proprietor of the building in the city of New York appropriated to such important public uses.

We have the honor to be, sir, very respectfully, your obedient servants.

O. H. BROWNING.

Secretary of the Interior.

ST. JOHN B. L. SKINNER.

Acting Postmaster General.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives.

To Hon. ALEXANDER W. RANDALL, Postmaster General, and Hon. O. H. BROWNING, Secretary of the Interior:

The undersigned, having been by resolution of Congress, approved May 16, 1866, appointed a commission to select a proper site for a building for a post office and for the accommodation of the United States courts in the city of New York, report: A full and free interchange of views was had at several of their meetings, and it was agreed that the first thing to be determined was the size of a building necessary to meet the requirements of the business of the United States courts and those of the postal business of the city of New York during the next thirty years. Upon investigation it was ascertained that the average amount of outgoing and incoming mails had increased in less than twelve years from ten tons per day to ninety and one hundred tons per day; that the business in every department of the city post office had more than doubled during the last four years; that the present post office building was totally unfit for and inadequate to the present wants of the postal business, and that a building fitted to accommodate it and the business of the United States courts would require a space of land equal to from twenty-five to thirty city lots.

It was also apparent that a location should be procured in which streets were wider than those upon which the present post office is situated, the latter being too narrow to permit large mail-wagons to be turned in them without using the sidewalks on one of the sides of those streets. Advertisements, therefore, were inserted daily for two weeks in four papers of the largest circulation inviting proposals for the sale of a space of land equal to twenty-five or thirty city lots, centrally located in the city of New York. Only one definite response was received, namely, from Smith Cliff, Esq., relative to the sale of St. John's park. This property, located near the Hudson river, was considered to be so far removed from the central part of the city as to be unfit for the purposes proposed. The Legislature of the State of New York having in the year 1860, and again in the year 1861, authorized the corporation of the city of New York to sell to the United States a portion of the City Hall park on which to erect a post office, both boards of the common council appointed a joint committee to meet a committee of this commission and a committee of the commissioners of the sinking fund, (without whose consent a sale of real property by the city of New York could not be made,) to take into consideration the terms upon which a sufficient space of the City Hall park for the purposes designed could be sold to the United States. Their meetings resulted in the passage, by the commissioners of the sinking fund, of a resolution that the city of New York should sell to the United States a space in the lower part of the City Hall park, bounded and described as follows:

All that piece or parcel of land in the city of New York, being the southerly end of the City Hall park in said city, bounded and containing as follows: commencing on the easterly line of Broadway at a point three hundred feet northerly from the westerly termination of the curved line which bounds the southern extremity of the said City Hall park, and running thence southerly along the said easterly line of Broadway three hundred feet to the said westerly termination of the said curved line; thence following the said curved line one hundred and fifty feet to its easterly termination on the westerly line of Park row; thence along the said westerly line of Park row three hundred feet; thence in a straight line across the said City Hall park three hundred and twenty feet and two inches to the point of beginning; containing in area sixty-five thousand two hundred and fifty-nine square feet, for the sum of \$500,000, with a condition that the property should revert to the city whenever the United States ceased to use it for the purpose for which it was sold. The joint committee of the common council unanimously recommended to their

several boards the adoption of this resolution. A resolution in accordance therewith has been adopted by both boards of common council, and the same has been duly approved by the mayor. (A copy of the resolution is hereto annexed.)

Your commission deem it proper to state that the municipal authorities of the city of New York have, in adopting the resolution above referred to, (by which so large a portion of the City Hall park will be at a mere nominal price, if accepted by the United States,) exhibited great liberality, and shown a commendable disposition to aid the Government in this important and necessary improvement. Your commission also refer to a communication from Samuel G. Courtney, Esq., United States district attorney, hereto annexed, in which he states the number of rooms that will be required for the use of the United States courts and the offices necessary to transact the large and increasing judicial business of the district. It is the opinion of this commission that the accommodations named in the communication of the district attorney could not be procured in any location in the city of New York, central and suitable, at a rental of less than \$75,000 per annum.

It is not, perhaps, improper for this commission to refer to some of the advantages that would be secured by the United States in the purchase of this property. The price named is a mere nominal sum. The space specified is equal to about twenty-six city lots. It is well located for the purpose and business of the United States courts, being in the immediate vicinity of the City Hall, new City Hall, the custom-house, and other public buildings of the United States. The Government is now paying \$22,500 rent per annum for the premises at present occupied by the United States courts and the offices connected therewith, and which are entirely unfit and inadequate for the purposes for which they are used; and this purchase for the use of the courts alone would be a good investment. It is also the focal point of all the city travel. Nearly all the railroads in and running into the city of New York terminate at this point or in its immediate vicinity.

No other site suitable or adequate for the purposes aforesaid having been presented or offered to the undersigned, this commission therefore recommend that the United States accept the offer of the corporation of the city of New York to sell to it the portion of the City Hall park referred to in the resolution hereto annexed for the purpose of erecting thereon a city post office and rooms for the courts of the United States, and for the necessary offices connected therewith; and in conclusion, we would suggest that the Postmaster General and the Secretary of the Interior urge upon Congress at its present session such action as will insure the purchase of the site above mentioned, and also the erection at once of the buildings so long and so greatly needed.

JOHN T. HOFFMAN.

Mayor of New York.

SAMUEL G. COURTNEY.

United States Attorney, southern district New York.

JAMES KELLY.

Postmaster.

JONATHAN STURGES.

Acting President of the Chamber of Commerce.

JACKSON S. SCHULTZ.

96 Cliff street.

MOSES TAYLOR.

CHARLES H. RUSSELL.

Resolutions referred to in foregoing report.

Resolved, That the mayor, aldermen and commonality of the city of New York, do hereby authorize and direct a conveyance to the United States Government of a piece of ground described in a resolution, adopted by the commissioners of the sinking fund, on the 26th day of June, 1866, upon the terms described in said resolution, which resolution read as follows:

"Resolved, That the commissioners of the sinking fund advise that the lower portion of the City Hall park, as designated on a certain map, which constitutes a portion of the records of the proceedings of said commissioners, be sold and conveyed to the United States Government as a site or location for a post office and court-house, and to be used by the said United States Government for said purposes exclusively, for the sum of \$500,000, the conveyance to contain a provision that when the same shall cease to be used for the purposes specified, or for some one of them, the title shall revert to and be reinvested in the mayor, aldermen, and commonality of the city of New York."

Copy of Communication from S. G. Courtney, Esq., United States District Attorney.

The judicial branch of the public service will require apartments as follows: Room for the United States district attorney; room for the United States marshal; room for the United States circuit clerk; room for the United States district clerk; room for the United States circuit clerk's office; room for the United States grand jury; private chambers for judges United States district court; private chambers for judges United States circuit court; two rooms for referees of circuit and district courts; one room for storage for the United States marshal.

District Attorney.—This officer should be awarded at least six separate apartments. One large, commodious apartment for the district attorney; one for his chief assistant; one for the two remaining assistants; one for the clerks in charge of the registers; one for the copyists and messengers; and one specially given to the records of the office. These apartments should all connect with each other, so that the district attorney can conveniently at all times have his

entire corps of subordinates within his control and supervision; and yet these apartments should be so separated (by partition and doorway) that each official may discharge his duties without interruption. If, in addition to those rooms, the district attorney may have an ante-room connected with his own for his private interviews, which in the course of business is often necessary, it would make the arrangements complete. An apartment, as suggested, for the records of the office, which have become voluminous, is indispensable. It is desirable that these rooms should be on the same floor or contiguous to the court-rooms.

United States Marshal's Office, jury-room, and storage for articles under seizure of the Marshal.—The rooms required for the accommodation of the United States marshal for the southern district of New York, his assistants, &c. One large room, say about twenty by forty, for the general business of the United States marshal's department, fitted up similar to banking institutions, to be occupied by the deputy and clerks; one room, smaller, for the use of the United States marshal as a private office; one room for ten constables attached to the marshal's department, large enough to be fitted up with a desk for each officer, and connected with or near the general office; one room for grand juries; one room for petit juries; both should be near the court-rooms; one room to keep prisoners and witnesses during examinations before United States commissioners and court trials; one large room for storage of goods, &c.; this room should be on the cellar floor. In addition to the above rooms, the usual accommodations for the janitor of the building.

United States Circuit Court.—Court-room, clerk's offices, and judge's chambers. The clerk of the circuit court will require, for the proper transaction of the business of his office, three rooms of good size for the accommodation of the clerk, deputy clerk, and under clerks in the office, and two rooms to be fitted up for the records. There should also be rooms provided for the circuit court and judge's chambers; would prefer to have them as near the ground floor as possible.

United States District Court.—Court-room, clerk's offices, and judge's chambers. The clerk of the United States district courts for the southern district will need in the new building, for the proper transaction of the business of his office, one room for the clerk; one room for the deputy clerk; three rooms for the under clerks and the books and papers in constant use; one very large room for the records and papers in suits that have been closed; one large room for the United States commissioners to hold their examinations in, as they are officers of court.

These rooms should connect with each other and should be on the same floor as the court-room. I desire particularly to press upon the committee the importance of expedition in the provision of accommodations as above described. The building now occupied by the judicial branch of the public service at No. 41 Chambers street has lately changed ownership, as I am credibly informed, and on the 1st of May next I presume new quarters for the transaction of the public business pertaining to the United States courts will be required. Where these quarters can now be obtained I am at a loss to say. It is very clear they must be had at whatever cost somewhere, and I mention the matter that the committee may know the urgency of the matters in their charge.

Respectfully, SAMUEL G. COURTNEY.

United States District Attorney.

Mr. CHANLER. The gentleman from Massachusetts will yield to me for a moment. I find no mention in this report in regard to the premises now occupied as a post office in the city of New York. I should like to have a plain understanding of this question. What is proposed to be done with that property? It is very valuable, and before acting on this joint resolution it should be known what we propose to do with that property.

Mr. ALLEY. I will say, for the information of the gentleman from New York, that the matter was before the committee, and it was thought best to recommend no action at the present time inasmuch as the property will have to be occupied until the new building is erected. It is supposed that that site will bring \$350,000, which will go far toward the purchase of the other site. It was not thought advisable to dispose of it at the present time.

Mr. CHANLER. I ask whether in this transfer of property any contract, direct or implied, has been made to convey at any time the title to the property now occupied as a post office in the city of New York? I can well understand that this matter should not be delayed, but I should like to know before we take final action whether there is any understanding of any character whatever for a transfer or sale of the post office property in the city of New York.

Mr. ALLEY. I will answer the gentleman. There is no understanding, actual or implied, in reference to that whatever. I think the committee were unanimous that no action should be taken upon the subject whatever at present. It was stated incidentally that the property would bring \$350,000.



Mr. CHANLER. I will state why I asked the question. It is currently understood the property now held as a post office is to be transferred to certain corporations, known as the Chamber of Commerce and Merchants' Exchange, for the erection of a suitable building for their convenience. Instead of this property being sold to the highest bidder and transferred, as it should be, to the advantage of this Government, it is likely to be passed over to certain parties who may or may not be directly interested in the present sale. I do not make any charge; I only say that I heard this directly from good authority.

Mr. ALLEY. I will say to the gentleman that I have got no information whatever from any source in regard to that fact except from the gentleman himself. He will recollect that he told me yesterday he had heard of such a rumor. I told him then that I had heard nothing of the kind, neither did I believe there was any such understanding. If there was, it certainly would not be carried into effect without a special act of Congress. Inasmuch as the Government owns the property, it cannot be transferred to any party except by special act of Congress, and in such manner as Congress shall direct. And it is not proposed by the committee or anybody else to take any action at present in reference to that matter.

Mr. DODGE. Mr. Speaker, this matter of a post office in the city of New York is one of national interest. It is not merely a post office for the accommodation of citizens of New York, but for the benefit of the entire country. The building now occupied is the old Dutch church transformed into a post office, and is one of the most inconvenient places for such a purpose that can possibly be conceived in a city of the magnitude of New York. The vast increase of business in that city demands that there should be a post office of a magnitude sufficient to do the business rapidly, conveniently, and economically in the city of New York.

Only a few years ago we had our mails from Europe once a month by steamers. When they came tri-monthly we felt that it was a great increase. We now have our steamers almost daily from various parts of Europe, and I noticed that on Saturday last there were twelve large steamships cleared from the city of New York, each of them carrying the mail. The mail matter within the last ten years in the city of New York has increased from thirty to one hundred tons daily.

The property now offered by the corporation of New York to the United States Government for a post office and for the United States courts, at the nominal sum of \$500,000, would sell at public auction to-morrow for from three to five million dollars. It is an opportunity such as the Government can seldom obtain. It is the most feasible, the most eligible spot in the city of New York for a post office, and although there is great objection to using a portion of our public park for a post office, yet such is the necessity and such the desire to accommodate the United States Government that the corporation has yielded a plot of ground at the lower end of the public park equal to twenty-six lots for that purpose. It is such a favorable opportunity that I trust the House will see the importance of embracing it so as to secure a post office in the most convenient and eligible position at a mere nominal price.

Mr. ALLEY. If no other gentleman desires to say anything—

Mr. BOUTWELL. I wish to ask a question. I see by the resolution that the purpose is to make the mayor of the city of New York, the postmaster, and the district attorney members of this commission. I would like to know whether my colleague thinks it is a wise provision to appoint on this commission men wholly irresponsible except in the most indirect way.

Mr. ALLEY. I will say that a majority of the commission occupy official position, and the outsiders are well known to be of the very highest standing. This was the original com-

mission, and it is but just to say that they have performed the duties gratuitously with entire satisfaction to all parties, and that upon this commission are certainly some as ardent Republicans as my colleague himself.

Mr. BOUTWELL. I must inform my colleague that when he names certain persons officially the designation does not necessarily indicate their politics. To leave a public interest in the hands of the mayor of the city of New York without knowing who he may be—I dare say the present mayor is a responsible man—is, in my opinion, very unwise. And if my colleague will allow me I will suggest still further, that if it is the intention to put the courts in this building, from what I know of New York I can conceive of no worse place than this. It may be well for the post office, but not for the United States court. It is the very worst place in the city of New York.

Mr. McRUER. I merely wish to say that this committee is authorized only to prepare and receive specifications and estimates and submit the matter to the approval of Congress.

Mr. ALLEY. In answer to my colleague [Mr. BOUTWELL] I will repeat the remark of my colleague on the committee, [Mr. McRUER,] that this resolution merely provides that this commission, which serves gratuitously and is composed of some of the best men in the country, shall procure a site and report to the Secretary of the Interior and the Postmaster General, who are to communicate the report, with such suggestions as they may deem proper, to Congress. That seems to me to be clothing them with very little power; not enough, certainly, to excite anybody's fears.

Mr. WASHBURN, of Illinois. I would like to have the names of the commission read.

The Clerk read the names, as follows: The mayor, the district attorney, the postmaster, the president of the Chamber of Commerce, Jackson S. Schultz, Charles H. Russell, and Moses Taylor.

Mr. WASHBURN, of Illinois. I wish to add another name—a man I know to be an honest man in New York. I move to add the name of Charles H. Rogers.

Mr. RAYMOND. With regard to this commission, it seems to me that its importance is greatly overrated by the gentleman from Illinois [Mr. WASHBURN] as well as by the gentleman from Massachusetts, [Mr. BOUTWELL.] All the commission will have to do under this resolution will be to take, as a commission under this Government, a title from the city to this real estate. It has nothing whatever to do beyond that. When Congress is asked to make an appropriation for the erection of buildings it will then be quite competent for the gentleman from Illinois to furnish us, as I trust he may be able to do, with the names of honest men in New York to superintend that work. The names of these men were put in because it was thought fit and proper that official men, men having official responsibilities and holding official relations to the State of New York, should have something to say about the disposition of this question. I believe that no objection has been made to any one of these gentlemen, and that no suspicion ever has been cast on the integrity of any man included in the commission. Who may be the future mayor, or postmaster, or district attorney of New York depends upon circumstances over which we here can exercise no control.

I have no objection, certainly, to the gentleman named by the gentleman from Illinois; but I presume that each of us could name a man, if we desired to do so, who should have connection with this business. I see no sort of utility in his amendment, and no use in making any change in the bill as reported by the committee. An amendment would make it necessary to send the bill back to the Senate, and may cause delay. I think I may say that no member of the House who has been in New York and has made a personal inspection of the accommodations for the post office and the United States courts there but will say that it is a disgrace to the Government. It has been a disgrace to the Government for the last ten

years that they are served in buildings that would be discreditable to any town of respectable size on the continent. I am glad that there is at last a prospect of having buildings there in which the public business can be properly performed. The United States courts are now accommodated in a building on Chambers street, which was formerly a theater, at a rent of \$22,000 a year. The United States courts, representing the judicial dignity of this Government in that district, are accommodated as no man here would want to be accommodated in the discharge of his own private business. Let us pass this bill at once, with as little delay or provision for delay as possible.

Mr. ALLEY. I now call the previous question.

The previous question was seconded and the main question ordered, being first upon Mr. WASHBURN's amendment.

Mr. WENTWORTH called for tellers. Tellers were ordered; and Messrs. LE BLOND, and WASHBURN of Illinois, were appointed.

The House divided; and the tellers reported—ayes 56, noes 49.

So the amendment was agreed to. The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing, from the President of the United States, were communicated to the House by Mr. ROBERT JOHNSON, his Private Secretary.

#### WIDOW OF JACOB HARMON.

Mr. MAYNARD moved that Senate bill No. 454, for the relief of the widow of Jacob Harmon, be taken from the Speaker's table and referred.

No objection was made; and the bill was accordingly read a first and second time, and referred to the Committee on Invalid Pensions.

#### WIDOW OF HENRY FRY.

Mr. MAYNARD also moved that Senate bill No. 455, for the relief of the widow of Henry Fry, be taken from the Speaker's table and referred.

No objection was made; and the bill was accordingly read a first and second time, and referred to the Committee on Invalid Pensions.

#### WILLIAM A. AND JACOB M. HINSHAW.

Mr. MAYNARD also moved that Senate bill No. 476, for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased, be taken from the Speaker's table and referred.

No objection was made; and the bill was accordingly read a first and second time, and referred to the Committee on Invalid Pensions.

#### NATIONAL SAFE DEPOSIT COMPANY.

Mr. HOOPER, of Massachusetts, by unanimous consent, reported back with amendments, from the Committee on Banking and Currency, Senate bill No. 177, to incorporate the National Safe Deposit Company, of Washington, District of Columbia, with a recommendation that the same do pass.

The amendments were as follows:

Insert the word "special" before the word "deposit" in the third line of section five; so that the same will read "to receive and keep on special deposit," &c.

In line eighteen of the same section strike out the words "funds of" and insert in lieu thereof the words "other funds belonging to;" so as to read "and also to invest the capital or other funds belonging to the said company," &c.

In lines nineteen and twenty of the same section strike out the words "or such money or funds as may be deposited with said company for that purpose."

Add to section eight the following: "nor be deemed to authorize the said corporation to pay interest on

deposits of money, securities, or any other property deposited with it; and this corporation shall be confined to the District of Columbia."

Mr. HOOPER, of Massachusetts. For the information of the House, I would state that the object of all these amendments is to prevent this corporation from becoming by any possibility a trust or banking company, and to confine its operations to the simple business of safe keeping of articles of value that may be intrusted to it.

The amendments were agreed to.

The bill, as amended, was then read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MOTHER OF CHARLES O. ROWOHL.

Mr. PRICE, by unanimous consent, introduced a joint resolution for the relief of the mother of Charles O. Rowohl; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### CHARLES T. MARTIN.

Mr. STOKES, by unanimous consent, introduced a bill for the relief of Charles T. Martin, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### CONTRACTS FOR FIREARMS.

Mr. PATTERSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to this House what contracts for firearms, rifles, carbines, and pistols have been made since April 5, 1864; with whom contracted, and the price paid for each arm; whether any contract for arms has been extended or renewed, and if so, with whom, for what length of time, and for what number; whether there has been an increase of price upon any original contract for arms, or upon any extension or renewal, and if so, for what amount and to whom given; whether any contract for arms has been sub-let by the contractor, and if so, upon what conditions.

#### BOUNTIES AND LOST DISCHARGES.

Mr. SCHENCK. I desire to make a statement to and a request of the House. The Committee on Military Affairs are prepared to report at a very early day a bill upon the subject of bounties and the lost discharges of soldiers, providing for the admission of testimony in relation to the loss. It will probably be a long time before the committee is regularly called, and I therefore ask the House to grant leave to the committee to report that bill at any time; not now, but at any time hereafter, after the expiration of the morning hour.

No objection was made, and leave was accordingly granted.

#### WITHDRAWAL OF PAPERS.

Mr. LONGYEAR. I ask leave for the withdrawal of the memorial of John H. Hamlin, presented at the last session and referred to the Committee on Military Affairs.

There being no objection, leave was granted.

#### MURDER OF FEDERAL SOLDIERS.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a report from the Secretary of War, and the accompanying papers, in reply to the resolution of the House of Representatives of the 13th ultimo, requesting copies of all official documents, orders, letters, and papers of every description relative to the trial, by a military commission, and conviction of Crawford Keys, and others, for the murder of Emory Smith and others, and to the respite of the sentence in the case of said Crawford Keys or either of his associates, their transfer to Fort Delaware, and subsequent release upon a writ of habeas corpus.

ANDREW JOHNSON.

WASHINGTON, January 8, 1867.

The message, with the accompanying papers, was ordered to be printed, and on motion of Mr. FARNSWORTH, was referred to the select committee on the murder of Federal soldiers in South Carolina.

#### NAVAL SERVICE FOR STATE DEPARTMENT.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a communication of the Secretary of the Navy, in answer to a resolution of the House of the 19th ultimo, requesting a statement of the amounts charged the State Department since May 1, 1865, for services rendered by naval vessels.

ANDREW JOHNSON.

WASHINGTON, January 9, 1867.

The message, with the accompanying documents, was referred to the Committee on Appropriations, and ordered to be printed.

#### PARDONS.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit the accompanying report from the Attorney General, as a partial reply to the resolution of the House of Representatives of the 10th ultimo, requesting "a list of names of all persons engaged in the late rebellion against the United States Government who have been pardoned by him from April 15, 1865, to this date; that said list shall also state the rank of each person who has been so pardoned, if he has been engaged in the military service of the so-called confederate government, and the position if he shall have held any civil office under said so-called confederate government, and shall also further state whether such person has at any time prior to April 14, 1861, held any office under the United States Government, and if so, what office, together with the reasons for granting such pardons; and also the names of the person or persons at whose solicitation such pardon was granted."

ANDREW JOHNSON.

WASHINGTON, January 8, 1867.

The message and accompanying documents were, on motion of Mr. WILSON, of Iowa, referred to the Committee on the Judiciary, and ordered to be printed.

#### INCREASED PAY OF CIVIL EMPLOYÉS.

The House, agreeably to order, proceeded to the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employés in the civil service at Washington.

The joint resolution provides that there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following-described persons employed in the civil service at Washington, namely: to clerks, messengers, watchmen, and laborers, and all the civil employés whose pay or salaries do not exceed the sum of \$3,500 each, as fixed by law prior to June 30, 1864, and including temporary clerks and female clerks in the Department of State, and in the Treasury, War, Navy, Interior, Post Office, and Agricultural Departments; in the office of the Attorney General, Coast Survey, Naval Observatory, navy-yard, Paymaster General, Bureau of Refugees, Freedmen, and Abandoned Lands; city post office; enlisted men serving as clerks in the Adjutant General's office, and detectives of the Metropolitan police, an additional compensation of twenty per cent. on their respective salaries or pay for one year from and after the 30th day of June, 1866. It is provided that the additional compensation to the employés of the Patent Office shall be paid out of the funds of that office, and that where the salary or pay of any person entitled to receive additional compensation under this resolution has been increased by law since the date of June 30, 1864, or where such person may have received

additional compensation through the action of any head of any Department from funds placed by law in his hands for distribution, such person shall be entitled to receive only so much as will make the whole sum received as additional compensation equal to twenty per cent. on his salary or pay as aforesaid. It is further provided that this resolution shall apply only to such persons as may be in service at the time of its passage, and who were in the civil service at Washington during the whole of the fiscal year ending June 30, 1866.

Mr. GARFIELD. The Committee of Ways and Means have agreed on certain amendments which have been embodied in the following, which I offer as a substitute for the joint resolution:

That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following-described persons employed in the civil service at Washington, namely: to clerks, messengers, watchmen, and laborers, and all the civil employés whose pay or salaries do not exceed the sum of \$3,500 each, as fixed by law prior to June 30, 1864, and including temporary clerks and female clerks in the Department of State, and in the Treasury, War, Navy, Interior, Post Office, and Agricultural Departments, in the office of the Attorney General, Coast Survey, Naval Observatory, navy-yard, Paymaster General, including the division of referred claims, office of Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, in the office at the Capitol extension, city post office, enlisted men of the Army, Navy, or general service of the United States serving as clerks, messengers, watchmen, or laborers in any bureau of the War Department, lamp-lighters under Commissioner of Public Buildings, and detectives of the Metropolitan police, an additional compensation of twenty per cent. on their respective salaries or pay for one year from and after the 30th day of June, 1866: *Provided*, That the above-named additional compensation to the employés of the Patent Office be paid out of the funds of said office, and that where the salary or pay of any person entitled to receive additional compensation under this resolution has been increased by law since the date of June 30, 1864, aforesaid, except those clerks in the office of the Quartermaster General whose pay was equalized with that of first-class clerks by act of July, 1866, or where such person may have received during the current fiscal year additional compensation through the action of any head of any Department from funds placed by law in his hands for distribution, such person shall be entitled to receive only so much as will make the whole sum received as additional compensation equal to twenty per cent. on his salary or pay as aforesaid: *Provided further*, That such additional compensation shall be held to apply to all female clerks or employés in any bureau or division in the Treasury Department whose compensation does not exceed sixty dollars per month: *And provided further*, That this resolution shall apply only to such persons as may be in service at the time of the passage of this resolution.

Mr. KASSON. I ask why the gentleman confines his last amendment to the Treasury Department?

Mr. GARFIELD. There is an exceptional class in the Treasury Department. The joint resolution reaches every other case of female clerks.

Mr. KASSON. If there is equality in the female clerks of all the Departments, I have no objection; but we have legislated once to establish that equality, and I do not want we shall be compelled to do so again.

Mr. GARFIELD. I demand the previous question on the substitute.

Mr. FARNSWORTH. Let me suggest an amendment in reference to the clerks in the quartermaster's department here.

Mr. GARFIELD. It is provided for.

Mr. FARNSWORTH. Not the clerks I refer to. We have in Washington a large office which is not a part of the War Department at all. I desire to incorporate an amendment that the clerks employed in the quartermaster's department of the Army here shall have a like increase. They are graded like other clerks.

Mr. GARFIELD. That question belongs to the Military Committee, and I cannot allow it to come in upon a bill for the civil service.

Mr. FARNSWORTH. I cannot see why it should not be allowed to come in as well as others.

Mr. BANKS. Does the substitute extend the increase to soldiers acting as clerks since the 30th of June, 1865?

Mr. GARFIELD. It does.

The SPEAKER. It will facilitate action if

the House will consider the substitute as the original bill. If the substitute be now adopted no amendment will be in order.

Mr. GARFIELD. I agree to that.

The SPEAKER. It will be so considered, then.

Mr. ALLISON. In line twenty-six of the substitute I move to strike out the word "preceding," so it will read "the current fiscal year."

Mr. GARFIELD. I will now make a statement of what the committee proposes, and when I have concluded I will yield to any gentleman who may wish to make any suggestion.

Mr. ALLISON's amendment was agreed to.

Mr. GARFIELD. I will first speak of the joint resolution as it was originally printed and presented to the House before the amendments were made, and then state what are the amendments which the Committee of Ways and Means propose. I desire to say in the first place that this measure is not designed to supersede any plan for the reorganization of the various Departments of the Government. There are bills pending, which the committee hope will be matured and presented, by which some of the Executive Departments will be thoroughly reorganized. If that reorganization had been made such a bill as this might not have been necessary; but in the absence of any such reorganization it is a matter of temporary relief to a class of employes of the Government who have suffered very greatly from fluctuations of the currency and the advance in the cost of living. It was proposed, as first printed, to restrict the payment of the increase granted by this bill to those persons who had been in the civil service during the fiscal year ending the 30th of June, 1866, and were still in service. That proposition was intended to help those persons who came into the service when prices were lower than they now are, and who suffered from the fluctuations which really changed the conditions of their engagement with the Government. But it was found to cut off many soldiers and sailors who were mustered out of the service during the fall of 1865, and mustered into general service or appointed in the civil service, and who have been employed in the several Departments since that time. We were unwilling to do injustice to so large and meritorious a class of persons, and the committee propose to strike out all after the word "resolution" in line thirty-four, so that whatever is paid as additional compensation to clerks, messengers, and other employes in the civil service at Washington shall be paid to all who are now in service.

In the next place, fearing that the language of the printed bill was too general, the committee propose to insert in line fourteen, after the words "Paymaster General" the words "including the division of referred claims in the office of the Commissary General of Prisoners."

There are two temporary divisions, departments perhaps not recognized directly by law, but established to meet the necessities of the service, which it was feared would not be covered under the general term "War Department;" and for abundant caution we propose to insert the words "including the division of referred claims, office of Commissary General of Prisoners." This is the first of the proposed amendments as they stand in the resolution.

The second amendment is to insert after the words "abandoned lands," in line fifteen, the words "in the office at the Capitol extension," so as to include the clerks, employes, and messengers in that department, who it was thought would not be included in the general terms of the resolution.

The third amendment is to insert after the words "enlisted men," in line sixteen, the words "of the Army, Navy, or general service of the United States," lest the language might not be construed to include all these persons. Perhaps all the members of the House may not know that we have a class of enlisted men who do not properly belong either to the Army

or Navy, but are enlisted in what is known as the general service. They are wounded men or men disabled by sickness, who are not fit to enter the field, and perhaps really not fit to go into the Veteran Reserve corps—men who have come out of the service somewhat disabled, who have been enlisted on the same conditions of pay that soldiers are, and are put in the various Departments as clerks, messengers, or laborers. There are also some soldiers and sailors detailed on similar duty. It was therefore thought better to mention them expressly as enlisted men "of the Army, Navy, or general service of the United States."

In the same line, after the word "clerks," the committee propose to add the words "messengers, watchmen, or laborers;" for these three classes are employed in these various Departments.

In the same line we propose to strike out the words "Adjutant General's office," and insert in lieu thereof "any bureau of the War Department, lamp-lighters under the Commissioner of Public Buildings." We found that there were soldiers employed in other bureaus of the War Department who should be included. We found, also, that there are six or seven persons employed by the Commissioner of Public Buildings as lamp-lighters who have not been included in any law increasing pay. This compensation is very small, and the committee thought proper to name them in this connection.

The sixth amendment is to insert in line twenty-six, after the word "aforesaid," the words "except those clerks in the office of the Quartermaster General whose pay was equalized with that of first-class clerks by act of July, 1866."

The reason for this amendment is, that this class of clerks are an exceptional class; men who were in the Army, but who in 1866 were appointed to serve at only seventy-five dollars a month; and who are doing precisely the same duty as first-class clerks who receive \$1,200 per annum. They received from Congress last session extra compensation enough to put them on an equality with \$1,200 clerks; but if we say that this compensation allowed in this resolution shall not apply to those who have had their pay increased, these men would get nothing while other \$1,200 clerks would get the increase. The amendment will remedy the difficulty.

The seventh amendment is in line twenty-six, after the word "received." In order to make it more definite we add the words "during the current fiscal year;" so as not to count any additional pay they may have received in former fiscal years.

The eighth amendment is to insert after the word "aforesaid," in line thirty-two, a proviso "that such additional compensation shall not be held to apply to all female clerks or employes in any bureau or division in the Treasury Department whose compensation does not exceed sixty dollars per month." It is designed to reach that class of female clerks who are hired by the month or by the day and who have not an annual salary fixed by law.

The ninth amendment I have already mentioned; it is to strike out the last paragraph of the resolution, which limits the payment of this additional salary to those who have been in service since June, 1865. We strike it out in order to include soldiers and other clerks who have been appointed since that time.

And now, Mr. Speaker, I will say a few words on the general provisions of the resolution before submitting it for the action of the House.

Mr. MAYNARD. The gentleman will allow me to inquire if his bill does not contemplate an increase of salaries of twenty per cent. to all persons in the civil service whose salaries are under \$3,500.

Mr. GARFIELD. The increase extends to all in the civil service at Washington whose salaries are less than \$3,500.

Mr. MAYNARD. I would ask the gentleman whether it is just to make an exception in favor of those in the civil service to the exclu-

sion of those in the military and naval service?

Mr. GARFIELD. The gentleman will remember that these persons who are here as clerks, messengers, and porters about the War Department are in the civil service; whatever is done for those who are in the Army and Navy proper should be done by the Military and Naval Committees. We are entirely willing that justice shall be done to them, but we do not want to encumber this resolution in reference to the civil service with that class of cases.

Mr. Speaker, I desire to say to the House that this is not my resolution. It is offered by the Committee of Ways and Means, and I desire to say for the committee that they found it exceedingly difficult to do anything like justice to persons whom it concerns. It is the uniform testimony of all who know the history of the civil service here in Washington that a very large number of most worthy persons in the civil service at Washington are receiving salaries by no means equivalent to the value of their services. The extravagant cost of living here, and the depreciation of the currency, have so reduced the purchasing power of the money they receive as scarcely to live within their salaries. We recognize their claim as strong and just, but we also find it the almost unanimous testimony of the heads of Departments that a large number of clerks— young men without families, just out of school or older, who were never efficient, but who get twelve, fourteen, or sixteen hundred dollars a year—receive all they ought to receive and more than they could get for similar services in any other place in the United States.

To frame a measure that will pay increased salary to those who deserve it and not pay it to those who do not deserve it is, of course, a matter of the utmost difficulty. The policy adopted during the last session of Congress was to put money in the hands of the heads of Departments and authorize them to distribute it to such clerks as they deemed most deserving. The sum of \$250,000 was placed in the hands of the Secretary of the Treasury at one time and \$160,000 at another, to be distributed in his Department. But that distribution has given much dissatisfaction, whether justly so I do not know. It is claimed by many that it was distributed to favorites, to those who held peculiar political views—that clerks favoring the President's policy were paid while many who favored the views of Congress were passed by. Whether these allegations are true or not I do not know; but I do know this, that that mode of increasing salaries has given great dissatisfaction.

The committee thought best to limit the increase to all those who receive less than \$3,500 a year, believing that there will be a reorganization of the Departments under some of the bills now pending which will more perfectly provide for officers of the various bureaus whose salaries are \$3,500 and more.

The question then arose whether we should make this increase permanent or temporary. Everybody hopes, or ought to, that at some golden day, however far distant it may be, we shall reach the solid basis of specie, which fact will in itself be better than an increase of twenty per cent. We thought it not best, therefore, to make a permanent increase which would after a few years be more than either economy or necessity would require.

It was therefore thought best to make the increase for the current fiscal year, and if the necessity arises next year to do the same thing again, rather than to fix a permanent increase of salaries to this large class of persons. Now, I have not a doubt that this resolution will give a large sum of money to a large class of persons who do not deserve it. But I am equally satisfied that this is the only practicable way by which we can pay those who do very much deserve it. Therefore I think we must make the increase apply to all classes of clerks.

We have already paid about one third of a million dollars out of the Treasury to various



clerks in the Departments. We provide in this bill that those who have received an increase during the current year shall not have the whole of the increase provided in this bill; but that the increase which they have already received shall be deducted from that granted by this resolution.

Mr. PAINE. I would suggest to the gentleman from Ohio [Mr. GARFIELD] to insert the words "and Marine corps" after the words "Army and Navy." It may be that there are no enlisted men of that corps in the Departments now; but there is no reason why there should not be, and this bill should cover those cases.

Mr. GARFIELD. I will modify my amendment so as to include the Marine corps, and now I will yield for a few moments to the chairman of the Committee of Ways and Means, [Mr. MORRILL.]

Mr. MORRILL. I desire to call the attention of the House to that portion of the printed bill, at the end, which is stricken out in the substitute. I think there is something good in the lines thus stricken out, and if the reasons offered by the gentleman from Ohio [Mr. GARFIELD] are the only reasons which can be given for striking out those lines, then I will propose an amendment reincorporating the original lines as first reported in the bill, with a modification to meet the objection the gentleman has named. I move to insert the following after the word "resolution" in line thirty-four:

And who were in the civil service at Washington during the whole of the fiscal year ending June 30, 1866, or who prior to such appointment in the civil service have been in the military or naval service of the United States between the 12th day of April, 1861, and the 19th day of April, 1865, and have been honorably discharged therefrom.

One cogent reason for reporting any bill upon this subject is that these clerks and employes have suffered from inadequate salaries through the years 1864, 1865, and 1866. Now, is it reasonable to provide that men who have received appointments here, say on the 1st of January of this year, or during the last six months, should come in and reap the benefits of this bill? I think the House will reach the conclusion that this bill ought to apply to those who have been in service for some considerable length of time, and ought to exclude all recent appointments, save those who have been in the military or naval service of the country. That is the scope of the amendment I have offered, and I hope it will be received without any objection.

Mr. GARFIELD. I am always sorry to differ with the distinguished chairman of my committee, [Mr. MORRILL;] but it seems to me that if we put on this bill the limitation which he proposes we will wrong a very large class of persons. For instance, we would let in those who were in the military or naval service, no matter how long or how short a time; while a good man who was not physically able to go into the Army or Navy, although he may have served in a civil capacity within two days of the limitation proposed by the amendment of the gentleman, would be entirely excluded from the benefits of this resolution. It seems to me that in thus saving a little money we shall give a very large number of persons good reason to be dissatisfied.

Now, one word more. I will go as far as any reasonable man ought to go in asserting the rights and protecting the interests of those who have been soldiers and sailors of our Army and Navy. For the soldier or sailor who was disabled in the service of his country I will make special demands for the protection and patronage of the Government. But for the able-bodied man, who has come out of the Army with person uninjured and health unimpaired, I do not demand any higher salary than for any other man who was as patriotic as he, but for some worthy reason did not go into the Army. For a wounded soldier I make special demands; but I have no right, as a soldier, to demand anything more from the Government in payment for civil service than any other man whose services are equally valuable.

As the resolution now stands it treats all alike. The gentleman's amendment makes an unjust discrimination, not in favor of soldiers but against civilians. I hope the amendment will not prevail. I call for the previous question.

On seconding the previous question, there were—ayes thirty-four, noes not counted.

So the previous question was not seconded.

Mr. FARNSWORTH obtained the floor.

Mr. GARFIELD. I am entitled to the floor, I believe.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] cannot retain the floor. The previous question, which he demanded, has been voted down, and therefore, according to the usage, the floor reverts to some gentleman who opposed the demand for the previous question.

Mr. FARNSWORTH. I offer as a substitute for the whole bill the amendment which I send to the desk.

The SPEAKER. A substitute must be reserved until the original bill has been perfected. It may be reported, however, for information.

Several MEMBERS. Let it be read.

The Clerk read as follows:

*Be it resolved, &c.* That the provisions of the eighteenth section of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," &c., and the same are hereby extended so as to include the clerks, messengers, watchmen, laborers, and other civil employes whose pay or salaries do not exceed the sum of \$3,500 each, and including temporary clerks, female clerks, and employes in the Executive Departments and their respective bureaus, and in the Coast Survey office, Naval Observatory, Bureau of Refugees, Freedmen, and Abandoned Lands, city post office, and in the quartermaster's department of the Department of Washington, enlisted men serving as clerks in the Adjutant General's office and in the office of the Superintendent of Public Printing at Washington; and the amount necessary to pay this allowance is hereby appropriated: *Provided*, That this additional compensation to the employes of the Patent Office be paid out of the funds of said office.

Mr. SCHENCK. Mr. Speaker, I would not trouble the House even for a moment, except that I think my friend from Illinois, whose amendment commends itself certainly to my judgment, did not make as full a statement of its purpose as it is entitled to have.

It will be observed that the committee propose, among other amendments to the bill as printed, to strike out after the word "resolution," in the thirty-fourth line, the following words:

And who were in the civil service at Washington during the whole of the fiscal year ending June 30, 1866.

The obvious and intended effect of this, as explained, is to add twenty per cent. to the compensation of every one of these clerks or employes who may be in the civil service on the day when this resolution shall pass. This will include every appointment of every sort that has been made within the last year or two years; and while there are going out of the service, by reason of changes which have been made, many worthy and excellent men who will get no benefit from this bill, those persons who have been "crooking the pregnant hinges of the knee" to get their places will all be rewarded for having thus come in. Sir, I object to any such provision. It holds out a premium for the lowest, vilest, meanest subserviency that probably the political history of this country has ever exhibited.

Now, sir, what the gentleman from Illinois proposes is to retain those words of restriction so that this increase of pay shall apply to those only who were in office during the fiscal year ending on the 30th of June, 1866, with a further proviso to save the rights of certain other classes; and these other classes whose rights are to be saved are those who, prior to such appointment in the civil service, were in the military or naval service of the United States between the 12th day of April, 1861, and the 19th day of April, 1865, and were honorably discharged therefrom. Wherever the President has kept faith with the soldiers, and according to his promises has, where vacancies occurred or were made, conferred appoint-

ments upon them, I for one am willing, not only that faith shall be kept on the part of the President, but that we shall follow it up by increasing the compensation of those persons.

But where changes have been made, as in a large class they have been, on mere political grounds as mere rewards for subserviency to power, I am unwilling that a bonus shall be held out to those who have been substituted in the place of at least as good, if not better men, who did not wish to show themselves ready to abase the manhood which was in them.

The gentleman from Ohio, [Mr. GARFIELD,] my colleague, says he does not recognize the able-bodied soldier as having any claims whatever or advantages any civilian has or can have here.

Mr. GARFIELD. I beg the gentleman's pardon; I did not say so. I said so far as the question of the Government paying them compensation in civil offices I regarded them as on the same basis as others of equal merit.

Mr. SCHENCK. Precisely. I take it upon that ground. I propose, as I said before, where appointments have been made carrying out in good faith what was declared as the rule of appointment by the President we will save their rights, whether they be able-bodied or wounded; but the difficulty in the gentleman's provision now is that he admits all without discrimination, not merely soldiers wounded or not wounded, but all civilians. He holds out, as I insist, a premium or bonus for subserviency, which does not apply in the case of a soldier, at least, to the same extent as it does apply in regard to civil appointments.

Mr. Speaker, there is no use of blinking this matter. I say the Secretary of the Treasury and the Postmaster General have appointed men in my district in whom the people in the different localities have no confidence whatever, whom they did not desire to have appointed; and that the rule of appointment which took place in those localities, we have good reason for knowing, has taken place in all of these departments in Washington where ever this kind of patronage could be exercised and made to serve as a reward for subserviency to the powers that be. And I have nothing to retract which I have said in general denunciation of the whole of them.

I repeat, never in the whole history of this country has there been any party so purely a mere bread-and-butter brigade as these creatures who have crawled into office within the last year or two hereabouts and throughout the country. They are a party who do not pretend to have any principles. The Democrats repudiate them; the Republicans repudiate them. They do not profess to belong to the Republican party. They say they have not gone over to the Democrats, and yet they have commended themselves to the powers in authority so as to obtain their offices. And mark you how? They did it without any clear political creed of any kind but by thus abasing themselves before the footstool of that power.

Now, I agree with the committee entirely that some bill like this is necessary, some bill like this is just and more than just, it is generous; but I wish to pass a bill with such a restriction as shall not operate as an encouragement to this class of men. I say there are now, if I am rightly informed, and I have no doubt on the subject, more than one, at least one person in the employ of the Government who has heretofore been in the employ of the so-called confederacy. Yet that man, yet these men, yet men of this kind under the provisions of this bill will be treated precisely in the same way as those who bore the heat and burden of the day when we were endeavoring to put down that infernal rebellion which they were assisting and attempting to uphold. Though something of this kind is necessary, it is necessary, as I consider, it should be restricted in some such way as proposed by the gentleman from Vermont, [Mr. MORRILL.] I am willing to admit something of this sort must have the sanction of Congress and be fixed as the mode of compensation by law, because we cannot

trust the Secretary of the Treasury or perhaps any head of Department to carry out the purpose of Congress. What did he do? We placed in his hands one time and another within the last four years \$400,000 to be distributed among the clerks, for the reason that the means of subsistence had become so enormously high they were not able scarcely to keep soul and body together, much less those who had families to provide for those families. What did he do? Although this House and this Congress desired those whom the rise of the waters of high prices had reached, and who by that rise of the waters had been submerged, instead of giving it to the clerks who received the lowest salaries, he selected the heads of divisions and chief clerks, already receiving the highest salaries, and paid nothing to those who received the lowest salaries.

A MEMBER. Paid to the pets of the Department.

Mr. SCHENCK. Yes, sir; paid to the pets of the Department. I speak of that of which I have knowledge. I went to the Secretary of the Treasury and remonstrated with him upon this construction of the law and this application of the fund, and it was explained to me that there were in the Department a great many gentlemen of high intelligence and commanding ability who were receiving already the highest salaries and who could get higher salaries elsewhere, and to prevent their going elsewhere for employment it was necessary to distribute this fund; but as to these little fellows, the twelve or fourteen hundred dollar chaps, he could get upon the ringing of the bell as many as he pleased any day. Well, that may be so, but I hold that the intention of the Government as represented in Congress was to help those who most needed help, and not squander the fund on favorites of the Department, nor give it to those that had most. There may be scriptural authority for that—taking away from him that hath nothing that which he hath, paradoxical as it may seem to be—but I do not think it was intended by Congress to make any such misapplication of Scripture in this case.

It may be argued that these men who have come in from the military service or from civil life into these Departments, displacing other men, are as much entitled to an increase of compensation as any other, and that there should be no common law which would exclude any portion of them. They came in, Mr. Speaker, during high prices. They came in recently, accepting what they knew was the position, and how comparatively inadequate was the compensation for the service. So there is no particular hardship to them. Civilians who came to Washington and sought this employment, displacing other men, during the years 1865 and 1866, are not entitled to very much sympathy when we take into account the fact that they knew what they were seeking and what compensation they were to get for the service they were to perform.

Mr. GRINNELL. Will the gentleman yield to me?

Mr. SCHENCK. Yes, sir.

Mr. GRINNELL. I desire to state that I had prepared an amendment, which I propose to send up at the proper time, providing for those who were dismissed from the service on the 31st of December, 1866. Now, sir, it is manifestly unjust to those who have come into these places during a period of low prices, and are now removed for political opinions, that they should be cut off altogether. I propose that those who were dismissed prior to the 1st of January, 1867, without being charged with fraud or malfeasance shall be regarded as well as the other class.

I also propose that no person who has been in the civil service or in the army or navy in the so-called confederate States shall be included. Sir, my constituents have been turned out of these offices to give place to rebels who shot bullets at their hearts, and I am called upon to vote that these same rebels shall receive extra compensation while my friends have been proscribed. I never can be a party to

the wrong of cutting off altogether from this compensation those who went out with the departure of the year 1866. I therefore propose at the proper time to offer the amendment I have indicated.

Mr. SCHENCK. I was about to say, before I yielded to the gentleman from Iowa, in reference to those who accepted these places recently, that they are on a different footing from the older employes; that those who were formerly in the service entered it a time when, by our legislation and by the exigencies of the country, there had not been this enormous inflation of prices, and it is proper that they should have the increase of pay; but not those who came in within the last year or two, who are alone excluded by the provisions of the bill as originally reported. They came in after this inflation and after this legislation of Congress, and there can be no pretense on their part that by our legislation and by the consequent condition of the country the terms of their engagement have been in any respect virtually altered, or their salaries practically lowered by reason of the lowering of the standard of the currency of the country.

Now, sir, I felt impelled to make these remarks from a feeling that the honorable member from Vermont, [Mr. MORRILL], was not presenting his amendment in such a manner as that the House could distinctly understand it, he assuming that they all did so without any further explanation of what he was aiming at. He proposes to leave this bill as originally reported, cutting off the persons who have accepted office within the last year or two from the benefit of its provisions, but adding to it a further clause to extend its benefits to every man who has been in the military service of the country in any capacity during the war.

Mr. MYERS obtained the floor.

Mr. WASHBURN, of Indiana. I have prepared an amendment which I think will meet the views of the gentleman from Ohio, [Mr. SCHENCK.] I desire to have it read.

Mr. MYERS. I yield to the gentleman for a moment for that purpose.

The Clerk read as follows:

*Provided, That this resolution shall not apply to any member of the Johnson Departmental Club.*

[Laughter.] Mr. WASHBURN, of Indiana. I think that will cover the whole ground.

The SPEAKER. The Chair thinks that is not in order as an amendment to the pending amendment.

Mr. MYERS. I intend, Mr. Speaker, after a very few words, to offer an amendment to come in on the nineteenth and twentieth lines on the second page of the bill as reported. My objection to the joint resolution and to the several amendments is only this: that the resolution does not go far enough. The resolution only proposes to give additional compensation to these several employes for six months up to the 1st of January of this year.

Mr. GARFIELD. The gentleman is mistaken; it extends to a whole year.

Mr. MYERS. It applies to six months from now, but it only dates back six months. Now this Congress has voted to increase the pay of its members; it has voted to do some little justice to our soldiers, and will probably do the same for the sailors who were accidentally omitted in the bounty bill, without regard to any lapse of time. The country has sanctioned both measures. I believe that a like meed of justice should be accorded to this clerical force and these employes of the Government, whose salaries have not been increased since the commencement of the war, while prices have been continually advancing and still seem to keep up.

Sir, I am in favor of economy as much as any gentleman here; not that economy which turns men out of a navy-yard at this season of the year, and for want of proper precautions allows millions of dollars to be lost by the burning of a noble vessel; not that economy which appoints dishonest revenue officers, diminishing our receipts from that source and

adding to the burdens of the honest tax-payers. But the true political theory I declare, is that all men have a right to a living and that the laborer is worthy of his hire. I believe that this bill does not go far enough back in paying these men what they deserve.

Now, I concur in many of the suggestions which fell from the lips of the gentleman who preceded me, and all I have to say is that I shall not press my amendment if it appears to be objectionable to the House. I believe that these men would rather have their salaries increased back to the commencement of the year 1866, when they were suffering from high prices, than to have it run for six months from this date and six months for the last year. That is all I have to say, and I hope the gentleman who offered this bill will embody my amendment in it.

Mr. GARFIELD. I suggest to the gentleman that his amendment is not in order at this point, and that it belongs to another part of the bill.

I wish to say a word or two and then to close the debate on the pending amendments. I perfectly agree with my colleague who addressed the House a moment ago [Mr. SCHENCK] on the point that those appointments that have been made during the last eight months have many of them been made on the most shameful principle of political favoritism. I would have been glad, if we could have done it, to reach all such persons; but I am in favor of doing whatever I do directly, and if the gentleman wants to do it, let him bring forward a proposition that no person appointed for political reasons shall receive any of this extra compensation. Now, he proposes to do it in an indirect way, and at the expense of our true friends. And I desire to show that that is so.

If any gentleman desires to make a political argument, purely as such, I would like him to state in the first place at what time President Johnson and his administration began to make appointments in the Departments of our political enemies. He will probably say that it was begun about the month of March, 1866, after the 22d of February, and from March to May last. Then I would ask, what about all those persons who were appointed from the day President Lincoln died to May last, say a year or more? Everybody appointed within that period, long before political appointments were made, all our friends thus appointed the gentleman proposes to cut off, every man of them, for the sake of punishing a few appointed since that time.

And what else does he propose to do? He says he wants to let the soldiers in. He desires to open the door to any soldier or sailor who prostituted himself to Mr. Johnson, and bowed before him for the sake of getting an appointment. If a soldier disgraced himself to obtain an appointment, my colleague says we should pay him. But he proposes to cut off at a single blow all the appointments made one whole year before these political appointments were made, and in regard to whom there is not the least taint of political favoritism. Now, I would be willing to drown a fly or to kill a gnat; but I do not propose to set the ocean in motion and kill the children for the sake of killing a gnat. Now, it seems to me that the proposition of my colleague on the committee, [Mr. MORRILL], for the sake of accomplishing a purpose indirectly, does ten times the injustice he proposes to remedy.

I now call the pending question on the amendment of the gentleman from Vermont, [Mr. MORRILL.]

Mr. MAYNARD. Would a motion to recommit be in order at this time?

The SPEAKER. It would not, pending the order for the previous question.

The previous question was seconded and the main question ordered, which was upon the following amendment by Mr. MORRILL:

In line thirty-four, after the word "resolution," insert the following:

And who were in the civil service at Washington during the whole of the fiscal year ending June 30, 1866, or who, prior to such appointment in the civil

service, had been in the military or naval service of the United States between the 12th day of April, 1861, and the 19th day of April, 1865, and had been honorably discharged therefrom.

The question was taken upon the amendment; and upon a division there were—ayes 48, noes 69.

Before the result of the vote was announced, Mr. MORRILL called for the yeas and nays upon agreeing to the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 88, not voting 53; as follows:

YEAS—Messrs. Ames, Arnell, Baldwin, Baxter, Benjamin, Brandegee, Bromwell, Broomall, Cook, Callom, Culver, Davis, Deming, Dixon, Eckley, Farquhar, Grinnell, Griswold, Abner C. Harding, Hawkins, Henderson, Holmes, Hooper, Jenckes, Kelso, Koonitz, William Lawrence, Maynard, Mercer, Morrill, Moulton, Myers, O'Neill, Orth, Pike, Plants, Price, Schenck, Scofield, Stokes, Thayer, John L. Thomas, Van Arnam, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, and James F. Wilson—50.

NAYS—Messrs. Allison, Ancona, Delos R. Ashley, James M. Ashley, Baker, Barker, Beaman, Bergen, Bidwell, Boutwell, Boyer, Buckland, Campbell, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Cooper, Dawes, Defrees, Denison, Dodge, Driggs, Eggleston, Eldridge, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Aaron Harding, Hart, Hayes, Higby, Hill, Hogan, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Julian, Kasson, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, LeBlond, Lettwich, Loan, Longyear, Marvin, McKee, McRuer, Miller, Newell, Niblack, Nicholson, Noell, Paine, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Sawyer, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Nathaniel G. Taylor, Trimble, Trowbridge, Upson, Burt Van Horn, Andrew H. Ward, Welker, Whaley, Stephen F. Wilson, Windom, and Winfield—88.

NOT VOTING—Messrs. Alley, Anderson, Banks, Bingham, Blaine, Blow, Bundy, Conkling, Darling, Dawson, Delano, Donnelly, Dumont, Elliot, Goodyear, Hale, Harris, Hise, Hotchkiss, Asahel W. Hubbard, Hulburd, Johnson, Jones, Kelley, Laffin, Lynch, Marshall, Marston, McClurg, McCullough, McIndoe, Moorhead, Morris, Patterson, Perham, Phelps, Pomroy, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Shellabarger, Sloan, Starr, Stevens, Stilwell, Nelson Taylor, Francis Thomas, Thornton, Robert T. Van Horn, Warner, Woodbridge, and Wright—53.

So the amendment was not agreed to.

Mr. GARFIELD. I now call the previous question upon the bill and pending amendments.

Mr. FARNSWORTH. I desire permission to make a few remarks upon the substitute which I have offered.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] will be entitled to one hour after the previous question shall have been seconded.

Mr. GARFIELD. I will give the gentleman some of my time after the previous question is seconded.

Mr. PIKE. I call the attention of the gentleman from Ohio [Mr. GARFIELD] to the terms of the bill as contained in line eight, and I would inquire of him whether, in view of that provision, this increase of pay will apply to the officers of the internal revenue department as reorganized under the act of July last.

Mr. GARFIELD. The bill is intended to apply except in those cases where the salary has already been increased.

Mr. FARQUHAR. I desire to put an inquiry to the gentleman from Ohio, [Mr. GARFIELD.] He has stated that this bill is intended to apply to clerks in this city. I wish to ask him whether it will include railway messengers and clerk.

Mr. GARFIELD. It will not.

Mr. FARQUHAR. Is it not proper that they should be included?

Mr. GARFIELD. No, sir; because they are scattered all over the country. The special reason for the passage of this bill is the extremely high price of living in the city of Washington.

Mr. ALLISON. Will my colleague on the committee [Mr. GARFIELD] permit me to move an amendment, to strike out from line thirty-two down to and including the word "resolution" in line thirty-four? The words I propose to strike out are the following:

And provided further, That this resolution shall apply only to such persons as may be in service at the time of the passage of this resolution.

Mr. GARFIELD. I cannot yield for that amendment. I demand the previous question.

On seconding the call for the previous question there were—ayes 57, noes 42.

Mr. LOAN. I call for tellers.

Tellers were ordered; and Messrs. LOAN and ALLISON were appointed.

The House divided; and the tellers reported—ayes 65, noes 53.

So the previous question was seconded.

The main question was ordered.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] is entitled to the floor to close the debate.

Mr. GARFIELD. I yield ten minutes to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. Mr. Speaker, the substitute I have proposed simply extends to the clerks and employes of the different Departments in Washington the benefits of the eighteenth section of the appropriation bill of last session, which gave an increased allowance of twenty per cent. to all the employes of Congress, the clerks of committees, the Sergeant-at-Arms, the door-keepers, the workmen and employes about the public gardens, the Librarian and assistant librarians.

Now, sir, Congress has raised the salaries of members, commencing with the 4th of March, 1865. We have increased the pay of all the officers and employes of Congress by an addition of twenty per cent., commencing at the same time. If we are to be consistent, we shall allow to the clerks and employes of the Departments the benefits of the same increase. If we have found by experience that it was necessary to increase our own pay, and the pay of the officers and employes of Congress, in order to enable us and them to live in the city of Washington, there is the same necessity for increasing the pay of the clerks and employes of the Departments during the same time.

The section which I propose to extend is without limitation as to time. Whether that section will be construed to give the additional twenty per cent. after the 4th of March next, I am not prepared to say. It is not material to discuss the question whether that section will be so construed or not. If it is construed to extend beyond the 4th of March next, Congress can at any time, if it sees fit, cut off this increased pay. On the other hand, if the additional compensation is construed not to extend beyond the 4th of March next, Congress can, by additional legislation and additional appropriations, continue this increased pay beyond that time. My amendment proposes simply to extend to the Departments the provisions of that section, with whatever construction the Departments themselves may give to it.

I for one believe that it is proper and necessary to increase the pay of that very large and very deserving class of clerks and employes engaged in the Departments in this city. I know many a clerk here, receiving a yearly salary of \$1,200, \$1,400, \$1,600, or \$1,800, who is cramped from month to month to make both ends meet, and who with his family is obliged to live in a most humble manner, in a little room in the third or fourth story, with scanty furniture and but very few of the surroundings of a comfortable home. In my opinion, it is a debt the Government owes these men to so increase their salaries as to enable them to live in a manner becoming employes of the Government of the United States.

My amendment also embraces what is not embraced in the bill—a provision for the clerks in the quartermaster's department of the department of Washington. There are, I suppose, from fifty to one hundred of these clerks who are obliged to live in the city of Washington. They are certainly just as deserving as the clerks in the city post office or the coast survey or any other department or bureau of the Government.

It will be borne in mind, as I presume most of the members of Congress already know, that nearly all of the supplies taken from the depot in Washington go through the quartermaster's department of the department of

Washington. First they go from the quartermaster's department of the Army to the department of Washington, and by that department are issued to the different depots. The whole burial service, the charge of the various national cemeteries, is under the control of the quartermaster's department in the department of Washington. This requires a great many clerks. They have the same grades of clerks as the others, and there certainly can be no reason why these clerks should not be embraced as well as the others.

With that exception I believe the substitute embraces the same that the original bill does. It gives them pay from the 4th of March, 1865, precisely as we gave additional compensation to the employes of Congress. I think it is proper and consistent, and the only consistent thing we can do. That is all I desire to say.

Mr. GRINNELL. I ask the gentleman from Ohio to yield to me.

Mr. GARFIELD. I yield to the gentleman for five minutes.

Mr. GRINNELL. I understood the gentleman reporting this bill that he would allow a vote to be taken on my amendment, which was to extend this additional compensation to those persons who, on the 30th of December, 1866, had been dismissed from office, excepting those dismissed on account of fraud or malfeasance in office, or who at any time had been in the so-called confederate service. But, sir, as the previous question has been seconded and the main question ordered, and no opportunity will be afforded to the House to take a vote on that amendment, I prefer to vote against this bill rather than do a great injustice to those who have been driven out of the service before the 1st of January. This bill proposes to mete out justice, and yet it does not provide for those who have suffered doubly, those who have been proscribed for their political opinions, or perhaps for personal reasons. What have we to decide here? Shall we reward those who took the places of our friends, whose political heads were chopped off? Shall we punish our own radical friends who have been removed, and favor those who have taken their places? Shall we take care of those who have been appointed in place of those who have been removed since the close of the last session merely because of their loyalty? I shall be a party to no such proceeding. I propose to be true to our friends if I can, and to stand up for those who would rather lose office than betray their principles.

I regret the gentleman who reported this bill did not allow us to vote on my amendment, so that we could do justice to those who fell because they refused to betray the principles of loyalty and desert the Union cause. As the case now stands, I shall oppose the bill with the hope of getting something better.

Mr. BANKS. There are some officers affected by this bill who have the superintendency of one hundred and two hundred clerks, and who have received from the heads of Departments allowance in the way of increased compensation. They fear the operation of this bill will be to reduce the salaries that they receive. Will it have that effect?

Mr. GARFIELD. It will not require any person to refund any money. That has been carefully guarded against.

Mr. BANKS. It authorizes them to receive the increased compensation they now receive.

Mr. GARFIELD. There is \$100,000 in the hands of the Secretary of the Treasury under a former law which he can distribute according to his discretion. It is intended for mere temporary clerks.

Mr. HUBBARD, of Connecticut. The gentleman who has charge of the bill will yield to me for a moment. I thought there were great defects in the original bill, but I have become persuaded that those defects have been cured by the substitute.

The first object of the American Congress is to do right, and the second to give the public satisfaction. It is impossible, in passing such a measure of relief, to make the discriminations



which our friends think ought to be made without great injustice and creating great public dissatisfaction. If there are men in office who have taken part with the so-called confederacy they ought to be turned out; and if they cannot be turned out in any other way the power that placed them there ought to be overthrown. We cannot make discriminations without doing injustice and without creating public dissatisfaction. I believe this bill is as broad as we can make it, and I prefer it as it now stands before the House.

Mr. MAYNARD. I see it is proposed to add twenty per cent. to the pay of all those whose salaries do not exceed the sum of \$3,500. I ask the gentleman whether by that provision the \$3,500 officers are not in a better condition than those who now get \$4,000. Will they not get \$4,200, or \$200 more than the other class?

Mr. GARFIELD. The surplus funds are in the hands of the Secretary of the Treasury, and he can regulate the matter. But we want to make a limit somewhere; we do not want to pay this increase to all the high class clerks. If there should be half a dozen such as the gentleman speaks of there would have to be some remedy provided for them hereafter.

Mr. MAYNARD. Could not the gentleman have remedied that difficulty by saying that no pay should exceed a certain amount as a maximum?

Mr. GARFIELD. Perhaps it might be done. I now yield a few moments to the gentleman from Vermont, [Mr. MORRILL.]

Mr. MORRILL. I should have much preferred the bill with my amendment added. I still prefer it as it stands to the substitute proposed by the gentleman from Illinois, [Mr. FARNSWORTH.] It is more carefully guarded throughout. But in regard to the substitute, according to the gentleman's own confession, he does not know how it will be construed or how long it is to continue to operate. The present bill will probably take from the Treasury not less than a million and a quarter of money. If my amendment had been adopted it would have saved a quarter of a million. If the proposition of the gentleman from Illinois prevails I shall be compelled to vote against the whole bill, and move to lay it on the table.

Mr. GARFIELD. I now yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I presume the object of this bill is to pay the clerks and employés of the various Departments of the Government what they earn and are fairly entitled to. Now, the proposition of the gentleman from Illinois is to have the increased compensation date back to the 4th of March, 1865, and the reason he gives for it is that we have allowed our own clerks and employés twenty per cent. additional compensation, beginning with the present Congress. The salaries of these various clerks begin and end with the fiscal year, while the salaries of employés in the two Houses begin and end with the Congress. Therefore the reason for the adoption of the provision in the eighteenth section in the appropriation bill of last year does not apply to that class of clerks.

But the proposition of the gentleman from Illinois will go still further. It will allow the employés in the Treasury Department, who for the fiscal year ending in 1866 have received additional compensation in the aggregate to the amount of \$200,000, to still receive the additional twenty per cent.; and it fails to meet the proposition of the gentleman from Ohio, which discloses the fact that this sum was disbursed among a higher class of clerks, and not that class who are presumed to be the most needy.

Mr. FARNSWORTH. I propose, with the permission of the House, to amend the substitute in that particular by adding to it the same proviso that is in the original bill, cutting off those who have already received additional compensation from the benefits of the bill. If the House will permit me I will amend the bill

in that particular; if not, it may be done in the Senate.

Mr. ALLISON. I shall, of course, object to that amendment unless we go back and amend the original bill, so as to include a proposition which is just and ought to be inserted in it, which will allow all clerks, whether they are in the employment of the Government to-day or were so yesterday, to come in and receive the additional compensation. The Government of the United States is not an eleemosynary corporation, dealing out charities to clerks. We are paying these men because we believe they are entitled to compensation for service rendered, and there is no reason why a clerk who may be employed tomorrow should not receive additional compensation if he earns it, nor that a clerk who was discharged yesterday for political or other reasons should not receive that compensation if he has earned it during the fiscal year 1866.

Now, I am opposed to this discrimination. We should not discriminate against any class of clerks—and that proposition is clearly comprehended in the original bill—but if we are to appropriate from one to two million dollars, that will be the effect of the proposition of the gentleman from Illinois. It will be simply a gratuity to this class after the 4th of March, 1866. I do not feel called upon to give them such gratuity, and I shall vote against this whole proposition, unless it is confined to the current fiscal year and includes every class of clerks in the Executive Departments.

Mr. GARFIELD. I will now yield ten minutes to my colleague, [Mr. SCHENCK,] and then I shall occupy five minutes of the time of the House before I call the previous question.

Mr. SCHENCK. I am very sorry that this bill has assumed its present shape. I do not wish to be considered as having done injustice to any one in the remarks which I made before in the discussion of the amendment proposed by the gentleman from Vermont, [Mr. MORRILL,] when I undertook to draw a distinction between those who had served in the Army or Navy of the United States during the recent war to put down the rebellion, and those who have sought and obtained those places, often, at least, to the exclusion of better men than themselves.

I know the difficulty which surrounds this whole subject. I know that it is hard to adapt the law to the condition of things so as to make its operation equitable. I know it is hard to adapt a law so as to have operation upon particular classes of individuals only. Certainly we cannot do it as to individuals. But in the remarks which I made I did not mean to object to men on account of their political views.

I believe that if the amendment of the gentleman from Vermont [Mr. MORRILL] had been adopted, it would have prevented what will now be the effect of this bill if it pass—a reward given to any and every one who within the last year or two has been a party to this miserable prostitution to which I referred. I did not call it political prostitution, because I do not recognize the men of whom I spoke as having any political status; they are not Democrats, they are not Republicans. Some of them profess to have affinities with the one side or the other. But if they have a platform at all, it is but a platform resting upon the advocacy of whatever will give them "bread and butter." Now, sir, the only way of reaching such men is to strike at the "bread and butter;" the only principle of action which they could be supposed to be at all sensitive about. And it is for us, as far as we may, to reach toward that which they have regarded as the holiest and above all things. In doing this I admit there is difficulty. We may without meaning it strike some good man. But in not doing so we permit to escape a whole class of men who I think are unworthy of the support and unworthy of the generous action of Congress in their behalf.

Now, sir, in order to show what sort of people these are for whom we are legislating indis-

criminately, I propose to lay before the House the proceedings which took place some short time ago, as far as they have reached the public, of what is called the Johnson Departmental Club. These resolutions have been heretofore the subject of comment elsewhere, and the club have replied to the comments made upon them in the Senate of the United States. It needs no further remark to illustrate the temper of these persons and their line of conduct than to read what they said. These men, for whom we are asked, thus indiscriminately and loosely to legislate, adopted the resolutions which I am about to read. And mark you, this goes back a whole year and a half; it goes back so as to reach that time at which my colleague [Mr. GARFIELD] says there had been no demonstration of this miserable, subservient spirit by which office was to be obtained from the Executive; I read the preamble to their resolutions:

"Whereas the present crisis of this country calls for a full and honest expression of political sentiments and a firm adhesion to the Constitution of our land and the cardinal principles of government as enunciated and established by our fathers; and whereas the present Congress of the United States, in usurping the judicial and executive functions of the Government, in overriding all the State authority and jurisdiction, in defying the manifest sentiments and wishes of a vast majority of the people of the country, is rapidly changing our republican system of government into a despotism as unmitigated as ever was that of Austria; and whereas we are uncompromisingly opposed to all such inroads upon the established principles of the Government, and as unwaveringly indorse and support the past and administrative policy of President Andrew Johnson, particularly that of the readjustment of the late rebellious States; and whereas, as honorable men, holding office under his Administration, feel it incumbent upon us either to sustain him in his noble efforts to preserve the Constitution and the liberties of the people against the infractions of Congress, or, if opposing him, to resign our positions for those who do sustain him;"

And so on to the end of the chapter.

This is signed by "Robert Wright, president," and by "Ferdinand L. Sarmiento, secretary," of the Johnson Departmental Club. I do not know who Robert Wright is; I have not the honor of an acquaintance with Ferdinand L. Sarmiento; nor do I know Richard H. Jackson, who moves the publication of this manifesto in the public press. But I know that Jackson and Wright and Sarmiento, in all human probability, are poor devils, [laughter,] unworthy of any help from this Congress or from any authority of the Government. They are political enuchs, who, if Jeff. Davis were in power, would pass just such a resolution to-morrow for him; who, if our friend from Pennsylvania [Mr. STEVENS] were elected President to-morrow, would as humbly bend to him. That is just what I know of them without a personal acquaintance with them, and what everybody must know of them and of all such fellows.

There came to my notice yesterday the case of a clerk who was dismissed from one of the bureaus in a Department for having spoken, it was said, disrespectfully of the President and in favor of Congress; for having "slandered the President." And I believe the miserable spy and pimp who gave the information got his place. That is perfectly characteristic of what all such fellows are; about what they would do.

But let us go on a little further with these Johnson Departmental Club resolutions. I have not time, rich as this sort of literature is, to read to the end the long resolution of which I have given a sample.

The second resolution, and that resolution fixes the date of publication, is one in which this club cordially indorses the speeches of certain political secretaries, made when they were serenaded in order to bring them out and see whether they were fit to be the constitutional advisers of the President of the United States.

Then, after the high eulogy in the second resolution upon the Secretary of the Treasury and others, in the third resolution their respects are bestowed upon two members of the Cabinet, who did not come up to their standard:

"Resolved, That the replies of Secretary Harlan and Attorney General Speed were characteristic, and leave no room to doubt, as long generally believed"—

So it seems they had suspected them for a great while.

"but what they are opposed to the President's readjustment policy; that they are but clogs in the machinery of the Government; obstacles in the way of the early restoration of the Union, prejudicing equally the success of the President's administration and the welfare of the country; that as Cabinet officers, hostile to the avowed policy of the President, they manifestly retain their positions in bad faith, for sinister and ulterior purposes and to embarrass as far as they can his attempts to heal the wounds of the country. Being at least opposed to his policy, they are incapable of rendering him that assistance and earnest coöperation essential to his complete success, and should give place to others more worthy and competent who can; that justice to the people and to the Government and the necessities and welfare of the country alike demand their immediate resignation or removal."

I believe they did resign soon afterward.

Mr. LATHAM. I would like to ask the gentleman a question, if he will yield for that purpose.

Mr. SCHENCK. I have no objection.

Mr. LATHAM. Can the gentleman inform the House whether these parties of whom he is speaking were appointed in the Departments prior to the 30th day of June, 1866, or since that time?

Mr. SCHENCK. I cannot tell. I only refer to them as a sample of the lot; I only refer to them to show by what means and professions men retain office, but still more as an exemplification of the kind of miserable, base subserviency and abuse of everything but the President by which they obtained office. I want some discrimination which shall draw a distinction between men animated by such principles only, if that can be called principle at all, and other classes of men who might reasonably be presumed to be more honest.

Mr. LATHAM. Can the gentleman give us any information by whom they were appointed?

Mr. SCHENCK. I cannot.

Mr. LATHAM. Or whether they are not honest now?

Mr. SCHENCK. As to that—

Mr. ROSS. I would suggest to the gentleman, in order to obviate the difficulty, that he should provide that those who sustain Congress should be paid. He might obviate the difficulty in that way.

Mr. SCHENCK. That would hardly answer the purpose, for it would take the whole people of the country into pay. [Laughter.] Our support is not derived from a few miserable petty clerks here in the Departments, but it is resting now upon a very much wider basis, the masses of the people, those millions from whom the gentleman would do well to learn, if he would turn his face toward the people and not in other directions.

I suppose I ought not to comment upon these men, nor upon their course, nor upon the propriety of excluding, as far as we can, from the benefits of this bill classes of men such as they are; I know what I may expect. It seems that a Senator made some reference in debate to these resolutions, after they were published in the public press upon the motion of this Mr. Richard H. Jackson, and he was met with a response in these words:

"Resolved, That we hurl back with indignation and scorn the imputation of the Senator from California that this club is unworthy of respect; that it condescends to notice but to watch him and all such Senators who would trample upon the Constitution and the liberties of the people, who desire anarchy rather than peace, disunion rather than the restoration of States to their proper functions under the Constitution of the United States."

Why, sir, this is dreadful, [laughter,] and I suppose I may expect something just like this with which Senator CONNESS was visited for having called attention to the sort of men who are now thronging these Departments, many of them having found their way there within the last year or two years, and many others, I regret to say, having assumed this disgraceful attitude after having been appointed under such circumstances as might have given them better manners and better principles.

I think I understand the principles, or rather

the one principle, of this "bread and butter" party. I have already alluded to it; but any one who has read the proceedings of the Cleveland convention—which I regret to say was made up in the main, if not altogether, of those who had actually served in the armies of the United States—has seen a very peculiar development in the address of that convention. The authors of that address speak of the amendments proposed by Congress to the Constitution of the United States. Those amendments are four. To the first, the second, and the fourth they make little or no objection, or at the best they present but feeble arguments against them. They reserve all their wrath for the third of those proposed amendments. What is that? It provides in effect that certain persons who have held office under the General Government or the States who have taken an oath of allegiance to the United States and afterward engaged in rebellion and treason shall be debarred from holding office under the United States until they shall be purged of their disability by a vote of two thirds of both Houses of Congress. Those men who met at Cleveland could look with calmness upon the idea of executing rebels, of hanging them. That is nothing more than they deserved. Maury and Benjamin and Toombs and Breckinridge, by running away immediately after the close of hostilities, evinced their conviction that they deserved death. The same is true of Jefferson Davis, except that he, being entangled in the folds of a certain garment of his wife, was, unfortunately for him, caught before he was able to consummate his purposed escape. The men who constituted the Cleveland convention were willing that rebels should be hung, were willing that they should be banished, were willing that they should be deprived of the privilege of voting, were willing that their property should be confiscated. Any or all of these things they seem to think rebels might deserve. But when we propose none of these, but only the simple punishment of debarring a certain class of rebels from the privilege of holding office, these fellows at Cleveland, the peculiar friends of Andrew Johnson, roll up the whites of their eyes in pious horror and exclaim: "For God's sake do not think of inflicting upon any being wearing the image of humanity such cruelty as to deprive him of the chance of being an assessor or a collector or a postmaster!"

But, Mr. Speaker, my colleague, [Mr. GARFIELD,] by whose courtesy alone I am permitted to speak, desires again the floor to put an end to all debate. I close therefore with the single remark, that I recognize the justice of some relief such as that provided for by this bill to the inadequately compensated clerks and employés of the Government in this city. I would gladly have discriminated, if it had been possible, in favor of those who have come into the civil service from the military and against those who have only reached or held their places by a spirit of mean subserviency. The amendment of the gentleman from Vermont [Mr. MORRILL] would have partially accomplished this. But, as I cannot get this act of legislation in the shape in which it would have been more specially agreeable to my views, I have nothing left me but to vote for the bill as the best we can get; but I do not despair of getting it even yet into some better and more acceptable shape.

Mr. LE BLOND. I ask my colleague [Mr. GARFIELD] to yield to me for about two minutes.

Mr. GARFIELD. As no member on the other side has been heard, I will yield the gentleman three minutes, if that will satisfy him.

Mr. LE BLOND. Mr. Speaker, I supposed when this bill came up that it was a bill for the purpose of increasing the pay of clerks in the Departments. I am in favor of such an increase. I believe it is demanded by considerations of propriety and justice. I cannot see how members here who voted to increase

their own pay can consistently refuse to increase the compensation of these clerks, who receive salaries far below those of members of Congress. But, sir, I have finally come to the conclusion, after hearing the remarks of my colleague from the Dayton district, [Mr. SCHENCK,] that this is a bill for a very different purpose; that I was entirely mistaken in my view of its character. The gentleman has manifested a great deal of bitterness; why, I cannot tell. It is possible that the diminished vote received by him at the last election has had something to do with the vindictive manner in which he has presented this case, and accounts for the evident animus of his remarks.

Mr. SCHENCK. The gentleman is mistaken about that.

Mr. LE BLOND. It is possible some of the appointees of Andrew Johnson have inflicted a wound upon my colleague, not seriously I hope. I hope he will survive. From the manner he treats the whole question, one would suppose some of Andrew Johnson's appointees had given him a deadly wound and that he is struggling to live.

I was trying to rise to a question of order that he had progressed five or six minutes and had not said a word against Andrew Johnson and his appointees, but very soon I was relieved from that trouble, for he fell back upon his old scheme of opposing Andrew Johnson. And for what? For doing what every President has done since the organization of the Government down to the present time: appointed men of his own choice, men to carry out his own policy. But that does not suit the views of my friend who received at the last election a diminished majority, and he is to avenge himself against the President because he was not so popular at the last election as he seemed at the first. I thank my colleague for the courtesy he has extended to me.

Mr. GARFIELD. I do not propose to say more than a few words. I am right in saying there has been no change in the bill except those recommended by the Committee of Ways and Means. The amendments of the committee are embodied in the substitute. I trust gentlemen will not be confused when they come to vote. The bill as amended by the Committee of Ways and Means is the substitute now before the House. It confines this to the present fiscal year, while the substitute of the gentleman from Illinois [Mr. FARNSWORTH] runs back and makes the additional pay continuous. This is all in the judgment of the Committee of Ways and Means that can justly be given. I would be glad as well as my colleague from the Dayton district, if I knew how to do it properly, to reward those who have been turned out and punish those who have been put in their places. I know of no other way than to let the rain fall upon the just and unjust alike. I call for a vote.

Mr. HILL. I move to reconsider the vote by which the main question was ordered.

Mr. GARFIELD. I move that the motion be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. McDONALD, Chief Clerk, notifying the House that that body had passed Senate bill No. 456, for the admission of the State of Nebraska into the Union; in which he was directed to ask the concurrence of the House.

#### ADDITIONAL COMPENSATION—AGAIN.

The question recurred on Mr. FARNSWORTH'S substitute.

The House divided; and there were—ayes 46, noes 63.

So the substitute was defeated.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GARFIELD. I demand the previous question on the passage of the joint resolution.

Mr. BENJAMIN moved that the House adjourn.

The motion was agreed to; and thereupon (at twenty-five minutes past four o'clock) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of J. Cory, Jr., relative to freedom.

Also, the petition of J. S. Palmer, and 31 others, ladies of Laporte county, Indiana, asking for the right of suffrage.

By Mr. BALDWIN: The petition of A. P. Armbruster, and others, concerning the internal revenue tax on cigars.

By Mr. BENJAMIN: The petition of Union citizens of Nueces county, Texas, asking relief against the decisions of the present rebel courts of Texas confirming the confiscation of property of Union men, and praying for protection from Congress.

By Mr. BUCKLAND: The petition of the mayor and city council of the city of Sandusky, for the establishment of a naval depot in the Sandusky bay, at or near that city.

Also, the petition of H. Lockwood, and 45 others, citizens of Huron, Milan, and vicinity, Erie county, Ohio, for the establishment of a naval depot at Huron, Ohio.

Also, the petition of La Q. Rawson, and 85 others, citizens of Fremont, Ohio, against the curtailment of the national currency, and against compelling the national banks, wherever located, to redeem their bills in the city of New York, and against prohibiting the payment of interest on bank balances.

By Mr. COOK: The petition of certain citizens of the State of Illinois, praying that an inquiry be made into the omissions of duty and usurpations of power charged against the President of the United States.

By Mr. HOGAN: The memorial of workers, in steel in St. Louis, Missouri, against any increase of duty on steel.

By Mr. KELLEY: The memorial of 662 citizens of Philadelphia, Pennsylvania, manufacturers and operators in cotton and woolen fabrics, praying Congress to relieve them from the heavy burden of taxation under which they now labor, by the removal of the five per cent. tax, &c.; also, by instituting a drawback of three per cent. per pound on cotton, to be refunded to the manufacturer; also, a drawback on all articles taxed previous to entering into the manufacture of goods, &c.

By Mr. LAWRENCE, of Pennsylvania: The petition from citizens of Lawrence county, Pennsylvania, remonstrating against any reduction of the currency.

By Mr. MARVIN: The petition of Darius Moore, William F. Baker, W. A. Smith, Daniel Mackay, and others, citizens of Fulton and Saratoga counties, New York, praying for an appropriation of \$1,000 per year for the remainder of his life to Samuel Downing, the only surviving soldier of the American Revolution.

By Mr. MARSTON: The petition of 21 citizens of Ossipee, New Hampshire, praying that no act be passed authorizing a curtailment of the national currency or requiring national banks to redeem their notes in New York.

By Mr. MOULTON: The petition of citizens of Wayne county, Illinois, praying that there be no curtailment of the currency.

By Mr. MCGILGURG: The memorial of Lorenzo Sherwood to Senate and House of Representatives, on the subject of utilizing railway capital.

Also, the petition to Senate and House of Representatives of citizens of Butler, Bates county, Missouri, against curtailment of the national currency.

By Mr. O'NEILL: The memorial of Rev. W. H. Furness, George Cadwallader, Daniel Smith, and others, citizens of Philadelphia, asking that the repeal of the law which retires officers of the Army at a certain age may be considered, and that no retirement may be made without the report of a board of examination.

Also, the petition and accompanying correspondence of Robert A. Parrish, of Philadelphia, praying for relief against the Emperor and Government of France.

By Mr. PERHAM: The petition of R. Dexter and 55 others of the State of Maine, for the submission to the several States of a proposition for an amendment to the Constitution providing that no inequality shall be recognized among citizens on account of birth, race, or color, and to remove by immediate legislation all such inequalities in the District of Columbia.

Also, the petition of Mrs. Susan Libby, of Maine, for bounty and back pay for the military services of her son.

By Mr. RICE, of Massachusetts: The memorial of harbor commissioners of Massachusetts, for aid in protecting the harbor of Boston from obstructions.

By Mr. WARD: The petition of numerous citizens of Steuben county, New York, in favor of increase of tariff on wool.

By Mr. WASHBURN, of Illinois: The petition of citizens of Warren, Jo Daviess county, Illinois, asking that no act be passed curtailing the national currency, or compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. WENTWORTH: Several petitions concerning the contraction of the currency and resumption of specie payments.

By Mr. WILLIAMS: The petition of cigar manufacturers of Allegheny city, Pennsylvania, praying for an alteration in the tax on domestic cigars.

#### IN SENATE.

THURSDAY, January 10, 1867.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington city.

The Secretary proceeded to read the Journal of yesterday.

Mr. SHERMAN. I move to dispense with the further reading of the Journal. It is very long, consisting mainly of yeas and nays.

The PRESIDENT *pro tempore*. It can be dispensed with only by the unanimous consent of the Senate. Is there any objection? No objection being made, the further reading of the Journal is dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of citizens and wool-growers of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. WADE. I have also a memorial from Kennedy O'Brien, a soldier in the late Mexican war, who received injuries in the service by which he was rendered totally blind, and who now has a pension of eight dollars per month. He prays that this pension may be increased, I suppose to correspond with that of other pensioners where it has been increased since. I hope that his prayer will be granted. I move that the memorial be referred to the Committee on Pensions.

The motion was agreed to.

Mr. SHERMAN presented a petition of a large number of citizens of Erie county, Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. NORTON presented the petition of the officers of the Southern Minnesota Railroad Company, praying for the passage of a law authorizing them to construct a bridge across the Mississippi river opposite the corporate limits of the city of La Crosse; which was referred to the Committee on Post Offices and Post Roads.

Mr. LANE presented a memorial of journey-men cigar-makers and manufacturers of cigars at Fort Wayne, Indiana, praying for a modification of the duty on cigars; which was referred to the Committee on Finance.

Mr. CHANDLER presented resolutions of the Board of Trade of Buffalo, of the Board of Trade of Detroit, and of the Board of Trade of Toledo, in favor of the construction of a ship-canal across the St. Clair flats; which were referred to the Committee on Commerce.

Mr. HENDRICKS. I present a petition numerously signed by farmers and growers of flax in the State of Indiana, praying that the duty on flax-seed may be fixed at not less than thirty cents per bushel. I move the reference of the petition to the Committee on Finance, and ask their attention to the subject. My attention has been several times called to the importance of this legislation by persons interested in it in the State of Indiana.

The motion was agreed to.

Mr. SUMNER. I have received a remonstrance which by the action of the Senate yesterday becomes to a certain extent out of place, and yet I feel it my duty to present it. It is the remonstrance of Henry H. Bowman and fifty-eight other colored citizens of Worcester, Massachusetts, against the admission of Nebraska as a State with a constitution which disfranchises citizens on account of color. The question to which these remonstrants address themselves is happily settled for the present in this body; but it may arise hereafter in some other stage, and hence I do not regard this remonstrance as entirely out of place. I move that it lie on the table.

The motion was agreed to.

Mr. SUMNER. I have a petition from citizens of Lancaster county, Pennsylvania, in which they ask for an amendment to the Con-

stitution that shall provide against any inequality on account of birth, race, or color, and they also ask for immediate legislation removing any such inequality from the District of Columbia, the Territories, and the ten unrestored States. I ask the reference of this petition to the joint committee on reconstruction.

It was so referred.

Mr. MORGAN presented five petitions from citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

He also presented the memorial of importers of hardware and cutlery, of New York, remonstrating against the high duties proposed to be levied on those articles by House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

Mr. EDMUNDS presented three petitions of citizens of Shoreham, Vermont, and one petition of citizens of Middlebury, Vermont, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were referred to the Committee on Finance.

#### PAPERS WITHDRAWN AND REFERRED.

Mr. ANTHONY. I move that leave be granted to withdraw from the files of the Senate the papers in the case of Benjamin Tilley, praying for rent of land occupied by the War Department in Washington city, as the site of a portion of the barracks constituting Camp Fry, and that they be referred to the Committee on Claims. There has been an adverse report, but additional evidence is presented.

The motion was agreed to.

On motion of Mr. MORRILL, it was

Ordered, That the memorial of the surviving heirs of William B. Foster, praying for the adoption of measures to secure to them the amount due from the Government to William B. Foster at the time of his death, be withdrawn from the files of the Senate and referred to the Committee on Revolutionary Claims.

#### REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of O. E. Dreutzer, praying for compensation for services rendered as consul of the United States at Bergen, Norway, from the 5th of November, 1865, to the 26th of May, 1866, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. LANE, from the Committee on Pensions, to whom was referred the petition of Mrs. Adeline M. Gould, praying for a pension, submitted a report accompanied by a bill (S. No. 497) granting a pension to Mrs. Adeline M. Gould. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Josephine Slocum, praying for a pension, submitted a report accompanied by a bill (S. No. 498) granting a pension to Mrs. Josephine Slocum. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### SAFE DEPOSIT COMPANY.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington.

Mr. SHERMAN. The Senator from Maine, chairman of the Committee on the District of Columbia, is not present. I move that these amendments be referred to that committee.

The motion was agreed to.

#### WINONA AND ST. PETERS RAILROAD.

Mr. SHERMAN. I move to postpone all prior orders and take up the bill reported by the Committee on Finance for the relief of the Winona and St. Peters Railroad Company.

Mr. EDMUNDS. I wish to ask my friend



from Ohio whether that bill will lead to any discussion.

Mr. SHERMAN. I think none at all. I presume the reading of the report will satisfy every Senator.

Mr. EDMUNDS. With that understanding I have no objection.

The motion was agreed to; and the bill (S. No. 494) for the relief of the Winona and St. Peters Railroad Company was read the second time and considered as in Committee of the Whole. It provides for refunding to the Winona and St. Peters Railroad Company, in gold, the sum of \$3,424 28, being the additional duties paid by them on railroad iron under the joint resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864.

Mr. SHERMAN. Let the report be read.

The Secretary read the following report:

The Committee on Finance, to whom was referred the memorial of the Winona and Saint Peters Railroad Company, an incorporation of the State of Minnesota, have had the same under consideration, and find that this company imported in the fall of 1863 five hundred tons of railroad iron, which was landed in New York and shipped for Milwaukee, under bond to pay the duty then imposed by law within sixty days, the time allowed for its transit. By the usual course of navigation it should have arrived at Milwaukee that fall; but by the early closing of navigation it was detained at Oswego. It seems from the papers on file that the company made various efforts to pay the duty, both at Milwaukee and New York; but the collector at each port refused to receive the duties while the iron was *in transitu*. The duty was then \$13 50 per ton. Subsequently, by the joint resolution of April 29, 1864, duties on imported goods were increased fifty per cent. for sixty days, thus imposing a duty on this iron of \$21 25 per ton, while by the general tariff act, which took effect July 1, 1864, the duty on railroad iron was sixty cents per hundred pounds, or \$13 44 per ton. The iron arrived at Milwaukee on the 21st of June, 1864, and, in addition to the duty imposed by law when the iron arrived in New York, there was imposed an additional duty under the joint resolution of the sum of \$3,424 20, which sum was paid by the petitioners under protest.

Your committee are of opinion that the additional duty provided for by the joint resolution of April 29, 1864, was not applicable to goods actually *in transitu* within the United States and under bonds providing for the payment of the specific rate of duty then imposed by law. At all events, your committee think it inequitable upon the facts stated to exact the increased duty when the importation was complete before the passage of the joint resolution, and when parties interested had tendered the duties imposed by law and were guilty of no laches.

Your committee, therefore, recommend the passage of the following bill.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### MEETINGS OF CONGRESS.

Mr. POLAND. I move that the Senate proceed to the consideration of House bill No. 880, to fix the times for the regular meetings of Congress.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The first section of the bill provides that in addition to the present regular times of meeting of Congress, there shall be a meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, at twelve o'clock meridian, on the 4th day of March, the day on which the term begins for which the Congress is elected, except that when the 4th of March occurs on Sunday, then the meeting shall take place at the same hour on the next succeeding day.

The second section declares that section seventeen of the act approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," shall be so amended that no Senator or Representative in Congress who has been a member of the Congress next immediately preceding shall receive any allowance for mileage for traveling to the place of meeting to attend such additional session provided for in the preceding section.

The Committee on the Judiciary proposed to amend the bill by striking out all of the second section after the enacting clause and inserting the following:

That no person who was a member of the previous Congress shall receive any compensation as mileage

for going to or returning from the additional session provided for by the foregoing section.

Mr. WILLIAMS. I should like to inquire of the Senator who has charge of this bill if the persons elected to the Fortieth Congress will be entitled, under this bill, to mileage for more than one session during that Congress?

Mr. POLAND. Certainly; for each session.

Mr. WILLIAMS. Each new member, then, as I understand it, will be entitled to mileage for the session contemplated by this bill on the 4th of March, and then entitled to another mileage when that session may adjourn, and also another mileage for attending the next succeeding session of Congress, and so on. It seems to me that the bill ought to be so amended as to provide that no Senator or Representative shall receive mileage for more than two sessions of the Fortieth Congress.

Mr. POLAND. This amendment that is proposed by the committee to the second section of the bill, as it passed the House of Representatives, is no change in substance; it is merely putting it in shorter and, as we thought, in better language. The provision is, that no Senator or Representative who is a member of this Congress shall be entitled to mileage for the session that is to commence immediately on the expiration of this session. What objection there can be to new members, those who are actually obliged to travel in order to get here to attend that session and to return from it, being entitled to mileage for attending that session, is more than I am able to discover. Why, if there be three distinct, separate sessions of Congress in a term, members should not be entitled to mileage for attending each is more than I am able to see. The object of this provision is, that persons who are members of the present Congress and who actually are not obliged to travel in order to reach here or to go home from here, whose actual travel is not increased in consequence of the additional session, shall not receive mileage for that session. The justice of that is apparent; but beyond that I see no force in the objection of the Senator from Oregon.

Mr. WILLIAMS. According to that construction of this bill it will add immensely to the expenses of the Fortieth Congress; and the general understanding is, I think, that the session which is to take place on the 4th of March is to be a session simply for organization. I do not understand that it is contemplated that Congress is to proceed with the transaction of its usual business; but the argument made for the passage of this bill is, that it is desirable to have the Fortieth Congress organized at all times during its term of existence, and the main object of passing this law and providing for a session on the 4th of March is to enable the Fortieth Congress to organize at that time, so that it may be prepared for any emergency that may arise during its existence. I do not know whether the addition of such an immense sum to the ordinary expenses of Congress simply for that purpose will be quite satisfactory to our constituents. I know heretofore Senators have been required to attend the called executive sessions of the Senate without any compensation. On the 4th of March, 1865, I was here to attend an executive session called by a proclamation of the President. I came here from the State of Oregon; I attended that session; but I received no mileage at all; the law does not provide for mileage in such cases; and if that is a just rule which has heretofore existed, I do not see why it should not apply to the Fortieth Congress when it simply convenes, as I understand, more for the purpose of organization than for any other purpose. I am not very particular on the subject; I have no more interest in the question than any one else; but I make the suggestion, and the Senate can do as they please about it.

Mr. POLAND. I am not one of the promoters of this bill; indeed I have taken the charge of it and endeavored to get it on its passage at the solicitation of members of the House of Representatives from those States

which do not elect their Representatives until subsequent to the 4th of March; they deem it very important that if the bill is to pass at all it should pass at as early a day as possible; and there is very great force, as I think, in that suggestion. The bill was reported from the Committee on the Judiciary by the Senator from New York, [Mr. HARRIS.] He is absent; and the chairman of our committee, the Senator from Illinois, [Mr. TRUMBULL,] is also absent; and at the solicitation mainly of members of the House of Representatives I have called up the bill at the present time.

I am not aware that it is understood, as the Senator from Oregon says, that the session of Congress which is provided for by this bill to commence on the 4th day of March is to be merely for organization. If the Senator from Oregon so understands it now, I apprehend that if this bill shall pass it will turn out that he labors under some mistake in that regard. What was the precise idea on that point of the framer of this bill, or of the particular friends of this bill who originated it, in the House of Representatives, is more than I know. But, however that may be, whether the session that is provided to be held on the 4th of March be a long one or a short one, I can see no reason in justice why members of either House, either of the Senate or of the House of Representatives, who actually travel from their homes to attend that session, should not be entitled to mileage for their travel as much as for attending any of the sessions of Congress that are provided for by existing law. The argument of the Senator from Oregon on that subject, that it is going to be productive of very great expense, is rather an argument against the passage of the bill than an argument against this section or the amendment the committee have proposed to it, which, as I said before, does not change the character of the bill or the provisions of the bill, but is merely a change of phraseology. If the bill is to pass at all, it seems to me this provision in relation to mileage is entirely just, and is all the limitation that there should be upon this subject of mileage for that session. In regard to those members of the present Congress who are here who are not required to travel in order to attend it, it is very just and right that they should not be allowed mileage; but as to those who actually travel from their homes to attend the session, there is no reason whatever in my judgment why they should not be entitled to their mileage for attending that session as for attending any other session of Congress.

Mr. JOHNSON. I do not see a great deal of difference between the section which we are asked to strike out and the substitute which it is proposed to insert in lieu of it; but I rise for the purpose of suggesting to those who have an interest in the mileage what may be a matter of some moment to them and according to my view would be unjust. The amendment as well as the original section says that no member of the next Congress shall be entitled to any mileage for attending it on the 4th of March if he was a member of the present Congress, and so in relation to any Congresses that may exist hereafter. Now, let me state a condition of things which I can imagine may often occur. The Senators who are now members of the present Congress may be reelected by their several Legislatures; and there are some of them who are not now here; they are away, I will not say for what purpose; they are at home; and they will have to come here on the 4th of March to attend the session of the next Congress, and if they do they get no mileage.

But another difficulty may occur, supposing that it would not be right to allow them mileage. The Senators who are here now may not be some of them reelected. There is some probability of that in point of fact, I understand; but there are some who may not desire to be reelected. My friend from Indiana [Mr. LANE] is in the latter category; but he may change his mind before the next Congress terminates, and his successor may not be here

during the whole continuance of that Congress. Death may lay his hands upon him; he may resign, or the Executive may give him some appointment that may induce him to give up his place in the Senate; and in such a contingency as that the honorable member to whom I allude, now a Senator from Indiana, should be sent here by his State, (and she could send no more worthy member,) he would not be entitled to mileage; so in relation to Senators who may be in the same condition, because the Senators who take their places now may hereafter be appointed to some high office by the Executive. Any one who is now a Senator appointed to the place filled by such a one would get no mileage though he might be obliged to come from the Pacific.

So far I have referred to Senators; but the same remarks are applicable to members of the House of Representatives. It may well happen that members of the present House of Representatives, or rather members of the present Congress to speak more accurately, either because they have not desired a reelection, or because the people were unwilling to reelect them, may not have been elected to the next Congress, but they may be elected by their constituents during the existence of that Congress if a vacancy occurs. A member from Oregon or a member from California may be in that situation; and if the bill passes, if I understand it correctly, he will be entitled to no mileage, because he falls within the description of having been a member of the present Congress.

That would seem to be unjust, provided it be just to allow mileage, and I am sure every Senator is satisfied that that is but just, particularly in relation to the members from the Pacific coast, who have to leave their home, for an entire session, attended with very great expense, first in the coming here, and second in the fact that they surrender all their business, whatever that may be, at home during the entire session of Congress.

I suggest, therefore, to my friend who has charge of this bill, whether it would not be better to provide now for that contingency, very likely to happen, instead of passing the bill in the shape in which it is now presented. I feel that there will be a good deal perhaps of well-founded criticism or censure in the country if we pass the bill in its present shape, I mean the bill calling for the organization of Congress on the 4th of March next, if mileage is to be paid to all who shall attend on the 4th of March. It will cost hundreds of thousands of dollars provided there are members enough of that House who are not members of the present Congress. If we organize on the 4th of March and adjourn, the adjourned session will be really but a continuance of the present session, and one of two things would happen: either that there could be no mileage for coming to the adjourned session, or there would be two mileages. The members who are not now members of Congress, when elected, who shall come here on the 4th of March, will be entitled to mileage, and if they go home, as they would upon an adjournment, and come here, in consequence of an adjournment, on the day before the next annual meeting in December, they will be entitled also to a mileage. I do not think the people would be satisfied with that. I agree therefore with my friend from Oregon that it would be better if we can provide against such large disbursement as the bill would cost if it passes in the shape which it now has.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HENDRICKS. The necessity of spending the summer here will be regretted, I suppose, by all of us; and I think it is due to the Senate that the Senator who takes charge of this bill should state what is the necessity for this legislation and what is its purpose. During the war, for four or five years, the legislative department certainly was of quite as much importance to the Government as it is now after

the war is closed, and it was not thought necessary then by the party in the majority to keep Congress in continuous session. If this is for partisan purposes of course I have nothing to say against it; so far as party policy is concerned; I do not claim the right to interfere with the desires of the majority; but if it relates to the interests of the country and looks to legislation for the interests of the country during the coming summer, I think it is due that we should all know, the country should know, something of the necessity which the friends of this bill believe calls for its passage. I do not know myself. I heard the bill discussed in the committee; but I did not there learn, nor have I learned elsewhere, why, for the first time in the history of the Government a third session is provided for during each Congress. I believe the Government has got along very well holding the regular annual sessions of Congress. I have never known any calamity to come to the country because of the policy that has been adopted and continued for three quarters of a century; I heard of no calamity or misfortune to the Government mentioned during the war because the Congress was not in continuous session; and I should like to know why it is thought necessary to have this additional session hereafter. There can be but this one extraordinary session during the Administration of the present Chief Magistrate. This bill does not provide for just one more session; it is a permanent law if adopted.

Now, sir, unless there is necessity for it, I cannot vote for it. It adds very considerably to the expenses of the Government. In the first place, there is the mileage of all the new members of Congress who come in. Then there is that very large cost to the Government incident to the session of Congress known to every Senator. This proposition makes a large inroad into the Treasury. If it is simply because of party necessities the country ought to know it. If it is to hold the President in check the country ought to know that. If it is to legislate upon the interests of the country, commercially and otherwise, I think the country ought to know that. But if the passage of this bill has been decided elsewhere, where the reasons given for it can never come to the public, there would seem to be a propriety in at least referring to those reasons in this body.

I did not intend to say one word upon this question, but supposed the distinguished Senator from Vermont, who called the bill up, designed to state why this bill is to pass. If it is not considered proper that the country should know anything about it, but if the country is to take it for granted that it is right, the course which the Senator has pursued in bringing the bill to a vote on its passage without any explanation is understood. I make these inquiries simply that we shall know a little about it.

Mr. POLAND. Mr. President, knowing, as my friend the Senator from Indiana does, the circumstances that I have stated as the reasons why I have called up this bill, I think it is hardly fair for him to make his inquiries particularly and specially to me in relation to the reasons for the passage of the bill. The bill is one that originated in the House of Representatives, and I know nothing in relation to the views of those who introduced the bill and who favored it except what I have learned from the published debate on the subject. I have no other means of knowing the designs of the originators and promoters of the bill. But I can state to the Senator from Indiana, so far as I know, the reasons that operated in the House for the passage of this bill, and which are claimed to be ample reasons why it should be adopted and this additional session of Congress be provided for.

We have had a provision made by law ever since the formation of this Government in relation to the succession to the Presidency in case of the death of the President. In the first place, it is provided that the Vice President, in case of the decease of the President shall be his successor. In case the Vice President dies, the next in succession is the President

*pro tempore* of the Senate. In case of his death, he is to be succeeded by the Speaker of the House as the acting President. It has been deemed advisable to make the succession so long as this: that there should be three persons in the line of official succession to the Presidency in case of vacancy by death. It so happens at the present time that the presidential chair is occupied by the person who was elected Vice President. The number is reduced in this way by one. At the expiration of this Congress, on the 4th of March, there will be no Speaker of the House, and, under existing laws, there will be no Speaker elected by the next Congress, until next December, nine months, during which there will be no person holding or exercising the office of Speaker who would be eligible, in consequence of being Speaker, to the presidential chair if all of the persons standing before him should die. This I understand to be one reason, and perhaps the principal reason, which has been urged for the adoption of this measure.

Further than this, the official term of the next Congress commences on the 4th day of March, but there will be no organization of the Congress under existing law, and can be none unless they shall be specially called together by the President, until the December following. Although elected, although in office, there is no way, unless they are called together by a proclamation of the President, by which they can meet and organize until next December. It was deemed wise that there should be a session called at the very beginning of the congressional term that Congress might be in an organized condition.

How much of political significance there may be in reference to this measure; how much it has been called for; how much more it has been thought of in consequence of the unfortunate differences that have existed between different departments of the Government, I do not know. That the state of things which is now existing upon that subject may have had some influence upon this measure I should hardly feel prepared to deny; how much I do not know.

These are, as far as I am able to state to my friend from Indiana, the reasons why this bill is called for.

Mr. HENDRICKS. Before the Senator takes his seat I wish to inquire of him, as he has investigated the subject, whether the President of the Senate continues after the close of the Congress. Supposing the President of the Senate to be a member of the next Congress, does that President *pro tempore* continue to be the President of the Senate, under existing laws, during the recess?

Mr. POLAND. That is a question that I have not examined with any care, but my understanding is that he does continue, if he continues to be a member of the Senate, to hold the office of President *pro tempore* until another shall be elected, and holds it during the vacation as much as he does during the session of Congress. That is my understanding of it.

Mr. HENDRICKS. The country has been twice that I now think of placed in its present position. General Harrison died at an early period of his term; General Taylor also died at rather an early period of his term; and yet the Congress did not think it necessary to have a session such as is provided for in this bill. The Government went on as before. This extraordinary fear from the death of the incumbent of the presidential chair was not felt as it seems now to be felt. But if the Senator be right in his answer to my question, then, sir, there is no difficulty at this session of Congress in providing for the contingency which he suggests as the reason for the passage of this bill. If during the present session of Congress a presiding officer should be elected, he will be the President *pro tempore* of the Senate during the coming recess; and should there be a vacancy in the presidential office, as I understand from the Senator from Vermont, he would be the person to occupy that high office. Then, sir, there is no difficulty in the Senate providing

for the contingency without the passage of this law.

But I did not intend to debate it. We now know the reason which is suggested by the gentleman having the bill in charge; the country knows it. Unquestionably that is the reason that governs him. I think, in view of the fact that the Senate, without the passage of a law, can place the Government in a very secure position so far as the presidential office is concerned; there is no great force in the reason given by the Senator, and I shall not be able to vote for this bill.

Mr. JOHNSON obtained the floor.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. POLAND. I hope we shall be permitted to proceed with this bill. I apprehend it will not take very much time.

The PRESIDENT *pro tempore*. Does the Senator move to postpone the order of the day?

Mr. POLAND. Yes, sir.

Mr. WADE. If the Senator will withdraw that motion and allow the unfinished business of yesterday to lie over informally, I shall not object. I have a bill that I want to come up after this.

Mr. GRIMES. Let us get through with this.

Mr. WADE. I am willing, provided the order of the day is allowed to go over informally.

Mr. JOHNSON. The vote will be taken in a moment. I am not about to discuss the bill; I merely rose to ask a question of the Chair. I wanted to know, for I am ashamed to say I do not know, whether the President *pro tempore* chosen by the Senate holds over? To apply it to a case which occurs, suppose we elect as President *pro tempore*, on the last day of the present session, or at any other time, one who is a member of the next Senate, will he not be President *pro tempore* of the Senate? If so, there will then be two lives which will secure against an interregnum of the presidency—the life of the actual incumbent and the life of the President *pro tempore* of the Senate. I ask the Chair for information, being better acquainted with it, I am sure, than I am.

The PRESIDENT *pro tempore*. The impression of the Chair is, as the Senator from Vermont answered, that the President *pro tempore* of the body, elected before the close of a session, although that is the close of a Congress, continues, being a member of the body, to be the President *pro tempore* of the Senate during the vacation. Of course, however, the Chair does not undertake to decide a matter of that sort, except so far as to give his own opinion.

Mr. JOHNSON. Yes, sir; I take it for granted that that is so, although I am not certain. Then the contingency of there being a vacancy in the executive department, in the office of President of the United States, will depend on the death of the present incumbent and the death of the President *pro tempore* of the Senate during the interval that may elapse between the adjournment of this Congress and the assembling of the next Congress in December, provided we do not pass this bill.

The PRESIDENT *pro tempore*. The Chair will proceed with this bill unless some one calls for the order of the day.

Mr. HENDRICKS. I propose to make an addition to the amendment which the Senate has already adopted to the second section of the bill. The amendment as adopted by the Senate is—

That no person who was a member of the previous Congress shall receive any compensation as mileage for going to or returning from the additional session provided for by the foregoing section.

I propose to add to that these words:

Unless there be a recess in such session for more than thirty days, in which case the members of the former Congress shall receive mileage.

That is to provide for the travel in case there

should be that extended recess. The amendment which the Senate has adopted is based upon the idea that the Senators of this Congress who shall be members of the next Congress will be here at the adjournment, and they will in fact do no traveling, and that any mileage paid to them would be what has been heretofore known as constructive mileage. I do not think that mileage should be paid. The provision of the section is well enough; but suppose there be a recess during the next session of Congress of more than thirty days, then in fact the members will have to travel to their homes and return again to meet the Congress, or else remain here all the time, which they probably would not do. I offer this amendment because I believe this bill is to result in a continuous session of Congress after the 4th of March, with recesses. That is my opinion of it. I look for recesses in the next session of Congress, and that members will have to travel back and forward to their homes; and if they do travel in fact, and that travel is made necessary by this law and by the action of Congress in taking recesses, it is right that they should have the mileage.

Mr. POLAND. I do not see any necessity or any propriety in having this provision in relation to the session of Congress provided for by this bill any more than in relation to any other session of Congress; nor do I see any reason why that amendment should apply to this additional session of Congress that we create by this bill any more than it should apply to the recess we have had over the Christmas holidays, the ordinary recess which is usually had at the sessions of Congress that are now provided for.

As to this fear that is intimated by the Senator from Indiana, that the ordinary vacation from the 4th of March to December is to be filled up by a continuous number of recesses, that that is the object of this bill, that it is a mere entering wedge to bring that about, I think nothing would be wanting to make that so but the adoption of the Senator's amendment. If the members of Congress are to be paid a mileage for as many recesses as they can take from the 4th of March up to December, I apprehend it may turn out, as the Senator from Indiana fears, that the time will be filled up in that way. I think that the way to prevent what he fears is to keep off his amendment; not adopt it; leave the bill to stand as it is.

Mr. HENDRICKS. If the Senator will allow me to interrupt him, I wish to say that the purpose I have in offering this amendment is to prevent such recesses. I believe it will become a vicious practice, and if the members of Congress know that it is to throw upon the Treasury additional cost they will be likely to go on and complete their business and adjourn as Congresses have heretofore done.

Mr. POLAND. Mr. President, the effect of this amendment seems to be different in the mind of the Senator to what it is in my own. I think the very danger that he apprehends of recesses will be promoted by providing that the members of both Houses of Congress shall be paid for them provided they have them. This fear that will be entertained, as the Senator says, by members of getting money out of the Treasury is one that I have usually noticed does not prevail to any great extent when the money that comes out of the Treasury is going into their own pockets.

The amendment was rejected.

The amendment made as in Committee of the Whole was ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. BUCKALEW and Mr. RIDDLE called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 26, nays 7; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Ramsey, Sherman, Stewart, Sumner, Van Winkle, Wade, Willey, and Williams—26.

NAYS—Messrs. Buckalew, Hendricks, Johnson, Norton, Patterson, Riddle, and Saulsbury—7.  
ABSENT—Messrs. Brown, Cattell, Cowan, Davis, Dixon, Doolittle, Fowler, Frelinghuysen, Guthrie, Harris, McDougall, Nesmith, Nye, Pomerooy, Ross, Sprague, Trumbull, Wilson, and Yates—19.

So the bill was passed.

#### TERRITORIAL GOVERNMENTS.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, the bill (H. R. No. 508) to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico is now before the Senate as in Committee of the Whole, the question pending being on the amendment offered yesterday by the Senator from Ohio.

Mr. WADE. If it is in order I desire to present a substitute for that amendment. I offered an amendment yesterday upon which no vote was taken, and I presume, therefore, I am at liberty now to withdraw it.

The PRESIDENT *pro tempore*. Certainly. Mr. WADE. Then, instead of that amendment, I move to amend the bill by striking out all after the enacting clause and inserting the following:

That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States to any citizen thereof on account of race, color, or previous condition of servitude; and all acts or part of acts, either of Congress or of the Legislative Assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. WILLIAMS. I should now like to hear the whole bill read.

Mr. WADE. The whole of the House bill was stricken out, and the amendment I have just offered inserted. That is all there is in the bill now.

Mr. WILLIAMS. Then I am content.

The amendment made as in Committee of the Whole was concurred in.

Mr. HOWARD. I believe that there is but one section in the bill now. I wish to hear it read.

The Secretary read the bill as amended.

Mr. HOWARD. I wish to ask the chairman of the Committee on Territories whether that will cover any case of future legislation by the Territories; whether that is his understanding. Suppose some Territory hereafter to be created should enact a law prohibiting colored persons from voting, would the prohibition of the present bill apply?

Mr. WADE. I do not know but that it would. It certainly refers to all the Territories now in existence, and it can be readily amended to cover all others that there may be hereafter.

Mr. HOWARD. I think it had better be amended so as to apply to all future Territories.

Mr. HOWE. I think there is no doubt that it covers all the Territories.

Mr. HOWARD. Perhaps it may cover every future case; but that may not be the interpretation given to it, and I wish to make it certain.

Mr. GRIMES. All the country we have got is included in some Territory or other.

Mr. WADE. I thought when I drew the provision it would cover all the Territories we have, and I think the provision is well enough as it is; but if the Senator from Michigan wants to amend it I have no objection.

Mr. HOWARD. I suggest that it be amended so as to be applicable to any future Territory that may be erected by Congress.

Mr. WADE. I have no objection to that.

Mr. HOWARD. Then I propose to amend the bill by inserting at the end of it this clause:

And the provisions of this act shall be applicable to all Territories which are now or may hereafter be organized.

Mr. WILLIAMS. I think that the end proposed by the Senator can be accomplished by inserting a word or two in the first line of the amendment instead of by the addition which he proposes.



Mr. HOWARD: If it can be accomplished in that way that will be just as well.

Mr. WILLIAMS. The bill as it now stands reads:

That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States to any citizen thereof on account of race, color, or previous servitude; and all acts or parts of acts, either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

I think that provision applies to all Territories that may be hereafter organized; but by inserting after the words "Territories of the United States" the words "now or hereafter to be organized" the point will be made a positive certainty.

Mr. HOWARD. Does not the amendment which I suggested cover every possible case? I think so.

Mr. WILLIAMS. That provision will cover all possible cases; but it would add very much to the symmetry of the bill to insert the words I have suggested at the place named, instead of attaching a provision of such length to the end of the bill, reciting, in fact, a considerable portion of the preceding provision.

Mr. WADE. I think it would read better if it said simply "Territories now or hereafter to be organized."

Mr. HOWARD. That is the idea I have, and I will modify my amendment in the way suggested by the Senator from Oregon, by inserting the words "now or hereafter to be organized" after the words "Territories of the United States."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. WADE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 7; as follows:

YEAS—Messrs. Anthony, Connors, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Fowler, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Sherman, Stewart, Sumner, Wade, Willey, and Williams—24.

NAYS—Messrs. Buckalew, Hendricks, Johnson, Patterson, Riddle, Saulsbury, and Van Winkle—7.

ABSENT—Messrs. Brown, Cattell, Chandler, Cowan, Davis, Dixon, Doolittle, Frelinghuysen, Guthrie, Harris, McDougall, Nesmith, Norton, Nye, Pomeroy, Ramsey, Ross, Sprague, Trumbull, Wilson, and Yates—21.

So the bill was passed.

Mr. WADE. I move to amend the title of the bill so as to read: "A bill to regulate the elective franchise in the Territories of the United States."

The motion was agreed to.

Mr. RAMSEY subsequently said: I happened accidentally to be out of the Chamber when the vote was taken on the bill regulating suffrage in the Territories. I should like to have my vote recorded in the affirmative on the passage of the bill if it is allowable under the rules.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It is not allowable, under the rule, under any circumstances.

Mr. RAMSEY. Then I merely wish to state that if I had been present I should have voted in the affirmative.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the joint resolution of the Senate No. 151, appropriating money to defray the expenses of the joint select committee on retrenchment.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 956) to enforce the thirteenth amendment of the Constitution of the United States;

A bill (H. R. No. 964) in regard to the compensation of route agents in the Post Office Department; and

A joint resolution (H. R. No. 229) to pro-

cure a site for a building to accommodate the post office and United States courts in New York city.

#### TENURE OF OFFICE.

Mr. EDMUNDS. I move that the Senate now proceed to the consideration of the bill (S. No. 453) to regulate the tenure of offices.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. As originally introduced by Mr. WILLIAMS, it provided that every person, excepting heads of Departments, holding any office to which he has been appointed by and with the advice and consent of the Senate, and every person hereafter appointed in the same manner to any office, who shall become duly qualified therefor, should be entitled to hold office until a successor should be in like manner appointed and duly qualified, unless otherwise provided by law; and that when any officer thus appointed, excepting judges of the United States courts, should during the recess of the Senate be guilty of misconduct in office, or for any reason become unable to perform its duties, in that case, and in no other, the President might appoint a person to fill the office by granting to him a commission, to expire at the end of the next session of the Senate, the evidence and reasons for the action of the President in such case to be in writing, and filed in the proper Department for inspection. It was also provided that the President should also have power in like manner to fill all offices not before filled, and all vacancies that may happen during the recess of the Senate by death, resignation, or expiration of term, and not otherwise; but no appointment shall be made without the advice and consent of the Senate to any office filled after the session of the Senate at which the temporary commission shall expire. But these provisions were not to apply to or interfere with any rules made by Congress for the government and regulation of the land and naval forces.

The bill, having been referred to the joint select committee on retrenchment, was reported back with an amendment proposing to strike all out after the enacting clause and in lieu of the words struck out to insert:

That every person (excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General) holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

SEC. 2. And be it further enacted, That when any officer appointed as aforesaid, excepting judges of the United States courts, and excepting those specially excepted in section one of this act, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office or crime, or for any reason shall become legally disqualified or incapable to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease; and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however,* That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

SEC. 3. And be it further enacted, That the President shall have power to fill all vacancies which may happen during the recess of the Senate by reason of death, resignation, expiration of term of office, or other lawful cause, by granting commissions which shall expire at the end of their next session there-

after. And if no appointment by and with the advice and consent of the Senate shall be made to such office so vacant or temporarily filled as aforesaid, during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto until the same shall be filled by appointment thereto by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 4. And be it further enacted, That nothing in this act contained shall be construed to extend the term of any office the duration of which is limited by law.

Mr. EDMUNDS. I move to amend the second section of the amendment of the committee by inserting after the word "become," in the sixth line of the section, the words "incapable or," and by striking out in the seventh line the words "or incapable." This is a mere verbal transposition to make the sections more precisely clear.

The PRESIDENT *pro tempore*. That correction will be made as a clerical correction, no objection being interposed.

Mr. HOWE. Is the question now on adopting the amendment reported by the committee?

The PRESIDENT *pro tempore*. It is.

Mr. HOWE. I have a single suggestion to make to the Senate, and that is as to the propriety of excepting from the operations of this law, or proposed law, the heads of Departments. I know of no reason in the world why they should be made an exception. If I am not mistaken, each one of those offices is created by statute, and created not for the personal benefit of the Executive or the head of the executive government, but created for the benefit of the public service just as much as a deputy postmaster, just as much as an Indian agent, just as much as any other officer. The tenure of their several offices should be under the control of law, and they should be independent of any undue exercise of executive influence or other influence just as much as any other officer, it seems to me. I suppose the committee had some reason for making that exception, and I should really like to hear what it is.

Mr. EDMUNDS. I will state with pleasure, so far as I understand it, the reason; and I believe I comprehend the views of the committee on that point. We do not doubt what my friend from Wisconsin has said, that these heads of Departments are public officers, who are responsible to the public, and in whose faithful administration the public have just as much interest as they have in that of any other officer. That is all true; but it did seem to the committee, after a great deal of consultation and reflection, that it was right and just that the Chief Executive of the nation in selecting these named Secretaries, who, by law and by the practice of the country, and officers analogous to whom by the practice of all other countries, are the confidential advisers of the Executive respecting the administration of all his Departments, should be persons who were personally agreeable to him, in whom he could place entire confidence and reliance, and that whenever it should seem to him that the state of relations between him and any of them had become so as to render this relation of confidence and trust and personal esteem inharmful, he should in such case be allowed to dispense with the services of that officer in vacation and have some other person act in his stead. We thought that so much discretion, so much confidence, so much respect ought to be properly attributed to the Chief Magistrate of the nation. It may happen that at some particular time—some people may suppose that it has happened now—the Chief Magistrate for the time being ought not to be invested with such powers; but the committee have recommended the adoption of this rule respecting the tenure of officers as a permanent and systematic and as they believe an appropriate regulation of the Government for all Administrations and for all time; and it did appear to them (whether the reason may commend itself

to the Senate or not) that it was just to the Executive, and on the whole best for the interest of the nation, that he should be allowed during a recess of the Senate to change his confidential advisers if it should appear to him to be fit, subject to that general responsibility which every officer must be held to to the public and to the Senate when they meet again. That was the reason of the committee.

Mr. HOWE. Well, Mr. President, I am bound to say that the reason is not satisfactory to me. I supposed, as the Senator from Vermont has remarked, that this was not a temporary expedient, but a measure proposed for the government of the country hereafter; and in that view of the bill I do insist for one that these officers should be placed upon the footing of all other employes of the Government. They differ only in grade from other officers who are not included in the exception. They are of more importance to the public service than any other of those officers to whom the bill has reference, and because they are of so much more importance I think the reason is just so much stronger why the tenure of their offices should be regulated by law.

The Senator calls them the confidential advisers of the President. Now, I deny to them all right to that designation. I do not concede that they are the confidential advisers of the President, or at least that the law contemplates that they should be; that such is the purpose of their creation. They are the servants of the country; they are placed there for the benefit of the people; and it is no more necessary that they should be on confidential terms with the President than that they should be on confidential terms with the representatives of the people. It is very true it may happen at some juncture that the head of a Department may be on unfriendly terms with the head of the executive department; it may make their personal intercourse disagreeable to one or the other; but such contingencies happen in the administration of public affairs in other countries. I believe no attention is paid to the question whether a minister of Great Britain is personally agreeable or disagreeable to the sovereign. He is put in office because he is agreeable to the people, and he holds office no longer than he is agreeable to the representatives of the people; and whatever may be the personal inclinations of the sovereign he leaves office whenever he proves dissatisfactory to the people. I know of no reason why American law should be more careful of the personal feelings of the President of the United States or less careful of the wishes of the people of the United States than British law should be of the personal feelings of their sovereign or of the wishes of the people of Great Britain. We supposed our institutions were as dependent upon the pleasure of the people as those of Great Britain. I hope they are to continue even more so; but it does look to me as if the exception which it is proposed to insert in this bill is to make the executive officers less responsible to the people and the administration of the Government than is the administration of the British Government.

For these reasons I move to strike out the words included within parentheses in the first section of the amendment of the committee. The words which I propose to strike out are "excepting the Secretaries of State, of the Treasury, of War, of the Navy, of the Interior, the Postmaster General, and the Attorney General."

Mr. BUCKALEW. The committee did not change this feature of the bill. The particular provision in the amendment now moved to be stricken out is similar to that contained in the bill which was referred to them. Now, sir, I should like to ask the Senator who last spoke whether in a case which I will mention to him he would be content that the President should not possess the power of changing his Cabinet. At one time during the presidency of General Jackson it is known that difficulties arose between him and the Vice President, a political

quarrel which went into the politics of the country. There were certain members of the President's Cabinet who adhered politically in that dispute to the Vice President, who presided in this Chamber, and who for a time was in accord with the political majority here. Under such a provision of law as the Senator proposes, it would have been possible for the Vice President of the United States, acting in concert with a majority of the Senate, to rule the President, and to contend with the President in his own Cabinet to have men there to distract his councils, and, so far as their voices could go, to dictate his policy. I refer back to a well-known historical case by which to test the Senator's views of this particular provision in the amendment. And now, sir, seriously I ask him whether in that emergency in our public history, when the case which I have described was one of actual fact in this Government, he would have had the head of the executive department hampered and annoyed and worried and opposed by political enemies in his Cabinet, held there by a political opposition in the Senate of the United States.

Mr. HOWE. In precisely the case which the Senator from Pennsylvania has referred us to I do not hesitate to say that I would not allow the President of the United States to remove the members of the Cabinet, the heads of Departments. If they were not in accord with the President, it does not follow that they were not in accord with some other department of the Government; it does not follow that they were not in accord with the people. The Senator calls the Cabinet the President's "own Cabinet." We are at issue upon the propriety of that exact term. I deny that the Cabinet is the President's Cabinet, that it was intended so to be by law, that it ought so to be in fact. It is the Cabinet of the people. Its members are to serve the people, and every duty prescribed to each one of those officers is prescribed by law; and there is no duty prescribed by law to any one of them that they may not execute just as faithfully and just as ably when not in accord with the President as when in accord with the President; and, unless I am greatly mistaken, there is no duty devolved by the Constitution or by law upon the President that he may not discharge just as well, whether his Secretary of State or his Secretary of the Treasury or any other member of the ministry or all other members of the ministry disagree with him or not. The duties which are confided to him by the Constitution are few, and in the discharge of those duties he can neither be controlled nor obstructed by any minister. It is to enable him to exert powers and influences not given to him by the Constitution or by law that it is thought to be essential that he should have control of the tenure of these heads of Departments; and it is precisely because you cannot give him control of the terms of these officers, without giving him powers and influences which the Constitution never designed that he should have, that I object to leaving that control in his hands.

Mr. President, I do not say this at all with reference to the present condition of affairs. Let who may be President at any time hereafter, I still insist that this is the sound rule of interpretation, and ought to be enforced.

Mr. EDMUNDS. Mr. President, when I spoke of a feeling of accord between the President and any of his Secretaries, I was not speaking of political agreement. I can readily conceive, as is suggested by my friend from Wisconsin, that if the President of the United States happened to be a Republican and my friend from Wisconsin was his principal Secretary of the Treasury, happening to be a Democrat—and I do not mean to make any offensive illustration—

Mr. HOWE. Well, change it.

Mr. EDMUNDS. I can readily enough conceive that in such a case that would be no reason why the affairs of the Treasury should not go on with regularity, symmetry, and propriety, without any difficulty between those gentlemen. But I was speaking not of political

sympathy, but of matters of harmony and similarity of views respecting the administration of the Department itself; because we all know that although all these Departments are executive, and although the Chief Magistrate is himself nothing but the executor of the laws which we make, yet in the course of the administration of affairs questions arise continually which require judgment, which require tact, which require cooperation between the different Departments of the Government.

Now, then, in order to reach that harmony and that cooperation, I think it is fit that the Chief Executive Magistrate, who is responsible to us in a greater degree than any of his subordinates, should be allowed, if a difference of opinion respecting the administration of a particular Department for which he is responsible as the Chief Executive should arise between himself and his Secretary, during a recess of the Senate, to dispense with the services of that man and select some other; because if he be not thus allowed, when Congress comes to meet again and we find that the law has failed of execution, and that derangement and trouble has come upon the administration of public affairs, whom are we to reproach? If we say to the President, "You by the Constitution are the head, and you are responsible that this law should have been executed according to our will," his reply will be, "Very well; but this Secretary whom I selected and whom you agreed to turned out to be entirely incapable to perform these duties; and while I could not charge him with any specific crime or specific legal incapacity to perform the duties provided for by law, yet he was so generally incompetent that the affairs of that Department could not be administered; now blame yourselves, not me." I think we ought to hold the executive department of the Government to a full and rigorous and vigorous performance and execution of every law that we pass; and to do that freely and fully and fairly I think we ought to give him the little discretion which we do give him by merely allowing him in our absence to change, if he pleases, four or five officers who by all prescription and all custom and all practice are regarded, and are, in fact, his confidential, and necessarily confidential, advisers.

Mr. HOWE. Mr. President, let me add one word. The very case which the Senator from Vermont supposes is provided for in this second section. He supposes the case of the head of a Department who becomes not criminal, but simply incapable to discharge the duties of his office. The second section of this very amendment provides that in that case the President may suspend his functions and lay the fact of incapability before the Senate.

Mr. WILLIAMS. I prepared the original bill in this case, which contains in different words the exception contained in the amendment reported by the committee. I do not regard the exception as of any great practical consequence, because I suppose if the President and any head of a Department should disagree so as to make their relations unpleasant, and the President should signify a desire that that head of Department should retire from the Cabinet, that would follow without any positive act of removal on the part of the President. I do not think that in many cases which have occurred the President has peremptorily removed any member of the Cabinet; but I understand the usual practice is, if the President desires to dispense with any head of a Department and to substitute another for him, to signify in some way his desire that there should be a vacancy in the office, and the office, when it becomes vacant by resignation, is filled by the President according to his own wishes and views.

The power under this amendment of the committee is preserved in the Senate, as it exists at this time. During the recess of the Senate under this amendment the President may remove one of the heads of the Departments and he may temporarily appoint some person to fill the vacancy; but I understand that at the next

session of the Senate he is bound to make an appointment, as he now is, and that such appointment must be made by and with the advice and consent of the Senate, so that this simply empowers the President, in case he should deem it necessary to remove a Cabinet officer, to fill the vacancy which is in that way effected during the recess of the Senate. The heads of the Departments are a part of the executive power of the country. According to the theory of the Constitution the executive power is vested in the President of the United States, and these heads of Departments are subordinate officers of the President, immediately under his supervision. They are persons under his immediate direction, except so far as their specific duties may be prescribed by law. But the President consults with these heads of Departments as to all measures of his administration. They are regarded as his confidential advisers; and certainly the law which creates that relation between the President and the heads of those Departments contemplates that there shall be a state of harmony between all of them; that there shall not be a state of war in the executive department of the Government; that it shall not be divided against itself; but that the subordinates or the heads of the different Departments shall be in harmony or practical agreement with the President by whom they are appointed.

The chief reason that influenced me to make the exception was, that I thought something was due to the President of the United States—to that office. This bill undertakes to reverse what has heretofore been the admitted practice of the Government; and it seemed to me that it was due to the exalted office of the President of the United States, the Chief Magistrate of the nation, that he should exercise this power; that he should be left to choose his own Cabinet, and that he should be held responsible, as he will be, to the country for whatever acts that Cabinet may perform.

It is well understood that these heads of Departments are not held directly responsible for the acts of the Administration; but the President is made responsible, because in regard to any and every act which they do that is not prescribed by law he is considered as the person who controls the act. It is under his direction; he is the man who exercises the will. They cannot act, as I understand, contrary to his will without empowering him at this time to remove them from office and place some other person in their office who will act in accordance with his views of public policy. I know that there is room for disagreement of opinion; but it seemed to me that if we revolutionize the practice of the Government in all other respects, we might let this power remain in the hands of the President of the United States; that we ought not to strip him of this power, which is one that it seems to me it is necessary and reasonable that he should exercise.

Mr. FOGG. If the Senator from Oregon will permit me, I would ask him if he believes that the President of the United States can be impeached for any act of any member of his Cabinet unless that act is directed personally by himself. For instance, supposing the Secretary of War shall have given an order which shall be held to be unconstitutional and violative of the rights of the State authorities or of the people of a State, and he shall have given that order without consulting the President, cannot that Secretary, and would not that Secretary be impeached, and would it be possible to impeach the President for such an act?

Mr. WILLIAMS. I do not suppose that the President of the United States could be impeached for an act performed by any officer when he was personally ignorant of the performance of that act. Of course it would be necessary to produce some evidence of his complicity in the commission of the crime. But let me put a case to the Senator: take the condition of the country during the late war; suppose the orders of the President of the United States, upon whom devolved

the responsibility of the prosecution of that war, who is made by the Constitution Commander-in-Chief of the armies, and is therefore responsible to the country, had been disobeyed by the Secretary of War; and suppose the Secretary of War had set up an independent government, if I may so express myself, and undertaken to manage the armies of the United States without any respect to the wishes of the President; then there would have been a difficulty at once; the efficiency of the Administration would have been practically destroyed.

Mr. HOWE. The President could suspend him under the second section.

Mr. WILLIAMS. That suggestion is sufficient, it seems to me, to answer the argument made by the Senator from Wisconsin, for under this amendment if any member of the Cabinet becomes incapable or incompetent or corrupt he may be suspended by the President of the United States. Now, if he may be suspended, if he may be temporarily removed and another man put in his place to discharge the duties of the position until the next session of the Senate, why not let the President remove him?

Mr. HOWE. Why not in all cases?

Mr. WILLIAMS. I claim that this power on the part of the President is one that he ought to be allowed to exercise out of some respect to his office—to the office which he occupies—because these men occupy positions in reference to the President which no other officers of the Government do occupy. Their relations with the President are more intimate and confidential than the relations of any other officers in the Government. This may be an argument entitled to no consideration in the judgment, perhaps, of the Senate; but I think, notwithstanding the office may not be administered as it ought to be; it is well enough for the American people to maintain some little respect for the office of President of the United States, to attach to it some little consequence, to suppose that it is possessed of some little dignity, and that the man who is made Chief Magistrate of the United States by the people can be intrusted with some little share of power, enough, at any rate, to make the office respectable. It was upon that ground chiefly that this exception was made. I am not very particular about it, but it appears that it should be made in view of the practice of the Government and the practice of the Senate. I am not as well advised in regard to the practice of the Senate as others here, but I understand that as a matter of courtesy the Senate generally confirms any man whom the President may designate as the head of a Department. There may have been exceptions, but the Senate has generally acquiesced in the right of the President of the United States to choose the members of his own Cabinet; and as that has been the practice, and as it has been acquiesced in by the Senate, it did not occur to me that there were any very good or substantial reasons for changing it as we have provided in the other portions of the amendment of the committee for the other officers under the Government.

Mr. FESSENDEN. The Constitution imposes upon the President of the United States the duty of executing the laws; it does not impose that duty upon the Secretaries. They are creatures of the law and not of the Constitution directly. Some, and perhaps the greater part, of their functions are as advisers of the President and to aid him in executing the laws in their several Departments. There are some duties that are specifically conferred upon them by Congress. Their relation to the President, as has been well said by gentlemen, is that mostly of confidential advisers. With the exception of the particular duties imposed upon them by law, and on the Secretary of the Treasury more than on the others, they do nothing of their own notion, but act by order of the President in discharging the particular duties of their office.

Standing in that relation to him, as his aids, his confidential advisers, the men upon whom he relies for advice in the first place and for aid

in carrying out what is determined to be best in the second, their connection with him is a very peculiar one. It is very important as a general principle unquestionably, as all gentlemen here will admit, that that relation should be a harmonious relation throughout; and, if we may trust to what we have heard, it is not many years since it was considered by the great majority of the Senate a sufficient reason for wishing that the Cabinet should be changed in some degree, because there was the want of that harmony among themselves, and consequently, perhaps, with the President, that was desirable.

That being the peculiar condition of affairs, it has always been considered since the foundation of the Government, as a matter of course, as a general rule—there may have been one or two exceptions, and I think there have been, but I am not very positive on that point—that the President might select such persons as he pleased to be members of his Cabinet. Of course the confirmation of the Senate is necessary; but the general idea of the Senate has been, whether they liked the men or not, to confirm them without any difficulty, because in executing the great and varied interests of this great country it is exceedingly important that there should be the utmost harmony between those who are charged with that execution.

Now, if we reflect a moment we shall see that the matters upon which Congress and the President differ are not apt to be, even in a case of difference of political views, very extensive. There are some matters that are important, some that are peculiar, those relating to the views of a particular party organization and the principles upon which that party wish to conduct the affairs of Government; but after all, the great business of Government in its innumerable details goes far beyond any question of that kind, and is not such as parties would differ upon. They would differ as to the men to hold office, perhaps, and the particular principles upon which particular things should be done; but the ordinary execution of the laws involving the transaction of the great business of the country is a matter upon which all parties agree, wishing only that the laws should be honestly executed and that there should be no corruption.

It seems to me very obvious that with reference to the transaction of business which is peculiarly executive, the confidential advisers that we put about the President should always be men who for the greater part are satisfactory to him. You cannot find a President and a Cabinet who would agree upon all matters of opinion even in important questions. You cannot find eight men probably who agree on everything, even on important matters involving the performance of the duties of the Government; and if you find a man in the Cabinet of the President of the United States, if it be possible that there is one there, who agrees with the President always and thinks just as he does and makes it a point to echo his sentiments, he is probably a man who is not fit to be there and who got there by a mere misapprehension, and stays because he is precisely of that character.

Mr. JOHNSON. He ought not to be there.

Mr. FESSENDEN. And he ought not to be there at all.

Mr. CONNESS. There have not been any such for some time.

Mr. FESSENDEN. I do not mean to say whether there are such men or not; but I say it is exceedingly important that there should be a cordiality of feeling and an agreement upon important matters of State policy and State conduct between the President and those who are his confidential advisers. The President naturally would not want a man in his councils who was unfriendly to him, upon whose discretion he could not rely in the first place, and upon whose good faith in keeping the secrets of the executive government he could not rely in the second place; and if he was unfriendly the President might naturally be in fear of consulting him and taking his advice.

A man who is the head of a Department nat-



urally wants the control of that Department. He wants the control of his subordinates, that they should be subject to him and that he should have the power to remove them from office in case they are insubordinate and are such as he cannot comfortably get along with, and to remove them upon the instant, at the moment if it be necessary. In my judgment, in order to the good and proper administration of a Department it is necessary that that power should exist in the head of it, and quite as necessary that the power should exist in the President with reference to the few men who are placed about him to share his councils, be his friends and his agents.

As my friend from Oregon has said, I do not think we are treating the office of President with very great respect when we say that he shall not, in the recess of Congress, remove a Cabinet officer if he deems it necessary. I cannot suppose a case where any man who is on bad terms with the President, who knows that he is, and who knows that the President desires to get rid of him and has no confidence in him, would stay there unless he was controlled by a sense of overruling public duty in a very dangerous and peculiar time. Naturally every man fit to be a member of the Cabinet would feel precisely in that way.

Then, sir, under these circumstances, my opinion agrees entirely with that of the honorable Senator from Vermont and the honorable Senator from Oregon and the honorable Senator from Pennsylvania, that it is carrying the matter too far to say that in the long recess of Congress, which usually takes place between the 4th of March and the first Monday of December every second year, the President shall have no power, if he deems it necessary, to change his advisers. Of course under the Constitution he must send the name of whoever he appoints to the Senate afterward for the Senate to act upon, because the Constitution has very wisely provided that we shall have a voice in the appointment of all officers except those who may be designated by law as inferior officers. I hope, therefore, that this exception may be made, as well with reference to what I think is due to the office itself and the peculiar relations the heads of the Departments hold to the President as to what has been the uniform and universal custom in consideration of the ordinary courtesy due to the President of the United States on such matters.

It is a subject of regret to me that it becomes necessary to legislate at all upon this subject of the removal of officers. Under ordinary circumstances I would be opposed to such legislation. I believe my friends thought I was rather slow when I opposed some time ago the putting of an amendment of this nature upon one of the appropriation bills. I stated at that time, and if my recollection does not fail me the honorable Senator from Maryland [Mr. JOHNSON] expressed his entire assent, that I thought action would be required on our part if the President should go so far as to disregard the power of the Senate; that is to say, if he sent a nomination to the Senate and that nomination should be rejected or not confirmed, and then after the Senate adjourned he should appoint the same man again, and that should be recognized as the practice, the result would be that the Senate would lose entirely the power conferred upon it by the Constitution to have a voice in the appointment of officers, because it is very easy to omit sending a man's name to the Senate until the close of the session, and then when he is rejected to appoint him the next day after the adjournment of Congress, and so on from time to time, and in that way the Senate becomes nothing, is merely nullified. I stated at that time that if there should be an attempt to do anything of that sort I would be in favor of limiting the power of the President so far as we could limit it by law in reference to that matter, because in my judgment such a course, if not a direct violation of the Constitution, was a disregard of that respect which was due to the Senate and the constitutional power of

the Senate to act upon the appointments of officers; and if I am not very much mistaken the honorable Senator from Maryland said that that would be a decided outrage upon the Constitution.

Mr. JOHNSON. I say so still.

Mr. FESSENDEN. And he says so now. Well, sir, I think it cannot be denied that there is occasion to exercise our own discretion in this regard. I believe there have been several instances, I know there have been some in my own State, in which men sent to this body for confirmation for particular offices and rejected by the body were reappointed immediately after the adjournment of Congress to the offices to which they had been before appointed and rejected.

Mr. HOWARD. There are a great number of cases of that kind.

Mr. FESSENDEN. I presume there are a great number of such cases. The contingency, therefore, has arisen in which I said I should be in favor of legislating on that matter. I would not have been under other circumstances; that is to say, I think I should not have been, because all these things or many of them are the fortunes of war; and if we happen to differ from the President we must remember that he has the appointing power; he is the man to appoint officers, and I do not wish to limit in any way the exercise of that constitutional power. I do not wish to do anything to prohibit his performing all the functions which the Constitution says he shall have a right to perform. Because of one unfortunate condition of affairs I would not disturb the constitutional relations of the different parts of this Government to each other. I think it unwise, simply on a contingency which has arisen that is unpleasant to us, to set a precedent that may be bad and perhaps fatal in the ordinary conduct of affairs hereafter. But in this particular case it seems now to be admitted that the contingency has arisen and that Congress is bound in some way to provide that the constitutional power of the Senate to advise and consent in the nomination of officers nominated by the President shall be respected. That being the case, this bill or something like it is unquestionably properly before the Senate.

I have said thus much to explain the position which I occupy, and intend to occupy, with reference to this question. I mean in some mode to favor such legislation as will protect the body of which I am a member in the enjoyment of every constitutional privilege which belongs to us. I am not for trenching upon the rights of others, but I am for protecting our own; and I am very glad to find that the honorable Senator from Maryland agrees with me in the view that I have stated.

But, sir, perhaps this is traveling a little out of the particular question raised by the amendment of my friend from Wisconsin, who moves to strike out this exception. Repeating, therefore, simply that I consider that the exception ought to stand, for the reasons given by my friend from Oregon particularly, as well as those given by others, I shall make no further remarks on the subject.

Mr. HOWE. Mr. President, if it were the fact that leaving this much of patronage in the hands of the President would have the effect to increase the respect of the American people for the office, I do not know but that I should be induced to assent to the exception here proposed; but I have not found that the respect of the American people for that high office was very much affected by the way he handled the patronage in his hands.

My observation has been that just as soon as the President turned aside from the discharge of the great public duties devolved upon him by the Constitution and laws, and devoted himself to the work of peddling offices, just that moment the respect of the American people for the office began to abate, and it continued to abate as long as he continued in those employments.

Mr. EDMUNDS. Not for the office, but for the officer.

Mr. HOWE. "For the officer," says my friend from Vermont, and for the office, which is inevitably affected by the character of the incumbent; and no high office, I do not care how exalted it may be, can be filled by an unworthy incumbent without suffering somewhat in public estimation.

Mr. FESSENDEN. I ask the Senator if he supposes the present incumbent is to remain there always?

Mr. HOWE. I am not debating this bill, Mr. President, with the slightest reference to the person of the present incumbent.

Mr. FESSENDEN. The Senator will excuse me; he is just putting it precisely upon that ground, speaking of this President, as an argument, peddling offices.

Mr. HOWE. I beg the Senator's pardon. I made no allusion to the present President of the United States in the world. I do not undertake to say that the present President of the United States has not indulged somewhat in that habit which I call peddling offices; but I am very far from saying that he is the first one or the worst one who has done it. It is long since that became rather too much the habit of American Executives.

Mr. President, if I am not mistaken, the historical fact is that this question of the power of the President over appointments to and removals from office arose in the course of a debate in one of the earliest Congresses—during the first or second, I do not remember which.

Mr. BUCKALEW. The first.

Mr. HOWE. I think very likely the Senator from Pennsylvania is correct; and it arose upon the propriety of giving the President the power to remove the Secretary of State, a Cabinet officer. General Washington was then President. Mr. Madison, for whom I have that respect, in whose opinions I have that confidence, that I cherish for but very few of the public men this country has produced, then, as I think, animated to a great extent by the confidence he had in the then incumbent of the office, by the anticipation with which he flattered himself that men of less of character or less of probity never would be entrusted with influence, then insisted that it was more convenient that this power of removal should be left in the hands of the President.

It was, if I remember the course of that debate, not then suggested by any one that there were reasons for giving him control over the person or over the term of the Secretary of State that he should not have over a postmaster or over any other officer; but it was contemplated by those who advocated that power then that the President should have the right to remove at any time all officers appointed by himself and confirmed by the Senate. Mr. Madison said, however, in the course of that debate and repeated it, that if the presidential office did fall into the hands of a man who would remove an officer faithfully devoted to the discharge of his duties because he did not like his political opinions, that would be just ground of impeachment; and he undoubtedly believed that the representatives of the American people would always be prepared to resent such an act of power by enforcing the remedy which he thought plain. I think we have already learned that impeachment cannot be relied upon to redress such a wrong as that.

Mr. EDMUNDS. My friend from Wisconsin is a little mistaken in defining the position of Mr. Madison in the debate to which he has alluded; and it is due to justice and to the respect we owe to history that he should be corrected I think on that point. Mr. Madison at the end of the debate had reasoned himself or excited himself to the conclusion that Congress had no power over the subject of removals; that the Constitution invested in the President of the United States the power to remove, independent of the will of the Senate. At the opening of the debate Mr. Madison seemed to treat it as a question of expediency whether the law should repose that trust in the President or not; but truth compels us to admit

that at the close of the debate Mr. Madison had reached a point where he contended that the subject of removing the Secretary of State for Foreign Affairs, as he was then called, was one over which the Constitution had given the Executive entire control, and therefore that the clause introduced into the law was merely declaratory of what the Constitution was before. It is right also to say in this connection that Mr. Madison in the closet, Mr. Madison the philosopher and the student and the statesman, out of debate, seems by his writings contemporaneous with the formation of the Constitution, and in view of its adoption, to have considered the opposite to be the correct construction of the Constitution.

Mr. HOWE. Mr. President, the Senator from Vermont is entirely correct in what he has said of the attitude of Mr. Madison in the course of that debate and the course of Mr. Madison in his correspondence. I said nothing to the contrary. I simply said that this question came under discussion upon the propriety of putting that authority by statute in the hands of the President, and that Mr. Madison advocated it, and I thought was animated by the confidence that he had in General Washington. I know that in the course of that debate he did declare that he believed such was the intention of the Constitution; but he did also declare in the course of that debate what I have already said, that the President who should exert this power for the purpose of proscribing political enemies or proscribing political opinions would be liable to impeachment.

The Senator from Maine repeats what the Senator from Vermont has urged, that these ministers are the confidential advisers of the President. That in practice they may not be so, of course I cannot say, for I have never been a President or a Cabinet officer; but that the Constitution ever intended they should be his confidential advisers I am prepared to deny. I think the whole practice of the President's consulting his ministers has grown out of this clause in the Constitution. Referring to the President, it says:

"He may require the opinion in writing of the principal officers in each of the Executive Departments upon any subject relating to the duties of their respective offices."

From which I understand, not that the President may convene all his Cabinet officers in secret conclave and hold a whispered consultation upon any measure of the Administration or of the Government, from which the world is excluded; but that on any measure touching the financial interests of the country he may ask, not the private, but the written opinion of the Secretary of the Treasury; and on any measure touching the military administration of the country he may require the written opinion of the Secretary of War, and so of the head of each of the other Departments.

Mr. WILLIAMS. I should like to ask the Senator if that clause of the Constitution does not assume that the President is responsible for the act; but he may ask the written advice of these heads of Departments as to how he shall perform the act; so that the Constitution does make the heads of these Departments his constitutional advisers, and contemplates that he shall be responsible for the act.

Mr. HOWE. Undoubtedly those who framed that clause expected the President to ask advice in reference to what he was to do or was not to do, and undoubtedly in reference to those acts he is responsible and must be, let any Secretary advise as he may. It does not follow that because he asks the opinion of the Secretary he is bound to follow it. If his Secretary is unfriendly to him, there is no reason in the world why he cannot criticise the advice the Secretary gives. He naturally would criticise it all the more for the fact that the Secretary was personally unfriendly; but it does not follow because the Secretary is personally unfriendly that he will advise in reference to a public measure dishonestly, for then he damns himself just as surely as he prejudices

the President. It is to be remembered—and it is that which I want the Senate to remember—that each one of these officers is acting in reference to matters about which the law is explicit; they are discharging duties; and the question is what is or is not a duty. Not one of them, not all of them together, can legislate at all. The law imposes certain duties upon them and the question is what is the specific duty: and the President asks the opinion of a Cabinet officer just as my friend's clients take his opinion. "What are my interests?" or "what are my duties?" or "what are my responsibilities?" I take it they are governed by their estimate of his ability, not at all by the question whether they agree with him in political opinion, in determining whether they shall go to him or to some other attorney for advice.

It is said that it is essential that there should be harmony, not merely between the President and his ministers, but between the different ministers. Essential to whom? Doubtless essential to the President that he should have the personal support of all his ministers; but is it more essential to the nation, I ask you, that there should be harmony between the ministers and the President than that there should be harmony between the ministers and the people? The Constitution did not provide any such thing. If it had attempted any such thing, if it had wished any such thing, it would have said the President may select for his confidential advisers such men as he pleases. The Senate has no business to have any voice in the confirmation of Cabinet officers if it is the purpose of the law to make them the echo of the President.

But if the view of the Senator from Maine is correct, it is not only fatal to my amendment, but it is fatal to the whole bill; it is fatal to the bill as originally introduced, and it is fatal to the whole amendment reported by the committee; for he insists not merely upon the right of the President to remove a Cabinet minister who is obnoxious to him, but insists upon the right of a Cabinet officer to remove every one of his subordinates for the same reason. It happens, Mr. President, that you have no officer in the public employment who is not either directly the subordinate of the President or directly the subordinate of one or the other of his ministers; and if the Senator from Maine is correct in his theory, you ought to abandon this bill altogether and say, as the practice is, but as the law never was and never ought to be, that the President may remove his Cabinet ministers for such reason as is satisfactory to him, and that they may remove in turn every one of their subordinates; for this is a bill, not as the Senator from Maine seems to suppose, to vindicate the right of the Senate to confirm the nominations—the main purpose of this bill is to regulate the tenure and to restrict the right of the President to remove from office men who have been confirmed.

It was said by the Senator from Oregon, it was repeated by the Senator from Maine, that in practice this will have very little effect, because in practice it is said if a Cabinet minister comes to know that he is distasteful to the President he will not wait for an act of removal, but will retire voluntarily. That such cases have happened in the history of the country I suppose is true; but I suppose it is true because you have abandoned the protection of these offices and the protection of these officers, because you have surrendered to the President of the United States this control over them. I hold, on the contrary, that the Secretary who leaves an office created by law for the public good, not for the President's good, to which he has been appointed by the President and the Senate, and leaves that post of duty merely because the President, one individual of the great number that have to combine in making the appointment, intimates a wish that he should leave, is derelict to his duty and cannot be commended as a faithful public servant. He has no more right to do it because the

President may intimate such a wish than he has to do it because any one Senator who voted upon his confirmation asks him to do it.

Mr. JOHNSON. Mr. President, my friend from Maine referred to an opinion which I expressed at the last session, and which I repeat now, that the practice, if any President should pursue it, of reappointing to office during a recess a person who has been antecedently nominated and rejected by the Senate, is in conflict with the spirit of the Constitution. I have had occasion to say that to the present Attorney General and to the former Attorney General. The provisions of the Constitution, the Senate will remember, give to the President the authority to appoint certain officers by and with the advice and consent of the Senate, and it is provided that other officers may be appointed in such mode as Congress may provide. In order to guard against the contingency of a vacancy in any of the offices, and as necessary to carry on the public business of the country, the President is vested with the power to appoint to office during the recess of the Senate; and by the very terms of the Constitution, the commission which he is to issue in cases of that description continues until the last day of the succeeding session of the Senate. As I have said to the officer to whom I refer, and as I say now to the Senate, what I think they will concur with me in believing to be very evident, the President, under the authority which he certainly has of appointing during the recess, may dispense with the action of the Senate altogether; for if the commission which he gives to the officer he so appoints continues until the termination of the next session, the last day of the session, there is then when Congress adjourns of course a vacancy in that office happening in the recess which he is to fill; and he may go on from time to time appointing during a recess so as to avoid entirely the authority and the controlling authority which the Constitution intended to give to the Senate of the United States over such appointments as the President is directed to send in to the Senate for confirmation.

But it is only for the President to say—perhaps all the Senate are not aware of it—that, in what he has done in cases of this description he has but followed the example of his predecessors; and that example was in its origin supported, and in the cases where it has been followed since, it has been supported, by the opinions of the several Attorneys General who happened to be in office at the time the instances occurred. Those Attorneys General were, I think—at least I only recollect those—Mr. Wirt, Mr. Taney, Mr. Cushing, Mr. Crittenden, Mr. Mason, and I believe three or four others. The question was not submitted to me when I was an incumbent of that office; but I had occasion to say to the President, whose officer I was at that time, that I certainly should not give that opinion, except upon the authority of the precedent, and if I yielded to that authority I should say that as an original question the law was really different.

The President has in some cases, I know—there are several nominations here that fall within that class—appointed during the recess persons whom he had before appointed during an antecedent recess, and who upon being nominated to the Senate at the last session were rejected. There may be cases in which the President would be justified in doing that, because of the particular circumstances of the case. He may be satisfied that the propriety of confirming the nomination was not brought entirely before the Senate, because all the facts which might exist in relation to the appointee were not before them. What I mean to say is, that in my judgment (and it is not a judgment recently formed, and it is one having no reference to the conduct of the present President for the time being, but it is an opinion long since formed) that a practice of that kind is altogether at war with the spirit of the Constitution, because it enables a President to avoid entirely the authority which the Constitution intended to give the Senate of the United States over

such appointments as are to be made only by their consent.

But upon the question of the power of removing officers different considerations govern me. I believe it was at the first session of the First Congress—certainly at the time when the Treasury Department and the State Department were organized—that it became a subject of controversy in both branches of Congress whether the President had a right to remove without first consulting the Senate. A great many of the best men of that day thought that he had not; a great many of the lights that have adorned this Chamber since then thought that he had not the power; but from the time it was settled by a majority of one, I believe, that majority being the casting vote of the Vice President, up to the present time, it has not been seriously questioned that the President has the right to remove under the Constitution. Mr. Webster discussed the question during the presidency of General Jackson with the ability which marked all his efforts on this floor or anywhere else; but he offered no remedy; and every President from the time of General Washington up to the present time has exercised the power as one in his judgment clearly vested in him. I think he has the power.

But Mr. Madison, in the debate when the question was originally settled to which I have referred, stated, and I think stated very properly, that that power to remove, which he held to be a clear power, might be so abused as to furnish a just cause for impeaching the President; but in after times a removal for such a purpose as Mr. Madison intimated would be a just ground for an impeachment was held to be no ground for impeachment at all, or not ground of censure. The most striking cases that have occurred during our existence as a nation were those that occurred, or one particularly which occurred during the presidency of General Jackson. The Senator will remember that under the charter of the Bank of the United States the public moneys of the United States were to remain on deposit with that institution unless they were removed by the Secretary of the Treasury. I thought then, and think now, that it was the purpose of Congress in passing that charter to take from the President the power in that case to interfere with the duty which the section imposed upon the Secretary of the Treasury; but the President decided otherwise, and he actually removed the incumbent. The Senate will see that that case presented the strongest one that can be imagined upon which to bring before Congress and bring before the courts of the country the question of the President's power to remove. The bank had an interest so deep that her safety depended upon the reversal of that authority. The public moneys being withdrawn from her vaults, the credit of the institution almost at once fell, or everybody saw that it must fall in a very short time, as in the end it did.

Mr. HOWE. The Senator will allow me to ask for information. Did not the Senate concur in that change?

Mr. JOHNSON. No, sir; or rather concurred in the way I am about to state. The bank therefore had a remedy, a clear remedy, provided she had a case, and she had a clear case, if the President had no authority to force a removal of the deposits by the Secretary. She might have refused to pay over the deposits, and that would have brought the question immediately before the tribunals. There was no military law in force then, and the only way in which the moneys could have been recovered from the bank by the Government would have been by a suit, and if there was under the charter a contract between the bank and the Government which entitled the bank to hold on to the deposits until they were removed under the authority conferred upon the Secretary of the Treasury, it would have been a complete defense to the removal which was actually ordered, provided it was true, and had been so adjudged, that the President had no control over the deposits; but the

bank acquiesced, and I have every reason to believe that they took counsel of the ablest lawyers in the country.

The President removed the Secretary of the Treasury during the recess, and he appointed his then Attorney General. It is due to the memory of that officer, who afterward became, as we know, the Chief Justice of the United States, to say—and what I am about to state I state from personal knowledge—that he agreed to accept the appointment of Secretary of the Treasury upon General Jackson's appeal, founded upon the fact, which must have had very persuasive, and had not only persuasive but controlling operation upon the mind of the then Attorney General, that in ordering the deposits to be removed the President had the advice of the Attorney General as to the question of power, and having acted under the opinion of his law officer, and having some difficulty in finding any successor to Mr. Duane upon whom he could rely to accomplish the object that he had so much at heart—the removal of the deposits and the death of the bank, which he anticipated correctly would be the result of that removal—he appealed to the Attorney General to take the situation, and he took it and ordered the removal of the deposits. He was nominated to the Senate and rejected; and if I had been in the Senate I should have voted to reject him, not upon the ground of any incapacity of that gentleman to fill the office, but upon the ground that, according to the opinion I held at that time and still hold, the President of the United States was guilty in that instance of a usurpation, of a violation of what I believed to be a contract between the Government and the bank in ordering himself his Secretary of the Treasury to remove the deposits, and having removed him because he failed to comply with the order, appointing any one to carry that out, or to act upon his own opinion of the propriety of that removal.

It is due also to the Secretary to say—I mean him who became the successor of Mr. Duane—that he was satisfied at the time that the deposits in the Bank of the United States were in great danger. Whether he was right in that apprehension or not it is immaterial to inquire. Apparently, ostensibly what occurred afterward would show that he was right, because the bank became hopelessly insolvent. Whether she would have been insolvent and the deposits have been in any danger or have been lost if they had not been removed, is a question about which there may be difference of opinion.

But notwithstanding that very strong case, and I cannot imagine a stronger one, every Senator who spoke upon the nominations of the successor of Mr. Duane did not place the rejection of that successor upon the ground that Duane was still the Secretary of the Treasury; they all conceded that he was out; they acted in rejecting Mr. Taney upon the ground that in their opinion it was exceedingly improper in him to take the place for the purpose of carrying out what they believed to be the improper action of the President.

Mr. HOWE. Will the Senator indulge me in another inquiry? I ask if the statute creating the office of Secretary of the Treasury does not make the term dependent upon the pleasure of the President.

Mr. JOHNSON. That is so; but if my friend will turn to the debates—I have not seen them recently, but I am sure I recollect the substance of them—he will find that it was said in a report made by Mr. McDuffie in the other House, and I think in a speech made by Mr. Adams, and in several of the speeches made upon the floor of the Senate upon the question, that, notwithstanding that the charter of the bank constituted the Secretary of the Treasury the agent of Congress, and took him therefore out of the removing power of the President, that Congress had the authority to place the public funds wherever they thought proper, and in the exercise of that admitted power they had placed the funds in the hands of the Bank of the United States, and had, with a view to secure themselves against

loss, authorized the Secretary of the Treasury as their officer, not the officer of the President, if he should discover at any time that there was any danger of the Government losing the deposits to remove them. The ground assumed by the President and admitted by the bank, as is evinced by their not contesting it, is the one stated by my friend from Maine, that the President's duty by the very words of the Constitution is to see that the laws are faithfully executed, and as the charter was a law and that law made it the duty of the Secretary of the Treasury to take the money from the Bank of the United States when it was in danger, if the President thought it was in danger, if he thought the public interest might suffer, then under the President's power to have the laws executed it was his duty to direct the Secretary to remove them, and the Secretary failing to do so, to remove him; and he pursued that course.

I think, as I have more than once said, I thought then that the President had no authority whatever over the subject, and that the ground assumed by McDuffie and others, and particularly in the debate in the Senate, was the sound one, that the Secretary of the Treasury was selected merely by virtue of his office as the most convenient and reliable person that Congress could select to watch over the funds of the Government, so as to see that at no time they should be endangered by the misconduct of the bank. Mr. Taney was rejected by the Senate, and somebody else, I forget who, appointed.

From that time until the last session the authority of the President to remove has never been questioned. The abuse of that authority is an entirely distinct question. The President is not above Congress or above the people during his continuance in office. He is as liable to impeachment as any other officer. The only limitation upon the power of impeachment is, that he shall be impeached only for high crimes and misdemeanors. If he commits a high crime or a misdemeanor in the sense in which those terms are used in the Constitution, the other branch of Congress may bring his case before the Senate in form of an impeachment, and this body has to act upon it.

Mr. FESSENDEN. Is not "misdemeanor" qualified by the word "high"?

Mr. JOHNSON. Of course, high crimes and high misdemeanors. I do not speak, I certainly have no desire to speak, of what we understand has in part commenced, because a contingency may happen when we are all to stand in the relation to this subject in the attitude of judges. I have no opinion, therefore, to express in advance. It would, in my judgment, be improper, as we are now situated in relation to the President, to express any opinion in advance. But that he is liable to control, under the authority conferred upon Congress to impeach, there can be no doubt. The question whether he has the power which he exercises in relation to removals from office, or the power which he exercises in relation to the reappointment of officers who have been rejected by the Senate, is one question. Whether he abuses either power is quite another question. And the question whether that abuse, if it be an abuse, is a high crime or a high misdemeanor, is another question also, upon which sooner or later perhaps, if we are to be visited by such an affliction, the Senate may have to pass.

What I said to my friend from Maine at the former session and what I admitted to-day is that in my judgment the President does go beyond the power conferred upon him when he reappoints a party whose nomination has been presented to the Senate and rejected, provided the case stands there and stands there alone. If he thinks proper to reappoint such a person, I think it is his duty to inform the Senate, when he sends that nominee in a second time for approval, what were the peculiar circumstances which caused him to disregard the opinion of the Senate. Any newly-discovered facts, any evidence which he supposes would operate upon



the judgment of the Senate not in their possession at the time they voted upon the nomination in the first instance, he may produce; but to disregard the opinion of the Senate upon the exact case, on which the Senate acted, in my judgment is a clear abuse, which must be remedied in some way or other, and the only way to remedy it is to reject those who may be nominated again.

Mr. HENDERSON and Mr. SHERMAN. And he may reappoint again.

Mr. JOHNSON. Now, my friends behind me say he may reappoint again. I know it, and it is for that reason that I said to him and said to his Attorney General at the last session that cannot be justified by me or by the Senate, and certainly will not be by me, because that would be to avoid altogether the authority of the Senate; and if he in the case supposed persevered in nominating and appointing again after one or more rejections, it would be in my judgment a very serious question whether that of itself would not constitute a ground for impeachment. If Mr. Madison was right in saying, as I stated to the Senate what was in their recollection before—I only mentioned it for the purpose of bringing it more freshly to their recollection—if Mr. Madison was right in saying that an abuse of the power of removal was a subject for an impeachment, *a fortiori* is the abuse of the power of appointment in a case in which, if it is submitted to, the whole authority of the Senate becomes a nullity and is set at defiance.

I have said so much upon that subject in justification of my own opinion. Now, a word upon the particular amendment offered by my friend from Wisconsin. I shall vote against the bill whether that amendment succeeds or not; but the effect of that amendment on the Government would be pretty much the same as the proposition which Mr. Calhoun more than once advocated, and the late Senator Hunter on this floor advocated, of a dual President. There were sectional dissensions sure to continue as long as the cause of those dissensions should exist, slavery. Now, as I trust, there is no cause for them except the temporary causes which have grown out of the late war. But they then existed and it was proposed to have two Presidents. It hardly received the support of any of the southern statesmen except the particular gentlemen who proposed it. It was said, and said with a force that must be obvious to us all, that the executive, to be at all competent to the duties of such an office, must be a unit. There can be no divided executive. The proposition fell. It hardly received a vote.

Now, what is to be the result of the amendment suggested by my friend from Wisconsin? The President—you cannot get clear of that obligation; you cannot take from him that duty, and he cannot absolve himself from that duty—is to see that the laws are faithfully executed. How is he to do it? He cannot do it alone. This is a great Government of ours. Its transactions are not the ordinary transactions of a common counting-house. They extend not only over all our limits, but they go beyond the limits. We have negotiations with the rest of the world and transactions with the rest of the world, and we are likely to be called into a conflict as we may discharge our duty properly or not toward the other nations of the world at any moment.

Suppose he has a Secretary of State whom he does not trust, either because of some suspicion of want of integrity or a belief that he is incompetent to the duties, or a belief founded upon good evidence that he is for pursuing a foreign policy that will entangle us with other nations, and perhaps involve us in war and affect our commercial marine; what is he to do with him? Leave him in, says the honorable member; suspend him. What then? What is to become of the negotiations in the mean time? What will foreign nations say? "We have been negotiating with the United States upon the assumption that they had a policy; we have acted in good faith; we can only know the President; we know that under

the Constitution the Secretary of State is but his mouth-piece; we know, and we have been taught to believe, that it is in his power to shape the foreign relations of the country; and now, when his Secretary has been shaping them and he discovers that he is about by the shape which he has caused them to assume to involve us in trouble, he turns him out, and the whole negotiation is to begin again." And when he sends to the Senate his reasons for the suspension under this bill, as he will be obliged to do, and the Senate declares that they are unsatisfactory, this suspended officer becomes again the Secretary of State. What is the effect of that upon the President so far as the negotiation of which I have spoken is concerned? He ceases to have any control of it; he is a mere cypher; you might as well not have him. The organ, then, with foreign nations will be a Secretary of State of the Senate of the United States, and not the Secretary of State appointed to be an adviser of the President, and to carry out the policy which the President may think proper and may suppose should be adopted as between ourselves and foreign nations. So in relation to the fiscal concerns.

The observations which I have thus cursorily submitted to the Senate are equally applicable to either of the other Departments. Take the office of the Attorney General. The President finds he has made a mistake; he has appointed a man to that office who has proven his incompetency. I will assume a case as strong as that: he has not only not given evidence of competency, but he has demonstrated his incompetency by the opinions which from time to time he has given and by his efforts in the Supreme Court of the United States. The President sees that the laws, as far as they depend upon the law-officer of the Government, are not being executed; the district attorneys having no communication with the President except through the Attorney General, and the marshals acting now under the same authority, are doing what the law does not justify, suing where there is no cause for suit and not suing where suit should be instituted. What is he to do? Suspend the Attorney General? Who is he to get to take the place? I do not know, for I hope no such man is to be found. I do not believe any man could be found fit for the place who would take the office which he is to hold only during the suspension of the previous incumbent, which may be for but three or four weeks, for the miserable consideration of the proportion of the salary of the office that he would get during those few weeks. Then what will the President do? His duty is to get clear of an incompetent officer or one believed by him to be incompetent. He cannot get a competent officer under the provisions of this bill, if my friend's amendment prevails. Then the public suffers, suffers sadly. Everything is placed in confusion. Nobody knows officially what the rights of the United States are; nobody knows officially what are the interests of the United States, and how they are about being sacrificed. Nobody knows, and if anybody did know there would be no remedy for it, how entirely without faithful execution are the laws of the United States.

Then what becomes of the President? Why, in relation to that officer as well as in relation to the Secretary of State in the case supposed he is made a cipher.

Mr. FESSENDEN. As the Senate is now.

Mr. JOHNSON. That is all wrong. I am not for making ciphers of any Department of the Government, and for the reasons which I stated just now, as far as concerns the reappointment of rejected officers, I am against it, because that is a practice which makes ciphers of us, and I am for claiming the whole of the power which the Constitution confers upon the Senate or upon the Congress of the United States. All that I mean to say, in conclusion, is that it is all-important that the Executive shall be a unit. If he fails to perform his duty criminally, the remedy is in our own hands.

If we unfortunately elect a man who is incompetent, not from willfulness, but from incapacity, the remedy which the Constitution confers is in the succeeding election, and in no other way.

Mr. EDMUNDS. I do not rise to prolong the debate upon this amendment proposed by the Senator from Wisconsin, but merely to state in reply to the observations of the Senator from Maryland, on the general question of the power of removal under the Constitution, that there are considerations which will be submitted to the Senate, when that question arises, which induce me to believe that it is just as necessary that the Senate should concur in removals from office, in order to have any voice in the appointment, as in the other case that he supposes; but as that question is not now pending, I rise merely to express the hope that Senators may, as far as they think it fit, refrain from going into that general question until we reach it, and that we may proceed to dispose of the amendment proposed by my friend from Wisconsin.

Mr. BUCKALEW. This bill comes from the joint committee of the two Houses upon retrenchment, of the Senate branch of which the Senator from Vermont is chairman. I desire in addition to what he has just said, the propriety of which will attract the attention of every Senator, to say that there are several subjects comprised in the bill, each of which is perfectly distinct; and what is to be done by the Senate in coming to a correct conclusion on this bill will be to keep the argument upon each point perfectly distinct and separate from the others.

The first section of the bill, and the matter contained in the second also, raises a very great question; and I hope that the members of the Senate will not commit their judgments upon it until it is distinctly and separately debated. It is new to us and it is hazardous, if not improper, that we should form hasty conclusions upon it.

Another and a distinct question is raised by the latter part of the second section, the conferring upon the President of the power of suspending from office without dismissing an officer. A provision of this kind in our legislation, if not altogether new, is new as a general provision, and it may likewise deserve separate consideration.

Finally, the third section is intended to meet a class of cases which has been spoken of in this debate: where the President fills a vacancy during a recess between the sessions of the Senate by issuing a commission which shall expire at the end of the next session by virtue of an express provision of the Constitution, then if during such next session that office shall not be filled by and with the advice and consent of the Senate, it shall, after the adjournment of the Senate, remain vacant; the appointment shall remain in abeyance, to use the words employed in the section, and the duties of that office shall be discharged by some other officer who may be appointed or selected by law.

Now, sir, the first question, to wit, the power of the President to make removals from office, is one which was settled in the first session of the first Congress which met after the organization of our Government, and that decision, if not unchallenged, at least has not been reversed in the practice of this Government seventy-seven years; and when we come to reopen the debate upon it we must take care that we approach this great subject in the proper temper, in a spirit of impartiality, and without any disposition or proclivity of mind to be influenced by considerations other than those which pertain to the merits of the question itself. I intend at some point in the debate to be heard upon this one question involved in the bill; but for the present I join in the hope expressed by the chairman of the Senate branch of the committee on retrenchment that we shall not raise that general debate. It is not necessarily involved in the motion now pending before the Senate for the amendment of the first clause of the committee's

substitute, to wit, the question whether the power of the President with regard to removals from office shall be curtailed so far as his own Cabinet ministers are concerned. That is a distinct and independent question, and I hope we shall determine it without extending ourselves, or permitting the debate to extend itself, into the whole field.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from Wisconsin, striking out the words in the first section of the committee's amendment indicated by him.

The amendment to the amendment was rejected.

Mr. SHERMAN. There are two amendments that I desire to offer to this bill; the first to correct what I think is an inadvertence: it is in the first section, line ten, after the word "office" to insert the words "during the term limited by law." I will read the section:

That every person (excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General and the Attorney General) holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

Take the case of a postmaster, where he is appointed by the law for four years, or for a fixed term. If it is the intention of the Senator, by the first section, to extend the duration of his term of office—

Mr. BUCKALEW. Read the fourth section.

Mr. SHERMAN. But still the first section expressly provides that he "shall be entitled to hold such office until a successor shall have been in like manner appointed."

Mr. WILLIAMS. "Except as herein otherwise provided."

Mr. SHERMAN. Perhaps that fourth section might cover it, but I do not think so.

Mr. EDMUNDS. If my friend from Ohio will allow me, I will give him the explanation of that. I think it indispensable to the scheme on which the bill goes that that language should stand just as it does. It is intended to meet a case of this description: a good officer, a postmaster for instance, continues during the four years prescribed by law. A successor to him is nominated in due season by the President. It appears to us that the successor is a very improper person to fill the office. Now, the object of this provision is, that in cases of that description the old officer shall hold over beyond the duration of the four years until the President and the Senate shall be able to concur in selecting his successor; and that, with the provision of the fourth section, that the general duration of the office shall still be limited by law, I think puts it upon precisely the ground that it should be put upon, provided we are to pass the bill at all.

Mr. SHERMAN. It seems then that I was correct in the construction which I gave to the two sections together: that it was intended by the first section to extend the duration of the term of office in case the President and the Senate should not agree upon the successors. I am not in favor of that—by general legislation extending the term of office. The term of a vast number of offices is fixed by law. I think when the office expires by limitation or by death, or by a removal made for good cause, there ought to be power in the President to fill the vacancy at once; that we ought not by legislation to continue the officer beyond the term for which he was appointed by law.

Mr. EDMUNDS. If it be improper, as is supposed by my friend from Ohio, to allow an officer who has held an office for four years to continue to exercise the duties of the office after that term of four years until the President and the Senate shall be able to agree upon his successor, then it would be simply declaring either that the office must go vacant, or else that in the meantime the President may select some person without regard to our wishes,

treating it as a vacancy lawfully happening and selecting his own appointee for a temporary commission, whose name he need never send to us at all to fill up the place. The consequence would then be that if we failed to concur in that, the party who held the office temporarily might continue, as has been said, during the long recess, and hold the office for a very considerable length of time. It appeared to the committee that if an officer, against whom no charge of impropriety had been made, who was fitly and honestly performing the duties of the office, should come to the expiration of the period limited by law, and the President and the Senate should fail to agree as to his successor, it would be best for the public service to allow that officer temporarily, until we should agree, to continue to exercise the duties rather than to have him go out, and the mere appointee of the President alone, without consulting us at all, put in his place. If the Senator from Ohio on reflection disagrees with me as to that, I shall very much regret it indeed.

Mr. SHERMAN. I do not wish to press this matter. I simply desired to call attention to what several Senators supposed to be an inadvertence. But take the case of a bond. The term of office expires the four years expire; the bond is not obligatory after the expiration of the four years. The receipts and disbursements by an officer after the four years are not secured by his bond. Take the case of the expiration of the term of office. The Constitution provides how that vacancy shall be filled if it occurs. During the recess of the Senate the President fills it; and in case the vacancy occurs during the session of the Senate it is filled in the mode pointed out by the Constitution; so that there is practically no difficulty. The President will have at least until the close of the following session of Congress in which to fill the vacancy. In case it cannot then be filled on account of a disagreement between the Senate and the President, then the deputy or whoever is legally provided by law can fill the vacancy as the bill declares; so that it seems to be the effect of the first section to continue the duration of the tenure of office beyond the term fixed by law, and without the security of the bond in the case of a disbursing officer.

Mr. FESSENDEN. I suggest to my friend that the bonds, as now prepared by the Treasury Department, are so drawn as to cover the time which may elapse after the expiration of the term of office and before the appointment of a successor. They cover all the time during which an officer continues to exercise the duties of the office.

Mr. SHERMAN. Having called the attention of the Senate to this subject, I have no objection to letting this amendment pass over until we can look into it.

Mr. EDMUNDS. I think this feature of the section will be found, on examination, to be a necessary element to reach the general scope that the idea of the bill was intended to provide for.

Mr. SHERMAN. I will withdraw the present amendment. I desire to offer another amendment as an additional section. It is the bill which I introduced at the beginning of the session and referred to the Judiciary Committee, and which has been fully considered. It is to insert as an additional section the following:

And be it further enacted, That no money shall be paid from the Treasury of the United States to any person who, having been nominated for any office and been rejected by the Senate, and subsequently appointed to that office by the President, for any salary, fees, perquisites, or expenses accruing after the close of the session of the Senate during which his nomination was rejected; and if any person shall appoint or sign or prepare such an appointment or commission, or if any person so rejected and reappointed shall hold or exercise the functions of the office for which he was rejected by the Senate, after the close of the session of the Senate at which he was rejected, or if any accounting or disbursing officer shall allow or pay to any person so rejected any salary, fees, perquisites, or expenses accruing for that office after the close of the session of the Senate at which he was rejected, he shall be deemed guilty of

a misdemeanor, and, upon conviction thereof, shall be fined not exceeding \$10,000, or at the discretion of the court shall be imprisoned not more than five years.

I will state that this section was drawn early in the session, printed, and referred to the Judiciary Committee, and the chairman of that committee stated to me it was not acted upon because of the pendency of this bill, the subject being before another committee, and upon the statement that it could then be offered when the bill came up. It is intended to provide for cases that have actually occurred, where the President has sent a nomination to the Senate which has been rejected, and yet in violation of the spirit of the Constitution, of the meaning of the Constitution, the President insists upon keeping that person in office, and again appoints him to office and sends his name again to the Senate. It is intended to meet the very case mentioned by the Senator from Maryland [Mr. JOHNSON] the other day. I do not think there ought to be any real objection to it. I can scarcely conceive a case in which the President would be justified in entirely ignoring the opinion of the Senate on a matter in which it has equal constitutional power with himself.

This section is so drawn as not to prevent the President from sending the name of a rejected person again to the Senate, so as to enable them to reconsider the nomination. If a rejection has been made upon misadventure or false statements of fact, the President may again send that name to the Senate at a subsequent session; nothing in this amendment will prevent it; but in the mean time he would be bound to respect the judgment of the Senate so far as to appoint some one else to fill the office until the close of the following session. Then he may at the next session send in the name to the Senate and they may reconsider the nomination of the person formerly rejected; so that it does not operate as an exclusion from office, or a denial of the power to hold that particular office. It simply provides that the judgment of the Senate shall be so far respected that until the nomination is again submitted to the Senate and confirmed that person shall not hold that particular office. He may be appointed to some other.

There was one difficulty I had in framing this proposition, and about that I am not entirely satisfied, and that is as to the accountability of accounting officers in paying salaries to persons who have been rejected by the Senate. Perhaps they cannot always be formally or legally notified of the rejection. There may be a difficulty in that; but that was provided for by a bill which was pending at the time I drew this section, which required the rejections to be communicated to certain disbursing officers; and if this section should be adopted it will be necessary to have some such provision as was contained in the former bill at the time I drew this section.

Mr. EDMUNDS. There is a good deal of merit in the proposition of the Senator from Ohio, and I do not know but that I should be willing to agree to the proposition entirely, considered by itself; but in many respects I think, from the study that I have given to the subject, it will fail to meet all the objects that he has in view. He has suggested one of the difficulties, and that is, in respect to the payment of money to the persons who shall be thus appointed, and possibly it may not be known to the Treasury how it is. That is the case, as I understand, as a matter of actual fact. They seem to have a system of regulations and procedure in the Treasury Department by which either it is everybody's business not to know whether any money is illegally paid out of the Treasury, or else it is nobody's business in particular to know. Each officer in the routine takes the particular paper that he has as *prima facie* evidence of the propriety of the person receiving the money who is named in it; and therefore on a recent inquiry addressed to myself, in connection with these very investigations, to the Treasury Department to know whether, since the 9th of

February, 1863—I think that is the date at which time Congress passed a law forbidding such payments as these to persons thus appointed—any payments had been made from the Treasury to such persons, I have received a reply from the Secretary of the Treasury communicating the reports upon that subject of his auditors and comptrollers, each report upon the subject being taken by itself, stating that it is not that particular officer's business to know whether any such event has occurred or not, and therefore the Secretary concludes, taking the whole three reports together (I believe there are three) that so far as the knowledge of the Department goes no such event has occurred; while I venture to say, although I do not speak by authority or on my personal knowledge, as a matter of probability that a great many persons of that description have received money from the Treasury since the passage of the act of 1863, in violation of law.

Now all that must be provided for. All that was considered by the committee who reported this bill with the amendment. It appeared to them that, inasmuch as the subject of this bill was one which was working a great practical change in the administration of the Government, one the propriety of which would be greatly doubted by many men, one the constitutionality of which would be greatly contested by many persons in the country, it would be better on the whole to report the simple proposition first, determining whether Congress should take any action on the subject, and provide simply by this bill for regulating the tenure of these offices and the method of removal and the substitution of other persons to the administration of them; and if the Senate should think it fit to pass the bill and to provide for this general change in the administration of the Government, we would then prepare and report to the Senate immediately, and I promise the Senator that I will devote the skill I possess with his aid to such further legislation in the way of penalties and in the way of guarding the Treasury against any evasion as should be necessary, when we decide that we will enter upon what may be called an experiment. Therefore it is that I hope my friend from Ohio will for the present withdraw his amendment and let the sense of the Senate be taken upon the general question which is involved in the simple bill which we have submitted.

Mr. SHERMAN. I do not think the object of the Senator will be accomplished by this bill. I will state to him beforehand that I have no doubt it will be treated just as our previous legislation on the subject has been treated. It has been utterly disregarded and its constitutionality denied. There were no terms in it to enforce its provisions. There is nothing in this bill that is not already enacted with regard to other matters. Take the case I will put: we passed a law declaring that no money should be taken from the Treasury of the United States to pay an officer who had been once rejected by the Senate. That is utterly disregarded to my personal knowledge.

Mr. FESSENDEN. Is there any such law? I am not aware of it.

Mr. SHERMAN. Yes, sir.

Mr. JOHNSON. When was it passed?

Mr. SHERMAN. In 1863.

Mr. FESSENDEN. Oh yes; I remember it now.

Mr. SHERMAN. The attention of the executive officers was called to the law, and the President submitted it to the Attorney General, and the Attorney General has given his opinion—at least I have seen it in the newspapers, not formally, but I presume the statement is correct—that the law is unconstitutional, and that the President has the power.

Mr. JOHNSON. What Attorney General?

Mr. SHERMAN. The present Attorney General. I get this from newspaper statements, and they may do him injustice, but it is published in the newspapers as his opinion, and I think it is acted upon, that an appointment once rejected by the Senate may be renewed the very day after our rejection.

Mr. JOHNSON. That is not the point.

Mr. SHERMAN. That is not the point here; but the opinion is, that consequently our attempt to prevent such a person being paid salary, &c., is unconstitutional and void; that the officer being legally appointed is entitled to the legal salary attached to the office; and therefore the provision which denies to accounting officers the authority to pay him is utterly disregarded. There is one case in the State of Ohio where an assessor was appointed by the President and rejected by the Senate after deliberation, and he was reappointed and is now holding the office. There is another case, I am informed, in the State of New York, where the same person is again sent to us.

Mr. HENDERSON. Sloanaker, in Philadelphia.

Mr. SHERMAN. And one case in Philadelphia, where the nomination was for a long time considered, and the action of the Senate was publicly known upon it, known to every one. Now, in regard to the knowledge, there is no doubt that the President knew of this rejection, because it is communicated to him. There is no doubt the Treasury Department know, because it is communicated to them. All these papers go through a regular routine. We all know they have at least intelligence of them. My amendment is so framed that if the President should make such an appointment, and authorize the payment of money under those circumstances, he would be guilty of a declared offense, a high crime and misdemeanor. If he should violate that law once or twice, the Senator from Maryland says that he would be willing to impeach him. I think it is important for us to declare this offense beforehand in a law fully considered, that we may punish him for its violation. It is perfectly idle for us to pass a bill which simply declares the law without having any penalty attached. I think, with due deference to my friend from Vermont who has examined this question, that he ought to attach to this bill—I am not wedded to my own particular form of words—some penal clause that will punish a violation of the law and will also punish the payment of money where it is already prohibited by law. But if he will take the subject in charge and make such a section, with the views we have in common, I am perfectly willing to withdraw my amendment. I do not wish to embarrass this bill at all, or delay it by discussing it.

Mr. EDMUNDS. I will mention to my friend that that is precisely what the whole joint committee on full consultation thought it desirable should be done.

Mr. SHERMAN. It ought to be done in this bill.

Mr. EDMUNDS. It is merely a question of convenience as to how we shall get at it. We desire to pass just such a law in substance as the Senator from Ohio desires, and we desire to have it so comprehensive and so specific that no man, even an Attorney General, can pretend to misunderstand its provisions or escape if he violates it. That is what we want. But, as I said before, inasmuch as the chief subject of this bill—that is, the fundamental idea of it—with respect to which all this machinery and all these penalties are to attach, if we pass it at all, was a new one which would undergo debate and dispute, and all that, we thought it more desirable, as a matter of expediency and convenience, to bring forward first the main measure as a separate proposition, and if the main measure should meet the approval of the Senate we would then immediately bring forward those additional measures which should completely protect it. That was our idea. We may be wrong about it.

Mr. SHERMAN. I desire to have it attached to this bill. If the Senator says he will take the subject under consideration before the bill passes from the Senate and attach a penal clause to what is declared to be the law, I have no objection to withdrawing my amendment; but I wish it attached to this bill.

Mr. EDMUNDS. If that meets the views of Senators preferably to that which the com-

mittee thought it was best to do, we shall acquiesce. It is a mere question of convenience.

Mr. SHERMAN. I think it ought to be placed on this bill. I withdraw my amendment in order to allow the Senator to look over the subject.

Mr. HOWARD. I wish to offer an amendment to the amendment.

Mr. EDMUNDS. As the hour is getting late, with the assent of the Senate, I was about to move that the Senate adjourn.

Mr. WILLIAMS. Let the Senator from Michigan offer his amendment so that we may know what it is.

Mr. EDMUNDS. Very well.

Mr. HOWARD. It is to come in after the word "Senate" on page 3, section two, line eleven. There does not appear to be any provision in the amendment which we are discussing requiring persons who are to receive the necessary appointments at the hands of the President on the suspension of an incumbent, to give bonds or any security for the performance of their duty. I think the Senator from Vermont, on looking at it, will see the necessity of it, and I propose after the word "Senate" to insert the following:

And shall require of such person bond with sufficient surety or sureties for the faithful discharge of his official duties under such temporary appointment, if such bond be required by law of the person suspended.

I think the Senator from Vermont will see no objection to that.

Mr. EDMUNDS. That subject had not escaped the attention of the committee, but that also was one of the details of subsequent machinery in connection with many existing laws respecting the giving of bonds by all persons and respecting the penalties for the violation of the official duties for which the bonds are given in respect to which the law is exceedingly disjointed and loose, that we had intended to bring forward. I do not know that I have any objection, if the Senator desires to press it here, to the insertion of that amendment. I should like to hear it reported again, however.

The Secretary read the amendment to the amendment.

Mr. EDMUNDS. I will suggest to the Chair that there is a pending motion to amend already a different part of the bill.

The PRESIDING OFFICER. The Senator from Ohio withdrew his amendment.

Mr. EDMUNDS. But there is a pending amendment moved by the Senator from Wisconsin to strike out certain words. Now, the Senator from Michigan moves to insert different words in an entirely different place in the bill.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin has been disposed of and rejected.

Mr. EDMUNDS. I should like to look at the amendment of the Senator from Michigan, as I think its phraseology is not exactly what it ought to be. I therefore move that the Senate do now adjourn.

Mr. POLAND. Before the Senate adjourns I desire to give notice that on Monday morning next I shall ask the Senate to proceed to the consideration of the bankrupt bill.

The motion of Mr. EDMUNDS was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 10, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

Hon. PHILIP JOHNSON, of Pennsylvania, appeared in his seat.

## HARBOR OF ST. JOSEPH, MICHIGAN.

Mr. UPSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making appropriation to repair and complete the pier and improvements in the harbor of St. Joseph, on Lake Michigan, and report by bill or otherwise.



## CANCELLATION OF REVENUE STAMPS.

Mr. MILLER, by unanimous consent, introduced a bill supplementary to an act relating to the cancellation of revenue stamps; which was read a first and second time, and referred to the Committee of Ways and Means.

## PAY OF DETACHED OFFICERS, ETC.

Mr. COOK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law that commissioned officers and enlisted men who have served in the Army or Navy of the United States in the late war for the suppression of the rebellion, who were separated from their commands, regiments, or companies, as prisoners of war, or in consequence of being placed on detached service by proper detail, or on special duty by their superior officers, or who were disabled by wounds or disease contracted while in the service and in the line of their duty, shall, on muster out and settlement of their accounts with the Government, be entitled to receive full pay and allowance up to the time they received notice of their muster out or discharge or to the time they were permitted to go to their homes to await their discharge; and that in such case they shall be entitled to the usual commutation for travel and rations when the same were not furnished; so that such officers and enlisted men shall be allowed full pay and allowance for the full time they were subject to the military authority of the United States, and were thereby prohibited from engaging in other occupations.

## EXCUSED FROM COMMITTEE SERVICE.

Mr. BOYER. I ask to be excused from further service upon the Committee on the Militia.

The SPEAKER. The gentleman from New York [Mr. HALE] also asks leave to be excused from service on the same committee. If there is no objection the gentlemen will be excused.

No objection being made, both the gentlemen were excused from service.

## REPRESENTATION FROM ALABAMA AND TEXAS.

Mr. COOPER presented the credentials of Hon. Thomas J. Foster, claiming to be a Representative-elect to Congress from the sixth congressional district of the State of Alabama; which were referred to the committee on reconstruction.

Also, the credentials of Hon. A. M. Branch, claiming to be a Representative-elect to Congress from the third congressional district of Texas.

## ORDER OF BUSINESS.

Mr. GARFIELD. I call for the regular order, the question pending at the adjournment last evening.

Mr. BLAINE. I would request that the gentleman make the motion he did yesterday and let the morning hour go on.

Mr. GARFIELD. Can I do that?

The SPEAKER. The Chair thinks so.

Mr. GARFIELD. Then for the sake of allowing the morning hour to go on I move to postpone the regular order until the expiration of the morning hour.

The motion was agreed to.

## PAY OF POST ROUTE AGENTS.

The SPEAKER. The morning hour has now commenced, and the first business in order is the call of the committees for reports, commencing with the Committee on the Post Office and Post Roads, which is entitled to another morning hour.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a bill in regard to the compensation of route agents of the Post Office Department; which was read a first and second time.

The bill, which was read in full, authorizes the Postmaster General to pay route agents in the service of the Post Office Department any sum not less than \$900 nor more than \$1,200 per annum.

Mr. WENTWORTH. I would like to have the bill explained.

Mr. FARQUHAR. Will my colleague on the committee yield and allow me to offer an amendment in relation to the pay of postal railway clerks, to allow them twenty per cent. increased compensation?

Mr. ALLEY. I think the gentleman had better not press that amendment. I am informed by the gentleman from Iowa that there is no necessity for it—that the Department has the power already to pay such sum as they deem expedient.

Mr. FARQUHAR. I differ with the gentleman.

Mr. ALLEY. I think it had better come in as a separate bill. I think on the whole I must object to allowing the amendment of my colleague upon the committee to be offered, inasmuch as gentlemen all around me who are interested feel that it would embarrass the bill. I think to this bill there cannot be the slightest objection, and there might be to the other proposition.

I supposed that no explanation would be required on this subject. I supposed that every gentleman in the House understood the nature and character of this service of route agents. I presume nearly all the route agents are appointed upon the recommendation of members, and they are therefore certainly conversant with the duties of this service. I think all will agree in the statement I shall make, that this service is the most poorly paid of any that is rendered to the Government. The present route agents get only \$800 a year as a general rule. Some of them, I believe, are paid \$900, but in no instance does their pay exceed \$1,000, and the Postmaster General is not authorized to pay any larger sum than \$1,000; and I confess, Mr. Speaker, that I can hardly reconcile it to my sense of justice for the Government to refuse to pay any of these men over \$1,000, many of whom, as we all know, are persons of the greatest efficiency, energy, and capacity.

The circumstances of the service of these route agents are these: they are obliged, as all members of the House I suppose are aware, to leave their homes a great part of the time, to be away from their families, and be subject to extra expense. Now, they must necessarily be very competent and intelligent men. The service which they are required to perform is in its nature somewhat hard, and having to perform such service requiring so much ability for such a small compensation, and being obliged to incur extra expenses, the committee were unanimously of the opinion that their pay should be raised to a sum not exceeding \$1,200 per annum. I think it should be even larger than that, but the committee agreed upon this sum as the maximum and \$900 as the minimum; and as the members of the House are all so well acquainted with the nature of the service, and as it is of such a character that I think no reasonable opposition can be made to the bill, I therefore, if no further explanation is required, will call the previous question.

Mr. JOHNSON. I have not had an opportunity of meeting the Post Office Committee this session, and I desire to inquire of the chairman of the committee why the Postmaster General should not be permitted to employ persons for less than \$900 a year.

Mr. ALLEY. I will say to the gentleman from Pennsylvania, who was not present in the committee when this matter was discussed, that it was fully considered in the committee, and they were unanimously of the opinion that the amount of compensation had better be limited to \$900 on the one side, and extended to at least \$1,200 on the other, as the nature of the service is of such a character that no portion of it should be required for a less sum than \$900 a year; and it was thought that it was sufficient to leave a discretionary power to this extent in the hands of the Postmaster General, and to confine it there.

Mr. JOHNSON. The gentleman will allow me to say that in the neighborhood of cities we sometimes get an extra mail by getting a carrier to carry the mail, whose compensation is much less than \$900 a year. He is employed, perhaps, for two hours a day, and if the Government is required to pay these men at least \$900 a year we shall have to dispense with

some of these extra mails within a short distance from cities.

Mr. ALLEY. I will say to the gentleman that such an agent of the Post Office Department as that indicated, performing such service, would not be under the law properly a route agent, and is not so considered by the Department. There is, therefore, no force in that objection, and I now demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. WARD, of New York. I demand the yeas and nays on the passage of the bill. [Cries of "No, no."] I think, as we are doing nothing but hardening the Treasury and increasing salaries, that the country should know who does it. I insist on the demand for the yeas and nays.

Mr. HARDING, of Illinois. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The bill was passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed a bill (S. No. 462) to admit the State of Colorado into the Union, in which the concurrence of the House was requested.

## BRIDGE OVER THE MISSISSIPPI.

Mr. ALLEY also, from the Committee on the Post Office and Post Roads, reported a bill declaring the Clinton bridge across the Mississippi river at Clinton, in the State of Iowa, a post route; which was read a first and second time.

The bill was read through.

Mr. WASHBURN, of Illinois. I rise to a question of order. I submit that this is the same proposition that was voted down by this House at the last session.

The SPEAKER. Does the gentleman state that it is identically the same proposition?

Mr. WASHBURN, of Illinois. It is substantially the same proposition.

Mr. DAVIS. It is a very different proposition.

Mr. WASHBURN, of Illinois. It is very nearly the same proposition that was introduced last session by the gentleman from New York [Mr. DAVIS] and reported in another bill by the gentleman from Massachusetts, [Mr. ALLEY.]

Mr. DAVIS. It is entirely different.

Mr. FARNSWORTH. Has not a committee a right to report a bill that has once been defeated?

The SPEAKER. The Chair is of opinion that at another session of Congress they could certainly report a bill of the same character, but this is not the same bill as was reported last session, as the Chair understands.

Mr. WASHBURN, of Illinois. It is substantially the same proposition to dam up the Mississippi river.

The SPEAKER. The Digest states that at the same session, on the same day even, a bill not differing in substance, though differing in terms somewhat from one already rejected, may be reported from a committee. Certainly the same thing could be done at another session. The Chair overrules the point of order.

Mr. WASHBURN, of Illinois. I oppose, Mr. Speaker—

The SPEAKER. Does the gentleman rise to another point of order?

Mr. WASHBURN, of Illinois. No, sir; I rise to take the floor in opposition to the bill.

The SPEAKER. The gentleman from Massachusetts, [Mr. ALLEY,] as the chairman of

the committee reporting the bill, is first entitled to the floor. [Laughter.]

Mr. ALLEY. Mr. Speaker, I do not propose at this time to say much in reference to this bill. I will merely explain that this bill, substantially in many respects, was presented for consideration at the last session in the form of an amendment to a bill which was passed authorizing the erection of several bridges across the Mississippi river. But the bill now reported is somewhat different from that amendment; it has more guards and restrictions than that had; and therefore the committee thought it could be properly reported at this time to the House.

I do not propose to say anything on the merits of the bill at this time, but to give way in a few moments to the gentleman from Illinois [Mr. WASHBURN] to make such remarks as he chooses in opposition to it. Preliminary to that I will merely say that that gentleman yesterday charged me with having attempted to get that bill through at the last session under the gag of the previous question, and only yielded to allow its discussion for a short time. In reference to that, I will only say that I voluntarily gave the gentleman more time a great deal than I occupied myself, as chairman of the committee, in the discussion of that bill, and I believe that other gentlemen who opposed the bill occupied more time than its friends. Now, I submit whether under these circumstances the gentleman was justified in saying that the committee attempted to gag this thing through the House.

Further, I will say, with regard to the argument of the gentleman to-day, I suppose his argument at this time will be about the same that he made before. He then had a great deal to say about the Rock Island bridge; very little about this bridge, for the reason that he could not say anything against this structure, at least, as I believe, rightfully and properly. As to the Rock Island bridge I concede to him, and so do all of the committee, and so do I believe the majority of the House, that that structure is not at all what it should be. But whatever the opposition to that structure may be, it has no bearing whatever upon this one, and I will say to the gentleman that, for argument's sake, I will agree in advance to all he may say about the Rock Island bridge, and I beg of him to confine himself in his remarks to this bridge, to its character, and to its merits. If he will do that, I can assure him that he can have all the time he desires to discuss it to his heart's content.

Now, allow me to say one word further before I yield the floor to the gentleman from Illinois, [Mr. WASHBURN.] This last autumn several members of Congress passed over that bridge, myself among them. Their attention was called to it and they examined it thoroughly, and I think they will all concur with me when I say that we were greatly surprised when we saw such a bridge, the best structure I think that we ever saw of the kind; scarcely any obstruction in the slightest degree to the navigation of the river. I think we were all very much surprised, in view of the actual facts, at the statements made upon this floor by the gentleman from Illinois [Mr. WASHBURN] at the last session. I now yield the floor for thirty minutes to the gentleman from Illinois.

Mr. WASHBURN, of Illinois. Then I understand the gentleman from Massachusetts [Mr. ALLEY] proposes to impose the gag rule here to-day. He does not propose to yield the floor entirely, so that this question can be fairly discussed, but he proposes to hold the previous question to close the discussion whenever he pleases.

Now, Mr. Speaker, I must confess that I have never been more surprised in my life than I was yesterday morning when I was notified that this proposition, which was considered by the House at the last session and indignantly rejected, was to be again sprung upon us yesterday morning. Other matters intervened, and it has come over to us this morning.

I am surprised, sir, that the gentleman from Massachusetts and the Post Office Committee should, after a measure has been fully considered and discussed and rejected by this House, undertake to spring substantially the same measure upon the House without having given the people who are interested any notice of what they were doing or any hearing before the committee. Sir, they suppressed all information of what was going on in relation to this bill, and the first notice I had of it was yesterday morning, when the committee were called on to report, and I was advised that they intended to report this bill. Sir, it would seem to the uninitiated that there was something extraordinary in this matter. Great questions of public interest—great questions in which the people are interested—are regarded as of subordinate importance. When there arises a measure by which corporations or a few individuals only are to be benefited the people go to the wall; they are allowed no hearing.

Gentlemen may recollect something of the discussion which took place in reference to this bridge at the last session. Here was a bridge which I know, and which every pilot and steamboat man upon the Mississippi river knows, to be a material obstruction to navigation. This fact has been sworn to by fifty witnesses, whose testimony was before the Committee on the Post Office and Post Roads. But there is a great mammoth consolidated corporation, the Chicago and Northwestern Railroad Company, which is getting into its clutches all the railroads of the Northwest. This mammoth corporation, in conjunction with other roads, and in conjunction with the Albany Bridge Company, has built across the Mississippi river a bridge which is an obstruction to navigation. At the last session, Congress with the concurrence of the gentleman from Massachusetts, [Mr. ALLEY,] considering this whole question of bridges, deeming it absolutely necessary that there should be bridges over the Mississippi river, provided by law how those bridges should be built. We provided a certain breadth of span, and made other provisions which would render it certain that those bridges would not be material obstructions. But, sir, this Clinton bridge, built by these corporations, obstructs the navigation of the Mississippi river, and does not conform in any respect to the requirements to which other bridges are made to conform. The gentleman from Massachusetts now has, I must say, the audacity to come in here and ask this Congress to relieve this stupendous and remorseless monopoly from the expense of making this bridge conform to the requirements which apply to the other bridges on the Mississippi river. I ask gentlemen here whether they are prepared to do this act of injustice. What reason is there that this bridge, owned by these corporations, should be taken out of the general rule prescribed for every other bridge?

But the gentleman from Massachusetts has "traveled" somewhat. Probably he went out with other members of Congress on a junketing expedition, and went over this bridge. The railroad officers, with their magnificent car, filled with wines and turkeys and other good provisions, took some of our members of Congress, including, I presume, our distinguished friend from Massachusetts, and showed them this bridge. With not a steamboat within sight, with no means of practical observation, they said, "Do you suppose this bridge is an obstruction to the navigation?" "Oh, no; not at all. We do not see why a steamboat cannot go through. We do not see why the rafts and barges which the hardy lumbermen from Minnesota and Wisconsin float down the river—those barges which bring down grain, a part of which goes to Massachusetts to feed the shoemakers of Lynn—we do not see why these rafts and barges cannot go through." Oh, no, they could not see. I will not say that after dining they were not in a condition to see. [Laughter.] At any rate the gentleman says they did not see. Well, sir, here, in a docu-

ment which I hold in my hand, is what some men have seen, men who have navigated that river to my knowledge for fifteen or twenty years. What do they say in regard to this matter of obstruction? These are not honorable members of Congress. Oh, no; they are nothing but plain pilots and steamboat captains and engineers. They are not supposed to know much, I suppose; and they have in this House, I presume, "no rights which white men are bound to respect." What do they say?

"The undersigned, pilots, captains, and experts in the navigation of the Upper Mississippi river, and owners of boats engaged in the navigation of the Upper Mississippi river, being duly sworn, state on oath—"

This is a statement under oath. The member from Massachusetts, I believe, was not under oath when he made his statement, although his word is just as good as his oath anywhere. These men certify under oath—

"that they believe the bridge across the Mississippi river at Clinton, Iowa—"

This is the bridge in question—

"as at present constructed is a very material obstruction to the navigation of the Mississippi river; that they each and all have had experience in the navigation through the draw of said bridge, and speak from actual experience and knowledge; that the same causes great risk to life and property in passing through the same, and causes great delay and loss to owners by detention on account of wind or darkness at times, when but for the bridge that portion of the river could be run with perfect ease and safety."

"That the said bridge is located where there is a curve in the river, and the piers are set down at an angle of from ten to fifteen degrees to the current, causing great difficulty in the approach to the draw, and danger of collision."

"That the draw is only one hundred and twenty feet in width, and the difficulty is greatly increased when boats have barges in tow."

I ask my friend from Massachusetts what he provided at the last session of Congress as the width of the draw of every other bridge? One hundred and sixty feet, making a difference of forty feet in favor of this bridge of these monopolists. It was provided that every other bridge should have a certain span, but that this shall be legal with only twenty feet.

I ask, in all candor and earnestness, what is the reason for that difference? Is it because you do not want to tax these combined railroads a few thousand dollars to make their bridge to conform to others? Is that what you are legislating for? If so, I do not think you will have many friends along the line of these roads, which are charging so enormously for fare and the transportation of freight that they have become utterly odious and accursed of our people.

It says that this draw is only one hundred and twenty feet, and that the difficulty is greatly increased when boats have barges in tow. Let me tell gentlemen here in regard to these barges in tow. It is undoubtedly going to be the means of transportation upon the Mississippi river, some boats having fifteen or twenty barges in tow, after we get the impediments to navigation removed, from the falls of St. Anthony to New Orleans, before breaking bulk. In that view the matter becomes of vast importance. Why, sir, the damage of one single fleet of barges at this bridge, as you propose to legalize it, by the danger of shifting and other delays, would amount to three or five hundred dollars. This the people of the Northwest, the people of Massachusetts, and the people everywhere, will have to pay in the increased cost by the added cost of transportation. That is what it means when these railroads come here and ask us to legislate in their favor.

Here is another statement, that the average width of a large boat, including guards, has nearly sixty feet, and the additional width of two barges would be about fifty feet more, so that only ten feet on each side is allowed. That is when they have only two barges, one on each side, but where they have a fleet of barges of fifteen or twenty, five or six abreast, where are they?

They say that where there is a current this margin is entirely too small for safe navigation even in calm weather, and when there is any wind, or it is dark, the danger is greatly enhanced.

This sworn statement is signed by twenty men, captains, pilots, and engineers.

I do not wish to argue this question at length. It was argued as far as the gentleman would permit at the last session of Congress, and when we voted on it it was rejected. I thought it was dead. I did not think we would hear of such an impudent proposition again. If the gentleman had advised me of what he intended I would have brought other testimony. I would have brought instructions from the Legislature. I would make the voice of the people heard here if the voice of the people could penetrate these walls in regard to these questions. But they laid low, they kept dark, they met and agreed upon this bill and sprung it upon the House, and demand we should pass it under the previous question.

One word more. The gentleman says I did him injustice when I said he undertook to gag the bill through. Gentlemen will recollect how it was. He did not propose to give me more time than from three to ten minutes, and I would not accept it; I would not take that time in a matter involving millions of loss to the country. The gentleman carried the previous question by three votes.

Then I demanded the yeas and nays on ordering the main question, and believing he could not carry it the gentleman under the force of circumstances yielded me thirty minutes. If that is not as near a gag as you can come, I do not know it. And now, instead of having this matter fairly discussed, he withdraws the demand for the previous question, holds the floor, and allows me but thirty minutes. It is more than I wanted, however, for I think even in so short a time as I have taken I have explained the matter satisfactorily to the House. At any rate I will reserve the balance of my time to answer the gentleman from Massachusetts.

Mr. FARNSWORTH. I would like to ask my colleague how long this bridge has been in existence.

Mr. WASHBURN, of Illinois. A part of this bridge is in my congressional district. I am presumed to know something about that section, for I have lived there twenty-five years. It has been there five or six years, and it has been a constant source of annoyance and complaint all the time.

Mr. FARNSWORTH. Has my colleague got any authentic case that he can present to the House of detention, delay, or injury to the navigation of the Mississippi? Has any steamer been proved, by any document here, to have been detained or injured?

Mr. WASHBURN, of Illinois. Yes, sir; testimony was presented to the committee, if I am not mistaken, showing in one case damage to the amount of \$4,000.

Mr. DAVIS. Will the gentleman from Massachusetts allow me to reply to the gentleman from Illinois?

Mr. ALLEY. I will.

Mr. DAVIS. This bridge was constructed, the gentleman from Massachusetts states, in 1864, and was open to navigation in March, 1865; and yet the gentleman from Illinois [Mr. WASHBURN] says that for the last six years this bridge has been a source of constant complaint and great damage to the navigation on the Mississippi river. Now, sir, when I say that not one single suit has been brought against that company for any damage to any vessel or craft, when I say that no claim has ever been made against the company for damage, and when I say—

Mr. WASHBURN, of Illinois. Does the gentleman say there is not a case now pending in the United States court in Iowa for damage?

Mr. DAVIS. Not one. The attorney of the company swore before the committee that no suit had been commenced, except one by way of indictment against the company, in regard to which they asked the protection of Congress. That is all I have to say now; hereafter I may have occasion to speak further on the subject.

Mr. ALLEY. I will yield a few minutes to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I wish to say a very few words in reply to my friend from Illinois, [Mr. WASHBURN;] not in reply to his denunciation of railroad corporations; he may pitch into them as much as he pleases for all me; not in reply to his allusions to the industry and economy of pains-taking New England, his native country; they always take care of themselves—

Mr. WASHBURN, of Illinois. They propose to take care of us. [Laughter.]

Mr. SCOFIELD. Not in reply to his passion on the subject of gag; he can always protect himself in that line as well as any gentleman on this floor. But, sir, I see beyond the Mississippi a vast stretch of country out of which we are from time to time adding to the sisterhood of western States. There are I believe four of these organized now, and yesterday bills were passed in the Senate admitting two more. We are donating lands for the purpose of building railroads to grasp the commerce of these new States and bring their products into the markets of the East. We have just learned that three hundred and five miles of the Union Pacific railroad are completed. It is being rapidly pushed on, and very soon will be out of sight in the deep shadows of the setting sun. We want to connect with the commerce of the States, and if every time we propose to bridge the Mississippi we are to be told that that commerce does not rightfully belong to the East, that it must pass through the Mississippi river, and that you must not dam up that stream, it would have been a great deal better for the country if God had never given us the Mississippi. We must connect with this commerce, and it is impossible to do it without in some slight degree obstructing navigation.

Mr. WASHBURN, of Illinois. I agree with a great deal that the gentleman from Pennsylvania has said; but tell me why we should make a discrimination in favor of this bridge and make the draw forty feet less than that of any other bridge on the Mississippi for the benefit of a railroad company?

Mr. SCOFIELD. Why we have required some companies to build bridges of one hundred and sixty feet span I am not advised. I only say that there has been a bridge built at this point with one hundred and twenty feet span which all practical men tell us obstructs the commerce of the river very slightly indeed; and the question is, whether we will tear it down because the expense will come upon a railroad company, and because some of the Lynn shoemakers may be stockholders in that company.

Mr. ALLEY. They are not.

Mr. SCOFIELD. My friend from Massachusetts tells me they are not. I was rather surprised that a gentleman who is indebted to the school-houses of New England and to the economy of the home farm for all he is, and who has gone out into the West, should cast a reflection upon the capital acquired by industry, even upon the shoemaker's bench.

Mr. WASHBURN, of Illinois. I do not understand the gentleman's allusion, particularly as I am pleading in behalf of the Lynn shoemakers. I want to give them cheap provisions.

Mr. SCOFIELD. Let us bring provisions then from beyond the Mississippi, from the vast unoccupied prairies, that can grow millions of bushels of wheat every year; let us bring them across the Mississippi, and not force our western commerce when it comes to that stream either to run down to New Orleans or up to Galena.

Mr. ALLEY. I propose to occupy a few minutes in reply to some of the points made by the gentleman from Illinois, [Mr. WASHBURN;] and then I shall call the previous question, and if it be sustained I give notice to gentlemen that I shall occupy but a very small portion of the hour to which I shall be entitled, and I will give them the privilege of speaking.

Mr. Speaker, this case is all in a nut-shell. The gentleman from Illinois has said a great

deal about the unfairness of the presentation of this bill. I will say upon that point that the committee went into a very patient investigation, which lasted several weeks. We examined any number of witnesses on both sides, and after hearing all that could be said by all the parties in interest, and those also who are not interested, engineers and others, the committee, although not agreeing entirely as to the expediency of bridging the Mississippi at all, were unanimously of the opinion that, so far as this bridge is concerned, if any bridge is to be built across the Mississippi river, this bridge is most certainly right and proper, and Congress having settled the question that it is indispensably necessary to bridge the Mississippi, we felt that it was our duty to present this measure again to the consideration of the House.

The gentleman from Illinois [Mr. WASHBURN] resides in and represents Galena, and that, I presume, with him is the whole point in the case; that, I suppose, is his whole ground of opposition. It is a sectional question. It is a question which he thinks bears immediately and adversely upon the interests of his constituents, and so he comes in here and opposes with all his might this bill upon that ground. I cannot think that any fair-minded and impartial person who has examined this subject fully and candidly, and has investigated it as fully as this committee have done, can be opposed to this bill.

Mr. WASHBURN, of Illinois. Will the gentleman inform the House whether the parties opposed to the bridge have been before the committee?

Mr. ALLEY. I cannot yield to the gentleman. I want to reply to one other point made by the gentleman.

Mr. HARDING, of Illinois. I rise to a point of order. I submit whether it is in order for the gentleman to suggest that those who differ with him in opinion are dishonest.

The SPEAKER. That is clearly personal and out of order.

Mr. ALLEY. I meant no reflection upon any gentleman.

The SPEAKER. The gentleman will suspend. The Chair rules upon the question of order, that it is not proper for the gentleman from Massachusetts to suggest that gentlemen who differ with him are dishonest.

Mr. HARDING, of Illinois. The gentleman said that he could not conceive how any man could be honest in opposing this bill.

The SPEAKER. That language is not parliamentary under the rules.

Mr. ALLEY. It is sufficient for me to say to the gentleman that I meant no such thing. I respect the gentleman from Illinois [Mr. WASHBURN] as much as any gentleman upon this floor. I will only say that he is a very ardent advocate for anything that favors his constituents, and a fierce opponent of all measures adverse to their interests. I think he will concur with me in that opinion. If that is a charge of dishonesty I do not so understand it.

Mr. ALLISON. Will the gentleman yield to me for a moment?

Mr. ALLEY. I cannot yield now. The gentleman from Illinois [Mr. WASHBURN] asks a question, which I admit is a very pertinent one. He asks why do we permit this bridge to have a span of only one hundred and twenty feet? I will answer that question fairly and candidly. Congress, at its last session, enacted a bill allowing several bridges to be built across the Mississippi river, but requiring them to have a span of one hundred and sixty feet. Now, I suppose that at some points a span of one hundred and sixty feet is indispensable, if you are seeking to have the least possible obstruction to the free navigation of the river. There are other points at which a span of one hundred and twenty feet is sufficiently ample. And I think the committee were unanimously of the opinion that this point was one where a span of one hundred and twenty feet was all that was required, all that was necessary; for it appears



by the sworn testimony, which was not contradicted, that this bridge crosses the river at the best point for a bridge between St. Louis and St. Paul.

Now, this bridge has a span of one hundred and twenty feet, a wider span than existed in the world twenty-five years ago; and we believe it is all that is necessary at that point. The bridge is now built; all acknowledge that it is the best structure of the kind that was ever erected on this continent. I believe there is no dispute about that among those who have examined it. This bridge was built in good faith, under the authority of acts of the Legislatures of Illinois and Iowa. The gentlemen say if they had had time they could have brought here direct instructions from their Legislature to vote against this bill. What! after the Legislature has granted the privilege of erecting this bridge they will come forward after the bridge has been built and instruct their Representatives to vote against it? I think that cannot be.

Mr. WASHBURN, of Illinois. Will the gentleman yield to me for a moment?

Mr. ALLEY. I will yield by and by. I think I have met that assertion satisfactorily as far as it goes. Now, the bridge having been built in good faith, of a requisite span for that point, built at an enormous expense, which span cannot now be changed without the demolition of the bridge, I think it is not unreasonable that the committee should have reported this bill as it is, although requiring, as the gentleman remarks, a larger span for other bridges hereafter to be erected, some of them at points where the current is more rapid, and where two hundred feet even would not make the navigation as free and safe as it is through these draws of only one hundred and twenty feet span. This bridge has been in operation two years, with an immense and constantly increasing traffic over it, and no accidents worth mentioning have occurred; and can it be possible that the Congress of the United States will subject it to the possibility of removal or destruction to gratify the whims or local prejudices of interested parties. If I had time I would like to give the statistics showing how immensely important it is to the interests of that section that transportation be allowed by continuous rail across that river, and also how small the steamboat interest is in comparison, and how little the boat interest suffers from any detention in consequence of that bridge. The river is blocked with ice four months in the year, and this impediment alone furnishes an unanswerable argument in favor of the bridge, for the additional expense and delay in the transportation of merchandise across the river at that season amounts to many times more than the whole amount of expense and delay occasioned to the boat navigation the year through.

I now call for the previous question, and if it is sustained I promise to give to gentlemen all the time they may desire.

Mr. WASHBURN, of Illinois. I hope the previous question will be voted down. Let us see if the people cannot be heard here.

The question was taken upon seconding the previous question; and upon a division, there were—ayes 69, noes 31.

Before the result of the vote was announced, Mr. WASHBURN, of Illinois, called for tellers.

The question was taken; and upon a division, there were—ayes ten; noes not counted.

So, one fifth of a quorum not voting in the affirmative, tellers were not ordered.

The previous question was seconded accordingly, and the main question ordered.

The question was upon the passage of the bill.

Mr. ALLEY. I believe I am entitled to one hour to close the debate before the vote is taken upon the passage of the bill. I now yield to my colleague upon the committee, [Mr. FARQUHAR.]

Mr. HENDERSON. Before the gentleman yields I would like to ask him a single question.

Mr. ALLEY. Very well.

Mr. HENDERSON. Has any legal proceeding been commenced to have this bridge taken down?

Mr. WASHBURN, of Illinois. Yes, there has been.

Mr. HENDERSON. My question is, whether there have been any legal proceedings commenced to have this bridge torn down and removed.

Mr. ALLEY. Mr. Speaker—

Mr. WASHBURN, of Illinois. I can answer the gentleman from Oregon, [Mr. HENDERSON.] There is a case now pending before the United States district court of Iowa.

Mr. ALLEY. There was no testimony before the committee to that effect. It was alleged that such was the fact, but it was denied before the committee.

Mr. HOGAN. The difficulty has been to find out the parties to be sued.

Mr. ALLEY. I now yield to the gentleman from Indiana, [Mr. FARQUHAR.]

Mr. FARQUHAR. I desire to call the attention of the House for a few moments to the facts connected with this proposition as it comes before the House to-day and as it came before the House at the last session. This question of legalizing the Clinton bridge across the Mississippi river and making it a post route was submitted to the Committee on the Post Office and Post Roads early after the commencement of the last session of this Congress, and for six months that committee gave it their calm and deliberate attention. Time and again they met and had this question before them. They examined witnesses in large numbers, and had all the facts in testimony before them. After the serious and deliberate examination which, as an impartial committee, they should give to the subject, they come in here and say to the House that they believe, after hearing all the testimony and all the facts, that there has been no "material obstruction" to the navigation of the waters of the great Mississippi by reason of the construction of this bridge.

Now, I undertake to say that that is the question and the only question that is submitted to this House by this bill, and I was surprised at the speech made by the gentleman from Illinois [Mr. WASHBURN] at the last session, and the speech made to-day by him, charging that this bridge is an obstruction to the navigation of the Mississippi.

Sir, the gentlemen from Illinois [Messrs. WASHBURN and HARDING] and the gentleman from Missouri, [Mr. HOGAN,] Representatives in this House, were repeatedly before the committee during the last session and were heard upon this question.

Mr. WASHBURN, of Illinois. I will ask the gentleman whether we have been heard before the committee this session or have had any notice that this measure was pending?

Mr. FARQUHAR. No, sir; and there was no occasion that those gentlemen should be heard or notified, because the committee had agreed at the last session that this bill should be reported as a separate proposition, independent of all other questions connected with bridging the Mississippi. The chairman of the committee took it upon himself, when "the mammoth bill" was before the House, to move as an amendment this bill substantially; but he did not move it as a separate and independent measure, as it comes before the House to-day. He now presents this measure by instruction of the committee, made prior to the adjournment of Congress at the last session, and by the committee reaffirmed during the present session. Sir, I ask is it the duty of a committee of this House to go round and hunt up the distinguished gentleman from Illinois [Mr. WASHBURN] and ask him whether they shall report to this House a measure which the committee has calmly and deliberately decided to report?

Mr. HARDING, of Illinois. Will the gentleman yield to me for a moment?

Mr. FARQUHAR. I will yield for a question.

Mr. HARDING, of Illinois. I wish to ask the gentleman whether the committee who reported this bill did not persistently require of companies that sought legal authority to build bridges over the Mississippi (this bridge having been built without legal authority) that there should be a draw of at least one hundred and sixty feet.

Mr. FARQUHAR. I answer the gentleman with pleasure. The committee required no such thing from any bridge company or their friends. On the contrary, the committee refused to recommend the passage of that "mammoth bill." They directed their chairman to report it to the House without any recommendation whatever, while, at the same time, having for six long months examined carefully, deliberately, and impartially the evidence adduced before them, they did direct him to report this bill with a favorable recommendation, because the evidence was overwhelming that this bridge was no obstruction to the free navigation of that river.

Now, sir, I desire to say that the provisions of the "mammoth bill," which was supported by my friends from Illinois, [Messrs. WASHBURN and HARDING,] was identical in its provisions with the present bill, except that that bill required a draw of one hundred and sixty feet while this has a draw only of one hundred and twenty feet.

Mr. WASHBURN, of Illinois. That is the whole question.

Mr. FARQUHAR. I know it; and to that point I desire to call the attention of the House. This proposition declares, first, that the bill is to be considered a lawful structure and a post route; second, that no higher charges for transportation of the mails, troops, and munitions of war of the United States shall be made for crossing the bridge than the rate per mile paid for transportation over the roads leading to said bridge; third, that the draw shall be promptly opened on reasonable signal, except when trains are passing over the same, but in no case shall there be unnecessary delay during or after the passage of trains; fourth, litigation that may arise from alleged obstruction to navigation may be tried by the circuit court of the United States in either State that the bridge touches; fifth, the right to alter and amend the act to prevent or remove material obstruction to navigation of the river is expressly reserved to Congress.

Everything that was in that bill, which met the almost unanimous support of this Congress at the last session, is embraced in this bill, except that this bridge is to be legalized and made a post road with a draw of only one hundred and twenty feet, while the former bill required that the bridges hereafter built shall have a draw of one hundred and sixty feet. The distinguished gentleman from Illinois asks the question, "Why do you not require this draw to be one hundred and sixty feet?" Sir, we do not require it because the structure is built. It is there, a monument of the enterprise and genius of those men who have sunk their money deep down in the bed of the Mississippi that the constituents of the distinguished gentleman from Illinois may reap the benefits of that rivalry which is afforded in carrying their products to market either through the city of Chicago to the city of New York, or on the "Father of Waters" to the Gulf of Mexico.

Mr. Speaker, permit me to call attention to the facts connected with this bridge. I do not state them merely from personal observation, but I state them as proved before the committee. I know the gentleman from Illinois produced before that committee certificates from steamboat men, from pilots, from men interested in the navigation of the Mississippi river and sworn to by them; but we had before us not only men connected with the navigation of the Mississippi river, but men who had been brought from other sections of the country, entirely disinterested pilots, steamboat men, and raftsmen, who had been called there by parties interested in the bridge to investigate

and examine whether it was or not a material obstruction to the navigation of the Mississippi river. We had their evidence. We took it, together with that of the men who were interested in the navigation of the river; and taking it altogether, there was no doubt in the minds of the committee it was overwhelmingly proved there was no material obstruction to the navigation of the river.

The gentleman has read in the hearing of the House to-day a certificate as sworn to, where it is alleged the piers of that bridge are not parallel with the current of the river. I unhesitatingly say those gentlemen are mistaken in regard to that fact. The evidence is clear and satisfactory that the piers are set directly parallel with the current of the stream. This is the fact, as the evidence of Mr. Taylor, the engineer of its construction, clearly shows, who is sustained and confirmed by the distinguished gentleman from Massachusetts, chairman of the Committee on the Post Office and Post Roads, and other gentlemen of this House, who actually saw for themselves that these men were entirely mistaken in regard to the matter. The bridge itself is not at right angles to the banks of the river. The current runs differently from the general course of the stream at this point, and no competent engineer would construct a bridge across so important a river without planting his piers parallel with its current.

Mr. WASHBURN, of Illinois. How about the Rock Island bridge?

Mr. FARQUHAR. I know nothing about it except from the testimony before the committee, and that was slight. My information is from the gentleman from Illinois in the speech he made here last winter, and I would like, if I had the time, to show the House the misrepresentations, the misstatements, the misunderstandings, I presume, of the gentleman in regard to the Rock Island bridge, as applied by him to the Clinton bridge on a former occasion.

Mr. GRINNELL. Let me say a word in reference to the Rock Island bridge.

Mr. FARQUHAR. I do not yield, as I cannot spare the time. I desire to say in this connection that there was evidence before the committee that impartial and disinterested men from other portions of the country tried experiments by floats upon the river, giving them free way in the current, and the result was that they went clear of the piers and between them, showing that the current of the stream was directly parallel with the length of the piers.

The gentleman from Illinois says that hereafter from fifteen to twenty barges will be towed by a single boat from the headwaters of the Mississippi to the Gulf without breaking bulk, but he forgets or omits to say that steamboat men only place one barge upon each side of a boat, the others being towed to the rear, and that the bridge affords ample space for that purpose.

But there is stronger evidence than that to sustain this case. The bridge was completed in December, 1864, more than two years since, and there is not a case of damage or injury established, with a single exception, during the whole period of time from then until now. No material obstruction whatever has resulted from the construction of this bridge to the navigation of the Mississippi river. While the gentleman from Illinois [Mr. WASHBURN] charges that sixty barges and boats have been destroyed at Rock Island bridge, the gentleman has not dared to charge before this House to-day that more than a single craft has been injured at this bridge. And, sir, there are suspicions it was run against the bridge to make an experimental case to test whether it was a legal structure or not. Yet the gentleman would ask the committee to come into the House and in the face of sworn evidence, and after deliberate examination, to decide it was an obstruction to the navigation of the Mississippi river. We could not do it and serve our constituents; we could not do it and serve our

country; we could not do it and stand before this House and the testimony in this case. But we come here impartial and disinterested, as much so as the gentleman can be, taking the facts as they came before the committee. This bridge is one of the finest structures, not only in America, but in the world. It cost over five hundred thousand dollars, and the whole purpose of the gentleman seems to be to tear it down because it belongs to an incorporated railroad company.

My friend says the House decided at the last session that these bridges should be one hundred and sixty feet span. Ay; and suppose the gentleman from Illinois had favored a change during the war of the standard height of enlisted men, would he therefore, because of the increased height, discharge all the rest of the men who had been taken into the service whose height did not reach that standard? Yet that is the principle he proposes to apply to this bridge case. Because Congress required in anticipation of the fact that there might be a time when that length of span would be required, he proposes to tear down this bridge which has a span of less than one hundred and sixty feet. I would say to that gentleman, Bide your time, "sufficient unto the day is the evil thereof."

Let me say to the House that when this bridge was being constructed the railroad company whose road now passes over it were seeking a terminus on the Missouri river, and they employed engineers to examine and report upon it. They reported that the draw of this bridge, which is one hundred and twenty feet, was then the widest span for a railroad bridge known in the civilized world. Now these men, knowing that fact, believed that it was all that would be required. They built this bridge, a structure so substantial and so permanent, reflecting such a credit on those who built it, that it would be doing gross injustice to them, to the country, and to the commerce thereof to refuse that protection guaranteed by the provisions of this bill.

Mr. KUYKENDALL. I desire to ask the gentleman whether this bridge was not built by the permission of the States of Illinois and Iowa?

Mr. FARQUHAR. I understand, from the evidence, that the bridge was built by permission of the Legislature of the State of Illinois and in conformity to the general law on the subject of the State of Iowa. These gentlemen came there and pursued the only legal course marked out by law and constructed that bridge. And now a word on the question of detention. I venture to say that no boat was ever detained in passing through that bridge over two or three minutes. There is no further detention than that necessary. It is opened by a steam-engine, and takes but two or three minutes to open and close the draw.

The SPEAKER. The time yielded by the gentleman from Massachusetts to the gentleman from Indiana has expired.

Mr. FARQUHAR. I ask the gentleman to allow me a few moments more.

Mr. ALLEY. I cannot do it, because I have promised to yield the floor to several other gentlemen.

Mr. FARQUHAR. If the gentleman has to break his promise, he may as well break it in my favor. He told me that he would yield me the control of the floor after calling the previous question.

Mr. WASHBURN, of Illinois. Will the gentleman from Massachusetts yield me the floor for ten minutes?

Mr. ALLEY. I will yield to the gentleman for that time.

Mr. WASHBURN, of Illinois. I am very reluctant indeed to occupy the attention of the House one moment longer upon this bill, but it is a public duty which I feel to be incumbent on me to resist, by every means in my power, the passage of this most iniquitous measure. I do not see why the gentleman from Indiana [Mr. FARQUHAR] should be surprised to find me in opposition to this measure. The gentleman

ought to know that he always finds me upon the side of the people and against this outrageous legislation in favor of monopolies and against the people. I am against everything of this kind, and I submit to the House that the gentleman from Indiana has not answered the arguments which I submitted to the House. I submit that he has traveled from the record and talked about other things than the question before the House. The gentleman from Indiana, I suppose, was one of this junketing party that went over this bridge, [Mr. FARQUHAR nodded assent,] and that he saw the bridge and saw that it was an obstruction to navigation, and I am astonished that my honorable friend, with his undoubted veracity and high character, should here, in the face of this House, undertake to say that this bridge, in the light of the testimony of fifteen witnesses, is no obstruction. Sir, what was the testimony before the committee? I have read it—against the bridge the testimony of credible witnesses, in a situation to know the facts, but on the other side interested parties of men who have a pecuniary interest in these measures, while the great people who are interested are left out in the cold and have no voice.

Now, as to my distinguished friend from New York, [Mr. DAVIS,] who, in the first place, wrote a similar bill, I understand that he is directly interested in the passage of this bill, being a stockholder in this company. I understand that my distinguished friend from Massachusetts [Mr. AMES] has also an interest somewhere in this direction; but I represent no stockholders or railroad combinations, but the people.

Mr. ALLEY. When the gentleman speaks of a gentleman from Massachusetts as having an interest in this matter, does he refer to me?

Mr. WASHBURN, of Illinois. No, sir.

Mr. DAVIS. When he alluded to the gentleman from New York did he refer to me?

Mr. WASHBURN, of Illinois. I supposed the gentleman from New York had an interest in this bill.

Mr. DAVIS. If the gentleman will allow me, I will tell him.

Mr. WASHBURN, of Illinois. The gentleman can do it after my ten minutes expire. I cannot allow him to interrupt me now.

Sir, considering the stupendous interest that this corporation has, it is no wonder that after this measure was defeated by fifteen or twenty majority at the last session of Congress it has, like the fabled Antæus, risen from its fall and appeared here at this session. Sir, as Representatives of the people we ought to interpose our veto against a measure of this kind, but alas! too often it is in vain.

The gentleman from Massachusetts [Mr. ALLEY] has given us no reason why we should make a discrimination in favor of this bridge over every other bridge on the river. None can be given except the one to relieve the railroad companies from their liability to make it conform to the requirements of other bridges. We have said by our law that no bridge should be built with a span of less than one hundred and sixty feet, have we not? Then why make an exception in this case, unless it be at the behest of this Albany corporation, the "Albany Regency," and these railroad corporations? Tell me why.

Mr. ALLEY. The bridge is already built.

Mr. WASHBURN, of Illinois. The gentleman says the bridge is already built. Yes, sir, they built a bridge which is an obstruction to the navigation of the Mississippi, and they know it. The gentleman from Indiana, [Mr. FARQUHAR,] in reply to me, said I could give no instance of this bridge acting as an obstruction to the navigation of the Mississippi river. I say to the gentleman that there have been numerous instances in which, as I can prove by incontrovertible testimony, this bridge, it is estimated, has indirectly been a damage of more than half a million dollars to the people of the Northwest; that I know. And yet because it is owned by these corporations, and they have built a bridge which is an obstruc-

tion to the navigation of the Mississippi, they rush here and ask us to do, what? Not to leave the bridge in its present status, with its character to be determined by the courts, but they come here and ask us to legalize their illegal act, that is what they do. Now I ask the Representatives of the people if they are prepared to do this? Why did not the committee bring in a report setting forth all the facts?

Mr. FARQUHAR. They have a report.

Mr. WASHBURN, of Illinois. If there is any such report, why has it not been read? No report has been read here, and we have nothing before us but the statements of gentlemen. Now I have the sworn testimony of sixteen witnesses, whose testimony cannot be refuted, that this bridge is a great obstruction to the navigation of the Mississippi river. I ask the House if they have no regard for the interests of the people? Do gentlemen know what this bill really means? Do they know the hostility and power of these railroad corporations in reference to every means of transportation except such as they themselves control? They want to close up the Mississippi in order to drive everything to go over their roads, and not permit us to have any outlets for our products except over their roads.

Now, this very corporation for the benefit of which we are asked to legislate, this very Northwestern Railroad Company, is charging my constituents from twenty to thirty cents per bushel for carrying their corn to our nearest market by railroad, the market of Chicago. And yet the corporation comes here and demands of us to legislate for its particular benefit, while our suffering constituents have no voice in the matter and cannot be heard here. Let the people have a chance to be heard.

The gentleman from Massachusetts [Mr. ALLEY] must have known that I was deceived in regard to this thing; he must have known that I had a right to presume that this was a matter foreclosed by the action of the last Congress; he must have known that my constituents and the people of the Northwest would want to be heard if this matter should come up again. How is it in Massachusetts, and even in Indiana? Do you not there give the people an opportunity to be heard upon all such questions as this? When the Legislature of Indiana proposes to obstruct the navigation of any stream in the State do they not give the people a hearing? How is it in the State of Massachusetts? There you have in the Legislature a committee on corporations and bridges. Does the Massachusetts Legislature take up and pass upon a matter in the interest of a few men who want to be corporators without allowing the people to be heard? No, sir, they never did any such thing. Massachusetts legislates honorably, understandingly, and justly. I would like to see the committee of the Massachusetts Legislature that would undertake to get a bill through as the gentleman from Massachusetts [Mr. ALLEY] is trying to get this through here.

[Here the hammer fell.]

Mr. ALLEY. The gentleman from Illinois [Mr. WASHBURN] having justified himself to his constituents, which I suppose was all he desired or intended to do, I shall not occupy the attention of the House many minutes, and will then give way to other gentlemen who desire to occupy the rest of my time. Now, in regard to the flourish of the gentleman about some testimony he holds in his hand, a page or two of the statements of pilots, steamboat-owners, and others who are directly interested—

Mr. WASHBURN, of Illinois. How interested?

Mr. ALLEY. I would say that he refers to that as all the testimony as if by implication the committee, some how or other, had suppressed the remainder of the testimony. Now, I hold in my hand ten times as much testimony, sworn testimony also, from interested and disinterested parties, which testimony is of a character directly opposed to that which the gentleman from Illinois has presented; and

if it is desired that the whole shall be read I certainly shall have no objection.

Mr. WASHBURN, of Illinois. I ask that it be read, and I ask that the additional testimony given by my colleague and myself before that committee be also read.

Mr. ALLEY. The House, I am sure, after hearing the testimony read, would come to the conclusion, as the committee did, that no stronger case was ever made out. The committee unanimously came to the conclusion, as I have already stated, that if any bridge under any circumstances was to be built, this was a bridge eminently worthy of the protection of the Congress of the United States.

With these remarks I will yield five minutes to my colleague on the committee, [Mr. FARQUHAR.]

Mr. FARQUHAR. Mr. Speaker, I ask the Clerk to read what I send to the desk.

The Clerk read as follows:

"Sec. 6. And be it further enacted, &c., That the bridges across the Ohio river at Wheeling, in the State of Virginia, and at Bridgeport, in the State of Ohio, abutting on Zane's Island in said river, are hereby declared to be lawful structures in their present position and elevation, and shall be so held and taken to be, anything in any law or laws of the United States to the contrary notwithstanding."

"Sec. 7. And be it further enacted, That the said bridges are declared to be and are established post roads for the passage of the mails of the United States, and that the Wheeling and Belmont Bridge Company are authorized to have and maintain their said bridges at their present site and elevation, and the officers and crews of all vessels and boats navigating said river are required to regulate the use of their said vessels and boats, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation and construction of said bridges."

[United States Statutes-at-Large, vol. 10, p. 112.]

Mr. FARQUHAR. Mr. Speaker, I present that to the consideration of the House as the final result of the controversy arising out of the great Wheeling bridge case, to which I call the attention of my distinguished friend from Ohio, [Mr. BINGHAM.] I ask the House whether this bridge company or its representatives are not asking but a comparatively small privilege when the great body of the people authorized the legislation read for that bridge at Wheeling, after that long controversy, not only legalizing it as a post road, but declaring that its height, its length, and its breadth should all be legalized, while in this case there is reserved to the Congress of the United States the power to remove this bridge whenever it may be found to be a "material obstruction to the navigation of the river?"

Now, sir, there runs out from the city of Chicago to the city of Rock Island, just sixty miles south of the Clinton bridge, a railroad. There runs from the city of Chicago, just forty miles above this bridge, at Dubuque, another railroad, near the end of which resides my distinguished friend from Illinois; thus there are three railroads passing over that magnificent prairie, coming somewhat in competition with each other. Yet the gentleman tells us that he is in favor of breaking down monopolies, while at the same time he is urging that we shall take away from the people of that portion of Iowa and that portion of Illinois one of these rival lines of transportation by tearing down this magnificent bridge and destroying that great thoroughfare.

Mr. WASHBURN, of Illinois. What is my proposition?

Mr. FARQUHAR. The gentleman's proposition is, that the bridge shall be lengthened in its span; and to do that it must be torn down to its foundation.

Mr. WASHBURN, of Illinois. Let it conform to the requirements applied to every other bridge.

Mr. FARQUHAR. Well, this is a singular proposition: that we shall do away with competition to increase the price of products. When you create competition in transportation you reduce its price, and thereby increase the price of products. Let me say that this great Chicago and Northwestern Railroad Company may be a monopoly; I know nothing about that; but I do know that it has, by its energy and capital, reached out its arms

over twelve hundred miles of that great north-western country, opening up facilities by which the products gathered from all parts of that country may be carried to the markets for which they are destined.

That railroad now reaches four hundred and ninety eight miles, from the city of Chicago to the city of Council Bluffs, upon the great Missouri river. The great Pacific railroad has now reached three hundred miles further up the valley of the Platte, and is looking toward the Rocky mountains, which it will reach during the coming year. Yet the distinguished gentleman from Illinois, the representative of the people of the West, comes here and asks this Congress to tear down this bridge which is to carry over it the great trade which not only comes from the valley between the Mississippi river and the Rocky mountains, but from the far Pacific coast—ay, from that celestial empire which is to contribute countless millions of passengers and tons of freight over this magnificent bridge which the gentleman proposes to tear down because this corporation is, in his excited imagination, a "great monopoly."

Mr. ALLISON. The gentleman from Massachusetts has promised to yield to me.

Mr. ALLEY. My distinguished friend from Ohio wants just one minute, and I cannot refuse so modest a request.

Mr. SCHENCK. Mr. Speaker, with due thanks to my friend from Massachusetts [Mr. ALLEY] for his courtesy in allowing me one minute of his time, I will endeavor to confine myself within that limit. This I can the easier do because I have no speech to make on either side of this question. But some gentlemen around me find it difficult to comprehend why a bill affecting the use or continuance of a bridge should give occasion to so much excited feeling and fierce discussion; and I think I can relate a little incident which may possibly furnish the explanation.

Mr. Speaker, I live in the Miami valley, that loveliest and most fertile part of all Ohio. We had a great freshet there last September. I was away from home at the time making speeches—for it was during the late political canvass—for the benefit of Copperheads in another part of the State. I witnessed, therefore, none of the ravages of the great flood, except as I saw some of the effects and traces of it after my return. But my neighbors described it to me, and told me of the damage to farms, crops, fences, and other property, and related to me many interesting and some amusing incidents and personal adventures connected with the general calamity. A day or two after my return a friend said to me: "By the way, SCHENCK, the old bridge over the Miami at Hamilton was carried off." "Is that so?" I asked. "Well, beside the serious inconvenience of that loss, it must have distressed our Butler county neighbors greatly, for to my certain knowledge that venerable structure has stood for fifty years and was perhaps the oldest bridge in our valley." "You may well say that," remarked my friend. "There was excitement enough in the crowd that stood and looked on at the old thing as it was lifted from the piers and swung round and floated down stream. I was there and saw tears almost come into Bill Beckett's eyes." (Mr. Beckett, by the way, Mr. Speaker, is as true, liberal, and noble a man as ever lived, and will enjoy the story.) "That is not to be wondered at," said I; "Beckett might well be affected. He was born near by, has been familiar with the bridge always since his earliest boyhood, and must have had a good many pleasant associations connected with it." "Associations the devil," exclaimed my matter-of-fact neighbor; "why, Bill was one of the biggest stockholders in the bridge company!" [Great laughter.]

Mr. ALLEY. I now yield five minutes to the gentleman from New York.

Mr. GRISWOLD. Mr. Speaker, it occurs to me the eulogy pronounced upon railroad companies and the great benefits growing out of the construction of railroads is not pertinent to the question before the House. I agree,



sir, with the gentlemen who are advocating the advantages growing out of these railroad companies. I am in favor of as liberal a course of legislation as any man upon this floor; but I cannot understand why we should legalize a railroad structure erected in defiance of law. I understand this company can have this bridge, and the question simply is the expending a few thousand dollars to make the bridge conform to the law of the land. While I would not interfere with the advantageous and laudable efforts of gentlemen to construct these railroads, still, as a matter of principle, I desire to protest against this habit of railroad corporations manipulating State corporations in the way which they so well understand.

I object, Mr. Speaker, to corporations going to the Legislature of the State, manipulating it and getting such measures passed as they see fit, and then, because they conflict with the laws of the United States, coming to Congress and asking us to legalize what they knew to be when it was erected an illegal structure. As a matter of principle I object, because I know nothing of the merits of this particular case. I protest against such legislation as will justify and form a precedent for similar legislation hereafter.

When the gentleman from Pennsylvania [Mr. SPOFFIELD] says he is inclined to regret Providence has given us the Mississippi river if objections are to be made to railroad connections, I beg to remind him that one hundred railroads would not carry the commerce of that river if its navigation were unimpeded. That right of navigation belongs to the people of this country, and I say that no railroad corporation, and not even Congress itself, can step in between the people and their rights.

Mr. Speaker, this bridge is a serious obstruction to the navigation of the Mississippi river; it ought not to be allowed to exist; and if it is not a serious obstruction to the navigation of that river, then they need not come here and ask for our action. The bridge will stand if not a serious obstruction to navigation, and if it is I repeat it ought not to be allowed. And I desire to protest against corporations calling upon Congress to step in to legalize what has already been done illegally. I do not want railroad corporations to do these things, relying upon the Congress of the United States to step in to their relief. I protest against it, not because I am opposed to this particular object, but as a matter of precedent and practice I object to any such legislation.

Mr. ALLEY. I yield four minutes to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I only desire to say, by way of explanation, what I intended to say before the previous question was seconded. I do not know personally whether this bridge is a material obstruction to navigation or not, but I know that experts—pilots and captains—on that river do regard it as such. I am aware that engineers on these railroads insist that it is otherwise. Now, if it is no obstruction there can of course be no objection to this legislation. But what I desired to say was that legislation on this matter should be postponed until we could have an opportunity of seeing and reading a report from a distinguished engineer of the Army, General Warren, who within three months has made a full and complete examination of this bridge, and who has no interest either in favor of the railroad or of the river navigation.

Mr. WASHBURN, of Illinois. They dare not trust that.

Mr. ALLISON. Therefore it is I desired to say a word by way of appeal to my distinguished friend to wait until we can have an opportunity of seeing the report of that engineer. And I desire, furthermore, to say that if that distinguished engineer should find that this bridge is an obstruction to navigation, then there should be a proviso attached to this bill whereby this corporation within a reasonable time should be required to so reconstruct its bridge as to make the navigation safe and free.

Mr. FARQUHAR. I would ask the gentleman to state to the House whether the question of the location of this bridge was or was not referred to that gentleman by Congress, and I anticipate his answer by saying that it was not.

Mr. ALLISON. I will only say that by the resolution of Congress this whole question was referred to the engineering bureau of the War Department, and that distinguished general has made this examination personally; and therefore it is that I desire there should be a proviso inserted in this bill substantially like this:

*Provided, That the said bridge shall, upon the recommendation of the chief engineer of the Army, within five years from the passage of this act be so reconstructed as to make it conform to the provisions of an act to authorize the construction of certain bridges, and to establish them as post roads, approved July 28, 1866.*

Mr. ALLEY. Does not the gentleman know that all the engineers whose attention has been called to this bridge are of the opinion that it will not obstruct navigation? And is not the gentleman himself sufficiently conversant with the facts of the case to be warranted in believing that it will not?

Mr. ALLISON. I do know that distinguished engineers say it is not an obstruction to navigation. But though it may not be an obstruction to navigation to-day, it may be an obstruction five years hence; and therefore I think there should be some power somewhere to require this corporation to so change the construction from time to time as to leave this great natural highway to the Gulf of Mexico free and uninterrupted for the navigation of steamboats. And more than that. I now make my remarks in opposition to the bill, by way of explanation of what I proposed in the beginning rather than for the purpose of trying at this stage to amend it. There is another provision in the bill which I object to, and it is this: this bill authorizes and requires steamboats above the bridge to give a reasonable signal before the draw shall be passed. Now, I do not know what may be construed to be a reasonable signal, or who is to make the construction of the law; therefore I think there should be a more specific statute with reference to the present duties of the engineers and pilots upon those boats, or of the persons who may have charge of the draws.

Mr. ALLEY. One word in reply to a single observation of the gentleman from Iowa, [Mr. ALLISON.] He says that though there may be no obstruction now there may be five years hence, and therefore there should be some power somewhere to remedy such an evil. If the gentleman had listened carefully to the reading of the bill he would have discovered that this power does exist, that it is especially reserved to Congress and to the courts. Therefore that difficulty is all obviated. I now yield five minutes to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. My colleague [Mr. WASHBURN] opposes this bill. I want it understood by the House that he does not speak for the whole State of Illinois. The Legislature of Illinois authorized the building of this bridge, and in my opinion a very large majority of the people of the State are in favor of continuing it as it is. The fact seems to be that this bridge was erected six or seven years ago, and during all the time which has since intervened but one single case has been presented to the committee of pretended material obstruction to navigation or damage to a boat. There is a draw to this bridge of one hundred and twenty feet, which, it is claimed, is wide enough for all practical purposes. Every bridge is technically an obstruction to navigation. If you drive a pile or construct a pier, it is, in one sense, technically an obstruction to navigation; boats and rafts have not got the whole surface of the river to float upon; and therefore to say that a bridge shall be constructed so as to be no obstruction to navigation is to say that no bridge shall be constructed at all, and to say that the general commerce of the country passing from west to east shall be obstructed at this huge ditch run-

ning north and south through the United States, which shall remain forever as a perpetual barrier to commerce.

Now, sir, there are eight hundred miles of railroad in operation from Chicago westward, and the roads are being extended at the rate of a hundred miles every few months. Shall we say that those roads shall be obstructed at the Mississippi river, and bridges which have been erected, and which are no material obstruction to navigation, shall be torn down and others erected and the people taxed by an additional tariff on freight for their erection, for that would be the consequence? I say no. Why, sir, there are now in the United States twenty-seven thousand miles of railroad in operation, and I would like to show to the House the amount of comparative revenue derived from railroads and steamboats in the United States. In 1865 the railroads paid \$5,917,000, while the steamboats of the United States paid only \$638,000. In 1866 the railroads paid \$7,600,000, while the steamboats paid only half as much as they paid before, only \$308,000.

My colleague [Mr. WASHBURN] says that he is representing very large interests, that when he speaks against this bill he is speaking in behalf of an interest of millions of dollars in his district. What does he mean by that? The steamboat interest? Well, how much revenue do you think the steamboat interest in my colleague's district paid in 1865 and 1866? In 1865 they paid the enormous sum of \$847, and in 1866 they paid the magnificent sum of \$65 90.

Mr. WASHBURN, of Illinois. I said nothing about the steamboat interest of my district.

Mr. FARNSWORTH. I supposed my colleague was representing the people of his district and their interests. It reminds me of a story I once heard of a distinguished judge, now a United States Senator. When on the bench he was greatly annoyed by trifling suits, and when a case of *certiorari* was before him and he was annoyed and vexed at having to construe a statute, he asked the counsel for the plaintiff how much the case involved, and was told twenty shillings. Said he, "Oh, my God, I would rather pay that amount than have to construe the statute!" And so I think the people had better buy off the opposition of my colleague from the Galena district and have the opposition removed.

Mr. ALLEY. I now yield the residue of my time to the gentleman from Iowa, [Mr. PRICE.] I would gladly have yielded to the gentleman from New York, [Mr. DAVIS,] who desires to say a few words, but I have not time to do so.

Mr. PRICE. Mr. Speaker, this bridge about which there appears to be so much contention happens to be in my district—that part of it, at least, which is said to be an obstruction to the navigation of the Mississippi river. I have lived on the banks of that river for twenty-two years not far from this bridge. I live below it, and I want to say to the members of this House that during the time I have lived there, and since the construction of this bridge, I have not heard of any damage being done to the navigation of the river by it. I wish to say in this connection, in reply to a remark made by some gentlemen last session upon this same bill, that the instance cited of a case of damage done to a raft did not occur at the Clinton bridge, but at the bridge at Davenport. Gentlemen will remember that at the last session of Congress we passed a bill authorizing and directing the removal of that bridge because it was an obstruction to the navigation of the river; and I say now—

Mr. WASHBURN, of Illinois. Mr. Speaker, if the gentleman will yield—

Mr. PRICE. I cannot yield now. If I had the time I would yield with a great deal of pleasure, because I know the gentleman is a modest man and scarcely ever takes the floor, unless he is entitled to it. [Laughter.] And more than that, he always speaks in the inter-

est of the people; and when he dies the people's advocate will have gone to

"That bourne whence no traveler returns."

'Sir, there are a few people other than those in Galena who are interested in this matter. There are a few people both east and west of the Mississippi who are interested in having this continent spanned by railroads, so that the Atlantic and the Pacific regions may be bound together by bands of iron. If you stop them at the Mississippi river what will the people East and West do for a convenient means of communication across the continent? Faith without works is dead; and a railroad across the continent without bridges across the rivers is almost useless at some seasons of the year. And I venture to say, that if to-day you were standing upon the banks of the Mississippi river you might remain there shivering unable to get across if there were no bridges. The steamboats cannot run, and the ice is not a safe means of transit; and without a bridge there would be a complete suspension of railroad communication, or of any other kind.

This Clinton bridge differs from the Rock Island bridge in this respect: the Clinton bridge stands in dead water, while the other bridge stands in swift water. This bridge at Clinton stands with the piers parallel with the channel, as the engineers testify; and as the best and strongest argument to the House in favor of the passage of this bill I will say that for all the years this bridge has stood there not a single dollar of damage by it has been brought into the courts for adjudication; and so far as I am aware no damage has been sustained from it up to this time. If there had been, no man upon this floor would be more willing than I would be to remove it or to so change it that it would not be an obstruction.

Now, I was not one of the junketing party to which the gentleman from Illinois [Mr. WASHBURN] has referred; nor do I come within the argument of the gentleman from Ohio, [Mr. SCHENCK], and which he illustrated by reference to some Miami bridge. I do not own any stock in this Clinton bridge or in any railroad connected with it, directly or indirectly. So I am clear of all those insinuations. If there was a bridge over the Mississippi river which impeded the navigation of it I would be in favor of its removal. And I shall ask this House before Congress adjourns to make an appropriation to clear out the lower rapids of the grandest river in the world, so as to remove what is now one of the greatest obstructions to its navigation. This bridge is no obstruction to its navigation, and therefore this bill ought to pass.

The question was upon the passage of the bill.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes twelve; noes not counted.

Before the result of the vote was announced,

Mr. WASHBURN, of Illinois, said: I call for tellers upon ordering the yeas and nays. I hope gentlemen are not afraid to place themselves upon the record. Let us see who are in favor of monopolies and who are against them.

Tellers were ordered; and Mr. WASHBURN, of Illinois, and Mr. ALLEY were appointed. The House divided; and the tellers reported that there were—ayes thirty; noes not counted.

So, one fifth voting in the affirmative, the yeas and nays were ordered.

Mr. WENTWORTH. I rise to a question of privilege. I was a member of the board of directors that ordered the construction of this bridge. In order to secure its construction we had to issue bonds, and I am the owner of some of those bonds. Now, as some may regard that as a clear case of interest I ask that I may be excused from voting; and I hope every other member who may be interested will do the same thing.

Mr. THAYER. I move that the member from Illinois [Mr. WENTWORTH] be excused from voting upon this bill.

Mr. WENTWORTH. I will say that if I am compelled to vote I will vote for the bill.

The motion of Mr. THAYER was agreed to; and Mr. WENTWORTH was accordingly excused from voting.

The question recurred upon the passage of the bill; and being taken, it was decided in the affirmative—yeas 101, nays 43, not voting 47; as follows:

YEAS—Messrs. Alley, Ames, Ancona, James M. Ashley, Baldwin, Baxter, Beaman, Bergen, Bidwell, Bingham, Boutwell, Boyer, Broomall, Buckland, Bundy, Chanler, Sidney Clarke, Cook, Cooper, Culver, Dawes, Defrees, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eldridge, Farnsworth, Farquhar, Ferry, Garfield, Glossbrenner, Grinnell, Hart, Henderson, Higby, Hill, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jencks, Julian, Kasson, Kerr, Koontz, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Longyear, Lynch, Marston, Maynard, McKee, McRuer, Mercer, Miller, Morrill, Myers, Niblack, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Radford, Raymond, John H. Rice, Ritter, Rogers, Rollins, Sawyer, Scofield, Sitgreaves, Spalding, Strouse, Taber, Nelson Taylor, Thayer, Trowbridge, Upton, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Welker, Whaley, Stephen F. Wilson, Windom, and Winfield—101.

NAYS—Messrs. Allison, Arnell, Baker, Benjamin, Bromwell, Campbell, Reader, W. Clarke, Cobb, Culom, Dawson, Deming, Denison, Finck, Griswold, Aaron Harding, Abner C. Harding, Hawkins, Hise, Hogan, Chester D. Hubbard, Johnson, Kelso, Ketcham, Latham, Leftwich, Loan, Marvin, McClurg, Neell, Samuel J. Randall, William H. Randall, Ross, Shanklin, Stokes, Nathaniel G. Taylor, John L. Thomas, Thornton, Trimble, Andrew H. Ward, Hamilton Ward, Elihu B. Washburn, Williams, and James F. Wilson—43.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Banks, Barker, Blaine, Blow, Brandegee, Conkling, Darling, Davis, Dumont, Eggleston, Eliot, Goodyear, Hale, Harris, Hayes, Hotchkiss, Ashbel W. Hubbard, Hulburt, Jones, Kelley, Ladin, Marshall, McCullough, McIndoe, Moorhead, Morris, Moulton, Newell, Phelps, Pike, Pomeroy, Alexander H. Rice, Rousseau, Schenck, Shellabarger, Sloan, Starr, Stevens, Stilwell, Francis Thomas, Robert T. Van Horn, Henry D. Washburn, Wentworth, Woodbridge, and Wright—47.

So, the bill was passed.

During the call of the roll,

Mr. THAYER said: I desire to announce that my colleague, Mr. KELLEY, is absent, by leave of the House, on business of the Naval Committee.

When the call of the roll was concluded,

Mr. DAVIS said: I wish to ask to be excused from voting.

The SPEAKER. That request should have been made before the roll-call had commenced. It is too late now.

Mr. WASHBURN, of Illinois. On what ground does the gentleman desire to be excused?

Mr. DAVIS. On this ground: that though I am not interested in this bill, yet as I was not allowed an opportunity to answer the question put to me by the gentleman from Illinois I have not been able to explain that I have no interest.

The result of the vote was then announced as above stated.

Mr. SAWYER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed House bill No. 380, to fix the times for the regular meeting of Congress, with an amendment.

Also, House bill No. 508, to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico, with amendments, in which amendments he was directed to request the concurrence of the House.

Also, a bill (S. No. 494) for the relief of the Winona and St. Peters Railroad Company, in which the concurrence of the House was requested.

#### COMMITTEE ON THE MILITIA.

The SPEAKER announced the appointment of Messrs. BANKS and VAN AERNAM to fill vacancies upon the Committee on the Militia.

#### ORDER OF BUSINESS.

The SPEAKER announced as the first business in order after the morning hour the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service at Washington.

Mr. WASHBURN, of Illinois. I rise to a privileged motion, and move to proceed to business on the Speaker's table.

The motion was agreed to; there being—ayes 61, noes 48.

#### MEETINGS OF CONGRESS.

The first business on the Speaker's table was Senate amendment to the bill (H. R. No. 830) to fix the times for the regular meetings of Congress.

The amendment was read as follows:

Strike out all of section two after the enacting clause and insert in lieu thereof the following:

That no person who was a member of the previous Congress shall receive any compensation as mileage for going to or returning from the additional session provided for by the foregoing section.

Mr. WENTWORTH. I move that the House non-concur in the amendment. As I understand, it allows constructive mileage.

Several MEMBERS. Oh, no.

Mr. WENTWORTH. Well, I would like to understand the effect of the amendment.

The SPEAKER. The Clerk will read the part proposed to be stricken out.

The Clerk read as follows:

That section seventeen of the act approved July 28, 1866, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," be so amended that no Senator or Representative in Congress who has been a member of the Congress next immediately preceding shall receive any allowance for mileage for traveling to the place of meeting to attend such additional session provided for in the foregoing section.

Mr. WENTWORTH. As I understand, the House bill provided against constructive mileage. The Senate amendment, if I understand it correctly, allows constructive mileage.

A MEMBER. Oh, no; it prohibits it.

Mr. WENTWORTH. If that is the fact, I have nothing further to say.

The amendment of the Senate was concurred in.

Mr. WARD, of New York, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### SUFFRAGE IN THE TERRITORIES.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 508) entitled "An act to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico."

The amendments were read, as follows:

Strike out all of the bill after the enacting clause and insert the following:

That from and after the passage of this act there shall be no denial of the elective franchise in any of the Territories of the United States, now or hereafter to be organized, to any citizen thereof on account of race, color or previous condition of servitude; and all acts or parts of acts, either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act, are hereby declared null and void.

Amend the title of the bill so as to read, "An act to regulate the elective franchise in the Territories of the United States."

Mr. ASHLEY, of Ohio. I move that the House concur in the amendments of the Senate; and on that motion I call the previous question.

Mr. ALLISON. Will the gentleman yield to me for a question?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. ALLISON. I desire to ask the chairman of the Committee on Territories [Mr. ASHLEY, of Ohio,] whether or not the provisions of this bill, if it becomes a law, will apply to the Territories of Colorado and Nebraska.

Mr. ASHLEY, of Ohio. Yes, sir; while Territories it will apply to them. I now insist on the call for the previous question.

The previous question was seconded and the main question ordered.

Mr. LE BLOND. I call for the yeas and nays.

The yeas and nays were ordered.

The question then recurred on concurring in the amendments of the Senate; and being taken, it was decided in the affirmative—yeas 104, nays 38, not voting 49; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Davis, DeGreese, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Hawkins, Higby, Hill, Holmes, Hooper, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketcham, Kootz, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Marvin, Maynard, McClurg, McRuer, Mercer, M. Per, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Plants, Price, Raymond, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Spalding, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Eliot B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—104.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Johnson, Latham, Le Blond, Leftwich, Niblack, Nicholson, Noel, Samuel J. Randall, William H. Randall, Potter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, Whaley, and Winfield—38.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Blow, Brandegee, Conkling, Darling, Dawes, Dumont, Eliot, Goodyear, Griswold, Hale, Harris, Hayes, Henderson, Hotchkiss, Asahel W. Hubbard, Huburd, Hunter, Jones, Kelley, Kerr, Kuykendall, Lufkin, Marshall, McCullough, McIndoe, McKee, Moorhead, Morris, Newell, Patterson, Phelps, Pike, Pomeroy, Radford, Alexander H. Rice, Rousseau, Shellabarger, Sloan, Starr, Stevens, Stilwell, Strouse, Nelson Taylor, Francis Thomas, Robert T. Van Horn, Woodbridge, and Wright—49.

So the amendments of the Senate were concurred in.

During the vote,

Mr. DEMING stated that his colleague, Mr. BRANDEGEE, was absent by leave of the House, and that if he were present he would vote in the affirmative.

Mr. THAYER made a similar statement concerning his colleague, Mr. KELLEY.

The vote was then announced as above recorded.

Mr. ASHLEY, of Ohio, then moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RETRENCHMENT.

The next business on the Speaker's table was Senate joint resolution No. 157, appropriating money to defray the expenses of the joint select committee on retrenchment.

The joint resolution was read a first and second time. It appropriates \$15,000 to defray the expenses of witnesses and other expenses of the joint select committee on retrenchment.

Mr. WARD, of New York. I wish to inquire whether this is to be considered as the report of the committee on retrenchment? [Laughter.] It does not look very much like retrenchment. It is the only thing we have heard from that committee.

The SPEAKER. The Chair will state that the labors of this committee have been very much enlarged and many additional subjects have been referred to it. The gentleman from New York, [Mr. HALE,] chairman of the committee, is absent, but the gentleman from Ohio [Mr. SCHENCK] is present and can explain the object of the joint resolution.

Mr. SCHENCK. Mr. Speaker, I did not hear the resolution read and was not aware of anything of this kind was on your table. It carries along with it its own explanation. It is simply a provision to pay the expenses of the committee. What the committee have yet done we are not prepared fully to report, although we have reported two or three bills which are now pending in relation to appointments to office.

Mr. WARD, of New York. I ask the gen-

tleman whether the committee has saved the amount now proposed to be drawn from the Treasury?

Mr. SCHENCK. It is more than I am able to say—that has been saved. A large amount of testimony has been taken and a great deal more is to be taken when our legislative duties will permit, which will develop a large amount of fraud and rascality in a variety of shapes by which the members of this Congress may hereafter well be directed in future legislation. I am not prepared to make any report what that testimony is. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to a third reading, and it was accordingly read the third time, and passed.

#### ADMISSION OF NEBRASKA.

The next business on the Speaker's table was Senate bill No. 456, for the admission of the State of Nebraska into the Union.

The bill was read a first and second time.

Mr. ASHLEY, of Ohio. Before calling the previous question I will say that the Committee on the Territories this morning unanimously directed me to move that the bill be put upon its passage. If the previous question be seconded, I will yield to gentlemen a portion of my time.

Mr. GARFIELD. Will the gentleman yield to me?

Mr. ASHLEY, of Ohio. I will after the previous question has been seconded.

Mr. GARFIELD. I only want half a minute just now.

Mr. ASHLEY, of Ohio. Very well.

Mr. GARFIELD. I am unwilling to pass, without debate or examination, a bill containing a provision which, if it have any legal effect at all, may become a very troublesome precedent hereafter. Suppose a bill should be offered to-morrow to let South Carolina in on the same condition? I do not express any opinion as to the merits of the bill; but I shall resist the attempt to pass it without examination or debate. To make two new States in ten minutes, under the previous question, without having the bill printed or debated, is unworthy of a deliberative body.

Mr. ASHLEY, of Ohio. I desire to state that the committee were unanimous in favor of the bill with the exception of the member from Tennessee, [Mr. COOPER.]

Mr. FINCK. I wish to inquire of my colleague whether he intends to press through without any discussion a bill of such importance as this.

Mr. ASHLEY, of Ohio. If the House sustains the motion for the previous question I will allow discussion.

Mr. FINCK. If the gentleman will make it a special order and have it discussed—

Mr. BINGHAM. Yes; have it discussed.

Mr. FINCK. It is very extraordinary to have a matter of this importance pressed through under the previous question.

Mr. BINGHAM. Will the gentleman from Ohio [Mr. ASHLEY] state how much time he will allow?

Mr. ASHLEY, of Ohio. If the previous question is sustained I have said I would yield to gentlemen all my time except perhaps five minutes. I will now yield to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. I merely wish to appeal to the gentleman not to press this bill to a vote at this time. We have just passed a bill securing to all male citizens of the United States within the Territories the right of suffrage, without distinction of race or color. It is now proposed to pass a bill accepting a constitution for a State government which expressly disfranchises the persons we have just declared by our votes shall be enfranchised. Now, sir, I think, with a question of this kind presented to us, we should not make haste under the previous question to create this new State, and thereby undo our work so far as the colored citizens of Nebraska are concerned.

I know there is a provision in this bill which declares that this act shall only take effect upon the fundamental condition that no person shall be disfranchised on account of race or color; but, sir, if we pass this bill the Territory becomes a State, and there is no consent by the people of the Territory to this condition, either by a vote of the people or by an act of the legislative body of the Territory representing the people. We merely declare that our act of admission shall carry with it as a condition an annulment of one section of the constitution of the State.

Now, sir, as has been suggested by the gentleman from Ohio, [Mr. GARFIELD,] this may return to plague us when we are asked to pass upon the cases of the southern States. Why not accept South Carolina if this condition can be rendered effective in Nebraska by attaching the same condition to her constitution?

Mr. DAWES. I would like to ask the gentleman what would be the legal effect of a failure on the part of Nebraska to perform this condition subsequent after the passage of this bill.

Mr. WILSON, of Iowa. Why, sir, I think the effect of this provision would be to throw into the courts of the United States the question as to whether the colored citizens are entitled to vote in the new State of Nebraska.

Mr. DAWES. I would inquire further if it would not also raise the question whether upon the refusal to perform this condition subsequent Nebraska is any longer a State. And I would suggest here whether it is worth while for us in one hour under the previous question, in an hour distributed out by the gentleman from Ohio [Mr. ASHLEY] to those who may desire to discuss it five or ten minutes, to pass upon this new fundamental feature in the admission of States to this Union, whether a condition subsequent can be attached at all to the admission. I wish the gentleman would address himself to that.

Mr. WILSON, of Iowa. I can only give my opinion in reference to this point. I have no doubt that this provision would have no effect whatever.

Mr. ASHLEY, of Ohio. Mr. Speaker—

Mr. WILSON, of Iowa. I hope the previous question will be voted down.

Mr. DAWES. Will the gentleman from Ohio yield to me for a moment?

Mr. ASHLEY, of Ohio. I will hear the gentleman for a moment.

Mr. DAWES. This condition meets my hearty concurrence if incorporated into the constitution of the State of Nebraska; but I desire that it shall be incorporated into the constitution of the State of Nebraska by the legislation of this House, and I appeal to the gentleman from Ohio to let us fully understand this question, and whether we are accomplishing what we wish to accomplish in this matter. This is, to my mind, a very grave question, a question which I desire to see discussed more than it can be discussed in one hour under the operation of the previous question, that time being distributed among the members of the House by the gentleman from Ohio. It is deserving of the further and calmer and more deliberate discussion in this House, because it affects the condition and status not only of the State of Nebraska but of every other State in this Union, and of those States also which are knocking at the door to be admitted into this Union. The gentleman cannot surely comprehend and appreciate the magnitude of the question he is springing upon us under the previous question, and I hope he will permit us to discuss it more deliberately than we can do in the hour which will be left to him after the previous question is sustained.

Mr. ASHLEY, of Ohio. If the House will set apart to-morrow after the morning hour for the consideration of this bill and the one for the admission of Colorado as special orders, I have no objection to further discussion.

The SPEAKER. That can be done by unanimous consent, but otherwise the bill in regard to appointments to office and the bank-



ing bill, and several other special orders, would take precedence.

Mr. BLAINE. If it requires unanimous consent I object.

Mr. WILSON, of Iowa. I wish to inquire if the bill in relation to the Electoral College is not also a special order for to-morrow?

The SPEAKER. That is also a special order, and there are several others. The Chair only mentioned the prominent ones on which discussion is expected.

Mr. MORRILL. Make these bills the special order for Monday next.

Mr. ASHLEY, of Ohio. Is there a special order for Monday next?

The SPEAKER. There are a number of special orders that would be ahead of this.

Mr. ASHLEY, of Ohio. Cannot I have the unanimous consent of the House that these bills shall be the special order for Monday?

Mr. BLAINE and Mr. RANDALL, of Pennsylvania. I object.

Mr. ASHLEY, of Ohio. Then I will try the previous question.

Mr. WASHBURN, of Illinois. I move to lay the bill upon the table.

Mr. INGERSOLL. Is it not in order to move to refer this bill?

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] is upon the floor now, having withdrawn the demand for the previous question.

Mr. WASHBURN, of Illinois. The gentleman has distinctly renewed the demand for the previous question.

Mr. INGERSOLL. If the demand for the previous question be withdrawn, will it not then be in order to move a reference of the bill?

The SPEAKER. It will.

Mr. INGERSOLL. Then I move to refer it to the Committee on the Territories.

The SPEAKER. That motion is not now in order, the gentleman from Ohio [Mr. ASHLEY] being entitled to the floor.

Mr. ASHLEY, of Ohio. I have already said that the Committee on the Territories, with one exception, unanimously instructed me to put this bill upon its passage.

Mr. INGERSOLL. Then I want to ask the chairman of that committee this question: If this bill is passed with this condition—subsequent, which attaches no penalty or forfeiture for violation of the condition on the State of Nebraska, will it not be a nullity, or how will it affect the status of that State when once admitted?

Mr. ASHLEY, of Ohio. That will be a question for the courts to determine.

Mr. INGERSOLL. I would like to answer my own question if the gentleman declines to answer it.

The SPEAKER. Does the gentleman from Ohio yield the floor?

Mr. ASHLEY, of Ohio. No, sir; I ask the previous question.

Mr. WASHBURN, of Illinois. I move to lay the bill upon the table.

The SPEAKER. That motion has priority over the demand for the previous question.

Mr. FINCK. I demand the yeas and nays on the motion to lay the bill on the table.

Mr. ASHLEY, of Ohio. That motion will kill the bill.

Mr. WASHBURN, of Illinois. I want to kill it and all such bills.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 106, not voting 44; as follows:

YEAS—Messrs. Ancona, Bergen, Blaine, Boyer, Campbell, Chautau, Cooper, Dawson, Demson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, Edwin H. Hubbard, Humphrey, Johnson, Kerr, Latham, Le Blond, Lettwich, Niblack, Nicholson, Neill, Pike, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel T. Taylor, Trimble, Andrew H. Ward, Elihu B. Washburn, and Winfield—41.

NAYS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland,

Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Davis, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farguhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James B. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketchum, Keontz, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, Mercur, Mercer, Miller, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Ross, Sawyer, Schenck, Seofield, Spalding, Stokes, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Wagner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Stephen F. Wilson—106.

NOT VOTING—Messrs. Anderson, Beaman, Blow, Brandegee, Conkling, Culver, Darling, Dawes, Dumont, Eliot, Farnsworth, Goodyear, Hale, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburt, Hunter, Jones, Kelley, Kuykendall, Laffin, Marshall, McCullough, McIndoe, McKee, Moorhead, Morris, Newell, Phelps, Pomeroy, Rousseau, Shelabarger, Sloan, Starr, Stevens, Stilwell, Nelson Taylor, Francis Thomas, Robert T. Van Horn, Windom, Woodbridge, and Wright—44.

The question recurred upon seconding the call for the previous question.

Mr. MAYNARD. I would inquire for information: If the call for the previous question fails to be seconded will the bill then be open for debate and amendment?

The SPEAKER. It will, or for commitment.

Mr. ASHLEY, of Ohio. If the House will grant me, for the consideration of the Nebraska and Colorado bills, some one day next week, immediately after the reading of the Journal, I will consent to a postponement of this bill till that time.

Mr. WASHBURN, of Illinois. I object to any such arrangement.

Mr. ASHLEY, of Ohio. Then I insist upon my call for the previous question upon ordering the bill to be read a third time.

The question was taken; and upon a division, there were—ayes 61, noes 68.

Before the result of the vote was announced, Mr. ASHLEY, of Ohio, called for tellers.

Tellers were ordered; and Mr. ASHLEY, of Ohio, and Mr. INGERSOLL were appointed.

The House again divided; and the tellers reported that there were—ayes forty-seven.

Before the noes were counted, Mr. INGERSOLL said: The gentleman from Ohio [Mr. ASHLEY] gives up the count.

The SPEAKER. After the House has ordered tellers upon a question no member can give up the count; but the tellers must perform their duty.

Mr. INGERSOLL. There were sixty-five in the negative.

Mr. RANDALL, of Pennsylvania. I would ask if the tellers have performed their full duty?

The SPEAKER. Strictly speaking the duty of the tellers was not fully performed; but by unanimous consent the House can regard the announcement made by the gentleman from Illinois, [Mr. INGERSOLL,] one of the tellers, that there were sixty-five voting in the negative, as a sufficient count.

Mr. RANDALL, of Pennsylvania. There were some twenty members waiting to pass between the tellers who were not counted. I insist that there shall be a full count made and reported by the tellers.

The SPEAKER. The Chair will again appoint tellers. Mr. ORR, of Indiana, and Mr. RANDALL, of Pennsylvania, will please act as tellers.

The House again divided; and the tellers reported that there were—ayes 39, noes 73.

So the call for the previous question was not seconded.

Mr. INGERSOLL. I now move that this bill be referred to the Committee on the Territories.

Mr. BLAINE. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. For what purpose?

Mr. BLAINE. I want to move to amend the motion of the gentleman from Illinois [Mr. INGERSOLL] so as to have this bill referred to

the Committee on the Judiciary. I desire to make that motion for the reason that the Committee on the Territories have already told us plainly that they have made up their minds. They have given us their unanimous verdict, and the House does not sustain it. The point at issue is a law point, and should properly be referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I hope not.

Mr. INGERSOLL. I will yield to allow the gentleman from Maine [Mr. BLAINE] to move his amendment to my motion, and then the House can dispose of it as they may think proper.

Mr. BLAINE. I now move to amend the motion of the gentleman from Illinois so that this bill may be referred to the Committee on the Judiciary; and upon that motion I call the previous question.

The SPEAKER. If the call for the previous question should be seconded and the main question ordered, then, if the motion to refer should be voted down, the previous question will not be exhausted till the third reading of the bill.

Mr. BLAINE. Then I withdraw the call for the previous question, and insist upon my motion to refer to the Committee on the Judiciary.

Mr. ASHLEY, of Ohio. It is very evident that the House desires to discuss this bill. Now, if the House will grant me a day for the consideration of this bill I will fix the day for that purpose; I will have no objection to its postponement and discussion. All I want is to have a day named upon which I can have a vote upon this bill.

Mr. DAWES. I hope the suggestion of the gentleman from Ohio will be adopted. There can be nothing fairer than the course which he proposes. He has done all that he can do in this matter; and I trust the House will now fix some time for the consideration of this important measure.

Mr. BLAINE. Let the bill take its regular order as it may come from the committee on call. I object to making it a special order, which, I believe, requires unanimous consent.

The SPEAKER. The Chair has already stated that it will require unanimous consent to make this a special order to take precedence of anterior special orders.

Mr. FARNSWORTH. When a special order is reached can it not be postponed by a majority vote?

The SPEAKER. It can. But at the present time the House is not engaged in the consideration of any special order; therefore the motion to postpone a special order could not be made now.

Mr. WILSON, of Iowa. I ask the gentleman from Illinois [Mr. INGERSOLL] to yield to me for a moment.

Mr. INGERSOLL. I yield to the gentleman.

Mr. WILSON, of Iowa. I desire to appeal to the gentleman from Maine [Mr. BLAINE] to withdraw his amendment to the motion to refer. I do so for this reason: the Committee on the Judiciary now have on hand more business than they can possibly get through with during this session; they will be compelled in a short time to ask leave to sit during the sessions of the House. Therefore I hope this bill will be allowed to take the course usually taken by bills of this character. Let it be referred to the Committee on the Territories.

Mr. BLAINE. Let the House, if it chooses, vote down my motion; I cannot consent to withdraw it.

The SPEAKER. The Clerk will read the rule with regard to the effect of the previous question.

The Clerk read as follows:

"Its effects shall be to put an end to all debate, and to bring the House to a direct vote upon a motion to commit, if such motion shall have been made; and if this motion does not prevail, then upon amendments reported by a committee, if any; then upon pending amendments, and then upon the main question."

Mr. ASHLEY, of Ohio. I will, by way of a compromise, move that the bill, without being made a special order, be postponed until next

Thursday after the morning hour, and that it be printed.

Several MEMBERS. That is right.

Mr. BLAINE. Can that be done by a majority vote?

The SPEAKER. It can. The Chair, however, deems it proper to state that if the motion be adopted the bill will probably not be reached this session.

Mr. BLAINE. When the bill shall be reached will not the first question be upon the motion to refer to the Judiciary Committee?

The SPEAKER. A motion to postpone to a certain day has priority of a motion to commit or amend.

Mr. BLAINE. Does it obliterate the motion to commit?

The SPEAKER. It leaves the motion to commit pending as the first question whenever the bill may be reached. A motion to postpone indefinitely comes in after a motion to commit; but a motion to postpone to a day certain has priority of a motion to commit.

Mr. ASHLEY, of Ohio. Do I understand the Chair to say that, if my motion be adopted, we shall be unable to reach the bill?

The SPEAKER. In the opinion of the Chair, the bill, if postponed, would probably not be reached during this session.

Mr. WASHBURNE, of Illinois. That is what we want.

Mr. ASHLEY, of Ohio. I withdraw my motion.

Mr. WASHBURNE, of Illinois. I renew it. On the motion there were—ayes 51, noes 75.

Mr. FINCK called for tellers.

Tellers were not ordered.

So the motion was not agreed to.

The SPEAKER. The question recurs on the motion of the gentleman from Maine [Mr. BLAINE] to refer the bill to the Committee on the Judiciary.

Mr. ASHLEY, of Ohio. I rise to a question of order. I submit the question whether the motion of the gentleman from Maine is in order.

The SPEAKER. It is.

Mr. ASHLEY, of Ohio. Under the rules, I believe, all questions pertaining to territorial matters and to the admission of States must be referred to the Committee on the Territories.

Mr. BLAINE. And all legal questions to the Committee on the Judiciary. If the gentleman wants to divide the question I will agree that the amendments shall go the Judiciary Committee and the bill to the Territorial Committee.

The SPEAKER. The Chair will state that it seems by the rule the Committee on the Territories has special charge of the question before the House. He will not, however, decide the matter, but leave it to the determination of the House.

The rule concerning the Committee on the Judiciary is as follows:

"83. It shall be the duty of the Committee on the Judiciary to take into consideration such petitions and matters or things touching judicial proceedings as shall be presented, or may come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient."

Mr. BLAINE. That meets the point exactly. The SPEAKER. The rule concerning the Committee on the Territories is as follows:

"81. It shall be the duty of the Committee on the Territories to examine into the legislative, civil, and criminal proceedings of the Territories, and to devise and report to the House such means as in their opinion may be necessary to secure the rights and privileges of residents and non-residents."

Mr. WASHBURNE, of Illinois. Would it be in order to refer it to the Committee on the Post Office and Post Roads?

The SPEAKER. The Chair thinks it would not be, although the House can refer to whatever committee it pleases.

As the gentleman from Maine would seem to indicate by the remark he let drop that the Judiciary was the proper committee, the Chair will state that the language creating the Committee on the Judiciary seems to have

been special in its character. It is provided that that committee shall take into consideration such petitions and matters or things touching judicial proceedings as shall be presented or may come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient. Four times in the course of the rule reference is made to judicial proceedings and judicial proceedings alone. But it is for the House to determine what committee it will refer it to.

The question was taken on Mr. BLAINE's motion to refer the bill to the Committee on the Judiciary, and it was disagreed to.

The question next recurred on the motion to refer to the Committee on the Territories.

Mr. ROSS. I move to refer it to the committee on reconstruction.

The SPEAKER. As that is a select committee, the question will first recur on referring it to the standing committee.

Mr. BUNDY moved that the House adjourn.

#### EXTRA COMPENSATION TO CLERKS.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House, information concerning the disbursement of the fund of \$250,000 and \$160,000 as extra compensation to clerks in his Department; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 608) to regulate the elective franchise in the Territories of the United States; and

An act (H. R. No. 830) to fix the times for the regular meeting of Congress.

Mr. LE BLOND. I think there will be a Republican caucus in this House this evening. [Laughter.]

The motion to adjourn was agreed to, and (at ten minutes to four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Hon. A. H. Jones, member of Congress elect, and 1,438 others, loyal people of western North Carolina, asking that the loyal people thereof be granted the privilege and power of forming a new State; or, if that is not granted, that the whole State be reorganized on a loyal basis alone.

By Mr. ALLEY: The petition of Henry K. Oliver, and 157 others, for amendment of the Constitution.

Also, the petition of Samuel Calley, and 46 others, for inquiring into the conduct of the President.

By Mr. BROOMALL: The petition of 1,249 citizens of the seventh congressional district of that State, the counties of Chester and Delaware, praying Congress to amend the internal revenue law by abolishing the tax of five per cent. on manufactures and the products of mechanical skill.

By Mr. COBB: The memorial of the State Historical Society of Wisconsin, for a change in the postal laws.

Also, the petition of citizens of Crawford county, Wisconsin, for improvement of water communications between the Mississippi valley and the Atlantic sea-board.

Also, the petition from citizens of Wiota, La Fayette county, Wisconsin, that the currency may be let alone.

By Mr. DRIGGS: The petition of C. W. Gibson, and 36 others, citizens of Bay City, Michigan, asking Congress not to withdraw or curtail the circulation of the national currency.

Also, the petition of Hon. N. B. Bradley, O. A. Ballou, and 18 others, of the same place, praying Congress in behalf of the same object.

By Mr. CULLOM: The petition and other papers of Allen Harper, asking Congress to allow him compensation for services in the military service of the United States.

By Mr. DEMING: The petition of inhabitants of Little Rock, Arkansas, to be relieved from an unjust tax sale.

Also, the petition of cigar manufacturers of Duffield, Connecticut, to be relieved from *ad valorem* tax on cigars.

By Mr. DONNELLY: The petition of citizens of Minneapolis and St. Anthony, in Minnesota, that no curtailment of the national currency be made by Congress, and that the national banks be not compelled to redeem their notes in the city of New York. Also, a similar petition from citizens of Ramsey

county, Minnesota, and from the Board of Trade of the city of St. Paul, in said county.

By Mr. HUNTER: The petition of John H. Boynton and John A. Brown, asking for the issue of an American register to the bark Azelia.

By Mr. KASSON: The petition of W. G. Bentley, and others, of Des Moines, Iowa, against curtailing national currency, &c.

By Mr. KETCHAM: The petition of H. Bronson, late sergeant major thirty-seventh regiment United States Army, for the equalization of bounty to soldiers who served in the war of 1812.

By Mr. LAWRENCE, of Ohio: The memorial of the Leeds Manufacturing Company, of New York, in relation to the manufacture of cudbear and other coloring materials.

By Mr. LOAN: The petition of citizens of Savannah and vicinity, in Andrew county, Missouri, against the curtailment of the currency, &c.

By Mr. MORRILL: The petition of Hon. Charles Barrett, and 562 others, of Windham county, Vermont, praying for passage of tariff bill of last session with rates therein proposed on wool, or some bill with equal rates, if not higher, for the protection of the wool interest.

Also, resolutions of the Wool-Growers Association of Windham county, Vermont, asking Congress to pass speedily a tariff measure to protect the wool interest of the country.

By Mr. PERHAM: The petition of Obadiah Aderton, for a pension.

By Mr. PLANTS: The petition of 96 citizens of Athens county, Ohio, asking Congress to refrain from authorizing a further curtailment of the currency, or compelling the banks of the country to redeem their notes in the city of New York.

By Mr. SPALDING: The petition of E. M. Peck, R. H. Becker, and others, citizens of Ohio, on the subject of granting registers to foreign-built ships.

By Mr. TROWBRIDGE: The petition of Dr. Ira P. Bingham, and 100 others, citizens of Livingston county, Michigan, praying for an inquiry into the conduct of the President of the United States with a view to an impeachment.

By Mr. WASHBURNE, of Illinois: The petition of citizens of Morrison, Whiteside county, Illinois, asking that no act be passed curtailing the national currency, or compelling all national banks, where ever located, to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. WENTWORTH: The petition of certain manufacturers of the city of Chicago, asking to be relieved from taxation.

#### IN SENATE.

FRIDAY, January 11, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. SUMNER presented ten memorials of manufacturers of wool and constructors of burling machines, remonstrating against an extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845, and now expired; which were referred to the Committee on Patents and the Patent Office.

He also presented the memorial of Robert Carter, and seventy-one others, colored citizens of New Bedford, Massachusetts, remonstrating against the admission of Nebraska as a State with a constitution which disfranchises citizens on account of color; which was ordered to lie on the table.

Mr. SUMNER. I also offer the petition of loyal citizens of Arkansas, in which they ask Congress to declare the unrecognized government of Arkansas abolished and of no effect, and to confer upon the loyal persons of the State the powers of the government; and they further ask Congress to declare the twenty-six States now represented as entitled to legislate for the whole country, as it devolved upon those States to maintain the integrity of the whole country by force of arms, and also to declare, in accordance with this principle, the pending constitutional amendment ratified by a sufficient number of States, and therefore part and parcel of the Constitution. Concurring, as I do, most sincerely in the prayer of these petitioners, I hope that the committee to whom it shall be referred will take it into early consideration. It seems to me, sir, that Congress owes it to the country to bring forward or to present some practical scheme by which these sham governments in the rebel States shall be superseded. They should be treated as null and void. That is the prayer of this petition, and I hope the committee will act upon it. I move its reference to the joint committee on reconstruction.

The motion was agreed to.

Mr. FRELINGHUYSEN. I present a memorial of citizens of Elizabeth, New Jersey, praying that that city be made a port of entry, and that an appropriation be made for the purpose of erecting a suitable building there for the accommodation of the custom-house, post office, collector and assessor of internal revenue, and for holding the Federal courts; and I will simply add that the growing importance of that city commends this memorial to the favorable consideration of the Senate. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

Mr. EDMUNDS presented the memorial of G. W. Harding & Co., proprietors of the Ludlow Woolen Mills, Ludlow, Vermont, and the memorial of Holmes, Whitmore & Co., manufacturers, of Springfield, Vermont, remonstrating against the extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845, and now expired; which were referred to the Committee on Patents and the Patent Office.

Mr. MORRILL presented the memorial of A. F. Bradbury, T. R. Campbell, and Amos Abbott & Co., of Dexter, Maine, and the memorial of William Hill, president of the North Berwick Company, remonstrating against the extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845, and now expired; which were referred to the Committee on Patents and the Patent Office.

He also presented the memorial of citizens of New York and owners of sea-going steamships, remonstrating against the passage of Senate bill No. 467, to amend an act entitled "An act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes," approved July 25, 1866; which was referred to the Committee on Commerce.

Mr. HOWE presented two petitions of citizens of Wisconsin, praying for the passage of House bill, No. 718, to provide increased revenue for imports, and for other purposes; which were referred to the Committee on Finance.

Mr. MORGAN presented four memorials of manufacturers of wool and of constructors of burring machines, remonstrating against the extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845, and now expired; which were referred to the Committee on Patents and the Patent Office.

#### REPORTS FROM COMMITTEES.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (S. No. 490) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863, reported it without amendment.

Mr. WILLEY, from the Committee on Claims, to whom was referred the memorial of C. B. Gardner, praying for compensation for brick used by the United States Army during the siege of Nashville, Tennessee, in the month of December, 1864, submitted an adverse report.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Benton Jones, praying to be reimbursed for money alleged to have been expended while acting as postmaster of the cavalry command in the department of Mississippi, reported that the petitioner have leave to withdraw his petition and papers; which was agreed to.

He also, from the same committee, to whom was referred the memorial of A. L. H. Cranshaw, praying for compensation for property alleged to have been destroyed and taken by the United States military authorities in Missouri while he was held a prisoner on suspicion of being a rebel spy, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred the petition of William N. Smith, of Grundy county, Missouri, praying for compensation for a tavern-house, alleged to have been burned in the town of Glasgow, Missouri, through the orders of the military officers in

command there, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred the petition of Frank Pugsley, praying for pay and allowances for services rendered as a private in the Army, submitted a report accompanied by a bill (S. No. 499) for the relief of Frank Pugsley, late a private in company I of the third regiment of New Hampshire volunteers. The bill was read and passed to a second reading, and the report was ordered to be printed.

#### STEAMSHIP SCOTLAND.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the memorial of the marine underwriters of New York, praying for an appropriation for the removal of the iron steamship Scotland, wrecked on the bar outside of Sandy Hook, has directed me to report a joint resolution on that subject, and I ask for its present consideration.

By unanimous consent the joint resolution (S. R. No. 156) to provide for the removal of the wreck of the steamship Scotland was read three times and passed. It is a direction to the Secretary of War to cause the removal of the wreck of the iron steamship Scotland, now on the bar outside of Sandy Hook, near the entrance of New York harbor. It is proposed to appropriate \$100,000 for this purpose. The Secretary of War, after notice given in one or more newspapers in Philadelphia, New York, and Boston, is to receive sealed proposals for the removal of the wreck, and to make a contract for its removal with the lowest bidder, the contract price not to exceed the sum appropriated.

#### BILLS INTRODUCED.

Mr. LANE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 500) to amend the twenty-first section of an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," approved March 3, 1865; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 501) amendatory of an act to provide a temporary government for the Territory of Montana, approved May 26, 1864; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 502) respecting the town site of Shasta, California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### PERSONAL EXPLANATION.

Mr. CATTELL. I desire to state that I was unavoidably absent yesterday when the vote was taken on the bill to regulate the elective franchise in the Territories, and that if present I should have voted for that bill, and also for the bill regulating the time for the meeting of Congress.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 965) declaring Clinton bridge across the Mississippi river at Clinton, in the State of Iowa, a post route, in which it requested the concurrence of the Senate.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 508) to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico, and had also concurred in the amendment of the Senate to the bill (H. R. No. 830) to fix the times for the regular meetings of Congress.

The message also announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (H. R. No. 840) for the relief of the

sureties of James T. Pollock, late receiver at Crawfordsville, Indiana; and

A bill (H. R. No. 966) for the relief of Ernest F. Kleinschmidt, of Cincinnati, Ohio.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 151) appropriating money to defray the expenses of the joint select committee on retrenchment, the enrolled bill (H. R. No. 508) to regulate the elective franchise in the Territories of the United States, and the enrolled bill (H. R. No. 830) to fix the times for the regular meetings of Congress; and they were thereupon signed by the President *pro tempore* of the Senate.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 965) declaring the Clinton bridge across the Mississippi river at Clinton, in the State of Iowa, a post route; the bill (H. R. No. 964) in regard to the compensation of route agents in the Post Office Department, and the joint resolution (H. R. No. 229) to procure a site for a building to accommodate the post office and United States courts in New York city, were severally read twice by their titles, and referred to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 956) to enforce the thirteenth amendment of the Constitution of the United States, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 840) for the relief of the sureties of James T. Pollock, late receiver at Crawfordsville, Indiana, and the bill (H. R. No. 966) for the relief of Ernest F. Kleinschmidt, of Cincinnati, Ohio, were severally read twice by their titles, and referred to the Committee on Claims.

#### PAPERS WITHDRAWN.

Mr. CONNESS. I move that Joseph Hill & Sons have leave to withdraw their petition and papers. It is a claim upon which there has been no report.

The motion was agreed to.

#### NORFOLK NAVY-YARD.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of temporarily closing the navy-yard at Norfolk, Virginia, and placing it, for the protection of the public property there, in charge of the commander of the Marine corps.

#### BALTIMORE AND OHIO RAILROAD COMPANY.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the District of Columbia be directed to inquire into the legality and expediency of a certain ordinance, now pending before the councils of the city of Washington, conceding the use of certain of the streets of said city until the year 1910 to the Baltimore and Ohio Railroad Company; and that they report by bill or otherwise.

#### ADJOURNMENT TO MONDAY.

On motion of Mr. ANTHONY, it was

*Ordered*, That when the Senate adjourns to-day, it be to meet on Monday next.

#### TARIFF BILL.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes, reported it with an amendment in the nature of a substitute, and one thousand extra copies of the amendment were ordered to be printed.

#### PRINTING OF THE BANKRUPT BILL.

Mr. POLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That two hundred and fifty copies of House bill No. 598, with the Senate amendments thereto, be printed in bill form for the use of the Senate.

#### PENSION AGENTS.

Mr. CRAGIN. I move to take up Senate bill No. 69 for consideration.



The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pensions.

The PRESIDENT *pro tempore*. The pending question is on the first amendment reported by the Committee on the Judiciary to the amendment proposed by the House of Representatives, which is in line eleven of the House amendment, to strike out "January" and insert "October."

Mr. HOWE. I move an amendment to that, to strike out "October" and insert "July."

The PRESIDENT *pro tempore*. The vote was taken on that amendment and it was disagreed to.

Mr. HOWE. Very well.

The amendment of the committee to the House amendment was agreed to.

The next amendment of the Judiciary Committee was in line twelve of the House amendment, to strike out "six" and insert "five."

Mr. HOWE. I hope that amendment will not be agreed to. If it is, the effect of it is, if it has any effect, to dismiss from office in thirty days every pension agent who has been appointed since the 1st of October, 1865. But if we disagree to this amendment the clause will only remove those who have been appointed since the 1st of October, 1866, and I hope the Senate will not agree to the amendment of the committee. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. If the Senate will only listen to the effect of the amendment asked for here by the committee it seems to me they will disagree to it. If we agree to that amendment, as I said before, we throw out of office every agent who has been appointed since the 1st of October, 1865. If we do not agree to it nobody will be displaced except those who have been appointed since the 1st of October, 1866.

Mr. SUMNER. That does not go back far enough.

Mr. HOWE. I think it does go back far enough.

Mr. SUMNER. The month of August was a very destructive month. [Laughter.]

Mr. HOWE. It is a curious fact, Mr. President, that, however destructive the month of August may have been to other officers, it is not known to have struck down any pension agent. I cannot hear of one in the United States. It is a remarkable fact, but I think we ought to give due credit to it and be grateful for it.

Mr. WILLIAMS. I have heard no argument yet that satisfies me that this amendment or any such amendment ought to be adopted. I understand that the object is to remove from office certain persons who have been appointed, so as to make the offices vacant and put it in the hands of the President to make new appointments. I suppose that these appointments which have heretofore been made are regarded as objectionable, and for that reason it is thought to be advisable to remove them. But what assurance have we that the new appointments will be any better than those that have already been made? Is there any particular necessity for this amendment? Will any advantage be gained to anybody by its adoption? I have no doubt that the appointments heretofore made, many of them, are exceptional; and if the Senate had any remedy it would be well enough to apply that remedy; but if they are removed I suppose, if not the same men, similar men will be appointed by the President and their appointments must be confirmed by the Senate or there will be no persons to discharge the duties of these offices. I should like to know what is to be gained by this proposed amendment.

Mr. CRAGIN. Mr. President, I have but very little knowledge of this bill, and therefore, although I have called it up frequently, I have not attempted to say anything in relation to it. The bill was originally passed by the

Senate at the last session, and the purpose of it was to give the appointment of these officers to the President of the United States, subject to confirmation by the Senate. They have been heretofore and are now appointed by the Secretary of the Interior; and while the office was of little importance it was perhaps well enough that the incumbents should be appointed in that way, but these offices have become now of great importance. These men have the distribution of large amounts of money, and their offices are very important. After its passage by the Senate this bill was taken up in the other House and amended, as Senators will see by examining the print before them; and I apprehend that unless we agree to the House amendment in some form, the bill may not pass and become a law. Therefore, although so far as I am concerned personally I have little care about this amendment, I think it better that it should be adopted substantially as it came from the committee, and I hope that it will be done and that we may be able to dispose of the bill at the present time.

Mr. HENDRICKS. If the amendment which is now before the Senate should be adopted, would it then be in order to move to strike out all of the proviso in the House amendment and substitute other words?

The PRESIDENT *pro tempore*. Such a motion would be in order, but the Chair is advised that there is already an amendment to the proviso proposed by the committee.

Mr. HENDRICKS. I wish to strike out all after the words "provided further" in line nine of the House amendment to the close of that amendment, and to insert other words.

The PRESIDENT *pro tempore*. Such a motion in the opinion of the Chair will clearly be in order.

Mr. HENDRICKS. But it is not in order now, as I understand.

The PRESIDENT *pro tempore*. Not while another amendment is pending. The question now is on the amendment proposed by the committee to strike out "six" in line twelve and insert "five," and upon this amendment the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yea 1, nays 30; as follows:

YEA—Mr. Chandler—1.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Cragin, Edmunds, Fogg, Foster, Frelinghuysen, Grimes, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Norton, Patterson, Ramsey, Saulsbury, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, Willey, and Williams—30.

ABSENT—Messrs. Brown, Cowan, Creswell, Davis, Dixon, Doolittle, Fessenden, Fowler, Guthrie, Harris, Henderson, McDougall, Nesmith, Nye, Poland, Pomroy, Riddle, Ross, Trumbull, Wilson, and Yates—21.

So the amendment to the amendment was rejected.

The next amendment of the Judiciary Committee was to strike out of the House amendment the following words:

And that the President shall, within fifteen days from the passage of this act, nominate to the Senate persons for pension agents in the several agencies in which pension agents have been appointed since the said 1st day of January, A. D. 1865; and that all pension agents appointed prior to said date last named, and now acting, shall continue in their respective offices until their successors shall be nominated and confirmed in accordance with the provisions of this act.

And in lieu thereof to insert:

And of all other pension agents when successors shall be duly appointed in their places.

So as to make the House amendment read:

That the number of pension agencies in any State or Territory shall in no case be increased hereafter so as to exceed three, and that no such agency shall be established in addition to those now existing, in any State or Territory in which the whole amount of pensions paid during the fiscal year next preceding shall not have exceeded the sum of \$500,000: And provided further, That the term of office of all pension agents appointed since the 1st day of October, A. D. 1866, shall expire at the end of thirty days from the passage of this act, and of all other pension agents when successors shall be duly appointed in their places.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment of the House of Representatives as amended.

Mr. HENDRICKS. I move to amend the

House amendment by striking out the whole proviso after the word "further" in the ninth line to the end of the twenty-third line, and in lieu of those words inserting:

That the term of office of all pension agents now in office shall expire when successors shall be duly appointed.

As the section now stands Congress will legislate out of office pension agents who have been appointed since the 1st day of last October and leave all other pension agents to go out of office when their successors shall be duly appointed. I do not think the Senate of the United States would want to occupy that position, legislating with reference to a few office-holders in one way, and to another set of office-holders of the same class, appointed by virtue of the same authority, holding their offices under the same law, in another mode. I do not know of any instance in which Congress have legislated the incumbents out of office where they have changed the office so as to make it subject to presidential instead of a departmental appointment, but have left them to go out of office as all other officers do when successors are properly appointed. Now, why not do that in regard to this set of officers? I propose here that hereafter pension agents shall be appointed by the President, subject to confirmation by the Senate, and that the present incumbents shall go out when successors are thus appointed. I think that would be decent legislation on the part of Congress; but to select a few men and legislate them out and legislate others in is not becoming this body, as I think.

Mr. LANE. By the bill as the Senate passed it at the last session it was provided that all pension agents should be hereafter appointed by the President, subject to confirmation by the Senate. The amendment of the House, as now amended, is, that the term of office of all pension agents appointed since the 1st of October, 1866, shall expire within thirty days after the passage of the bill, and it shall be the duty of the President to send in others; and all pension agents appointed prior to that time hold their offices at the pleasure of the President subject to be removed, and their offices expire whenever he shall nominate successors who shall be confirmed by the Senate. My object in voting for this amendment of the House is simply to limit the term of office of those who have been appointed since the 1st of October, 1866, and who have displaced Republicans appointed under a Republican Administration, honest, faithful, and competent men, without any charge having been made against them, but simply for political considerations. I give this vote knowingly and most willingly with a view to limit the term of office of all those who have received appointments since the 1st of October, 1866, and I hope my colleague's amendment will not prevail. I vote with that express object to legislate out of office those gentlemen who have been appointed to supply the places of others from mere political considerations.

Mr. BUCKALEW. I should like to know whether this amendment if agreed to strikes out the amendment of the committee at the end of the section which has already been adopted. I understand the object to be to get rid of the whole of the section commencing with the word "and" in the ninth line. What I want to call attention to is the provision which the Senate has agreed to as reported from the committee that these officers shall hold their offices until their successors are duly appointed. I desire to call the attention of the Senate to the fact that we are establishing these offices during the pleasure of both the President and the Senate. We may be creating what may be equivalent to life officers, or very nearly that, instead of following the policy which has prevailed to a great extent in recent legislation of limiting terms of office, giving them some fixed duration. I think it is hardly worth while for the purpose of disturbing a few officers, if there are indeed any who have been appointed since the 1st of October, to intrude this principle into our legislation.

Mr. CRAGIN. The Senator from Pennsylvania will find, if he will read the text of the original bill, that these officers are to be appointed for four years.

Mr. HENDRICKS. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 23; as follows:

YEAS—Messrs. Buckalew, Hendricks, Johnson, Norton, Patterson, and Saulsbury—6.

NAYS—Messrs. Anthony, Chandler, Conness, Cragin, Edmunds, Foster, Fowler, Frelinghuysen, Grimes, Howard, Howe, Lane, Morgan, Morrill, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, Willey, and Williams—23.

ABSENT—Messrs. Brown, Cattell, Cowan, Cresswell, Davis, Dixon, Doolittle, Fessenden, Fogg, Guthrie, Harris, Henderson, Kirkwood, McDougall, Nesmith, Nye, Poland, Pomeroy, Riddle, Ross, Trumbull, Wilson, and Yates—23.

So the amendment to the amendment was rejected.

Mr. SUMNER. The bill under consideration is very good as far as it goes. It is only applicable to pension agents. I see no reason why we should not apply the same principle to other officers. I called attention to this point the other day and gave notice of an amendment which at a proper time I should move. It seems to me indeed that the abuse, if I may so express myself, has been, if possible, greater with regard to other officers than it has been even with regard to pension agents; but without pretending to say whether it has been greater or less, we must all be resolved that there has been an abuse. We know perfectly well that when the President returned from his eccentric journey to the West this last autumn, he signaled his arrival in Washington by an attempt to carry out what he had promised to do in one of his speeches; in other words, to "kick" Republicans "out" of office. Now, it seems to me that Congress owes this duty to the country to protect these men so far as it can. Now if we take to ourselves the power which under the Constitution is given to us with regard to officers of requiring that they shall be appointed by and with the advice and consent of the Senate, we shall do something in the way of throwing a shield over the citizens who formerly held office, and who, in pursuance of the promise of the President at St. Louis, have been "kicked out." I use language which certainly I should not employ as my own. I use it in quotation marks; it is the language of the President of the United States. To meet that class of cases I send to the Chair an amendment which I desire to have come in at the end.

The Secretary read the amendment of Mr. SUMNER, which was to add to the House amendment as an additional section the following:

SEC. —. And be it further enacted, That all other agents or officers appointed by the President or by the head of any Department whose salary or compensation derived from fees or otherwise exceeds \$1,000 annually, shall be appointed by the President, by and with the advice and consent of the Senate, and the term of office of all such officers appointed since the 1st day of July, 1866, shall expire at the end of thirty days from the passage of this act: *Provided*, That this is not applicable to clerks of the Departments.

Mr. HOWE. I only rise to inquire if that is an amendment to the amendment?

The PRESIDENT *pro tempore*. The Chair understood the Senator from Massachusetts to move it so.

Mr. MORRILL. It occurs to me now that my colleague [Mr. FESSENDEN] expressed an interest in this measure when it was up the other day, and having sent to him I learn that he is engaged in the Supreme Court room. I suggest this fact and should be very glad if the Senator who has charge of it would allow this matter to pass over informally.

The PRESIDENT *pro tempore*. The Chair is at fault in not calling up the unfinished business of yesterday, the morning hour having expired. The business properly before the Senate is the bill (S. No. 453) regulating the tenure of offices.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced

that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 822) for the relief of Timothy Leyden;

A bill (H. R. No. 823) for the relief of John A. Dawson, of Mount Sterling, Kentucky;

A bill (H. R. No. 824) for the relief of Edward Blanchard; and

A bill (H. R. No. 825) for the relief of Henry Rudd, of Henry county, Iowa.

The message further announced that the House had passed the following resolution; in which it requested the concurrence of the Senate:

*Resolved*, (the Senate concurring,) That the following be added to the joint rules of the two Houses, namely:

RULE —. There shall be a Joint Committee on Public Buildings and Grounds, to consist of five members on the part of the Senate and seven on the part of the House, whose duty it shall be to consider all subjects relating to the public edifices and grounds within the city of Washington which may be referred to them and report their opinion thereon, together with such propositions relating thereto as may seem to them expedient.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 822) for the relief of Timothy Leyden;

A bill (H. R. No. 823) for the relief of John A. Dawson, of Mount Sterling, Kentucky;

A bill (H. R. No. 824) for the relief of Edward Blanchard; and

A bill (H. R. No. 825) for the relief of Henry Rudd, of Henry county, Iowa.

#### TENURE OF OFFICE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 453) to regulate the tenure of offices, the pending question being on the amendment proposed by Mr. HOWARD to the amendment reported by the joint committee on retrenchment. The amendment to the amendment was in section two, line eleven, after the word "Senate" to insert the following:

And shall require of such person bond with sufficient surety or sureties for the faithful discharge of his official duties under such temporary appointment, if such bond be required by law of the person suspended.

Mr. EDMUNDS. I suggest to my friend from Michigan a little modification of that, not only to cover the bond, but the test oath that is required, and to avoid the use of the word "appointment," inasmuch as we do not by the bill treat these temporary designations as appointments. I would, therefore, with the approval of my friend from Michigan, if he shall approve it when he hears it, suggest as a substitute for his amendment the insertion of these words in the very same place:

And such person so designated shall take the oaths and give the bonds required by law to be taken and given by the person duly appointed to fill such office.

Mr. HOWARD. I have no objection to that.

Mr. EDMUNDS. With that modification I hope the amendment will be agreed to.

The PRESIDENT *pro tempore*. Does the Chair understand the Senator from Michigan as accepting the proposed amendment of the Senator from Vermont?

Mr. HOWARD. Yes, sir.

The PRESIDENT *pro tempore*. It is in the power of the Senator from Michigan to adopt it as part of his own amendment, and the question then is on the amendment, as modified, to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move further to amend the amendment reported by the committee by adding to it the sections which I send to the Chair. They have been prepared in accordance with the suggestions made by gentlemen interested in the bill yesterday afternoon, which it appeared to the committee would have been better in another bill; but yielding with pleasure to those suggestions, we have

prepared these sections with a view to cover the points which were referred to yesterday.

The Secretary read the proposed amendment to the amendment, as follows:

And be it further enacted, That if any person shall, contrary to the provisions of this act, accept any appointment to or employment in any office, or shall hold or exercise, or attempt to hold or exercise any such office or employment, he shall be deemed and is hereby declared to be guilty of a high misdemeanor, and he shall be punished therefor by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court.

And be it further enacted, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed and are hereby declared to be high misdemeanors, and every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court.

And be it further enacted, That it shall be the duty of the Secretary of the Senate, at the close of each session thereof to deliver to the Secretary of the Treasury and to each of his Assistants and to each of the Auditors and to each of the Comptrollers in the Treasury, and to the Treasurer, and to the Register of the Treasury, a full and complete list, duly certified, of all persons who shall have been nominated to and rejected by the Senate during such session, and a like list of all the offices to which nominations shall have been made and not confirmed and filled at such session.

And be it further enacted, That whenever the President shall, without the advice and consent of the Senate, designate, authorize, or employ any person to perform the duties of any office he shall forthwith notify the Secretary of the Treasury thereof, and it shall be the duty of the Secretary of the Treasury thereupon to communicate such notice to all the proper accounting and disbursing officers of his Department.

And be it further enacted, That no money shall be paid or received from the Treasury, or paid or received from or retained out of any public moneys or funds of the United States, whether in the Treasury or not, to or by or for the benefit of any person appointed to or authorized to act in or holding or exercising the duties or functions of any office contrary to the provisions of this act: nor shall any claim, account, voucher, order, certificate, warrant, or other instrument providing for or relating to such payment, receipt, or retention be presented, passed, allowed, approved, certified, or paid by any officer of the United States or by any person exercising the functions or performing the duties of any office or place of trust under the United States or in respect to such office or the exercising or performing the functions or duties thereof; and every person who shall violate any of the provisions of this section shall be deemed guilty of a high misdemeanor, and shall be punished therefor by a fine not exceeding \$10,000, or by imprisonment not exceeding ten years, or both said punishments, in the discretion of the court.

Mr. JOHNSON. I think the honorable member who proposes the amendment had better follow what I believe has been the precedent in all such cases, and provide that the punishment shall be inflicted upon trial and conviction of the offense. As it stands, the case is submitted to the court apparently, and the court can award the punishment. The result, of course, would be the same; they would be obliged to try him by a jury under the Constitution of the United States; but it might be held to give the power to the court itself. I think the Senator will find upon looking at the penal statutes that they always say that upon trial and conviction the punishment shall be inflicted.

Mr. EDMUNDS. I omitted these words in drawing up this section in order to save what appeared to me to be a useless superfluity; because I supposed in the framing of a penal statute that if you, in the first place, defined an offense, and then declared what the punishment of the offense should be, the general principles of law operating upon the administration of the affairs of justice would require that before anybody could subject the offender to punishment it must be judicially ascertained that the crime had been committed, and that he was the party who had committed the crime. If there should be any doubt in the minds of Senators upon that subject, as certainly there was not in my mind, although I agree it is usual to insert such words, but not universal, I should have no objection to their being inserted. I shall not resist a motion to amend by putting them in.

Mr. JOHNSON. I move to amend it in that way. It is better to follow the precedents.

Some court may think they have a right to try without a jury.

The *PRESIDENT pro tempore*. It is in the power of the Senator from Vermont to accept that amendment and make it a part of his own; but this is an amendment to an amendment, in the second degree, and is not susceptible of further amendment.

Mr. JOHNSON. I was about to suggest to the Senator from Vermont that he had better amend his proposition in that way by inserting the words "upon trial and conviction thereof;" so as to read "guilty of a high misdemeanor, and on trial and conviction thereof, he shall be punished," &c., in the first, second, and last sections of his amendment.

Mr. EDMUNDS. I will accept the amendment of the Senator from Maryland out of respect to his opinion.

The *PRESIDENT pro tempore*. The amendment to the amendment will be so modified.

Mr. SUMNER. I wish to call the attention of the Senator from Vermont to what he may not think of much importance; it is the penalty. I observe that there is a maximum penalty fixed, but not a minimum penalty. Now I will ask the Senator, upon the whole, considering the whole subject, whether it would not be advisable to have a minimum penalty. I can imagine, and I think the Senator can, a judge who, taking advantage of the language, might, for instance, inflict a fine of one dollar, five dollars, or something that would be trivial. I would suggest to him, therefore, to guard against that by fixing a minimum penalty; say \$500 or \$1,000. It seems to me that any person who can be convicted under a statute of such importance ought not to escape with a small penalty.

Mr. EDMUNDS. It has been general, although not universal, in the enactment of penal laws to fix the maximum of punishment and not to fix the minimum, leaving it to the sound discretion of the tribunal before whom the offender may be convicted to decide how small, down to merely a nominal punishment, the penalty which the law should visit upon the offense should be; and that, in my opinion, is the true principle as a general rule upon which penal legislation ought to proceed. Therefore, I did not think it advisable, and I think my friend from Oregon, [Mr. WILLIAMS,] who was very usefully instrumental in the drawing up of these additional sections, will agree with me in thinking that it would not be wise in this instance more than in any other, for the present at least, until we shall find that the courts abuse the discretion which we leave to them, to fix any minimum to the punishment. The provisions of the sections now extend to every officer in the Treasury Department who can by any reasonable possibility have any connection or agency, no matter how small, in paying out money illegally to these persons, or in passing any account or voucher, or giving them a commission, or doing anything in the chain of transactions which shall result, or may result in getting the public money into the hands of persons who may not be entitled to receive it. Now, cases may happen, and they do unfortunately generally happen, where if anybody is to be prosecuted it is some minor offender. He who, if there should be any violation of this law, is most likely to be the chief offender, whether a President or a Secretary, or whoever violates it; and I do not mean by this to intimate that either of those gentlemen would wish to violate it; but whoever the chief offender in such a matter is, generally is not the person who is prosecuted; but the law seizes upon some easy victim; and it is almost always the case. Now, I think, just as we all think in general on such subjects, that there ought to be a discretion in the court before whom the offender shall be tried and convicted to take into consideration the extenuating circumstances of his offense, the humbleness of his position, the temptation to which he was exposed, and all those circumstances which in the wise administration of criminal justice enter

into and compose a part of the consideration which imposes the penalty, and to leave it thus to the judge to say down to the nominal point how much the penalty should be. That is my opinion.

Mr. SUMNER. I shall make no motion on the question; but as I am going to defer entirely to the Senator from Vermont, I should like to have his attention merely for the minute or two in which I shall reply. I am not aware that the usage of the statutes is as uniform as the Senator represents. Indeed, I think he will find that in all the earlier legislation there was a maximum and a minimum penalty. I think the disposition latterly has been to have only a maximum penalty.

However, without going into that question, looking at it simply as a question of reason and expediency, I have only now to ask you to consider whether, under the peculiar circumstances of this case, there may not be special reasons for a minimum penalty. You wish a statute that shall really be stringent, that as you read it shall seem to carry its penalties through, right to the mark. Do you do so if you have simply the maximum penalty? The answer is obvious, that a judge, if so disposed, may absolutely or almost nullify your statute. He may hear the trial, listen to the verdict of guilty, and then let the offender go. Now shall it be, sir? Shall we not in this case, where political temptation may intrude on the bench, make a provision that shall at least secure a certain degree of punishment.

That is what I have to say in reply to my friend from Vermont. If it does not impress him as it does me, I shall leave him to follow his own judgment; I shall not interfere with his bill by a motion.

Mr. EDMUNDS. My friend is mistaken, as he rarely is, respecting the state of the penalties in the early statutes. The first penal statute that was ever passed by the Government of the United States of America, or about the first one, the act of 1790, the general criminal code of the United States, does not provide, so far as I observe, holding it in my hand, by a rapid examination, any minimum penalties at all, except it may be for the punishment of treason, which is death, which is both the maximum and minimum at the same time; and then the second section for misprision of treason punishes the party by imprisonment not exceeding seven years and a fine not exceeding \$1,000, and so on. The observations which the Senator from Massachusetts has submitted to us are undoubtedly entitled to great weight as applied to the circumstances that now exist, and to respect; but let me tell him that the difficulty is, when you are passing a penal statute, or any other statute which requires the judicial departments of the Government to enforce it or to punish violations of it, if in framing that statute you act upon the theory of distrust of the judicial tribunal that is to vindicate it, you may just as well not pass the statute at all, because if you have a judge before whom any offender against this act is to be tried who is so swayed by political bias or any other improper motive as to induce him to mitigate the punishment below what in justice it ought to be, he never will suffer a conviction at all. I need not tell my learned friend from Massachusetts, who is familiar with the courts of that Commonwealth, as pure and as able as any in the country, how easy it is for a judge, without exposing himself to the least degree of suspicion, to overthrow a criminal prosecution. Nothing is easier in the world. Therefore, we cannot have any safety in the administration of this law if we go upon the theory that we cannot trust the courts to punish the infraction of it. If we cannot, we may as well not pass it, except as vindicating ourselves and providing such further means as, if this passes, we shall be provided with for asserting the majesty of the law in another way against any person who offends against it, where some other than the ordinary judicial tribunals of the country

will be the grand tribunal before whom the trial and conviction, if conviction ought to follow, will be had.

Mr. WILLIAMS. Mr. President, I assisted in the preparation of these amendments, and I concur in the views expressed by the Senator from Vermont, for the reason, in the first place, that this is a new offense created by statute, and it does not define a crime involving moral turpitude, but rather a political offense; and there is some ground to suppose that mistakes may be made under this law by persons in office, and I think that in such cases there should be a large discretion left to the court. As was suggested by the Senator from Vermont, this law applies as well to subordinates as to the principals who may be concerned in administering the law, and if a prosecution should be directed against a subordinate instead of the principal, as it may be, then I think the court should have a discretion to proportion the punishment to the circumstances of the accused.

But I will suggest to the Senator from Massachusetts that where a person is tried and convicted under this law, he is not only to be fined or imprisoned, or punished in both ways, but certain disqualifications follow the conviction. Whenever a person is convicted under this law, he is convicted of a felony, and according to the law of this country whenever a man is convicted of a felony, he becomes disqualified to hold any office at any future time; and that of itself I should regard as a very great punishment to any man who might be, while engaged in the discharge of the duties of his office, prosecuted and convicted of malfeasance and condemned to the punishment which the law directs—a penalty which is followed by a disqualification to hold any office, and in many of the States he is also disfranchised upon such a conviction. I think there is no danger to apprehend that this law has not sufficient terror in it to prevent its violation.

Mr. HOWARD. I concur fully in the view taken of this amendment by the Senator from Massachusetts. It seems to me clear enough that under a strict construction of this amendment a court would not be departing from its duty, its strict, legal duty, if it should refuse to inflict any punishment at all upon the offender after he had been formally tried and convicted, because the amendment declares that he shall not be punished by fine exceeding a certain amount, without fixing any minimum, and shall not be punished by imprisonment beyond a certain number of years.

Mr. EDMUNDS. The Senator misunderstands the language. It does not say he "shall not be punished by fine exceeding," but it says he shall be punished by a fine not exceeding \$10,000.

Mr. HOWARD. Very well. How then is the court to affix any penalty at all? The court is not bound to impose one cent of fine or one hour of imprisonment, is it? Suppose a court should omit to sentence the offender at all, would the court be violating its duty under this act?

Mr. EDMUNDS. Yes.

Mr. HOWARD. I confess, Mr. President, I do not see it exactly in that light. It strikes me as being an anomalous mode of criminal legislation. There certainly ought to be some certain penalty fixed and established in the statute, so that the offender shall know to a certainty when he commits the offense that he is to be punished to some extent—at least that he is not to go scot free, or go with a mere nominal punishment; that the business of legislation here has in view his actual punishment for the purpose of deterring him and others in like case offending for the future.

Beside all that, Mr. President, it seems to me to be throwing upon the courts of justice a very irksome and in many cases a very painful duty to measure out at their own discretion, without reference to the statute and the will of the Legislature that has expressed no opinion at all, the punishment which is to be inflicted.



I throw out these suggestions to the gentleman from Vermont in the hope that he will make an amendment of his present amendment so as to fix a minimum to the penalties.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the proposed amendment?

Mr. HOWARD. I cannot agree to that amendment.

Mr. EDMUNDS. I should like to inquire what the precise amendment is.

The PRESIDENT *pro tempore*. The amendment of the Senator from Vermont is to add several additional sections to the substitute reported by the committee.

Mr. EDMUNDS. I understood the Senator from Michigan to make a motion.

Mr. HOWARD. No, sir.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EDMUNDS. I will state for the information of the Senate that the pending question now is on these additional penal sections, which were submitted by me in accordance with the wish expressed yesterday afternoon.

The question being taken by yeas and nays, resulted—yeas 23, nays 9; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Connors, Cragin, Oreswell, Edmunds, Fogg, Foster, Frelinghuysen, Henderson, Howe, Kirkwood, Lane, Morgan, Morrill, Ramsey, Sherman, Stewart, Sumner, Wade, Willey, and Williams—23.

NAYS—Messrs. Buckalew, Hendricks, Howard, Johnson, Norton, Patterson, Riddle, Saulsbury, and Van Winkle—9.

ABSENT—Messrs. Brown, Cowan, Davis, Dixon, Doolittle, Fessenden, Fowler, Grimes, Guthrie, Harris, McDougall, Nesmith, Nye, Poland, Pomeroy, Ross, Sprague, Trumbull, Wilson, and Yates—20.

So the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is upon the amendment reported by the committee as amended by the Senate.

The amendment as amended was agreed to.

Mr. VAN WINKLE. I had prepared an amendment yesterday to come in at the same place as the one offered by the Senator from Ohio, [Mr. SHERMAN.] That amendment was withdrawn, but perhaps with the intention of offering it again.

Mr. SHERMAN. You had better offer yours.

Mr. VAN WINKLE. My amendment meets the object of the Senator from Ohio, and has some further provisions. It is in section one, line ten, after the word "office" to insert:

For a term of four years from the date of his appointment, unless a different term or tenure is prescribed by the Constitution or by law, and in any case.

So that the section, if amended, will read:

That every person (excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General) holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office for a term of four years from the date of his appointment, unless a different term or tenure is prescribed by the Constitution or by law, and in any case until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

The effect of this amendment, if adopted, will be this: that the terms of all offices that now have not a fixed term will be made four years. Of course there is nothing in it to prevent a different term being fixed by law for any offices hereinafter created. Another effect will be that every officer will come up for appointment or reappointment at least once in a presidential term, and of course will also come before the Senate for confirmation or reconfirmation at least once in a presidential term. I think this is perfectly fair on both sides as between the Senate and the President, and therefore it ought to be adopted. It also provides or retains what I believe is the provision intended by the committee, that all officers, whether their terms are fixed under this amendment or whether they have been previously fixed by law or the Constitution, except those

that are excepted in the body of the committee's amendment, shall hold their offices until their successors are appointed—that has become a very usual provision in our State and municipal laws and constitutions—so that there shall never be an interregnum in the office unless occasioned by death or something of that kind.

Mr. EDMUNDS. I do not know, speaking personally and for myself, that I have any objection to so much of the amendment as proposes that all officers who are not now four-year men shall be such; but I think the effect of the amendment of the Senator introduced in the place where he proposes to introduce it would be a little greater than what he seems to suppose himself. I think the effect would be, first, to continue from this date for four years the holding of any office by any person whose time may be almost out already. I only heard it read once, and I may be mistaken about that, but I fear from the collocation of the words in the original amendment that that would be the effect.

Then I think another effect would be to preclude the President and the Senate, acting together and in harmony, from removing any such officer until the four years were expired. That was a provision which the committee had under consideration. But they thought it wiser for the present, at least, to leave the right of removal, which now by law is vested in the President at any time within the four years, to be still exercised by the President and the Senate in conjunction at any time during the session. The effect of the amendment would be to fix the duration of every office for the term of four years, and it makes no provision for any interference by the President and the Senate together, no matter how urgent may be the motives which would lead them to act if they had the power, while the bill, as it stands as reported by the committee, merely declares that these officers named shall be entitled to hold their office until a successor shall have been in like manner, that is, by and with the advice and consent of the Senate, duly appointed; and then it provides at the end that this shall not be construed to extend the term of any office. I would suggest to my friend from West Virginia whether he intends to have his amendment produce such results as I have named.

Mr. VAN WINKLE. Certainly not. I am not sure that I understood the Senator distinctly as to his first objection; but the effect of this amendment will certainly be to make all terms that are not now fixed by law or the Constitution last for four years. That is in accordance, I believe, with the precedents in the cases of more than one class of officers. Most offices are for four years; but assessors and collectors of internal revenue have no fixed terms; and I think the amendment is important in that respect, that there ought to be a period of time fixed for the term of that class of officers at least. I do not think it interferes at all with the right of removal, or at least I acted under the supposition that that was otherwise provided for in the bill. Removals are only to take place for cause. This amendment certainly does not interfere with that. The last section, or a portion of it, may perhaps be dispensed with if this amendment be adopted.

Mr. JOHNSON. I cannot vote for this amendment, but it is only because I think the policy which it inaugurates is altogether wrong. I do not know that any statute ever passed has created more trouble and done more mischief than that fixing a short term of office for these several appointees. The whole country is agitated in advance of the termination of the office; the President, or those who have the power to confer office are called upon; and frequently the pressure is so great that they are unable to resist, and new officers are put into the Departments. The result—I think I speak from knowledge—is that the business of the Government is not half as well managed as it was before this system was introduced. It is only for that reason that I shall vote

against the amendment. I concur with my friend from West Virginia that it will not at all interfere with the authority of the President and Senate to remove officers. Offices may be continued under the provision which he seeks to incorporate into the bill.

Mr. WILLIAMS. I hope the amendment will not be adopted, because it is difficult to tell without close examination what effect it will have upon the other provisions of the bill. This bill was carefully considered in committee, and one portion of the bill was adapted to the other portions so as to make it a harmonious system; and this proposed amendment may derange the whole system which this bill proposes to establish. Now, there is no difficulty when an office is created, if desirable, in fixing the term of the office, and it may be desirable to do so. It is impossible now to comprehend at one glance all the offices of the United States; but it may be desirable to have the term of one office longer than the term of another. The Senator, however, proposes to make a sort of Procrustean couch here and put every officer in the United States upon it, and to make the duration of every office four years. Before that amendment is adopted it is desirable to reflect upon the subject, to think of the different offices in the United States, and determine that there is no reason why one officer should continue longer in office than another. I think the suggestion of the Senator from Vermont is made upon good ground; it at any rate involves the subject in doubt, if it is not altogether clear that this amendment will continue those who are now in office in their present positions for four years from the passage of this bill. I think it is susceptible of that construction. Probably that is not the intention of the Senator who proposes the amendment, but that may be the construction put upon it; and it presents a question of doubt; it opens a door for controversy as to the construction of this law. For these reasons I hope it will not be incorporated into this bill. It may be desirable in some other statute to make a provision like this, and if the subject was well and thoroughly considered it might appropriately be attached to an appropriation bill or some other bill, so as to fix the tenure of all the offices in the United States; but I am apprehensive that it would lead to trouble if incorporated into the first section of this bill. I hope it will not be adopted.

Mr. VAN WINKLE. I cannot think that the amendment I have proposed is liable to the objection made by the Senator from Oregon. There is nothing in it, certainly, which would prevent Congress passing a law to-morrow as to any class of officers whatever, limiting the term to two years or any other time. It certainly, then, cannot be objectionable on that account. It merely fixes a term for those officers for whom no other term is fixed, and I suppose if an office should be hereafter created, and no term fixed, this amendment would apply. If I am not mistaken, I have made it four years from the date of appointment; and, as I have already said, every officer must thus come in review before the Senate at least once during a presidential term; and on the other hand, the President, during his term, will have the right, by the expiration of the term, of reappointing every officer or appointing some one else in his place. It seems to me it is just and fair; and looking to the future it is, as a permanent arrangement, one that would work very happily. But I am not at all tenacious about it. It was suggested more than a year or two ago in respect to the officers I have named, that assessors and collectors of the revenue should be limited in their terms. That would bring many who have now been appointed for more than three years before the Senate in turn, whereas they will not come here otherwise.

The amendment was rejected.

Mr. HENDRICKS. I feel it to be my duty to propose an amendment to this bill, though I have no thought that it will be adopted. I

move to strike out of the third section all after the word "thereafter" in the sixth line, to the close of the section. I do it upon two grounds—

The PRESIDENT *pro tempore*. The Chair will suggest that the amendment of the committee having been agreed to, and that being a substitute for the entire bill, the motion of the Senator is not now in order. It will be in order in the Senate. The section having been agreed to in committee, it cannot be amended as the Senator proposes. The amendment will be in order when the bill shall have been reported to the Senate.

The bill was reported to the Senate, as amended, and the question was stated to be on concurring in the amendment made as in Committee of the Whole.

Mr. HENDRICKS. Must I offer my amendment now before the amendment is concurred in?

The PRESIDENT *pro tempore*. It may be moved as an amendment to the amendment made as in Committee of the Whole.

Mr. HENDRICKS. Then I move to strike out all of the third section after the word "thereafter" in the sixth line. The words which I move to strike out are:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid, during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

I move to strike this part of the section from it, because in the first place I think it is in violation of the Constitution as the Constitution has been uniformly construed. The Constitution provides that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

This will depend altogether upon the construction which shall be given to the words "happen during the recess of the Senate." Many have thought that that language means such a vacancy as takes place or begins during the recess; but the construction has obtained, and I suppose it is as settled as any construction well can be, that the words mean vacancies that may exist or be during the recess of the Senate. The Government has been carried on upon that construction. Where a vacancy exists during the session of the Senate, and is not filled before the adjournment, it has been understood and construed as a vacancy happening during the recess, and the President has uniformly filled such vacancies. If this be the proper construction of the Constitution, then there is no power to pass the section as it now stands.

But, sir, suppose that the Constitution does not forbid the legislation which is proposed; is it good policy to adopt it? Here is a period perhaps of some months during which the Senate may not be in session. The appointee of the President may not be agreeable to the Senate for that time; yet that appointee can only hold the office until the close of the next session; it is but a temporary appointment; and no great harm can take place or be suffered because a person holds office whose political views are not agreeable to the Senate for that length of time. What may be the consequences of the adoption of this section it is difficult for us to tell. The office is to remain in abeyance; it is not to be filled in the case which is stated in the section, the case being where an appointment is not made during the session by and with the advice and consent of the Senate. From the time of the adjournment of the Senate the office is to be in abeyance; and to get away from the practical difficulties the section provides that—

During such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

I do not know in how many cases that provision would be applicable. Take the case of a collector of internal revenue; suppose the Senate and the President fail to agree upon an appointee for that office, and an adjournment of the Senate takes place, the office becomes vacant; who then is to exercise the powers and discharge the duties of that office? I do not know. The important collections ought to be made in the month of June; but that office being vacant during the summer, who shall exercise the powers and discharge the duties? The Secretary of the Treasury cannot do it, nor can he appoint anybody to discharge those duties. This section is framed as if in case of a vacancy in any office there is always provided by law somebody who may discharge the duties of the position; but I think in point of law that is not the case. It would be a very serious matter if in some of the districts the revenues, for instance, should not be collected.

The question is a very plain one. I need not discuss it further. If I am right that the Constitution does not allow this legislation, that is an end of debate on the subject. If I am wrong on that, I think the other considerations I have stated ought to govern the Senate.

Mr. HOWARD. The honorable Senator from Indiana moves to strike out the latter clause of section three for the reason, as he alleges, that it is not in accordance with the Constitution. During a former Congress I had occasion to give this subject some attention as a member of the Committee on the Judiciary; it was at a time when there was no such political agitation as disturbs the minds and the judgments of some men now. That committee was instructed by this body to inquire into the power of the President to make just such appointments as are contemplated by the clause to which the gentleman's motion refers, and they came to the conclusion, and I think very properly and correctly, that the President has no such power under the Constitution.

The Constitution declares that the power of appointment shall be lodged in the President, by and with the advice and consent of the Senate. No appointment, therefore, to an office can, properly and legally speaking, be made without the concurrence of these two branches of the Government. The President, who consults the Senate as to the propriety of a contemplated appointment, does so in the shape of a nomination, and the assent of the Senate is given to that nomination to make it effective. Without these preliminary steps it is impossible under our Constitution that a legal appointment to an office can be made. I think the honorable Senator from Indiana will not dispute this proposition. It may be wrong; it may have been possibly unwise in our fathers who framed and ratified the Constitution to insert such a clause in the instrument. That, however, is not now the question. The question is as to what they actually intended by the language they used. It is, in other words, a question of power, authority, jurisdiction.

The clause in the Constitution to which I refer proceeds further to declare that the President may fill up all vacancies that may happen during the recess of the Senate, not by making appointments, but by issuing commissions which shall expire at the termination of the next session of the Senate. I agree with him that the practical precedents of the Government thus far lead to this interpretation of the Constitution, that it is competent for the President during the recess of the Senate to turn out of office a present incumbent and to fill his place by commissioning another. This has been, I admit, the practice for long years and many generations; but it is to be observed at the same time that this claim of power on the part of the Executive has been uniformly contested by some of the best minds of the country.

What is it, sir, to fill up a vacancy? The President and the Senate make the officer—give him his appointment. It is very true that the last act is to be performed by the President, which is the issuing to the officer of a commission. Now, is it in accordance with the lan-

guage used in the Constitution that one branch of the appointing power may create a vacancy? Is it according to the just and fair usage of language to say that the agent making the appointment may remove the incumbent and thus create the vacancy which by the terms of the Constitution is to "happen?" I think not. I think it is a misuse of language. The language itself is "vacancies that may happen," plainly, indubitably, according to the ordinary use of language, implying contingency, chance, uncertainty; at all events excluding the agency of the person who bestows the appointment to the office. I suppose that when the framers of the Constitution used this language they used it in reference to the common law of England; and how by that law does a vacancy in an office "happen;" in other words, take place, come into existence? It happens, as we all know, by resignation, by death, by absolute inability to discharge the functions of the office; but it never is spoken of as happening in consequence of a removal from office by the executive power.

Then, according to the view I take of the Constitution, the first clause of the third section of this bill is simply a restatement in more full and accurate language of the real intention of the Constitution itself. It declares—

That the President shall have power to fill up all vacancies that may happen during the recess of the Senate by reason of death, resignation, expiration of term of office, or other lawful cause, by granting commissions which shall expire at the end of their next session thereafter.

And I believe that such is the full extent under the Constitution, according to its true and most natural interpretation, of the power of the President over vacancies; and if that be the true interpretation it follows logically that where the vacancy has not been filled during the session of the Senate at which it should have been filled, during the whole of the succeeding recess of the Senate that office must necessarily remain in abeyance; in other words, vacant, without an incumbent. It is really a mere reenactment of the true sense of the clause. I cannot vote to strike out this clause of the third section, because I think it very necessary it should be retained in order to remove all doubt.

I have said, sir, that it is not in the power of the President to create such a vacancy by the appointment of a successor. The right of the Senate and the duty of the Senate is plain. An appointment proper cannot be made without consulting them and obtaining their consent. The country looks to them for their advice, for their opinion, for their interference, in order to secure suitable qualifications and to restrain the wayward exercise of this assumed power by the Executive whenever such a case shall exist; and it is beyond doubt that during the last year this power of removal has been exercised most wantonly and most injuriously in multitudes of cases, and greatly to the detriment of the true interest of the country. And the cases are almost innumerable in which the names of persons have been sent to us and put in nomination for offices, and those nominations rejected, and still after the adjournment of the Senate the President, in utter contempt of the opinions of the Senate, has proceeded to issue temporary commissions to persons thus rejected.

Sir, I believe there is no member of this body who will rise in his place and declare that under the Constitution it is competent for the President after the rejection of such a nomination, and during the succeeding recess of the Senate, to issue to that person a temporary commission; and why? Because it is too plain to every mind that in reference to the particular individual the Senate having passed an unfavorable judgment, it was virtually forbidden that person to hold the office, and such a temporary appointment by the President is a complete contempt of the opinion of the Senate expressed in constitutional form.

Now, sir, I believe Congress have full power over this subject, and that it is our duty now (although this perhaps is not the fittest time at

which to settle the question) to enact some statute which for the future shall restrain this wanton exercise of the power claimed by the President, and which in my judgment is forbidden by the Constitution. It is time for us to come up to our work and to do our duty to the country. The country expects it and will not be content if we leave our seats at the present session without passing some such law.

Mr. HENDRICKS. The Senator from Michigan has discussed two questions which are not involved in the proposition that I have submitted to the Senate. The first is the power of the President to create a vacancy during the recess of the Senate by the removal of an incumbent from an office; the second is the power of the President to appoint after the adjournment of the Senate a party to an office who had previously been rejected by the Senate. The question which is submitted to the Senate by my amendment is this: whether in the case of a vacancy in an office existing at the time of the adjournment of the Senate the President has a right for the purpose of executing the laws to fill that office under the clause of the Constitution to which I have called attention. That particular question the Senator has not much discussed. He has referred to the report which, as the representative of the Judiciary Committee, he submitted to the Senate during the Thirty-Seventh Congress. Now, I wish to ask of the Senator from Michigan what is his answer to a case made by the Secretary of State in a correspondence which accompanies that report of the learned Senator. Suppose, during the last days of the session of a Congress, an office is created and there is no time before the adjournment to fill that office by an appointment and confirmation, is that office under the Constitution to remain vacant until Congress shall again assemble, or may the President appoint under his power to fill vacancies happening during the recess? I will read from the letter to which I refer of Secretary Seward, dated January 12, 1863, addressed to the distinguished Senator as the representative on that occasion of the Committee on the Judiciary:

"In regard to some of these appointments, the offices were newly created by Congress, and required special qualifications to fill them. There was not time enough for the proper consideration of the subject before the adjournment of the Senate. As to others, the compensation was in the shape of fees only, which inducement was not such as to invite application for the offices. They were consequently filled as soon as proper persons could be found to accept them. This course has been adopted in all cases when the public interest seemed to require it. In regard to the constitutionality of this course I would respectfully refer you to the Opinions of the Attorney General, volume vii, page 223."

The law officer of the Government seems to have given the opinion that the President during the recess had the power, and it was his duty, to fill such vacancies; and, long before the political controversies that now agitate the country had sprung up, the Secretary of State during the administration of Mr. Lincoln recommended the appointment of many men to office when the vacancies which they were to fill had existed at the time of the adjournment of the Senate, and he stated as a necessity for such appointments that Congress had created the offices so near the adjournment that it became impossible to fill them. The President has devolved upon him under the Constitution the duty to see that the laws are executed. He can only execute them through the instrumentality of the officers whom Congress provides. Immediately before the adjournment Congress enacts a law and provides for an officer to execute that law. It is the duty of the President to see that that law is immediately executed. Now, is it possible that the duty is devolved upon him by Congress to execute the provisions of a law, and yet that he has not the power under the Constitution to discharge that duty? The necessity of the case has compelled the construction which I believe the Senator admits to have been uniform; it is the construction which the executive department of the Government has uniformly put upon this provision of the Constitution.

Mr. HOWARD. I referred to the practical construction given to that clause of the Constitution. I do not deny that the practical construction of it has been in accordance with the statement of the Senator.

Mr. HENDRICKS. Yes, sir; I so understood the Senator.

Mr. HOWARD. But we have the question up before us now *de novo*. It is to us a new question.

Mr. HENDRICKS. It is before Congress on a proposition of legislation, and that involves the proper construction of this clause of the Constitution.

Mr. HOWARD. Undoubtedly.

Mr. HENDRICKS. The clause is that the President shall fill vacancies happening during the recess; and the naked question is whether a vacancy existing at the time of the adjournment is a vacancy happening during the following recess, and the uniform construction of the executive department has been that that vacancy ought to be filled, and I have given, from Secretary Seward's correspondence with the Senator from Michigan on behalf of the Judiciary Committee, an extreme case, a case where Congress devolves upon the President the duty to execute a law and provides an officer to execute it so near the adjournment that there is not time to nominate a person to fill the office before the adjournment. Here may be a period of many months before the Senate shall be again in session, and Congress passes a law so shortly before the adjournment that it is impossible for the President to make a nomination and for the Senate to act upon that nomination before the adjournment. Now, the question is whether the construction given by the executive department has not become the fixed construction of the Constitution on this subject, such as to control our consciences in legislating upon it.

Another instance is suggested: an officer is discharging very important duties at some distant point; it may be in California or it may be at some foreign position; he may die during the session of the Senate, and the President not hear of the death, the President not know of the vacancy until after the adjournment of Congress. Now, you say by this law that during all the following recess that vacancy shall not be filled, and this not because of any evil which has come to the public service by the exercise of this power, but simply because a man may be placed in that position whose political opinions are not agreeable to the majority of Congress.

I ask Senators if it is policy to enact such a law, if there may be any injury to the public service by changing the construction which has been uniformly put upon this provision of the Constitution. The case given by Secretary Seward is a strong one; the case which has been suggested to me is another strong one. Are the laws to be executed during the recess? If so, they must be executed through the officers provided by law. If those officers cannot be appointed in particular cases, the laws cannot be executed.

Let me suppose another case. The President sends a nomination to the Senate and the Senate holds that nomination until very nearly the adjournment, and Senators know that that very frequently happens; the nominations are in this body sometimes months before they are acted upon, and on perhaps the very day of the adjournment a nomination may be rejected and it is impossible for the President to fill the place before the adjournment. The public service requires that the duties of that office should be discharged. Now, are Senators willing for partisan purposes to say that that office shall be vacant, and that the public interests and the interests of the people shall suffer for fear that some man may be appointed, temporarily appointed, whose office cannot continue longer than the close of the next session, whose political views are not agreeable to the majority? That is the question.

Because of these considerations I have felt it to be my duty to move to strike that part of

the section out, because I believe that under the construction which has been given to the Constitution we cannot enact such a law, and because I believe further that if we have the power it is a very dangerous thing to exercise it as is proposed. The service may suffer.

Mr. HOWARD. I have but a word to say in reply to the Senator from Indiana. He discovers an inconvenience arising from the construction of the Constitution for which I contend. Undoubtedly, there may be cases of inconvenience.

Mr. HENDRICKS. If the Senator will allow me, I will suggest another case. Suppose a nomination is made and confirmed on the last day of the session, or within a few days before the adjournment, and the party nominated afterward declines to accept the position. The office, in that case, would never have been devolved upon him, and his failure to accept it would not be the cause of a vacancy, because he never became an officer and never accepted the office; the previous vacancy was never filled, because to fill it required his acceptance. There would be a vacancy without fault anywhere. Shall that vacancy go unfilled?

Mr. HOWARD. Not only that inconvenience, but a thousand others may possibly arise from this construction for which I contend; but the great question before us is: what does the Constitution itself mean, what is the true interpretation of its language? The language is that the President may fill up a vacancy which may happen during the recess of the Senate. The vacancy which he may fill up must happen during a given period of time, between the beginning and the end of that period of time, that is to say, the recess of the Senate. It must happen between the moment of the adjournment of the Senate and the moment of the commencement of its next session; and it must be a "vacancy." What is a vacancy in an office? As I said before, we must refer to the common law for light upon the subject. Now, I understand that, properly speaking, there can be no vacancy in an office where there never has been an incumbent, for the absence of the incumbent who has once been appointed, whether that absence be occasioned by death, resignation, or lawful means, is the vacancy; the vacancy in the sense of the Constitution.

Now, sir, if the power of the President in making these temporary appointments is, by the fair construction of the Constitution, confined to this particular period of time, then we must be content with it, and so must he. He cannot constitutionally issue a commission to fill a vacancy which did not occur during that exact period of time, mathematically ascertainable. If the vacancy occurred at any other time, it is not to be filled in that way; and I reject entirely the doctrine under which the Executive at present seems to be practicing, that it is perfectly immaterial at what time a vacancy takes place or occurs. That doctrine leads to the complete divestiture of the Senate of all its power over the question of appointments to office. And it leads to it in this way: first, the power of final appointment is held to belong to the President, and to him alone. The power of appointment carries with it, according to the opposite argument, the unconditional, unrestrained power of removal from office; because, as is alleged, the President having this absolute power of appointment may exercise it when he pleases, and he may exercise it, as it has been exercised all along, in this shape, appointing to an office which already has an incumbent, the appointing of a successor operating, as is argued, as a removal of the predecessor; in other words, that the power of removal is a part and parcel of the power of appointment; that the power of appointment cannot be exercised in its plenitude and efficiency without annexing to it the unrestricted, unconditional power of removal.

If this be so, and if the doctrine be correct that the President has a right to issue commissions to fill an office a vacancy in which has occurred at any time, either during the session



or during the recess, the whole power of the Senate over the question of appointments is gone, and he has but to renew from session to session his temporary commission to keep the incumbent in office perpetually, in spite of the Senate. An opinion of the present Attorney General was published in the newspapers some time during the last summer which, if I recollect rightly, went to this extent: that it is the right of the President to fill a vacancy whenever that vacancy may have occurred, whether during the recess or during the session, for the reason that it would be inconvenient, in his opinion, and injurious to the public service, were the President not vested with such a power. Sir, to me that is not a constitutional principle. The Constitution fixes the period of time within which the vacancy shall happen. The vacancy is to happen within a given period. "To happen" is to occur by accident, chance, casualty, or some means unforeseen; at all events, not by means which are within the control of the agent himself who is to fill the vacancy, for that is to make nonsense of the word "happen," and to give to the expression "during the recess of the Senate," to which it is conjoined and which qualifies it, no meaning, force, or effect whatever.

The honorable Senator refers to a hypothetical case which I think may have taken place in practice, where we pass a law creating an office, and owing to the lateness of the period of the session at which the bill becomes a law the President has not had time to fill the office by a regular appointment by and with the consent of the Senate. I presume such cases have happened not unfrequently. It would be an inconvenience; but it does not follow that because it is an inconvenience the President has a right to fill it in vacation. That is pressing the argument *ad inconvenienti* to an extreme.

Sir, there is an easy remedy for just such a case. The honorable Senator need not be told that it is in the power of the President at any moment to call the Senate together in extra session for the very purpose of acting upon executive nominations and transacting other executive business. It would not be a very great inconvenience to the Senate to be called together for such a purpose, and it would be, very plainly to my mind, the duty of the President to call them together for that purpose, if the office was one of great public importance, a thing which has been done repeatedly in the history of the Government, and almost every year.

He refers to the case of the death of some officer residing at a remote point during the session of the Senate, and the inconvenience which would arise if the President were not authorized by the Constitution, should he hear of this death during the vacation, to be able to fill it. Undoubtedly there might be some damage to the public interest arising from the accident, but where in any Government on earth do we find guards and barriers against every possible inconvenience that can arise in the course of the administration of public affairs? These accidents are liable to arise at all times and in all Governments, not only in our own but in every other Government, and from the very nature of government itself the community cannot be guarded against their occurrence; the thing is impossible. No Constitution, no statute can meet every case that may possibly arise. No, sir; the framers of the instrument made it as wisely as they were able, and they have left to us among other rich legacies the care and protection of this Constitution. They have said in plain words that the President may fill all vacancies that may happen during a particular period, and the implication is irresistible that they intended to exclude this power in every case that did not occur during that particular period. I think myself they were wise in so doing, and I am disposed to stand by the old instrument until the people of the United States shall see fit to alter it.

As to the long practical construction that has been given to this clause, I admit the force

of such a practical construction in legislation as well as law; but it is to be observed that this question of the power of removal has never been considered as completely at rest. The best minds in the country have all along doubted and disputed the unlimited right of the President to turn incumbents out of office in the recess. The example was first set to the country under the administration of General Jackson who made an indiscriminate removal of all officers who were opposed to his policy, he going upon the ground, first probably suggested to him by the Albany regency, that "to the victors belong the spoils;" and I am free to say that I think no fact in our history has tended so strongly and effectually to corrupt the public mind, and, if I may so speak, the political morality of the nation, as this doctrine that "to the victors belong the spoils." It makes almost every man who gives a vote a scambler and an aspirant for office, and "office," "office," from the dawn of day to the setting of the sun, is the cry of the hungry crowd besetting, not only us here, but every man throughout the country who is supposed to exercise some influence in the bestowment of these precious articles. I hope this Congress will do something toward checking this spirit of office-seeking, fostered and upheld as it has been by this misconception and misuse of the Constitution of our fathers.

Mr. JOHNSON. My friend from Indiana has correctly told the Senate, from the beginning of the Government the construction has been—and it has been acted upon by every President from Washington to the present time—that under the clause which gives the President the right to fill vacancies which may happen, he has that power in all cases where there is an office vacant in point of fact. The obvious reasons for giving him the power were stated by my friend from Indiana. The Government cannot get on unless the offices are filled, and as the Constitution gives no authority to any other Department of the Government to act during the recess but the President, if he has not the power to fill a vacancy which may exist during the recess of the Senate the office is unfilled, and the public interest, so far as it may be connected with the exercise of the duties of that office, suffers.

Now, it would be idle to say—because I know that gentlemen here entertain a very decided opinion upon the point different from that which the Government has heretofore practiced on, and it would be very improper to say that the clause in the Constitution under which the President has acted is so plain as to admit but of the interpretation that the Government has heretofore given to it. The language of the Constitution in the provision which immediately follows the clause that gives to the President the general power to appoint by and with the advice and consent of the Senate is, that "the President shall have power to fill up all vacancies that may happen." What is the meaning of the word "happen" as there used? It is necessary perhaps to supply a word to make the meaning clearly intelligent. It presents a case of what grammarians call an ellipsis, and in a case of that description it is for the commentator, or him who is called upon to construe the Constitution, to fill that ellipsis with the words which he thinks will carry out the purpose of the power. Now, if you fill the ellipsis with the words "to exist," the authority of the President is very clear. If you fill it with the words "to occur," it is equally clear that the President would not have the power.

The law officers of the Government (and they were led to give that interpretation to it by the necessity under which the Government might be placed) have construed the words used in the Constitution to mean "vacancies happening to exist." So read, the authority of the President would be very clear, and I do not know why we are not just as much at liberty to supply the omitted words by adopting the words "to exist," as to supply them by adopting the words "to occur," even looking

at it as a matter of grammatical construction. But when in addition to what would be a fair interpretation of the clause as a mere matter of grammatical construction we take into consideration what would be the consequence of a different interpretation, the argument seems to me to be irresistible. We may have—and I refer to the fact now as illustrative of what I am about to say, as I referred to it yesterday for the purpose of illustrating what I then said on another subject—we may have very delicate negotiations abroad. There may be, as was the case during the war of 1812, negotiations going on between our minister and the minister of the nation with which we have been at war, upon which hangs the peace of the country, which is to decide whether the war is to be continued or is to terminate. We have a minister there to represent us upon that grave question, that vital question. He dies. On the 4th of March we hear for the first time of his death. The Senate has adjourned. As the law stood originally it could not meet again until the following December; so that during the whole period that is to elapse from the 4th of March in the year when we are advised of the death of our minister abroad and the succeeding first Monday in December that vacancy cannot be supplied.

Mr. EDMUNDS. I should like to ask the honorable Senator from Maryland whether the President has it not in his power to call the Senate together without a regular meeting of Congress, to advise him in respect to the filling of that very vacancy which may occur?

Mr. JOHNSON. Of course he can call the Senate together; but is he to call the Senate together on the happening of each such contingency as I have stated?

Mr. EDMUNDS. That depends upon its importance.

Mr. JOHNSON. Was that the purpose of the Constitution? The very provision which gives him the power to fill a vacancy necessarily shows that in the judgment of the Convention which framed the Constitution it was not necessary to call the Senate together for any such purpose, because the necessity to call the Senate together to act upon vacancies that may happen during the session of the Senate and vacancies that may occur during the recess of the Senate would equally render it necessary (if that is the most advisable way of making appointments) to call the Senate together in all such cases; and yet no Senate has been called together for any such purpose. The only instances in which the Senate have been called together are at the commencement of a presidential term when the incoming President desires to have the nominations of his Cabinet ministers acted upon. There is no other case, and that is only for a few days.

The same thing is equally true of a great many very important offices. You have a circuit judge in the circuit of which Vermont constitutes a part, and you have a district judge whose official duties are confined to the State of Vermont. They both die at the latter end of our session here. We do not know it; not a Senator is advised of it. The Senate adjourns. Is the whole administration of the jurisprudence of the United States in the circuit of which Vermont constitutes a district to be suspended until the Senate shall meet in the next December? My friend says it can be avoided by calling the Senate together. That takes time. We have a very large country now. The telegraph may carry with the speed of lightning the intelligence of any facts which may occur; but the members cannot get together by telegraph—as yet at any rate. The Senators from the Pacific, to say nothing of those who are on this side and who are a great way off, cannot get here for twenty-five or thirty days. Are they to be brought here for that purpose, and is mileage to be paid to them? If they are to be brought here they ought to have their mileage. And how often are they to be brought? If there is any weight in my friend's suggestion, they are to be brought whenever an occasion occurs which renders it

necessary to the interest of the public that the office should be filled, and then another mileage is to be paid, and so on from time to time.

The section of the bill which my friend from Indiana moves to amend uses in the first clause of it precisely the words of the Constitution:

*And be it further enacted,* That the President shall have power to fill up all vacancies which may happen during the recess of the Senate.

Precisely the words of the Constitution, except that it goes on to specify in part the causes which may produce the vacancy by saying, "by reason of death, resignation, expiration of term of office, or other lawful cause," which takes in all the causes that may produce a vacancy. It is therefore nothing but a repetition of the language of the Constitution, and gives to the President the power to appoint, or rather to fill all vacancies which may happen during the recess of the Senate. The Attorney General will perhaps give the same opinion that that means, "happen to exist," following the unanimous construction which has been placed upon it by all the law officers of the Government to whom the question has been submitted, and sustained by the action of every President—

Mr. WILLIAMS. Then the bill is not objectionable in that respect.

Mr. JOHNSON. I know it is not. So far it is free from all objection except this: that it is unnecessary; it is reaffirming in the form of a law what we have in the Constitution, and that constitutes the only objection to it. But it is the latter part of the section which the particular amendment proposes to strike out that is in my judgment very objectionable. The vacancy being filled now, you do not take from the President the right to fill it:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid, during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate.

Then the office cannot be filled. That occurs. The vacancy may exist for the first time the day before the Senate meets. This section says that in that case the President shall have power to fill it. The Constitution expressly provides—and I beg my friend from Vermont to reflect upon the effect of that provision—that in the case of every appointment which the President may make during the recess to fill a vacancy, the commission which he is to give to the officer shall continue until the last day of the next session. You say it shall not by that part of the bill which the Senator from Indiana proposes to strike out. You do not say so in words; but you say that if the President sends in that man's name and you reject him, or he sends in the name of anybody else and you reject him, the office shall be vacant from the date of the rejection.

Mr. EDMUNDS. We do not say that. We simply say that "if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant, or temporarily filled as aforesaid"—and that may be the same or some other person, and if another that man's commission would still continue until the end of the session—"during such next session of the Senate such office shall remain in abeyance." No fair construction of that language, it appears to me, can torture it into an attempt to limit the term of this officer who has been properly temporarily appointed until the end of that session. I do not see how my friend from Maryland can make that out, even on a special demurrer.

Mr. WILLIAMS. I will call the attention of the Senator from Maryland to the fifth and sixth lines of this section, which perhaps he has overlooked. The provision is:

That the President shall have power to fill all vacancies which may happen during the recess of the Senate by reason of death, resignation, expiration of term of office, or other lawful cause, by granting commissions which shall expire at the end of their next session thereafter.

Mr. JOHNSON. Yes.

Mr. WILLIAMS. That expressly recog-

nizes the right of the person so temporarily appointed to hold his office until the end of the session.

Mr. JOHNSON. I was perfectly aware of that provision. That is in accordance with the constitutional clause. The Constitution says the same thing, the law says the same; but what is the benefit to the officer of having a commission which is not to expire until the end of the next session if he is to get no salary during any part of that time? The provision, as I understand, is that he who is appointed during the recess, unless he is again, after the termination of the recess, during the session of the Senate, appointed by and with the advice and consent of the Senate, gets no salary, and if he is rejected by the Senate the office from that date is to be considered as in abeyance without any salary, fees, &c., attached thereto.

Mr. EDMUNDS. You interpolate the words "from that date."

Mr. JOHNSON. Well, it means that if it means anything.

Mr. EDMUNDS. Not at all.

Mr. JOHNSON. If the honorable member would say "from the termination of the session of the Senate" the clause would not be so objectionable; but does he mean to say that the commission shall extend up to the first day of the session of the Senate that may occur subsequent to the appointment of the President?

Mr. EDMUNDS. Yes, subsequent to the first appointment which he is authorized to make; and it is impossible to put any other construction on the words.

Mr. JOHNSON. But according to the view of the honorable member in the case supposed he is not authorized to fill the vacancy. But, sir, I have said all that I proposed to say, except with reference to the concluding part of the section which it is proposed to strike out. It provides that the duties are to be discharged by some other person connected with the particular office; but there are a great many offices for whom there is no person provided to perform the duties during a vacancy—a foreign minister for instance, a judge; nobody connected with the judiciary could discharge the duties of the office except the judge; so that while that admits the necessity of having the duties of the office discharged, it does not provide a sufficient remedy for the contingency which it contemplates may exist.

Mr. EDMUNDS. I do not rise to make any general reply to the observations of my friend from Indiana, or the very interesting remarks of my friend from Maryland at this time, for I have not the physical ability to do it, but merely to say in reply for a moment to my friend from Indiana, that there is no very great detriment to the public service which he has so glowingly depicted as that of allowing one branch of the Government to appropriate to itself or to absorb the exercise of the functions that properly belong to another branch; and in my opinion (assuming for the moment, as I expect to be able to prove by and by, that the functions which we attempt to protect the Senate in the exercise of by this bill properly belong to it,) there is no practical difficulty, there is no unpleasant conjuncture of affairs in the way of inconvenience and trouble, which would justify us for a moment in omitting to provide for the protection of those functions and powers that belong to us. If the Constitution has reposed them in us, it is our duty, at whatever expense of trouble and inconvenience, to perform them. It is the duty of the President, whenever the occasion arises in which it shall be necessary for him conjointly with us to perform them, it is his business to give us information of the fact and call us together to act.

And I wish to say a single word further as a temporary reply to what fell from the Senator from Indiana. He has stigmatized this measure as being one pushed forward for partisan purposes, reversing the settled construction of the Constitution, exposing the public service of the Government to great injury and incon-

venience, in order that the political friends of the party in power may be protected or may be avenged if they have suffered anything, as the case may be. Now, sir, speaking for myself, and I think speaking for a majority of the party to whom I belong, I repudiate totally and absolutely any such accusation. The functions which we are endeavoring to protect will belong as much to the Senate (if that singular millennium should ever happen to come) when it shall be composed of a majority of the friends of the Senator from Indiana, as they do as it is now constituted. We are not legislating for men; this is a Government of laws, not of men. We are merely protecting the functions of a body to whom the Constitution has intrusted in part the execution of the laws in being a coordinate branch with the President and a concurring branch in the selection of all the agents of the Government. That is what we are doing. I do not, therefore, choose to submit to the imputation for a single moment that there is either in this bill or out of it, in respect to the spirit in which it is proposed, any attempt to advance anybody's political views whatever or to aid anybody's friends. It is an attempt to restore the practice of the Government to its true original theory, and to preserve to this body, which Mr. Madison, one of the authors of the Constitution, declared to be the great anchor of the Government, some of those high powers and duties of which practically it has been stripped.

Mr. HENDRICKS. As illustrating the views I have expressed on the point made by the Senator from Michigan, I wish to cite one or two cases. On the 3d of March, 1863, an act was passed "to provide a temporary government for the Territory of Idaho." That act required for its execution the appointment of a Governor, of a secretary, of judges, so that there might be a government established out there. It was passed during the day some time, and approved on the 8d of March, perhaps twelve, perhaps twenty-four hours before the adjournment of Congress. Now, I submit to any Senator whether the Congress of the United States understood that the President was not to execute that law, whether any Senator dreamed that he was to fill all those offices during the six, ten, twelve, or twenty-four hours that intervened before the adjournment of Congress? Did any Senator expect that of him? None. It was impossible; he could not select the right men in that time. He had to consider of it; it was a matter requiring a good deal of consideration. Here were important officers to be appointed to establish a new government for a people in the distant West.

Again, sir, on the 3d of March, 1865, a law was passed "to establish a Bureau for the Relief of Freedmen and Refugees." That bill provided for a Commissioner to be at the head of the entire establishment. This government within a government was to extend over the rebellious States, and this Commissioner of the bureau was to be at the head of the entire business. The execution of the law required the very first thing that he should be appointed, and yet the law was passed within but a few hours of the adjournment of Congress.

Now I ask of Senators two questions: first, was it expected that that important officer would be selected by the President and his nomination sent to the Senate and confirmed within the few hours before the adjournment? and in the second place, if that was not practicable, which it was not, as a matter of course, or probably not, at least, then was it anticipated by Congress that that law should not be executed during the nine months before the meeting of the Senate again, provided that there should be no session of the Senate in the mean time? It is true an extra session of the Senate was called on the 4th of March after the adjournment, but Congress had no control of that. That session was not called with a view to the confirmation of this particular officer. Whether he was confirmed at that extra session I am not prepared to say; but I am citing this as an instance.

Here was a law that it was expected would be put in force. It was the duty of the President to execute it. He could not execute it except by the appointment of an officer. This was all contemplated by Congress when they passed the law at an hour of the session when it was impossible for the President to make a nomination and for the nomination to be confirmed.

The only reply that is or can be made is, that whenever a vacancy of that sort might occur the Senate should be called to consider the nomination. I think that is not practicable, and it is, to say the least of it, very inconvenient.

Mr. KIRKWOOD. Allow me to ask, would it not be easy in cases of that kind, if this becomes a law, to provide in the law creating the office for a special appointment?

Mr. HENDRICKS. Why, Mr. President, I am talking of the construction that Congress has put on this clause of the Constitution. The construction put upon it by the executive department has been uniform since, I believe, the very first session of the First Congress under the Constitution; and now I refer to a case in which the Congress of the United States has put upon it a construction by passing a law at the last hours of the session, when it was impossible that there should be a confirmation of a nomination. Every Senator knows that the attention of the President for the last day or two of the session is occupied in considering the bills that are passed. Congress might have provided as the Senator suggests possibly; but it would have been a singular provision. It would have been a funny law. If it could have been illustrated in some of the pictorials, such a law as that would have been vastly amusing. But it was not done. I am simply speaking of what Congress did do.

Mr. KIRKWOOD. I do not think the Senator understands me. If this bill shall become a law, hereafter, when an office is created at the end of the session, will it not be easy in the law creating the office to provide for a special appointment in that particular case by the President to run until the next regular meeting of Congress?

Mr. HENDRICKS. If that be so, what is the use of passing this? Why not leave him where the Constitution leaves him? The Senator from Iowa suggests the statesman-like proposition that Congress shall, by general provision of law, provide that a vacancy shall not be filled by the President, provided that vacancy existed at the adjournment of the Senate, and then to meet the practical troubles which will be found every year, he suggests that in each particular law we shall for that particular case repeal this general law which he says must now be passed.

Mr. EDMUNDS. Will my friend from Indiana allow me to interrupt him?

Mr. HENDRICKS. Certainly.

Mr. EDMUNDS. I wish to remind him, because I need not inform him, for he is undoubtedly aware of it, that he has forgotten that there are many instances in the legislation of Congress when new offices have been created by law where in order to give the President power to fill them in the vacation for the first time an express provision to that effect has been inserted in the act of Congress; so that there is no such practical construction on that point as my friend from Indiana seems to suppose on his side of the question.

Mr. HENDRICKS. What law does the Senator refer to?

Mr. EDMUNDS. I can refer the Senator to several instances, but have not the memoranda at hand at this moment. There are several such instances.

Mr. HENDRICKS. I cannot question what the Senator says; but his compliment to my intelligence is not deserved. I have not observed them. I shall not question what he says, that they exist. I referred to his case as showing the construction Congress has put on this provision of the Constitution.

Mr. HOWARD. The Senator from Indiana puts the question whether it was not expected

in the cases to which he referred that the President should fill these offices by temporary appointments during the vacation. I suppose that is the point of his question, offices created at one session of Congress to which no regular appointment has been made during that session of the Senate. Well, sir, in the view which the Senator takes of that matter, it seems that he construes the action of Congress, or rather of the Senate, in adjourning and going home, as an assent to the power of the President to fill the offices thus created.

Mr. HENDRICKS. The Senator does not state it exactly as I undertook to state it.

Mr. HOWARD. Perhaps I do not.

Mr. HENDRICKS. I am speaking of laws passed at the session when Congress necessarily adjourns on the 4th of March. On the 3d of March Congress passes laws requiring the appointment of important officers to execute laws passed at that date. Now, I say the Senate contemplated that the President should make those appointments after consideration, after an opportunity to consider the claims of the different applicants that should be made.

Mr. HOWARD. I do not think that Congress contemplated any such thing. They have not said so in any statute or in any resolution. They leave the matter to stand upon the Constitution. They always leave it there as a matter of course.

Mr. HENDRICKS. Will the Senator from Michigan allow me to ask him a question? The act organizing the Freedmen's Bureau was passed on the 3d of March. I think the Senator will concede that it was practically impossible for the President to consider of his nomination at that hour of the session. The Senator knows that the President's attention at that time is entirely occupied with the examination of bills with a view to his signature. The Senator knows that at the short session more perhaps than one half of the laws are approved on the 3d of March. Now, a law passed of that character establishing the Freedmen's Bureau, would the Senator have held the President to be without blame if he left that law unexecuted for nine months when the Senate necessarily adjourned within a few hours after the passage of the law? Was it the duty of the President to execute that law?

Mr. HOWARD. As to the duty of the President to execute the laws I wish to say one word. He is bound by his oath of office to see that the laws are faithfully executed. There is no doubt about this obligation, nor the form in which it is assumed; he is sworn to do so; but if the Senator from Indiana takes the ground that the President of the United States can constitutionally derive from that grant of power any authority whatever which is not granted to him in other portions of the Constitution, then I must say that I differ entirely with the Senator from Indiana. The oath of office of the President of the United States gives him no power whatever; he derives no additional authority or additional functions from his mere oath of office; he is sworn to see that the laws are faithfully executed, and of course as Congress make the laws and impose this obligation upon him it is their duty to provide the proper and necessary instruments to enable him to perform this duty to which he is thus sworn. He uses, and he can use, only such instrumentalities as are furnished him by statute of the United States for the purpose of seeing that the laws are faithfully executed. He derives no additional authority from that clause of the Constitution. Congress are under oath, and each member of Congress takes an oath faithfully to discharge his duty, and he is sworn to furnish the necessary facilities to the President in the shape of legislation to enable him to perform his duties; and that is the beginning and the middle and the end of the whole thing. If Congress fail to furnish the necessary instruments, then the President of the United States is blameless if the laws go unexecuted; because it is not his fault, but, on the contrary, the fault of Congress. We stand in the place of the responsible party.

Well, sir, as to the particular case put by the honorable Senator from Indiana, the head of the Freedmen's Bureau was not appointed at the particular session to which he refers. The President on the 3d of March, he tells us, is usually engaged in the examination of bills. True, he generally is; it is inconvenient and in some cases perhaps it may be said to be morally impossible that he should on that day, before the close of the session, fill the office. I grant that; but what is the logical consequence? Nothing, except his inability to perform a duty which rested upon him. But here is a further facility placed in the hands of the President. He sees when he reads the bill on the 3d of March that it requires the appointment of an officer to perform the functions created by the statute; he is unable on that day to designate a proper person to the Senate to fill the office. The Constitution enables him at any time to call the Senate together; he may by a single word of his mouth direct a note to be published in a newspaper, or a note to be sent to each member of the Senate, convening them on the 4th of March, for the purpose of acting upon executive nominations, and this one among others; and that has been the usage of the President from the beginning of the Government. At the close of almost every session of Congress the Senate has been detained in executive session.

Mr. CONNESS. Every short session.

Mr. HOWARD. And I think occasionally at the end of every long session where cases of this kind came up. It is the commonest thing in the world. He has the power to fill the office by regular appointment by and with the advice and consent of the Senate, if he will take the trouble to notify the Senators to be in their seats. Is there any difficulty whatever in that? Certainly the honorable Senator, in the face of these constitutional provisions and this usage, cannot, I think, contend that it was the understanding of Congress on the 3d of March that the President should make a temporary appointment to fill this so-called vacancy during the recess of the Senate. I do not see how the two things are connected with each other; I do not see any immediate connection between the gentleman's premises and his conclusion, in other words. The Constitution affords every facility for the appointment to office by and with the advice and consent of the Senate; while on the other hand it does not, for it cannot provide for every casualty, every contingency, in the public service, and against every inconvenience that may arise from death, from resignation, or from other accident. It would be necessary, in order to guard against every such inconvenience, to enlarge the Constitution to the dimensions of the statutes themselves, and even beyond that size in order to meet all those contingencies.

Mr. EDMUNDS. I will furnish to my friend from Indiana one of the precedents to which I alluded, and there is any number of them. This one goes back to the good old times when no partisan motives which he seems to be so suspicious of can be imputed to Congress or to the President. By the act of the 7th of May, 1822, providing for certain collection districts in Florida, it was declared that the President, by and with the advice and consent of the Senate, should appoint a collector and surveyor for each of the districts, and then it proceeded to provide further:

"But the President, in the recess of the Senate, may make temporary appointments of any such collector or surveyor, whose commission shall expire in forty days from the commencement of the next session of Congress thereafter."

So that at that time, as at all the other times to which I have referred, when new offices were created, it was thought necessary to confer upon the President the express power of filling up those offices unless they were filled before the Senate adjourned.

Mr. SHERMAN. I desire to move an executive session.

Mr. WILLIAMS. Will the Senator give way to me a moment to make a motion in connection with this bill?

Mr. SHERMAN. Certainly.



Mr. WILLIAMS. I move that the bill with the amendments be printed, so that we can see on Monday morning what the amendments are. The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. SHERMAN. I renew my motion. The motion was agreed to; and after some time spent in executive session, the doors were reopened and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, January 11, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON. The Journal of yesterday was read and approved.

#### RIFLE CANNON.

Mr. HUBBARD, of Connecticut. I ask unanimous consent to submit the following preamble and resolution:

Whereas it is alleged that the Navy of the United States is unprovided with rifle cannon of large caliber, corresponding with those used in European service; and whereas experiments have been made by American citizens in the construction of wrought-iron cannon of large caliber, suitable for rifle shot and calculated to supply the alleged deficiency in the naval ordnance of the United States, if any such deficiency in fact exists:

*Resolved*, That a select committee of five members be appointed from this House, with power to send for persons and papers and to examine witnesses under oath, and fully to inquire and report to this House as to the facts of such alleged deficiency of rifle cannon of large caliber in the naval service of the United States, and to ascertain and report what experiments, if any, have been made by citizens of the United States to supply such deficiency, and the result of such experiments; and to ascertain and report to this House what transactions, if any, have been made between the Secretary of the Navy or other Departments of the Government and citizens of the United States in relation to the construction of wrought-iron cannon of heavy caliber, and whether there are any sums equitably due from the Government in consequence of such transactions, and to report by bill for the payment of the same, and to report by bill or otherwise such measures as may be required to place the Navy of the United States in the supply of rifle cannon of heavy caliber upon equality with the navies of Europe.

Mr. COBB. I object.

#### PACIFIC MAIL SERVICE.

Mr. BIDWELL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be, and they are hereby, instructed to inquire into the expediency of having ocean mail service between San Francisco, in California, to Astoria and Portland, in Oregon, for the transmission of printed and other matter, thereby making the ocean mail service continuous from New York, via the Isthmus and San Francisco, to Portland, Oregon, avoiding the destruction of public documents and other printed matter by long and unnecessary overland exposure and injury; and that they have leave to report by bill or otherwise.

#### LEAVE OF ABSENCE.

Mr. MILLER asked and obtained leave of absence for one week.

#### ORDER OF BUSINESS.

Mr. GARFIELD and Mr. DELANO called for the regular order of business.

The SPEAKER. The pending question when the House adjourned last evening was the admission of the State of Nebraska, but that order is superseded by a rule of the House which will now be read.

The Clerk read as follows:

"Friday and Saturday of every week shall be set apart for private bills and private business in preference to any other, unless otherwise ordered by a majority of the House."

Mr. GARFIELD. I move to postpone the prior order, and take up the bill for the compensation of clerks.

Mr. DELANO. I hope it will not be done. The private business deserves the attention of the House, and I hope it will devote this day to the legitimate business.

Mr. GARFIELD. I have twice given way to other business.

Mr. McKEE. Is this debate in order?

The SPEAKER. The motion admits of very limited debate.

Mr. KASSON. I would suggest that it is important that the House should go into Com-

mittee of the Whole on the legislative appropriation bill to-day. It has been laid aside for some time, and it is very important that we should send it to the Senate. The session is advancing, and we have sent no appropriation bills of any magnitude to the other body. I therefore appeal to the gentleman to allow us to go into Committee of the Whole, notwithstanding the assignment of the day for the consideration of business on the Private Calendar.

Mr. DELANO. I am constrained to say to the gentleman, whom it would give me pleasure at any time to accommodate, that I do not feel that the state of the Private Calendar justifies me now in granting his request.

Mr. KASSON. Then I ask if my friend cannot take up the most important measures of a private nature, and at the close of an hour give way to a motion to go into Committee of the Whole.

Mr. DELANO. I will endeavor to do so.

The question being taken on the motion of Mr. GARFIELD to postpone the regular order, it was disagreed to.

The SPEAKER. The morning hour has commenced, and the first business in order is the call of the committees of reports of a private nature, commencing with the Committee of Claims, where the call rested on the last private bill day, December 14.

#### ADVERSE REPORTS.

Mr. DELANO, from the Committee of Claims, reported adversely on the following petitions and other papers, namely:

Nehemiah Osborn, the State of New York, certain companies of the Michigan militia, Horatio Nater, J. H. Atkinson, S. B. Kidd, L. D. Page, in behalf of Eunice Satterlee, Miss M. Victor, Henry Zeigler, Voltaire Randall and E. G. Homer, Strothers Motens, F. A. Aiken, David Hicks, Edwin L. Drake, John Boem, Mary A. Palmer, Cynthia Mullins, A. E. Damas, Dory Nell, Elias Dunbar, D. Eglington Barr, Trustees Southern College at Bowling Green, Kentucky, and joint resolution (H. R. No. 169) authorizing the Secretary of the Treasury to settle the account of C. F. Fay.

Mr. DELANO moved that the Committee of Claims be discharged from the further consideration of the same; which was agreed to, and the said papers were laid on the table.

Mr. DELANO also moved that the Committee of Claims be discharged from the further consideration of the following petitions, namely:

Mrs. Nancy Bills, Charles Kahn, jr., the ladies of French Creek, West Virginia, Dr. James Taylor, A. Walker, Obed Blowers, Robert H. Isbell, John Todd, Thomas Nugen, Pardon Worsley, Edward Van Wart, Wiley Jones, James E. Palmer, James P. Strother, Barrington Bekymer, Isaac C. Noe, Alexander Dunbar, Amos Sanford, David Foster, Catharine N. Croft, George W. Elliott, David T. Hawes, Bennett Cook, and Major Lorenzo Thomas, United States Army.

The motion was agreed to; and the petitions were laid upon the table.

Mr. DELANO also moved that the Committee of Claims be discharged from the further consideration of the following petitions and bills, namely:

Beverly D. Williams, Richard Dunbar, the Atlantic and Sun Mutual Insurance Companies of New York, Thomas Garner, James A. Russell, Thomas C. Sullivan, C. De Ronceray, Levi Ferguson, Dr. Philip Adolphus, Joseph C. G. Kennedy, E. E. Shedd, George H. Wright, Barney Eagan, G. L. Beach, John Burke & Co., Henry Beutel, Woods Mabury, Samuel H. Patterson, George Wohrly, Timothy Ragan, John Netler, Jacob Killinger, and of Mrs. Eliza Allard and others, citizens of Paducah, Kentucky, and the bill of the House No. 175, to authorize the payment of the claim of the State of New Hampshire for certain services of her militia during the war of 1812.

The motion was agreed to; and the petitions and bill laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the said reports were laid upon the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GEORGE HENRY PREBLE.

Mr. DELANO, from the same committee, reported back, with the recommendation that it do not pass, bill of the Senate No. 176, for the relief of George Henry Preble, a commander in the Navy of the United States, and moved that the same be laid upon the table.

The motion was agreed to; and the bill was laid upon the table.

Mr. SCHENCK. I move to reconsider the vote by which the bill was laid upon the table; and I call for the reading of the report. I know something of this case and I think it is a meritorious one.

The report was read.

Mr. SCHENCK. I would like to say—

The SPEAKER. The motion to reconsider is not debatable, except by unanimous consent, as the original motion to lay the bill on the table was not debatable.

Mr. SCHENCK. I suggest that the report be laid over until the gentleman from Maine, [Mr. LYNCH,] representing the district to which Commander Preble belongs, can make an examination of the case. He is not now present. I would like, therefore, to have this motion to reconsider laid over on that account. I do not concur in the report of the Committee of Claims from what I know of the case.

The SPEAKER. Perhaps the gentleman from Ohio [Mr. DELANO] had better by unanimous consent withdraw the report.

Mr. DELANO. I have no objection to that.

Mr. WASHBURNE, of Illinois. I prefer that the bill shall remain where it now is.

The SPEAKER. Then the bill is laid upon the table.

Mr. SCHENCK. Then I ask that the motion to reconsider shall be postponed until Friday next.

Mr. HARDING, of Illinois. I object to that.

The SPEAKER. Then the question is upon reconsidering the vote by which the bill was laid upon the table, and that question is not debatable.

Mr. SCHENCK. Well, I think it is very hard action against a gallant officer.

Mr. DELANO. I hope that the gentleman who interposed an objection to the postponement of the motion to reconsider will withdraw it, as I wish to accommodate the gentleman from Ohio, [Mr. SCHENCK.] It will save me the necessity of withdrawing the report.

Mr. SCHENCK. I hope the chairman of the Committee of Claims will withdraw this report for the present.

Mr. DELANO. I will do so if the gentleman from Illinois [Mr. HARDING] will withdraw his objection.

The SPEAKER. That can only be done by unanimous consent, as the bill has been laid upon the table by a vote of the House.

Mr. SCHENCK. I hope the gentleman from Illinois will withdraw his objection.

Mr. ANCONA. I call for the question on the motion to reconsider the vote by which the bill was laid upon the table.

The question was put; and there were—ayes 51, noes 24; no quorum voting.

Mr. DELANO. What will be the effect of this action?

The SPEAKER. If the motion to reconsider prevails, the effect will be to bring the House again to a vote upon the question "Shall the bill lie upon the table?"

Tellers were ordered on the motion to reconsider; and Messrs. HARDING, of Illinois, and BLAINE were appointed.

The House divided; and the tellers reported—ayes 60, noes 39.

So the motion to reconsider was agreed to.

The question recurred on the motion to lay the bill upon the table.

Mr. BLAINE. That question is not debatable, but I believe it is in order for the gentle-

man from Ohio [Mr. DELANO] to withdraw the report.

The SPEAKER. That can be done by unanimous consent, but the report having been made by the authority of a committee, the gentleman cannot withdraw it himself.

Mr. BLAINE. I hope no gentleman will object to having the report withdrawn in order that the House, at some future day—not just now—may give it impartial consideration.

No objection was made; and accordingly leave was granted, and Mr. DELANO withdrew the report.

#### SURETIES OF JAMES T. POLLOCK.

Mr. DELANO also, from the same committee, reported back, with the recommendation that it do pass, bill of the House No. 840, for the relief of the sureties of James T. Pollock, the question being upon ordering the bill to be engrossed and read a third time.

Mr. DELANO. I ask that the bill be put upon its passage now.

Mr. PRICE. Is there any report accompanying this bill?

Mr. DELANO. There is a report, but I can perhaps state the principal facts more briefly than the report.

Mr. PRICE. If the gentleman prefers to make an oral statement of the facts rather than have the report read I will not insist upon the reading of the report. But I think we should have some statement of the facts before we are called upon to vote for a bill of this character.

Mr. DELANO. In 1837 this Pollock was appointed receiver of the land office in Indiana, and gave bond and surety with twenty-six sureties. One year afterward he was discovered to be a defaulter in the sum of \$6,000. Immediately afterward a distress warrant—according to the practice at that time, as I understand—was issued for the collection of the amount of this defalcation and placed in the hands of Marshal Taylor, of Indiana. At the time the warrant was placed in the hands of the marshal Pollock was possessed of unincumbered real estate of the value of \$20,000. The marshal holding this distress warrant neglected to levy and proceed with the warrant until this real estate of Pollock became incumbered by subsequent judgments, which entirely consumed it. Suit was then brought against the marshal for non-feasance; that suit was continued from term to term until 1851. In 1850, by some means, a bill was passed by Congress releasing Marshal Taylor and his sureties from the liability growing out of their non-feasance in executing the distress warrant against Pollock. So that the property of Pollock was gone in consequence of the neglect of the marshal of the General Government; and the Government then stepped in and abandoned all its claims against Taylor, the marshal. Now, after a lapse of twenty years, and when all of the twenty-six sureties of Pollock, except three, are either dead or insolvent, the Government is proceeding to collect the debt from the sureties.

Mr. BINGHAM. Will my colleague [Mr. DELANO] yield to me for a moment?

Mr. DELANO. I will.

Mr. BINGHAM. I desire to state that it appears that in the case of a collector of customs at Petersburg, Virginia, there was a similar defalcation on the part of the collector, and a voluntary release of the sureties upon his bond. The Thirty-Sixth Congress, by an almost unanimous vote, released the sureties under circumstances similar to those just stated by my colleague.

Mr. DELANO. It will be observed by those who have heard me that it was through the non-feasance or malfeasance of an officer of the Government that this debt was not collected from the principal, who at the time had sufficient property unincumbered to satisfy the debt. And then the Government voluntarily surrendered its claim against its officer who was guilty of this neglect.

Mr. DRIGGS. Can the gentleman state how long after the distress warrant was issued was

it before the property of Pollock became incumbered?

Mr. DELANO. Some eight months, I understand.

Mr. ROSS. I would like the gentleman to inform the House how the original judgment was released.

Mr. DELANO. There never was any judgment in the case.

Mr. ROSS. There never was any judgment in the case? How could you have a distress warrant without a judgment?

Mr. DELANO. It was issued by the Treasury Department, according to the practice at that time.

Mr. ROSS. I do not think there is anything in this case to justify Congress in discharging these sureties. They became responsible to the Government, in default of the principal, to pay the Government this amount. I think the Government has made no statement to justify the action asked of us. I do not think we should set such a precedent at this time.

Mr. DELANO. I now call the previous question.

The previous question was seconded and the main question ordered; which was upon ordering the bill to be engrossed and read a third time.

Mr. ROSS. I move to lay the bill on the table.

The motion was not agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ERNEST F. KLEINSCHMIDT.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Ernest F. Kleinschmidt, of Cincinnati, Ohio; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read at length, proposes to authorize and direct the Secretary of the Treasury to pay to Ernest F. Kleinschmidt, of Cincinnati, Ohio, \$1,250, to reimburse him for money to that amount paid by him to the collector of internal revenue for the second district of Ohio, for four city lots in Cincinnati, which were sold by the collector to Kleinschmidt for the payment of internal revenue tax, which tax was subsequently declared by the superior court of Cincinnati to have been illegally assessed, and the sale of the lots to have been null and void.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### JAMES HOOPER.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of James Hooper, of Baltimore, Maryland; which was read a first and second time.

The bill, which was read at length, proposes to authorize and direct the Secretary of the Treasury to pay to Hooper \$16,000, to reimburse him for the destruction and loss at sea of the bark General Berry while in the military service of the Government, on the 9th of July, 1864.

Mr. MAYNARD. Is there a report in this case?

The SPEAKER. There is.

Mr. MAYNARD. I would like to hear it read.

The SPEAKER. It will be read.

The Clerk read the report.

Mr. MAYNARD. Mr. Speaker, any claim

involving but a few hundred dollars, standing upon its own peculiar facts, and having been examined and reported upon by a committee of this House, ought generally, in my opinion, to be allowed to pass upon the judgment of the committee and the report which they make.

The amount of the present claim, however, is considerable; and the character of the claim is such as will make it a representative case for what may be a very large class of claims.

As I understand the facts in brief, the owner of this vessel undertook to convey from New York to Fortress Monroe a lot of hay and straw, at the rate of \$7 50 per ton; and a bill of lading was signed in the usual form, with the exception that if the vessel was sent up the river from Fortress Monroe to unload, the war risk, as it is called, was to be assumed by the Government. It appears that this vessel was lost by being overhauled by a rebel cruiser. I did not understand from the report whether the carrier was held responsible for the loss of the cargo; I presume he was not; nor did I understand whether he had been paid for the carriage. If this fact is mentioned in the report my ear failed to catch it. Whether that was so or not I do not know that it would vary the condition of the case.

The question involved in the case is, whether a party employed as a common carrier, or in any other service that might be called civil service, or analogous to ordinary civil service in time of peace, stands in any different legal attitude from those who are employed by private parties. The auditor who, under the law of Congress, has examined this case, has decided that a party who undertakes to carry for the Government as a common carrier assumes precisely the same risks and the same responsibilities as a party carrying for private individuals. In this decision I think the auditor was clearly right. To hold that the Government is responsible for the loss of this vessel would, so far as I can see, make the Government liable for her loss in any other way—by going down upon a shoal which was not laid down on the charts, or by any other of the thousand casualties to which this kind of service is always liable.

It is urged that the presence of the rebel cruiser was not in this instance known. That may be true; but it was known that the sea was thus infested—

Mr. DELANO. Allow me, as I understand the morning hour is about to expire, to say there are some other matters the Committee of Claims desire to get before the House, and if this is going to lead to debate I hope the gentleman will yield and let me move to refer the bill to the Committee on the Private Calendar.

Mr. MAYNARD. I am not prepared to vote for this bill.

Mr. DELANO. At the suggestion of my friend from Maryland, [Mr. J. L. THOMAS,] who is interested in the question, I will, with the consent of the House, withdraw the bill and report and take some other occasion to submit them for action.

Mr. MAYNARD. I object, and move the bill and accompanying report be referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed. Then we will have an opportunity to examine into the matter.

Mr. DELANO. I agree to that.

The motion was agreed to.

#### E. J. CURLEY.

Mr. McKEE, from the Committee of Claims, reported back Senate bill No. 433, for the relief of E. J. Curley, with the recommendation that it do pass.

The bill authorizes the Secretary of the Treasury to pay or cause to be paid E. J. Curley, out of any money in the Treasury not otherwise appropriated, the sum of \$34,248 52, as compensation in full for corn purchased of him by Captain E. B. W. Reslicaux, assistant quartermaster on the part of the Government.

Mr. ROSS. I make the point of order that the bill makes an appropriation and must have

its first consideration in the Committee of the Whole House on the Private Calendar.

Mr. McKEE. I should like to inquire whether, this bill having once been in the Committee of the Whole House on the Private Calendar, and taken therefrom and referred to the Committee of Claims, the point of order is a good one?

The SPEAKER. It is an appropriation bill. Was it considered in the Committee of the Whole House on the Private Calendar at this Congress?

Mr. McKEE. At the last session it was taken from the Committee of the Whole House on the Private Calendar on my motion, and referred to the Committee of Claims.

The SPEAKER. The rule is, the bill must have its first consideration in the Committee of the Whole House on the Private Calendar. It seems it went to that committee, but by unanimous consent was taken from that committee and referred to the Committee of Claims. It has not had a consideration in the Committee of the Whole House on the Private Calendar provided for in the rule.

The bill was referred to the Committee of the Whole House on the Private Calendar, and with the accompanying report ordered to be printed.

#### MARGARETTE ANN LAURIE.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back Senate bill No. 441, for the relief of Margarette Ann Laurie, with the recommendation it do not pass; and it was accordingly laid upon the table.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, also moved that the Committee of Claims be discharged from the further consideration of the following cases, and that they do lie upon the table:

Petition of J. W. Nye, assignee of Peter Barge and Hugh Stewart; and

Petition of George C. Hager, claiming payment for rent of blacksmith shop, &c.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts, moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The morning hour then expired.

#### MURDER OF UNITED STATES SOLDIERS.

Mr. PIKE. I ask, by unanimous consent, that the order to print documents accompanying the message of the President in reference to the murder of soldiers in South Carolina be rescinded. They are voluminous, and the committee will be delayed in its action. When the report is made, if necessary they can be ordered to be printed.

There was no objection, and it was ordered accordingly.

#### YOUNG MEN'S CHRISTIAN ASSOCIATION.

Mr. KOONTZ, by unanimous consent, introduced a bill supplementary to joint resolution of June 28, 1864, incorporating the Young Men's Christian Association of the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### GEORGE D. DOUSMAN.

Mr. PAINE, by unanimous consent, introduced a bill for the relief of George D. Dousman, one of the securities for William H. Bruce, late sub-Indian agent at Green Bay, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### ENROLLED JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (S. No. 151) appropriating money to defray the expenses of the joint select committee on retrenchment; when the Speaker signed the same.

#### OCEAN BRAZILIAN STEAMERS.

The SPEAKER laid before the House a letter from the Postmaster General, in reply to a resolution of the House respecting the mail service performed by the ocean Brazilian steamers; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### MILITARY ROAD IN DAKOTA.

The SPEAKER also presented the memorial of the Legislature of Dakota Territory, praying for the establishment of a military road from Elk Point to Sioux Falls, in said Territory; which was referred to the Committee on Military affairs, and ordered to be printed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. KASSON. I move the rules be suspended, and the House resolve itself into the Committee of the Whole, on the state of the Union on the legislative, &c., appropriation bill.

Mr. DELANO. I move to go into Committee of the Whole House on the Private Calendar.

The SPEAKER. The latter motion takes precedence.

Mr. DELANO. I will say to my friend that I will move that the committee rise at the expiration of an hour for the purpose of reaching his business.

Mr. KASSON. I dislike certainly to interfere with the Private Calendar, but the appropriation bill has been pending a long time, and I would like to get through with it.

Mr. DELANO. What I propose is that we spend an hour on the Private Calendar, and I propose to consider only such bills as there is no objection to.

Mr. KASSON. I suppose I ought to waive my motion in view of the fact that the day is assigned to private business, but I hope the gentleman will allow the appropriation bill to come in, if possible, a little earlier.

Mr. DELANO. I will, if possible.

Mr. KASSON. I then withdraw my motion.

Mr. DELANO. I ask that, by unanimous consent, to-day be considered as "objection day."

No objection being made it was so ordered.

#### PRIVATE CALENDAR.

The question was taken on the motion of Mr. DELANO; and it was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. BROOMALL in the chair,) and proceeded to the consideration of bills and joint resolutions on the Private Calendar as on "objection day;" which were disposed of as indicated below.

Those bills to which no objection was made were laid aside to be reported to the House with the recommendation that they do pass; and such bills and resolutions as were objected to retained their place upon the Calendar.

#### HIRAM PAULDING.

A bill (H. R. No. 457) for the relief of Hiram Paulding, rear admiral United States Navy. The bill, which was read, directs the auditing of the accounts of Hiram Paulding while a captain in the United States Navy, covering his expenditures in the entertainment of the foreign officers and people who visited the frigate St. Lawrence, under his command, at Southampton, not exceeding the sum of \$963 92; and also his expenditures in entertaining the officers of the Governments of Bremerhaven and Stockholm in the years 1848, 1849, and 1850, not exceeding the sum of \$2,690.

The CHAIRMAN. Is there objection?

Mr. HARDING, of Illinois. I object.

The CHAIRMAN. The Chair thinks the objection comes too late.

Mr. HARDING, of Illinois. I believe I made it in time.

The CHAIRMAN. Did the gentleman rise from his seat?

Mr. HARDING, of Illinois. I did not.

The CHAIRMAN. Then the bill will be laid aside to be reported to the House.

#### CORPORATION OF WASHINGTON.

A bill (H. R. No. 710) to pay and discharge certain debts and expenditures to the corporation of the city of Washington.

Mr. DELANO. I think I must ask that this bill be laid over.

The CHAIRMAN. The gentleman from Ohio is understood as objecting.

#### TULLER AND FISHER.

Joint resolution (H. R. No. 175) to audit and pay the claim of Tuller & Fisher, of Missouri. [Objected to by Mr. BENJAMIN.]

#### JOHN R. BECKLEY.

Joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley. [Objected to by Mr. ALLISON.]

#### HENRY S. DAVIS.

A bill (H. R. No. 820) for the relief of Henry S. Davis. [Objected to by Mr. WASHBURN, of Illinois.]

#### JAMES POOL.

A bill (H. R. No. 811) for the relief of James Pool. [Objected to by Mr. ALLISON and Mr. ROSS.]

#### ALEXANDER F. PRATT.

An act (S. No. 435) for the relief of Alexander F. Pratt. [Objected to by Mr. WASHBURN, of Illinois.]

#### JOSIAH O. ARMES.

An act (S. No. 16) for the relief of Josiah O. Armes. [Objected to by Mr. AMES.]

Mr. DELANO. I ask the gentleman from Massachusetts to withdraw his objection so as to allow me to move to refer this bill to the Committee of Claims. It has never been there.

Mr. WINDOM. I object.

#### SUFFERERS BY PORTLAND FIRE.

An act (S. No. 428) for the relief of the sufferers by the late fire in Portland. [Objected to by Mr. McKEE.]

#### JOHN T. JONES.

A bill (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory. [Objected to by Mr. THAYER.]

#### MRS. ABBY GREEN.

Joint resolution (S. No. 112) for the relief of Mrs. Abby Green. [Objected to by Mr. ALLISON.]

#### DONAHUE, RYAN AND SECOR.

A joint resolution (S. R. 141) for the relief of Donahue, Ryan & Secor, builders of the iron-clad monitor Camanche. [Objected to by Mr. DAVIS.]

Mr. MAYNARD. I ask if there is not a report in that case?

The CHAIRMAN. There is none upon the table.

Mr. MAYNARD. Has the joint resolution ever been referred to a committee of this House?

The CHAIRMAN. The Chair does not know.

Mr. MAYNARD. If it has not been and it is proper I will move to recommend that the Committee of the Whole House be discharged from the consideration of this joint resolution, and that it be reported to the House with the recommendation that it be referred to the Committee on Naval Affairs.

The CHAIRMAN. That motion is not in order.

#### GEORGE W. LANE.

Joint resolution (H. R. No. 211) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States. [Objected to by Mr. ALLISON and Mr. COBB.]

#### BOLMER AND WEBER.

A bill (H. R. No. 821) for the relief of Bolmer & Weber, of St. Louis, Missouri. [Objected to by Mr. ALLISON and Mr. ANCONA.]

Mr. HOGAN. I hope the gentlemen will withdraw their objection.



Mr. ALLISON. No, sir.

Mr. MAYNARD. Is there a report in this case? If there is I ask that it be read and there may then be no objection to the bill.

The CHAIRMAN. The bill is objected to.

Mr. ANCONA. I desire to withdraw my objection to this bill.

The CHAIRMAN. The gentleman from Iowa [Mr. ALLISON] also objected.

Mr. SPALDING. I renew the objection.

TIMOTHY LEYDEN.

A bill (H. R. No. 822) for the relief of Timothy Leyden.

The bill was read. It authorizes the Secretary of the Treasury to pay to Timothy Leyden, of Parkersburg, West Virginia, (who was a teamster employed by Captain H. D. Patton, assistant quartermaster of volunteers, on the 1st day of May, 1864, at Martinsburg, and was captured on the 2d day of May following by the enemy, while with his team on duty near Winchester, and was imprisoned until the 15th day of December following, and was confined in hospital from diseases contracted in prison until the 2d day of March, 1865, and whose service was never paid nor reported to the Quartermaster General by said assistant quartermaster,) the sum of \$302 in full for such service, out of any money in the Treasury not otherwise appropriated.

No objection being made, the bill was laid aside to be reported to the House.

JOHNSON A. DAWSON.

A bill (H. R. No. 823) for the relief of Johnson A. Dawson, of Mount Sterling, Kentucky.

The bill was read. It authorizes the Secretary of the Treasury, for the faithful service performed in time of war by Johnson A. Dawson, of Mount Sterling, Kentucky, contractor on mail route No. 9556, between Mount Sterling and Stanton, Kentucky, to pay to said Johnson A. Dawson the sum of \$300 in full for all extra allowances for such service.

Mr. MAYNARD. I ask that the report accompanying the bill be read.

The report was read. It states that the petitioner, on the 1st of July, 1862, contracted to carry the mail on horseback on route No. 9556, from Mount Sterling to Stanton, Kentucky, twenty-five miles, twice a week, for \$186 per annum, or \$1 78 per round trip of fifty miles. The petitioner executed his contract faithfully for the term of three years under the most discouraging circumstances. During the said term the prices of forage and subsistence advanced on the route at least one hundred per cent., rendering it doubly expensive for this humble contractor, whose only ambition seemed to be to gain a frugal livelihood by his personal service. The route was nearly abandoned as a thoroughfare of public travel, the roads in the winter season becoming nearly impassable and infested by rebel guerrillas and robbers, by whom petitioner was robbed of his clothing, arms, horse and equipment, but succeeded, however, in concealing the mail and in delivering it according to contract. It is in evidence that while he was frequently waylaid and attacked by rebels he pursued his route in the night-time if there was danger of being captured by day, and that the mail never failed. The petitioner, in view of his losses and sacrifices, asks an appropriation of \$100 per annum additional to his contract price.

The committee have seriously considered the facts and circumstances presented in this memorial, and in view of his devotion to his country, and of the faithful services rendered, though in an humble capacity, under adverse and dangerous circumstances, by the petitioner, recommend the relief prayed for, and therefore report the accompanying bill.

No objection being made, the bill was laid aside to be reported to the House.

EDWARD BLANCHARD.

A joint resolution (H. R. No. 824) for the adjustment of the claim of Edward Blanchard, executor of Captain Evan M. Buchanan.

The joint resolution was read. It authorizes the proper accounting officer to settle the account of Captain Evan M. Buchanan, and to allow a credit to his estate on said settlement, for money and vouchers taken from him at the time of his murder, not to exceed \$400 36.

Mr. ROSS. I ask that the report accompanying the joint resolution be read.

The report was read. It states that on September 28, 1864, said Evan M. Buchanan, then on duty and duly commissioned a commissary of subsistence in the Army near Winchester, Virginia, was captured by the rebel guerrilla Mosby and brutally murdered after surrender; that at the time he had on his person money belonging to the Government and vouchers for money expended, amounting to \$400 89, which was taken by the guerrillas. His administrator prays that said amount be credited to said Captain Buchanan on settlement of his account; and your committee deeming the claim just and proper therefore report back the accompanying joint resolution, and recommend its passage.

No objection being made, the joint resolution was laid aside to be reported to the House.

HENRY RUDD.

A bill (H. R. No. 825) for the relief of Henry Rudd, of Henry county, Iowa.

The bill was read. It authorizes and directs the Secretary of the Treasury to pay to Henry Rudd, of Henry county, Iowa, the sum of \$9,150 out of any money in the Treasury not otherwise appropriated, in full for all losses and compensation to said Henry Rudd for horses purchased and delivered under a contract with the Government.

Mr. MAYNARD. I call for the reading of the report.

The report was read. It states that on the 3d of February, 1864, Captain James A. Ekin, chief quartermaster of the Cavalry Bureau and assistant quartermaster of the United States Army, on behalf of the United States, contracted in writing with petitioner for the delivery at Fort Des Moines, Iowa, to the United States Government, of five hundred head of cavalry horses, at an average price of \$128 70 per head. Said horses were "to be sound in all particulars; not less than five nor more than nine years of age; from fifteen to sixteen hands high; bridle-wise, and of size sufficient for cavalry purposes; compactly built; in good flesh, and free from all defects." It was further agreed that said horses, upon delivery at the Government stables in Des Moines, should "be examined and inspected without unnecessary delay by a person or persons appointed by the United States; and after such inspector shall have certified that they are in all respects as contracted for, and fully equal to the specifications aforesaid, they shall be received and become the property of the United States; and all such horses as may be condemned and rejected by said inspector shall be removed from the Government stables within one day after the contractor had been notified of the rejection." It was further agreed that petitioner should be paid by the United States at the office of the quartermaster of the United States Army, at Washington city, District of Columbia, as follows: \$124 for each and every horse of the first two hundred delivered; \$128 dollars for each and every horse of the second two hundred delivered, and \$129 50 for each and every horse of the last one hundred so delivered, making an average as above stated. This contract was executed in Washington, District of Columbia, about fifteen hundred miles from the place where it was to be fulfilled. The petitioner proceeded at once to Iowa, where he associated with himself J. P. Johnson and Robert Carter, of Henry county, Iowa, for the purchase and delivery of said horses, and for the more speedy and certain fulfillment of said contract. On the 17th of February following they had over two hundred and fifty head of the specified quality of horses at Fort Des Moines, Iowa, ready for delivery

and inspection, but the Government had neither stables nor other means of receiving and disposing of said horses as specified in said contract, and the petitioner was compelled to keep them at an expense of fifty cents per head per day for forty days, or until the 28th of March following, when, for the first time the Government was prepared to receive and inspect them in pursuance of said contract. On the 5th of February, 1864, but two days following the execution of said contract, the Cavalry Bureau, by order of the Secretary of War, issued a circular of "instructions for inspectors of cavalry horses," prescribing rules and requirements for inspectors entirely different from and more stringent than those which prevailed at the time of the execution of said contract, many of which were in absolute conflict with its express terms. By these new instructions the senior inspector was required "to cause the horses furnished under each contract to be placed in the inspection yard at least twenty-four hours before inspecting them. Horses that are rejected for being under age, in poor condition, or temporarily injured by transportation or otherwise, shall be lightly branded on the front part of the fore hoof, near the coronet, with the letter 'R.' When horses are doubtful before branding they may be kept three or four days under guard, at the expense of the contractor, be again originally examined, and then finally disposed of in accordance with the foregoing rules. Horses will be fed at the expense of contractors till they have been branded and accepted."

The report further states that the committee find that the petitioner had no knowledge of these new instructions until they had presented the said two hundred and fifty head of horses for inspection on the 17th day of February, 1864. That so soon as he became aware of their nature and extent, and of the new terms thereby imposed upon his contract, he immediately proceeded to Washington and made application to the War Department, through Captain Ekin aforesaid, that said contract be annulled, and that he be released from the delivery of said horses; but Captain Ekin, on the part of the Government, utterly refused, reminding him that the Secretary of War had issued an order for the arrest and imprisonment of contractors refusing to comply with contracts, and at the same time assuring him that the rules would be changed, and that the Government would indemnify him for all losses sustained by a compliance with the contract. Hon. James Harlan, then United States Senator for the State of Iowa, was consulted with the officers of the Government on this occasion, and as the friend of the contractor, advised him to deliver the horses, as the Government was in much need of them, relying upon Congress for indemnity for his necessary and reasonable losses. This advice was likewise given by the Governor and adjutant general of the State of Iowa. Under these circumstances the petitioner and his said associates proceeded with the purchase and delivery of said horses and the fulfillment of said contract; but soon thereafter, and before the purchase of the remaining two hundred and fifty head, the Government, by its agents, entered directly into the open market for the purchase of horses, establishing depots for that purpose throughout the Northwest; raising the price paid for horses at these depots from \$140 to \$150 for cavalry horses, and as high as \$160 for artillery horses. This change of price, on the part of the Government, prior to the time of the purchase and delivery of the horses under petitioner's contract, while it would seem to be a motive for annulling the contract, or for modifying or releasing the petitioner from the strict terms and provisions of the contract, raised the price of horses to the maximum throughout the Northwestern country, and particularly the State of Iowa, compelling the petitioner to purchase the remaining two hundred and fifty horses at those figures. For these untoward events no blame can attach to the petitioner. He complied with his contract, though at a

considerable loss, resulting, it would appear, from the immediate action of the Government, which no protest could avert, and no forethought could provide against. The Government has paid him the contract price only of \$126 70 per head, while the others it paid from \$140 to \$150 for the same quality of horses. The petitioner claims a loss of \$17,000 under the contract, and there is reason to believe that it approximates to that amount; yet it appears that many of the items of this loss might be excluded in a judicial adjudication of the claim. The committee, in arriving at what to them appears an equitable allowance of the claim, are of opinion that, from the date of the "circular of instructions" to cavalry inspectors, the 5th of February, 1864, the said contract should be regarded as void, and that the petitioner should be released from its provisions; that the petitioner should be paid for the horses delivered on said contract an average price per head of that paid at the same time and in the vicinity by the Government to others for the like quality of horses. The committee find this average price to be \$145 per head, and the amount that petitioner is justly entitled to should be the difference between the amount already paid him on the contract and the amount of five hundred head of horses at \$145 per head, which is...\$72,500. Deduct five hundred head at \$126 70.. 63,350

Amount due petitioner..... \$9,150

For which amount the committee report the accompanying bill and recommend its passage.

Mr. MAYNARD. It seems to me that this is a proper case to go before the Court of Claims. Would a motion to that effect be in order?

The CHAIRMAN. It would not.

Mr. MAYNARD. Then I must object to the bill.

Mr. WILSON, of Iowa. I hope the gentleman from Tennessee [Mr. MAYNARD] will withdraw his objection until some explanation can be made of it.

Mr. MAYNARD. I have no objection to hear any explanation that can be made.

Mr. WILSON, of Iowa. The gentleman from Indiana [Mr. WASHBURN] I believe is familiar with this case, having had charge of it in committee. I am satisfied that he can make such a statement as will lead the Committee of the Whole to allow this bill to be laid aside and reported to the House.

Mr. WASHBURN, of Indiana. Mr. Chairman, this case originated under a certain contract, or rather certain contracts, entered into by parties with the Government for the delivery of about eleven thousand horses by different parties. The larger part of the contractors, owing to a rule which was established by the Department after the contracts were entered into, refused to deliver the horses. This man came here from Iowa, and under the instruction of the quartermaster and of the Senator from his State, as well as of other parties, went on and delivered the horses in pursuance of his contract. The other contractors, upon an appeal to the Judge Advocate General, obtained a decision as to the point in controversy, releasing the binding force of the contracts. That decision is as follows:

"Where, after a contract for horses had been formally entered into, a circular was issued by the Cavalry Bureau requiring horses offered for inspection to be detained twenty-four hours at the expense of the owner, and then, if not accepted, to be branded 'R' for 'rejected'—held that this circular introduced new conditions, and conditions contrary to law, into the agreement; and as it was thereafter almost impossible to obtain the same supply of horses as before, practically prevented the performance of the agreement on the part of the contractor; that branding in the manner proposed by the new circular would have subjected those who engaged in it to an action at law; and that the Government could not force a contractor to deliver up his property to be subjected to a wrong."

The Committee of Claims found that out of the eleven thousand horses contracted for only six hundred were delivered—five hundred by the party here claiming compensation. He went on and executed his contract at a large

expense to himself, relying upon the promises made here that he would be indemnified. He claims that he expended more money than this bill proposes to pay him. The committee inquired whether he had any other contract for horses, and found that this was the only contract in which he had ever engaged. He faithfully delivered the horses, fulfilling his contract in every particular. He furnished the horses below the market price, while the other contractors, refusing to carry out their original contracts, obtained high prices for the horses which they furnished.

Mr. MAYNARD. Mr. Speaker, honest contractors were so very rare during the war that I believe I will make an exception of this case and withdraw my objection.

The bill was laid aside to be reported to the House.

NORMAN J. HALL.

A bill (H. R. No. 483) for the relief of Norman J. Hall.

The bill was read. It provides that in settling with the Treasury of the United States the accounts of Lieutenant Norman J. Hall, first United States artillery, acting assistant commissary of subsistence, and assistant quartermaster at Fort Sumter, South Carolina, there shall be allowed to Hall the sum of \$965 72, on account of the loss of money and of vouchers for money paid, the amount being public funds and vouchers in his hands, destroyed by the blowing up of a magazine at Fort Sumter, South Carolina, during the bombardment of that fort by the rebels in the month of April, 1861; the loss being without neglect or fault on the part of Hall.

Mr. MAYNARD. I call for the reading of the report.

The Clerk read the report. It states that the claimant was, in the month of April, 1861, first lieutenant of the first regiment United States artillery, stationed at Fort Sumter, in the harbor of Charleston, South Carolina, and was on duty at that fort by order of Major Robert Anderson, commanding there at the time of the bombardment and reduction of the same, as acting assistant quartermaster and commissary of subsistence of Major Anderson's command; that at the time and during the bombardment claimant had in his possession \$774 02 public money of the United States, which he had previously drawn from the Assistant Treasurer of the United States at Charleston, by the direction of Hon. John A. Dix, then late Secretary of the Treasury of the United States, and also vouchers for the expenditure of \$191 70, as acting assistant commissary as aforesaid, which money and vouchers were placed and kept together in a box for that purpose in the fort, and which box, with money and vouchers, on the 12th or 13th of April, 1861, were destroyed or burnt up and wholly lost by the fire of the enemy and the explosion of a service magazine in said fort, without the fault or neglect of the claimant.

These facts, the committee state, are sufficiently established by the evidence of Major Generals Dix and Anderson, and, in the opinion of the committee, entitle the claimant to the relief sought for by the introduction of this bill.

The committee, therefore, recommend that the Secretary of the Treasury and the proper officers of that Department be directed to credit the claimant, in the settlement of his accounts, with the gross amount of \$965 72, for public money and vouchers so lost and destroyed as aforesaid, and to this end recommend the passage of the bill.

The bill was laid aside, to be reported to the House.

GOLDSMITH BROTHERS.

A bill (S. No. 192) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers. [Objected to by Mr. MAYNARD.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Sen-

ate had passed a joint resolution (S. No. 156) to provide for the removal of the wreck of the steamship Scotland; in which the concurrence of the House was requested.

PURCHASE OF PROPERTY.

A bill (H. R. No. 666) authorizing the Secretary of War to purchase certain property for military purpose. [Objected to by Mr. Ross and Mr. HENDERSON.]

ACCIDENT INSURANCE COMPANY.

A bill (S. No. 290) to incorporate the National Life and Accident Insurance Company of the District of Columbia. [Objected to by Mr. WENTWORTH.]

Mr. KASSON moved that the committee rise and report the bills which were laid aside.

The motion was agreed to.

The committee accordingly rose; and Mr. BROOMALL reported that the Committee of the Whole House, according to order, had the Private Calendar under consideration, and had directed him to report the following bills to the House, with the recommendation that they do pass:

A bill (H. R. No. 457) for the relief of Hiram Paulding, rear admiral United States Navy;

A bill (H. R. No. 822) for the relief of Timothy Leyden;

A bill (H. R. No. 823) for the relief of Johnson A. Dawson, of Mount Sterling, Kentucky;

A bill (H. R. No. 824) for the relief of Edward Blanchard;

A bill (H. R. No. 825) for the relief of Henry Rudd, of Henry county, Iowa; and

A bill (H. R. No. 483) for the relief of Norman Hall.

The SPEAKER. If there be no objection the bills will be considered in gross.

There was no objection.

The bills were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

AMENDMENTS OF THE RULES.

Mr. WASHBURN, of Illinois. I rise to a privileged question. The Committee on the Rules have directed me to report an amendment to the 51st Rule, merely for the purpose of facilitating the transaction of business on Mondays by curing the source of delay and trouble.

I move to amend the 51st Rule by striking out all that part of it which provides for a call of committees for bills, to be referred to the Committee of the Whole, during the morning hour on alternate Mondays; and amend the 130th Rule by providing that the States and Territories shall be called during the morning hour on every Monday, first for bills for leave to be referred without debate to their appropriate committees, not to be brought back into the House by a motion to reconsider; and that on said call joint resolutions of State and territorial Legislatures for printing and reference may be introduced.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I am also directed by the Committee on the Rules to report a concurrent resolution looking to the establishment of a joint committee on public buildings and grounds. The matter was referred to the Committee on the Rules, and they have determined, in view of the great importance of such a committee in reference to the extension of the Capitol grounds, &c., it was best to make the committee a joint one.

The Clerk read the resolution, as follows:

Resolved, (the Senate concurring.) That the following be added to the joint rules of the two Houses, namely:

RULE—There shall be a Joint Committee on Public Buildings and Grounds, to consist of five members on the part of the Senate and seven members on the part of the House, whose duty it shall be to consider

all subjects relating to the public edifices and grounds within the city of Washington which may be referred to them, and report their opinion thereon together with such propositions relating thereto as may seem to them expedient.

The resolution was adopted.

Mr. RAYMOND. I am directed by the Committee on the Rules, to which was referred the resolution in regard to the reports and reporters of the Associated Press, to report the following:

*Resolved*, That the reporters of the Associated Press and the reports made by them be under the same rules and regulations as the reporters and reports of the Globe.

Mr. ROSS. Does that require them to take an oath? I understand the reporters of the Globe take an oath.

The SPEAKER. The reporters of the Globe do not take an oath. They may elsewhere; they do not here. [Great laughter.]

Mr. UPSON. Is the compensation to be the same?

The SPEAKER. It is not; that is a matter of law.

The resolution was adopted.

#### EXTRA COMPENSATION TO CLERKS.

Mr. HILL. The Speaker yesterday laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House, information concerning the disbursement of the fund of \$250,000 and \$160,000 as extra compensation to clerks in his Department, which was referred to the Committee of Ways and Means and ordered to be printed. I move, by unanimous consent, that reference be changed to the Committee on Expenditures in the Treasury Department.

There was no objection, and it was agreed to accordingly.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. KASSON moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Pennsylvania, in the chair,) and resumed the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

Mr. KASSON. Before taking up the pending question, I ask unanimous consent to correct a few errors that have been discovered on a reexamination of the bill. The first is on page 7, line one hundred and forty-three. I propose to reduce the amount from \$873 to \$240.

The amendment was agreed to.

Mr. KASSON. The next amendment is on page 8, line one hundred and seventy-two, to strike out \$12,658 for laborers and insert \$12,158; also to add the following:

For Lewis Sanders, laborer in charge of the House water-closet \$538, at which sum the salary of the said laborer is fixed, and \$100 additional for a deficiency in the present fiscal year.

The amendment was agreed to.

Mr. KASSON. I move further to amend the bill on page 22, line five hundred and eighteen, by striking out the word "Nebraska," and reducing the appropriation from \$8,300 to \$7,000, so that the clause will read "For compensation of the surveyor general of Kansas, and the clerks in his office, \$7,000." Also by adding the following:

For compensation of the surveyor general of Iowa and Nebraska, declared a surveying district by the act of Congress, entitled "An act to remove the office of surveyor general of the States of Iowa and Wisconsin to Plattsmouth in Nebraska," approved July 28, 1866, which is fixed at \$2,000 per annum, and the clerks in his office, \$7,000.

This amendment is rendered necessary by an act of the last session changing the surveying districts so that Iowa and Nebraska now constitute one district, and Kansas another and separate district.

The amendment was agreed to.

Mr. KASSON. It is also necessary to strike out the word "Nebraska" in line five hundred and fifty-one, and after line five hundred and fifty-two to insert as follows:

For office rent of surveyor general of Iowa and Nebraska, fuel, books, stationery, and other incidental expenses, \$2,000.

The amendment was agreed to.

Mr. KASSON. I move further to amend on page 28, line six hundred and seventy-seven, by so changing the clause as to read as follows:

For compensation of the chief of the Bureau of Yards and Docks, the civil engineer, chief clerk, messenger, laborers, and the following clerks and draughtsmen which are hereafter authorized, namely: one clerk of class four, two clerks of class three, one clerk of class two, one clerk of class one, and one draughtsman at a salary of \$1,800 per annum, \$16,640.

This involves no change at all, except by adding a draughtsman at the salary provided for in the other bureaus of the Navy Department.

The amendment was agreed to.

Mr. KASSON. I move further to amend on page 29, in line six hundred and eighty-nine, by changing the clause so as to read as follows:

For compensation of the chief of the Bureau of Ordnance, and chief clerks, clerks, draughtsman, (whose salary is hereby established at \$1,800 per annum,) messenger, and laborers in his office, \$16,620.

The amendment was agreed to.

Mr. KASSON. I move further to amend by inserting in line six hundred and ninety-four, after the word "draughtsman," the words "whose salary is hereby increased to \$1,800 per annum;" and also, by striking out the words "increase of salary of the draughtsman, \$400."

The amendment was agreed to.

Mr. KASSON. I move further to amend by inserting in line six hundred and ninety-eight, after the word "draughtsman," the same words as before, namely, "whose salary is hereby established at \$1,800 per annum," and by striking out the words "increase of salary of the draughtsman, \$400;" also, by changing the amount appropriated from \$11,820 to \$11,220, and by inserting before the word "clerk" the words "and of," and after the word "two" the words "which is hereby authorized." The clause will then read as follows:

For compensation of the chief of the Bureau of Steam Engineering, chief clerk, and the clerks, draughtsman, (whose salary is hereby increased to \$1,800 per annum,) messenger, and laborer in his office, \$11,820; and of one clerk of class two, which is hereby authorized, \$1,400.

Mr. KASSON. In line seven hundred and fifty-two I move to insert, after the word "topographer," the words "three chief clerks." The amendment was agreed to.

Mr. KASSON. We have now reached the point in the bill where the committee paused when they were last in session.

The CHAIRMAN. The pending amendment will be read.

The Clerk read as follows:

On page 33, line seven hundred and eighty-six, strike out "eighty" and insert "forty-five;" so that it will read:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seed, seed-bags, and miscellaneous items, \$45,000.

Mr. MORRILL. Mr. Chairman, when this question was up before, I made some comments in relation to the conduct of the office of the Commissioner on Agriculture, and in the course of my remarks I stated that the cost of the printing of the monthly periodical amounted to a large sum, and I made the statement, perhaps, in rather a sweeping manner. I did not know at that time how much it did amount to, nor do I now. Since that time I have, however, made inquiries, and I find that the Commissioner claims that the printing does not cost over \$10,000. I am persuaded that he is mistaken, for the late Superintendent of the Public Printing Office told me it might reach for printing, paper, folding, &c., forty or fifty thousand dollars.

I have no personal hostility against this learned and distinguished officer. He is I

believe a very amiable gentleman. I am actuated only by a desire to have this bureau continued and managed with such success that the country shall approve of it.

Now, since this gentleman has held this office I think there have been \$500,000 appropriated, which he has expended, and what has he to show for it? I admit that the annual reports are among the best we have ever had, but they are bought and paid for at the rate of five dollars a page, as I understand. He also has among his subordinates some very competent men. I give him credit for zeal and enthusiasm in his position; but I think the place might be better filled. And, sir, beside this \$500,000 already alluded to, and beside the cost of printing this monthly periodical, there is the whole cost of printing the annual reports and various other documents. They are bound, too, at the public expense, and some of them, rather expensively bound and distributed.

But, Mr. Chairman, I alluded also to the fact that the business of this office has not been conducted always with the highest order or system, and that has been proven by the fact that he has sometimes, after spending all we appropriated, called for appropriations to meet large deficiencies. When we appropriate a certain sum for a certain purpose, if I am not misinformed, he expends it either for that purpose or for any other which he sees fit. For instance, we appropriated for the propagating garden \$10,800, and he is reported to have expended \$12,000. We appropriated for contingencies \$3,500, and I am led to believe that he spent under that head \$6,650. We appropriated for seeds and cost of putting them up, &c., \$54,000, and he expended \$66,000; so I have been told. He buys most of the seeds in Philadelphia at second-hand, though some are his own importations, at an expense of about twenty-eight thousand dollars, and then, if I am correctly informed—and if not the chairman of the Committee on Agriculture will correct me—for putting up those same seeds he expended over forty-four thousand dollars, when they would have been put up in any respectable seed-store probably for half the money.

This distinguished gentleman is in the receipt of a salary of \$3,000. He has one son, entirely worthy so far as I know, who is in the receipt of a salary of \$2,000, and another who has a salary of \$1,600. He has one nephew who has a salary of \$1,400, and another who has a salary of \$1,000. These may all be excellent officers for aught I know; but besides this, he owns a horse—an excellent horse very likely—which the Government has to support, and a carriage which is said to be used exclusively for his own benefit, and for which the Government has been charged within the last three years the sum of \$3,000—the Government being charged one dollar a day for the use and twenty-five dollars a month for the keep of his horse. I do not charge any corruption; it may be all proper; but I think it shows enough of the Yankee in the Quaker to take care of his own. Beside all this, he has seven rooms in the Patent Office building, and in addition to that hires two or three rooms outside—paying \$600 and \$1,200 rental—one of which I believe is used on Sundays for a church, and I have been informed the chairs or the fixtures of that church are supplied by the Government. I do not find fault with this. It may be a proper charity if the permission of Congress has not been asked.

But, Mr. Chairman, I only rose to call the attention of the House to the propriety of reducing the appropriation as proposed.

[Here the hammer fell.]

Mr. BIDWELL. Mr. Chairman, I do not feel at liberty to go into a general explanation in regard to the condition of the Agricultural Department, for the reason that that subject was submitted to the Committee on Agriculture for investigation and they have not yet reported. A large amount of testimony was taken by that committee and a great number of facts were proved, sufficient to induce this



House, could they be related here, to reorganize the Department and put it upon a foundation which would be creditable to the nation.

But, sir, I rose for the purpose of saying that I believe it to be bad policy to reduce this appropriation. While the means that we have now for acquiring useful agricultural information and diffusing the same among the people of the United States are not such as we would wish them to be, yet until we can rearrange and reorganize this Department it seems to me that we ought not to attempt to destroy it. There is no other source of the prosperity of this country so important as that of agriculture. It should be fostered by every means within the power of this Government.

Mr. DAWES. I would like to inquire of the chairman of the Committee on Agriculture [Mr. BIDWELL] whether the investigations to which he has alluded, and which have continued during nearly all of this Congress, enable him to make any reply to the statements made by the gentleman from Vermont, [Mr. MORRILL?]

Mr. BIDWELL. I will state that after the testimony was taken, I, as chairman of the committee, was exceedingly anxious to lay that information before the House. But the majority of the committee did not concur with the chairman; and consequently the chairman did not feel at liberty to bring that information before the House. I would state, however, that I believe such is now the disposition of the Committee on Agriculture, so far as I have been able to ascertain it, that they will be able to agree upon a bill by the time the committee is called, which will provide for the reorganization of that bureau so as to place it upon a better foundation.

Now, I am aware, that the law under which that bureau is organized is complied with literally by the Commissioner on Agriculture. He is required by that law to report the amount of receipts and expenditures, and he makes his report annually; one year I believe it was contained within sixteen lines; another year it was comprised within seven or eight lines, and this year I believe it is all embraced within two or three lines, as so many dollars received and so many dollars expended. As for the particulars, you have to wade through a multiplicity of vouchers, which would require an expert almost a month to decipher. I hope, therefore, that no further explanation will be required of me, unless I, as chairman of the Committee on Agriculture, be authorized to report the result of the investigations made by the committee at the last session.

Mr. MORRILL. Will the gentleman from California [Mr. BIDWELL] allow me to ask him whether or not the facts stated by me are corroborated by the facts ascertained by the committee?

Mr. BIDWELL. I will state that they are not only corroborated, but I believe the testimony shows that they are even worse than the gentleman from Vermont [Mr. MORRILL] has stated.

Mr. MORRILL. I understand the gentleman to say that my statements are not only corroborated, but that the testimony shows the facts to be even worse than I have stated.

Mr. BIDWELL. I merely give that as my opinion of what the testimony proves.

Mr. DELANO. I move to amend by striking out the last word, for the purpose of saying a few words. I would like to ask the Chair, in the first place, whether it would be in order for me to move to strike out the entire appropriation for the Agricultural Bureau?

Mr. KASSON. Before the Chair decides that question, I would suggest that the Committee of the Whole has already passed upon a portion of the appropriations here recommended. Now, I apprehend that it is not in order to move to strike out anything which this committee has adopted. That is the point I submit to the Chair.

The CHAIRMAN. It would be in order to move to strike out the paragraph now under consideration.

Mr. DELANO. Then I make that motion instead of the one I first made. I wish to say in advance that I am not to be understood as opposed to the Agricultural Bureau. If there is any interest in this nation which deserves more attention and care from the General Government than it has yet received, in my opinion it is this very agricultural interest. But while we have at the head of this great interest, upon which the prosperity of the nation rests, and which is the foundation of our income and our resources, while this great interest is intrusted to the hands of a man who I consider utterly and entirely incompetent for the place, I but speak the sense of the agricultural interests of the country when I say they would prefer that no appropriation whatever should be made for the support of this Agricultural Bureau.

I believe there is not in the Union a State agricultural society that has not asked for, solicited, and demanded the removal of the man who is now at the head of the Agricultural Bureau. Our horticultural societies have united in this request: all the societies connected with this great interest demand his removal. But he seems to be fixed there. I do not know what adhesive power holds him there; whether or not it is by supplying his friends with little articles of convenience and comfort that do not come to the public eye or do not reach the public palate, is more than I can say. He seems, so to say, to be frozen to the man who holds his appointment in his hands. There is apparently no persuasion, no inducement that we can bring to bear which can accomplish the removal of this man from his present position.

It is time the agricultural interest of the country should be heard. Why, sir, it is not long since I, in company with a Senator, called upon the Executive to see whether it was not possible to remove this man and put a competent officer in his place, in compliance with the wishes of the agricultural interest. I was met with the pathetic inquiry, "What shall be done with Father Newton?" In God's name, if it be necessary, pension him; give him a permanent pension corresponding in amount with the salary he now receives; take the money, if necessary, out of the agricultural fund; for this would be more advantageous for the agricultural interest than to continue the administration of the present Commissioner.

I am in earnest in this matter; and I say, until we can have at the head of the Department of Agriculture a man competent for the position, so that it may be administered as the interests of the country demand, let us have no appropriation whatever for the support of this Department, and then perhaps we shall have some relief.

I could go further into this matter were we not limited in debate by the five-minute rule. I will only say in conclusion that my present motion has not been made simply to enable me to make these observations. I hope the committee will strike out the whole of the appropriation.

Mr. KASSON. Mr. Chairman, I do not rise to enter into the general debate upon the subject of the administration of the Agricultural Department. I have made such representations as it was proper for me to make in the consideration of this question in committee. Here I represent the action of the committee, and have only to say that if this Department is to be continued the majority of the committee decided in favor of these several amounts of appropriation for the objects named.

I apprehend that as a matter of order the motion of the gentleman from Ohio can only be put in the first instance as to the paragraph under consideration; and then, of course, it may be renewed, if the gentleman chooses, as to each succeeding paragraph. The question practically presented to the House is therefore whether we shall make these appropriations and rely upon a report from the Committee on Agriculture to reorganize that Department, and by legislation, if not otherwise, remove

the present head of the Department, if that be the will of the House; or whether we shall strike out only this part of the appropriation, leaving a mere skeleton bill for the conduct of the business of that Department. My own conception of the duty of the committee is that, if it be their will to change the administration of this Department and reorganize it, thus carrying out the object which the gentleman from Ohio has in view, this reorganization should be provided for in a new bill. We certainly should not pass this appropriation bill without providing the means of carrying on that Department in case the present incumbent should be displaced and a successor appointed. I leave the matter entirely in the hands of the committee, only asking that such legislation may be adopted as will not put an end to the existence of the Agricultural Department.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. DELANO. I withdraw the amendment.

Mr. BERGEN. Mr. Chairman, I move to amend by striking out the last word. It appears to me, sir, that if it is the intention of this House to continue the Department of Agriculture, it is necessary to vote the appropriations as reported by the committee. I think that the agricultural interests of this country demand that this Department should be continued and the necessary appropriations provided.

One word, sir, as to the statement made by the gentleman from Vermont [Mr. MORRILL] in relation to the expenses of that Department. As a member of the Committee on Agriculture I was present during the whole of the investigation which has been referred to, and as I understand the matter the gentleman from Vermont is mistaken in the conclusion to which he has arrived. I differ on this point with the chairman of the committee, and, as I understand, the majority of the committee also differ with him. The charges made in reference to the administration of the Department of Agriculture were not, I think, sustained to the extent which the gentleman from Vermont has stated.

I do not desire to go into particulars with reference to the proceedings in the committee; it may be improper to do so. I may state, however, that the committee were divided in opinion. My understanding with reference to the charges made and the extent to which they were sustained differs from that expressed by the chairman of the committee, although I simply give my own view of the matter. I hope that the appropriations for this Department will be by all means continued; and if it is necessary to reorganize the Department, as appears to be the opinion of the chairman and others, that is a matter for future consideration.

I do not pretend to say the Department might not be reorganized and placed under better regulations than it is at present; but that is a matter for future consideration. I hope, under the circumstances, in view of the importance of agriculture in this country, that the appropriations as reported by the committee will be sustained by the House.

Mr. BROMWELL. I do not understand the condition of the amendment, and I ask that it be again read.

The Clerk again read the amendment.

Mr. BROMWELL. Mr. Chairman, I move an amendment to the amendment, striking out \$45,000 and inserting \$5,000.

It does seem to me, sir, it is about time the country got rid of this thing called an Agricultural Bureau, if it is to be carried on forever in the manner which we have seen. For the last two years there have been complaints, and no man who has put his foot into this city, or has been anywhere else in the United States, but has heard complaints of the management of that so-called bureau.

Mr. HILL. We have heard a great many complaints about the conduct of the Agricultural Bureau. What I desire, and what I presume the committee desires, are the facts. What is the trouble with Mr. Newton? Let the gentleman specify.

Mr. BROMWELL. If the gentleman will not interrupt me I will speak of the common reputation of that bureau in the country; and that its reputation is bad facts are not wanting I apprehend to prove.

But I did not rise for the purpose of discussing every particular dereliction on the part of that bureau. We know that almost every agricultural, horticultural, and pomological society in the Union has called upon the Government to reform that bureau and to place another man in charge of it. Yet we are to be told that the valuable pictures and writings published once a year by that bureau are so essential to the agriculture of the country it must be carried on, although it be, as intimated by the gentleman from Vermont, [Mr. MORRILL,] the seat of corruption, and thoughts total inefficiency is notorious throughout the country. I should like to know why this Government might not as well subscribe to some agricultural newspaper, whose volume at the end of the year would contain more pictures and have a greater number of articles, as well written, which would be quite as instructive as those of the Agricultural Bureau?

Look at the seed purchased. Could we not purchase that seed, new seed of any kind or variety, in Philadelphia, New York, or other city through an agent as well as this bureau of the Government. Of course, with the gentleman from Ohio I regard the Agricultural Bureau as one of the institutions of the country which ought to be maintained. But, sir, it ought to be maintained with some efficiency. It ought not to be the laughing-stock of the country. It ought to be something which can benefit the agricultural interest and be of profit to the people of the country by providing them with new and valuable seeds and with useful information at a reasonable expense to the Government. But what do we have? Every member of Congress gets about once in three months some kind of seed, which can be purchased in every grocery or seed-store from the Atlantic to the Pacific at five cents a paper. The whole thing would not amount to more than three or four dollars if bought in a seed-store. At the same time about once or twice in the year each member of Congress gets a handful of flower seeds. All these, so far as I have noticed, are for sale by the gardeners and at the seed-stores. What does it all amount to? We get a volume a year written in that Department not so good as the American Agriculturist or the Prairie Farmer, which can be furnished, I believe, at \$1 50 a year.

[Here the hammer fell.]

Mr. INGERSOLL. Mr. Chairman, without finding unnecessary fault with any of the members of the House who see proper to attack the head of the Agricultural Department, I may be allowed to call upon those gentlemen at least for some specifications in their wholesale charges. It is admitted by the gentleman from Vermont [Mr. MORRILL] that he has given the country better agricultural reports than any of his predecessors. Wherein does the head of the present bureau fall short of any former head of that Department?

Mr. COOK. What has my colleague to say about the charges made by the gentleman from Vermont, which were admitted to be true by the gentleman from California?

Mr. INGERSOLL. I have this to say: that it is admitted that the head of this Department is as capable and as honest as any man who has heretofore had charge of it, and gives the country as much information beneficial to the agricultural interest, and moreover I do not understand that it is admitted that the Commissioner of Agriculture has been guilty of maladministration of his office; at any rate do not condemn him without a hearing.

Mr. Chairman, the agriculturists of the West and of the East and of all parts of the country feel a deep interest in the maintenance of the Agricultural Department if they have no interest in the distribution of seeds. And my colleague and many other members will bear me testimony that they have more applications for

the report of the Commissioner of Agriculture than for all other public documents put together; and I have no doubt that the Government is more amply compensated for this outlay to promote and foster the agricultural interest than in the expenditure of an equal amount in any other direction.

Mr. GRINNELL. Will the gentleman yield?

Mr. INGERSOLL. For a question.

Mr. GRINNELL. I wish to inquire whether if you cut down this appropriation for seeds you may not with propriety do the same in relation to the publishing of the reports.

Mr. INGERSOLL. The gentleman is quite right. I am speaking against the tendency of these assaults. If you cut down the appropriation in this particular where will you stop? probably not till you have deprived the agriculturists of the country of the benefits of this Department altogether. This is what I want to enter my protest against. Some gentlemen seem to consider it very agreeable and pleasant pastime to assail the kind-hearted old Quaker who is at the head of this bureau, thinking, perhaps, that there is no one who takes interest enough in him to defend him.

A MEMBER. He is a non-resistant, I believe.

Mr. INGERSOLL. I believe the Quakers hold to the doctrine of non-resistance in their creed. But let that pass. I protest against this proposed reduction of the appropriation. This bureau is in successful operation, and if the head of it has not the capacity and intellect of some gentlemen on this floor he certainly has able assistants, who have given the country the best report that has ever been published by that Department; and he has distributed a great variety of choice and rare seeds throughout the breadth of the land. Indeed, I am told that some members owe much of their popularity at home to the fact that they have been very assiduous in distributing the flower seeds. [Laughter.] If that is so, I am against depriving them of this aid by which they may be returned to the Forty-First Congress. [Laughter.]

Now, I hope my colleague, who preceded me, and members from the West generally, will not persist in cutting down this appropriation. Better abolish the Department altogether than make a trifling appropriation that will but maintain its existence in name only, and leave it utterly inadequate to the wants and demands of this greatest of all interests.

Mr. KASSON. I ask leave simply to say that very much time has been spent on this one clause of the bill, and I think the whole subject has been pretty thoroughly ventilated. I therefore hope, by general consent, debate will be closed in five minutes on this clause.

The CHAIRMAN. Debate is closed on the amendment to the amendment.

The amendment to the amendment was disagreed to.

The CHAIRMAN. If there is no objection, debate on this paragraph will be closed in five minutes.

Mr. ROSS. I object.

Mr. KASSON. I then move that the committee rise for the purpose of closing the debate on this paragraph.

Mr. DELANO. I hope the gentleman will withdraw the motion to allow me to submit an amendment in the form of a proviso at the close.

The CHAIRMAN. That would not be in order now.

Mr. KASSON. I will withdraw the motion for the present, and allow the gentleman from Ohio [Mr. LE BLOND] to speak on the subject.

Mr. LE BLOND. I move to amend by increasing the amount to \$75,000, and I do it in good faith. I do believe that we ought to keep alive that branch of the Government. I do not know how other gentlemen feel about this matter or how their constituents feel, but I do know that in my region of country we have derived great benefit from this source in more ways than one. Gentlemen who do not live in agricultural districts—gentlemen from Massachusetts or Connecticut, where the mass

of the people are engaged in other pursuits—do not conceive the necessity or utility of this Department; but I know that the agricultural interest of my region has through this channel introduced a quality of wheat adapted to that particular locality, by the use of which they have been enabled to raise crops that could not otherwise have been grown; for it is well understood by agriculturists that the same kind of wheat grown for a series of years in a particular region is very apt to run out, but by constant change you can keep up the production.

Now, sir, I protest against the system of legislation that is proposed here. My colleague after declaring his devotion to the agricultural interest of the country makes a proposition here that must strike down that Department at once, if his motion prevails. Sir, he will find it difficult to satisfy the agriculturists of Ohio that he is in favor of that interest if his motion prevails. Now, sir, the gentleman who fills this office, if I recollect aright, was appointed by Mr. Lincoln during his first term and he has been continued in it ever since. If he is not a fit person for the place, I ask gentlemen here to adopt such legislation as will produce the desired result. If not, let us make this appropriation and hold the executive department of the Government responsible for putting a proper man in this place. That is the proper course for us to pursue, and not to deny an appropriation, which if denied must destroy this branch of the service entirely. I appeal to gentlemen to make a proper appropriation for this bureau. If the man who administers its affairs is an unfit man for the place let us appeal to the proper authority in order to have him removed and another man put in his place who will administer this Department in a proper and fitting way. That seems to me to be the true course for us to pursue. I hope this appropriation will not be denied and the Agricultural Department thereby destroyed. Sir, we are spending money in various ways that do not result in any good whatever to the people. This Department, to say the least, promises some good to the people, and as long as it promises good let us foster it.

Mr. SCHENCK. Mr. Chairman, I rise for the purpose of speaking to the amendment and in response to my friend and colleague, [Mr. LE BLOND.] I am from an agricultural district, and I yield to no gentleman upon this floor in regard to the appreciation that I have of the importance of an Agricultural Bureau or Department of the Government, and I have hoped to see that Department become of so much importance that its head might be invited to the councils of the President of the nation. I do not know that that is likely to happen under the administration of the present incumbent. I believe he once sought an entrance into the Cabinet. [Laughter.] But what is really the question now presented? My colleague [Mr. DELANO] does not present it distinctly to the House. A proposition is made to reduce the appropriation for this bureau, on at least one of the items involved, a large sum. The chairman of the Committee of Ways and Means has presented certain facts to this House showing extravagant and unauthorized expenditures by this head of the Agricultural Department. He appealed to the chairman of the Committee on Agriculture to know whether he had overstated those facts, and the chairman of the Committee on Agriculture [Mr. BIDWELL] says that he has not overstated them, but that as far as the investigation in which his committee has been engaged elicits the truth the case is much more monstrous even than that represented by the chairman of the Committee of Ways and Means.

Now, sir, in connection with this I may allude to the fact that there has been an investigation, proceeding under instructions given by the House to the Committee on Agriculture, into the administration of this Department; and to show what obstructions have been thrown in the way of that investigation by the head of

this Department, we have laid upon our tables a statement over the signature of Mr. Gendell, who seems to have been one of the clerks in the bureau, in relation to the manner in which witnesses before the committee have been treated—clerks in the Department who have been called upon to testify before the committee—and that is a sufficient reason for taking away this appropriation from under the control of this man if this statement be true. I know nothing personally of it. It appears that two or three clerks in this bureau, who were called upon to testify as to the manner of administering the affairs of the office, and through whose developments some of these extravagant and unauthorized expenditures have been revealed, have been turned out of office for daring to go before a committee of Congress and tell the truth in regard to the head of their bureau. You may consider this matter in what light you choose, but by the general consent, not only of this House, but of the country, this man, however kind and amiable he may be in the other relations of life, is unfit to be at the head of that which ought to be an important branch of the Government. He is incompetent and is denounced as such by the agricultural interest and those who represent that interest all over the country, and this seems to be the only way in which Congress can reach him.

My colleague [Mr. LE BLOND] suggests that the proper way is to apply to the appointing power and have him removed. Sir, we have no influence with the appointing power. While this man was continued in office, under Mr. Lincoln's Administration, I know the political friends of Mr. Lincoln in great numbers called upon and remonstrated with him for permitting this man to longer remain in that place; and there was a continual expectation up to the very time of the death of Mr. Lincoln that the removal would take place. But now it is my colleague, [Mr. LE BLOND], if he has not altogether repudiated his connection with Andrew Johnson, who would have the influence necessary to bring about this change. We as a Congress, treated as we are by the President, and having so little influence with the President, can do nothing but control the supplies and cut off "the bread and butter" of this man.

Mr. LE BLOND. I do not think I would have any more influence with Mr. Johnson than my colleague [Mr. SCHENCK] and his associates had with Mr. Lincoln.

Mr. SPALDING. Does the gentleman allude to me when he speaks of his colleague having influence with the President?

Mr. SCHENCK. I do not; I referred to my other colleague on that side of the House, [Mr. LE BLOND.]

Mr. SPALDING. If the gentleman referred to me, I was going to say that I understand Mr. Kennedy, once at the head of the Census Bureau, is likely to be now appointed in place of Mr. Newton.

Mr. SCHENCK. I do not think that would be any improvement.

Mr. SPALDING. I agree with the gentleman in that opinion.

Mr. SCHENCK. I hope no such change as that will be made. What should be done is to put at the head of that bureau a scientific man, who would make it what it ought to be, and not give us through the instrumentality of others merely such reports as can be obtained from the papers and elsewhere. We ought to have there a man who would so conduct the affairs of the bureau in all its relations at home and abroad as to show himself fit to act as one of the advisers of the President.

[Here the hammer fell.]

Mr. LE BLOND. I now withdraw my amendment to the amendment.

Mr. TROWBRIDGE. I move to amend by striking out the word "five." I do so for the purpose of saying a few words in reference to what has been said here about the investigation before the Committee on Agriculture in regard to the conduct of the present Commissioner of Agriculture. Charges have been

made here to-day by the gentleman from Vermont, [Mr. MORRILL], the chairman of the Committee of Ways and Means, who appealed to the chairman of the Committee on Agriculture [Mr. BIDWELL] to state whether those charges were not substantiated by the testimony before the committee. Now, I desire to say, as the chairman of the Committee on Agriculture, that he was in a very decided minority upon that committee in the opinion which he expressed before this House; I think he was in a minority of one on that committee in that respect. Those charges were considered by the entire committee, with the exception of its chairman, as entirely unsubstantiated by the proof submitted to the committee.

And I desire to say further to the gentleman from Ohio, [Mr. SCHENCK], who has just spoken, that in my opinion, and, I believe, in the opinion of the Committee on Agriculture, those charges were manufactured and trumped up by men who had been turned out of that Department in order to produce the very result which he says he would deprecate; that is, the appointment of the other gentleman who has been named here, the late Commissioner of the census, to the position of head of the Bureau of Agriculture. I believe all the members of the Committee on Agriculture, with the exception of the chairman, [Mr. BIDWELL], and possibly one other member of the committee, were convinced that those charges were unsubstantiated, that they were malicious and unfounded, and were instigated by feelings of disappointment on account of being removed from office, and perhaps from a hope that they would result in the change indicated by the gentleman from Ohio, [Mr. SPALDING.]

So much in regard to these charges. If gentlemen desire to bring this matter before the House, I call upon them now to bring forward their facts, and not merely refer to the various rumors which have been trumped up and published all over the country in order to influence public opinion. It was in evidence before the committee that the societies to which my friend from Ohio [Mr. SCHENCK] has referred were influenced by emanations sent out from this city, with the expectation and with the request that these charges should be brought forward by them. In relation to the little pamphlet from which the gentleman has read, I do not recollect that the man whose name is attached to it, was before the committee, or, if he was, what the nature of his testimony was; nor do I know anything about his having been removed from office.

Mr. SCHENCK. Will the gentleman yield to me for a moment?

Mr. TROWBRIDGE. Certainly.

Mr. SCHENCK. I ask the gentleman to listen to a single statement made by this person who signs himself "W. B. Gendell," (of whom I never heard before,) and then to state what he [Mr. TROWBRIDGE] knows of the transactions there referred to. This gentleman addresses himself to Congress, and says:

"When the committee appointed by Congress were taking testimony in relation to the management, &c., of the Agricultural Department, a number of the employees in that Department were summoned as witnesses. The records of the committee will show that but two of these witnesses gave clear and direct testimony; the others hesitated and equivocated, and gave only such testimony as was forced from them by direct questions. The testimony given by myself and the other witness is unimpeached and unimpeachable, and the facts detailed by us have been fully established."

"For thus being compelled to testify against the Commissioner, and acting up to the spirit and meaning of our oath to 'tell the truth and the whole truth,' we were immediately dismissed from office."

Does the gentleman know whether that is true or not? Did there appear before the committee, clerks who have since been dismissed?

Mr. TROWBRIDGE. I do not know with regard to the dismissal. It was in last February that we took this testimony. I do not recollect this man by name; but I give an emphatic denial to the statement he has made in that paper, that the clerks in the Department hesitated or equivocated or in any way seemed to be influenced or controlled by the Commissioner of Agriculture, or by what they expected

would be done to them by him. On the contrary, the employees of that Department testified before us fairly and frankly, without any hesitation. No man appeared in his answers to be under any improper influence or constraint.

Mr. BOSS. Mr. Chairman, representing, as I do, the best agricultural district in the United States, and this being a question in which my constituents naturally feel an interest, I deem it proper to say a word or two upon the question. In my judgment, those gentlemen in this House who desire to be considered as the friends of the agriculturists of the country will commit a great error if they suffer themselves to be drawn into the net set by some members who are opposed to the Department of Agriculture, and who now propose to cut down the ordinary appropriations for that Department. This proposition is urged upon the ground that there are objections to the head of the Department. But is this the proper and legitimate method of remedying the evil, if there be an evil? I think, Mr. Chairman, it clearly is not. We should continue the appropriations necessary for the continued support of this Department, and if there are well-grounded objections to the present incumbent we should make efforts to oust him, not by legislation, but by application to the proper appointing power, who will no doubt hear and properly consider any application on the subject.

I know that during the last session of Congress various individuals were proposed as proper persons to fill this position. I was called upon myself by several persons to sign applications for them. But I did not find that there was any man who towered so eminently above the others as to justify any interference in his behalf. I desired that when we should make a change it should be recognized by everybody as an improvement. My judgment is that whenever a suitable individual shall be presented there is no consideration which will prevent us from all uniting our influence and placing at the head of that Department a competent officer, capable of discharging the duties, if the present incumbent is incompetent. I am not prepared to say that Mr. Newton is the most competent man in the United States to hold the position he now occupies; perhaps an improvement might be made; and whenever a man with suitable qualifications for so important a position shall be presented I will cheerfully give my assent to his appointment.

But it is said that a great many of the agricultural products sent out by this Department are not of much value to the people. Suppose we admit this to be the fact, are we therefore to sweep out of existence this important Department, in which the agriculturists of the country are so deeply interested? Why, sir, we can regulate by law the distribution of these agricultural products; we can define with precision the duties of the Commissioner; we can specify what sort of fruits and plants and seeds are to be distributed by the Department of Agriculture, and thus obviate the difficulty of which gentlemen complain.

My friend from Ohio [Mr. LE BLOND] has alluded to a single article of great value which has been distributed by this Department. And during the last session of Congress I was informed by a Senator of a fact, of which I was not before aware, that the valuable article of white wheat, which is now cultivated extensively in this country, and the flour from which commands two dollars more per barrel than any other flour, was first sent out from the Agricultural Bureau of the Patent Office.

Well, if that is true that single article of wheat distributed throughout the country in itself is worth more to the farmers than the entire expense of the Agricultural Bureau from the time of its inception down to the present time. I am told that other articles in the same way are introduced into the country. Are we to be guilty of the folly of striking down this valuable Department of the Government, in which the agriculturists are so deeply interested, because we do not happen to like the



individual who occupies the highest position in the Department? I hope such will not be the case.

Mr. TROWBRIDGE. I withdraw my amendment.

Mr. WENTWORTH. I renew it. Mr. Chairman, I have always felt a great interest in this Department of Agriculture. I know its whole history. I was here when it was first established, and I have franked off a great many of its seeds, and they have done a great deal of good. I go further, and say that, in my opinion, the gentleman they have now at the head of the Department is the best qualified for the office of any who ever did hold the place. I say they have heretofore generally been professed politicians or attorneys-at-law. I understand that the present one is a practical farmer, and knows something about agriculture, a great deal about agriculture. But he labors under some disadvantage. That disadvantage arises, in my opinion, from the law itself. I think the whole Department needs reorganization. Every one who follows the present head under existing laws will give rise to the same difficulties.

It is said his reports are bad, and that he is disqualified for the position. Look at his report. Only eleven pages are his own, while the rest is by the most distinguished writers of the country. If these writings had not gone into this report they would have gone into some agricultural paper, and would not have had half the circulation and most of the people would have been deprived of the information.

Before coming here I received a circular from the Agricultural Department asking me to write something for the report, and stating how much I would be allowed per page, but at the time I was engaged in a political contest and could not comply with the request. When I leave the scenes of public life here, and like Cincinnatus, retire to my farm, when I go back to the prairies of Illinois and cultivate my farm for a living, I may be induced to write for the agricultural report instead of writing for some agricultural newspaper where I would not get one half the pay and not one tenth of the circulation. [Laughter.]

Some complaints are made about the pictures in this report. It is not the fault of the Commissioner if they are not better, because he invites them from all parts of the country. I think there are better animals in the United States. But send him the pictures and he will put them into the report. I have an artist in view of my retiring to my farm to take the picture of my own animals, and it will be a matter of pleasure for me in private life to know that my colleagues in this House will be franking off pictures of my animals to their constituents. [Laughter.]

[Here the hammer fell.]

Here Mr. CULLOM took the chair.

Mr. LAWRENCE, of Pennsylvania. Mr. Chairman, I have left the chair in order to say a word in defense of a friend. I want to corroborate what has been said by my colleague on the committee, the gentleman from Michigan, [Mr. TROWBRIDGE.] I wish I had time to speak at length on this subject, but I have not.

I have seen manifested in this House to-day what I consider a most illiberal and unjust spirit toward this Department. You have appropriated for the Secretary of the Treasury more than a million dollars, and not a word of inquiry was made on the subject. You have made appropriations for other Departments, and you propose to pass the bill without making any question on the subject. But when you come to the Department of Agriculture, which, as my friend says, is one of the best in the country, it seems every lawyer on the floor and every professional man claims the privilege of abusing the head of that Department without making any charges. I venture to say, if the investigation we made last winter is spread before the House, there is not an honest man, except the chairman of the committee, but will condemn the charges brought by men like the one whose pamphlet has been read.

One man stood before the committee, as my friend knows, and swore that the imported wheat was filled with various impurities; but when it was exhibited to the committee it was as clean as any you ever saw. That man was said to be crazy and was turned out, not on account of the testimony he gave before the committee, but because he was mentally unfit for the position. In the committee-room he stated what was not true, yet he was turned out because he was considered to be insane, demented.

That is the kind of testimony upon which you condemn Isaac Newton. He is not a literary man; he does not claim to be such; but he is a man who has made his living on a farm in Pennsylvania, and has shown himself entitled to the respect and confidence of every one with whom he has been associated. I venture to say, if you will give me a committee of this House, I will prove more frauds, rascalities, and profligacy in any Department of the Government than you can find in the bureau under Isaac Newton. And who ever charged him with dishonesty except some one who has been turned out of the Department or who wants to get in, like the man who was at the head of the Census Bureau? These men have sent out papers to Iowa and Illinois and all the western States, to the agricultural fairs and committees, asking them to indorse their statements against Mr. Newton and send them back; these are the men who get up charges against him and are now attempting to break him down and get his place. I am astonished that members will lend themselves to help break down a Department in this way by bringing charges against an honest and faithful public officer.

I repeat, there is no man on this floor who can prove an act of dishonesty against this man, and I doubt whether there is a better practical farmer in the country. If you want to break down the Department, take away the appropriation; but do not make charges against an honest man like Isaac Newton, whose character is as dear to him as that of any member on this floor.

The amendment to the amendment was withdrawn.

Mr. KASSON. I would suggest whether it is not time to bring the discussion to a close on this clause. It is very important that we should get through this bill. We are making no progress. Every member knows how the business is crowded on the Calendar of the House, and I appeal to the House by unanimous consent to close debate on this paragraph in five minutes.

The CHAIRMAN. Is there objection?

Mr. HARDING, of Illinois. I object.

Mr. KASSON. Then I move that the committee rise.

Mr. LAWRENCE, of Pennsylvania, resumed the chair.

Mr. BIDWELL. I hope the gentleman will not debar me a word of explanation.

Mr. KASSON. I intend to move to close debate in five minutes when the House resolves itself again in Committee of the Whole, and then the gentleman can have an opportunity to be heard.

The motion that the committee rise was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, of Pennsylvania, reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, had come to no resolution thereon.

Mr. KASSON. I now move that when the House shall again resolve itself into Committee of the Whole on the state of the Union for the consideration of the special order, all debate upon the pending paragraph be closed in five minutes.

Mr. KOONTZ. I move that the House adjourn.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw that motion and let us have an understanding that to-morrow be devoted to debate on the President's message.

Mr. KASSON. I wish members to consider the condition of the business of the House. The consideration of the unavoidable appropriation bills will render it impossible for us to make the progress that every member desires unless every day during the remainder of the session shall be given to the transaction of the regular business. It is necessary that at least three weeks constant attention should be given to the appropriation bills, to the exclusion of any other that may be presented.

The SPEAKER. Does the gentleman from Illinois [Mr. WASHBURN] submit his proposition to the House?

Mr. WASHBURN, of Illinois. Gentlemen object to it, and there is no use submitting it to the House.

The motion to adjourn was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of D. J. Baldwin, and 12 others, citizens of Michigan City, Indiana, asking Congress not to withdraw or curtail the circulation of the national currency, &c.

Also, the petition of John Conger, and 8 others, soldiers of the war of 1812, residents of Albion, Michigan, praying for a pension.

By Mr. ALLEY: The petition of Andrew Geyer, and sundry citizens of Massachusetts, asking that the law in regard to newspaper postage be so amended as to allow semi-weekly papers to go free of postage within the country where published.

By Mr. BROOMALL: The petition of sundry citizens of DeCATUR, Illinois, and also the petition of citizens of Bement, Piatt county, Illinois, both praying Congress to pass no law curtailing the currency.

By Mr. DEMING: The petition of cigar manufacturers of Hartford, Connecticut, for relief from *ad valorem* tax on cigars.

By Mr. DONNELLY: The petition of Stephen Hewson, and others, citizens of Isanto county, Minnesota, in favor of the adoption of an amendment to the Constitution of the United States giving Congress the power to regulate suffrage in the States of the Union; and providing that no inequality should exist in the rights of citizens of the United States by reason of birth, race, or color; and that all such inequalities should be immediately removed by Congress in the District of Columbia, the Territories, and the lately rebellious States.

By Mr. FARNSWORTH: The petition of William Coffin, and others, of Batavia, Illinois, against any further reduction of the volume of currency, and against an early return to specie payments.

Also, the petition of cigar-makers of Aurora, Illinois, for a change in the law in regard to stamps, &c., of cigars, and other purposes.

By Mr. INGERSOLL: The petition of Mrs. Lydia Winter, of Bureau county, Illinois, praying for a pension.

Also, the memorial of Francis Dainese, of Washington, District of Columbia.

By Mr. HENDERSON: A joint resolution of the Legislature of the State of Oregon, in reference to ocean-steam mail service.

By Mr. HILL: The petition of citizens of Madison, Indiana, asking a reduction of the tax on manufacture of cigars.

Also, the petition of citizens of Madison, Indiana, asking a reduction of tax on manufacture of cigars.

By Mr. HUMPHREY: The proceedings of a meeting of the soldiers in the war of 1812, held at Buffalo, New York, on the 8th day of January instant, recommending the passage of a law granting pensions to all persons who served in said war to the same extent as now allowed to soldiers of the war of the Revolution.

By Mr. LAWRENCE, of Pennsylvania: The memorial of citizens of Claysville and vicinity, in the county of Washington, Pennsylvania, charging A. Johnson, acting President of the United States, with high crimes and misdemeanor, and asking his impeachment.

Also, the petition of James Dougherty, of Greene county, Pennsylvania, a soldier of the war of 1812, for pension.

By Mr. LYNCH: The petition of W. F. Abbot, and others, for change in tax on cigars.

By Mr. PAINE: The petition of John Howard, and others, citizens of Milwaukee county, Wisconsin, for the impeachment of Andrew Johnson.

By Mr. RANDALL, of Pennsylvania: The petition of Bridget Donovan, guardian of minor children of William Whelan, deceased, of company H, one hundred and sixth Veteran volunteers.

By Mr. RAYMOND: The petition of 120 persons engaged in the business of dressing fur skins in the State of New York, praying for an increase of duties on fur skins, dressed and partly dressed, imported from abroad.

Also, a similar petition from dressers of fur skins in the State of Massachusetts.

Also, a similar petition from dressers of fur skins in Philadelphia.

By Mr. SAWYER: The petition of W. Powell, and 90 others, citizens of Oshkosh, Winnebago county, Wisconsin, praying for the impeachment of Andrew Johnson, Vice President and acting President of the United States.

Also, the petition of James T. Elmore, and 80 others, citizens of Green Bay and Fort Howard, Wisconsin, praying for the improvement of Green Bay harbor, at the mouth of Fox river, in the State of Wisconsin.

By Mr. STROUSE: The petition of cigar manufacturers at Pottsville, Pennsylvania, for a change in the tax on cigars.

Also, two petitions of citizens of Lebanon, Pennsylvania, against any curtailment of the currency, &c.

By Mr. UPSON: The petition of William L. Stoughton, and 77 others, citizens of Sturgis, St. Joseph county, Michigan, against the passage of any act authorizing the curtailment of the national currency, or compelling national banks to redeem their circulating notes in New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. WARD, of New York: The petition of Noble Hill, and others, of Steuben county, New York, for increase of the tariff upon wool.

By Mr. WASHBURN, of Massachusetts: The petition of H. S. Porter, and 53 others, citizens of Hatfield, Massachusetts, for a reduction of the tax on cigars, and that the tax be changed from *ad valorem* to specific tax.

## HOUSE OF REPRESENTATIVES.

SATURDAY, January 12, 1867.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

### COMMITTEE OF WAYS AND MEANS.

Mr. MORRILL. I ask unanimous consent that leave be granted to the Committee of Ways and Means to sit during the sessions of the House.

Mr. WENTWORTH. I ask the Chair whether the members of the committee will have the right to come in and record their votes?

The SPEAKER. Under the ruling of the previous Congress members of the committee can come in and have their votes recorded before the result is announced, but not afterward.

There was no objection, and leave was granted to the Committee of Ways and Means to sit during the session of the House.

### REWARD FOR JEFF. DAVIS.

Mr. UPSON, by unanimous consent, introduced a bill authorizing the payment of the reward offered by the President of the United States in April, 1865, for the capture of Jefferson Davis; which was read a first and second time, and referred to the Committee on Appropriations.

### UNION PACIFIC RAILROAD.

Mr. CLARKE, of Kansas, by unanimous consent, introduced a bill to secure the speedy construction of the Union Pacific railroad, southern branch, and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

### JAMES M. BISHOP.

Mr. HOOPER, of Massachusetts, by unanimous consent, from the Committee of Ways and Means, reported back House bill No. 496, for the relief of James M. Bishop, who claims \$236, with the recommendation it do pass.

The bill directs the proper accounting officers of the Treasury Department to ascertain and allow to James M. Bishop, of Quincy, Illinois, for services in March and April, 1863, to finish the work left undone on the assessment lists in the fourth district of Illinois by Mr. Lutkin, an assistant assessor, at his decease, such a sum as shall be equal to that now fixed by law to be paid assistant assessors for such service; the said sum of money, when ascertained, to be paid out of any money in the Treasury not otherwise appropriated, and in full for his claim, with interest since June 1, 1863.

Mr. HOOPER, of Massachusetts. Mr. Speaker, I will state in reference to this bill it is for services rendered and deemed to be correct by the Department on the decease of the then assessor or assistant assessor. There was

no law under which the bill could be paid. The committee thought it was a very just one.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PATENTS FOR LAND.

Mr. CLARKE, of Ohio, by unanimous consent, introduced a bill to declare the effect of certain patents for lands; which was read a first and second time, and referred to the Committee of Ways and Means.

### FREE TRADE.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was read, considered, and referred to the Committee of Ways and Means:

*Resolved*, That the American Government ought to protect American industry; but if the people are compelled to submit to free trade in the products of agriculture, they ought to have at the same time free trade in the products of manufacture.

### ROBERT M'CANDLESS.

Mr. CULLOM, by unanimous consent, introduced a bill granting a pension to Robert M'Candless; which was read a first and second time, and referred to the Committee of Ways and Means.

### RIFLE CANNON.

Mr. HUBBARD, of Connecticut. I ask unanimous consent to submit the following preamble and resolution:

Whereas it is alleged that the Navy of the United States is unprovided with rifle cannon of large caliber corresponding with those used in European service; and whereas experiments have been made by American citizens in the construction of wrought-iron cannon of large caliber suitable for rifle shot and calculated to supply the alleged deficiency in the naval ordnance of the United States, if any such deficiency in fact exists:

*Resolved*, That a select committee of five members be appointed from this House, with power to send for persons and papers and to examine witnesses under oath, and fully to inquire and report to this House as to the facts of such alleged deficiency of rifle cannon of large caliber in the naval service of the United States, and to ascertain and report what experiments, if any, have been made by citizens of the United States to supply such deficiency, and the result of such experiments; and to ascertain and report to this House what transactions, if any, have been made between the Secretary of the Navy or other Departments of the Government and citizens of the United States in relation to the construction of wrought-iron cannon of heavy caliber, and whether there are any sums equitably due from the Government in consequence of such transactions, and to report by bill for the payment of the same, and to report by bill or otherwise such measures as may be required to place the Navy of the United States in the supply of rifle cannon of heavy caliber upon equality with the navies of Europe.

Mr. KASSON. I object, and demand the regular order of business.

### MORNING HOUR.

The SPEAKER. The morning hour has commenced, and the first business in order is the call of the committees for reports of a private nature, commencing with the Committee on Indian Affairs, where the call rested on yesterday.

### ABIAL MORRISON.

Mr. HENDERSON, from the Committee on Indian Affairs, reported a bill to indemnify Abial Morrison, of the State of Oregon, for property destroyed by hostile Indians in Washington Territory in the years 1855 and 1856; which was read a first and second time. The bill authorizes the payment of \$3,492 out of money due by the United States to the Yakima and Klikitat tribes of Indians.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time and passed.

Mr. HENDERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### BOUNTIES TO PENNSYLVANIA VOLUNTEERS.

Mr. STEVENS, by unanimous consent, introduced a bill for the payment of bounties to the soldiers of the one hundred and eighty-sixth regiment of Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

### SURGEON LEWIS DYER.

Mr. BINGHAM, from the Committee on Military Affairs, reported back, with a recommendation that it do pass, Senate bill No. 382, for the relief of Lewis Dyer, late surgeon of the eighty-first regiment of Illinois volunteers.

The question was upon ordering the bill to be read a third time.

The bill was read at length. It directs the proper accounting officer to audit and settle the accounts of Lewis Dyer, late surgeon of the eighty-first regiment of Illinois volunteers, and allow him the pay and emoluments of a surgeon of volunteers from the 6th day of April, 1863, to the 26th day of May following, deducting therefrom any amount which may appear to have been heretofore paid him by error.

Mr. WARD, of New York. If there is a report accompanying the bill I ask that it may be read.

The report was read. It states that the petitioner claims pay as surgeon in the United States Army from the 6th of April, 1863, to the 26th of May following. It appears in the evidence that the petitioner was surgeon on duty with the eighty-first regiment Illinois infantry, near Vicksburg, on the 6th day of April, 1863, when, on account of some charges preferred against him by the regimental officers, he was summarily dismissed the service. An investigation was made at the request of General McPherson, which resulted in the restoration of the petitioner on the 26th of May following. It is proved by the statement of J. H. Baucher, medical director of the seventeenth Army corps, and other officers then in the service, that the petitioner continued to perform the duties of surgeon (as if no order for his dismissal had been made) during the whole time between the 6th of April, 1863, and the 26th of May following, and that these services were demanded by the Army then in the field and in need of surgeons. The petitioner was dismissed the service, without a hearing, at a time when the Government needed his services. In view of the necessities of the service, although under sentence of dismissal, he appears to have volunteered his assistance to the officer in command, and his services were accepted and faithfully rendered. On examination of all the facts in the case, the committee are of opinion the petitioner should be paid, and report the accompanying bill.

The bill was then read the third time and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

### MARY A. RIPLEY.

Mr. DEMING, from the Committee on Military Affairs, reported back, with a recommendation that the same do not pass, Senate bill No. 546, for the relief of Mary A. Ripley.

The bill was accordingly laid upon the table.

### ADVERSE REPORTS.

On motion of Mr. DEMING, the Committee on Military Affairs were discharged from the further consideration of the petitions of Peter Van Ael, of Maximilian Rosenberg, of citizens of New York for bounty or pensions to hospital nurses, and of Daniel P. Cilley, chaplain of the twenty-sixth New York veteran cavalry; which were laid upon table.

### ORDER OF BUSINESS.

Mr. INGERSOLL. I was absent when the Committee for the District of Columbia was called; I ask unanimous consent that the committee may now be allowed their regular time for bills of a private character.

The SPEAKER. It will require unanimous consent.

Mr. WENTWORTH. Let the bill be read, which I see the gentleman has in his hand ready to report.

The SPEAKER. The question is not in regard to any particular bill, but whether the Committee for the District of Columbia shall now be allowed their regular time for the consideration of business of a private nature.

Mr. WENTWORTH. I desire to reserve my right to object until after the bill is read.

Senate bill No. 218, to exempt the property of debtors in the District of Columbia from levy, attachment, or sale on execution, was then read.

Mr. WENTWORTH. I do not object.

The SPEAKER. The question is whether there is any objection to allowing the Committee for the District of Columbia to take their regular time now.

No objection was made.

#### EXEMPTION LAW IN THE DISTRICT.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with amendments, Senate bill No. 218, exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution, with a recommendation that the same do pass.

The bill was read at length. It provides that the following property, being the property of a head of a family or householder, shall be exempt from distraint, attachment, levy, and sale on execution or decree of any court in the District of Columbia; provided this exemption shall not interfere with the foreclosure of any mortgage or deed of trust executed before the passage of this act, to wit: all wearing apparel belonging to all persons, and to all heads of families, being householders; all beds, bedding, household furniture, stoves, cooking utensils, &c., not exceeding \$300 in value; provisions for three months' support, whether provided or growing; fuel for three months; mechanics' tools and implements of the debtor's trade or business amounting to \$200 in value, with \$200 worth of stock for carrying on the business of the debtor or his family; the library and implements of a professional man or artist to the value of \$300; one horse, mule, or yoke of oxen; one cart, wagon, or dray, and harness for such team; farming utensils, with food for such team for three months, and if the debtor be a farmer, any other farming tools of the value of \$100; all family pictures, and all the family library; one cow, one swine, six sheep; and no deed of trust, bill of sale, or mortgage upon any of said exempted articles, shall be binding or valid unless signed by the wife of the debtor, if he be married and living with his wife; and these exemptions shall be valid when the said property is *in transitu* the same as if the property were at rest; provided no property named and exempted in this act shall be exempted from attachment or execution for any debt due for the wages of servants, common laborers, or clerks, except the wearing apparel, beds and bedding, and household furniture and provisions for the debtor and family.

The first question was upon the following amendment reported from the committee:

Add to the bill the following:

*Provided further.* That this act shall not in any manner interfere with the collection of any debt, or the enforcement of any contract made prior to the passage of this act, and shall apply to cases founded upon contract only.

Mr. ROSS. I would like my friend [Mr. INGERSOLL] to yield to me to move an amendment that a homestead of the value of not exceeding \$1,000 shall be exempted.

Mr. INGERSOLL. I do not think I can yield this morning for that purpose.

Mr. ROSS. That is the Illinois State law.

Mr. INGERSOLL. I know it is. I know that in the State of Illinois and perhaps in some other States the law exempts a homestead of \$1,000 as long as the family resides upon it. If the gentleman desires to have a law of that

character for this District he should introduce a separate bill for that purpose, because there are a great many qualifications which should be attached to it. For that reason I cannot yield to allow the amendment to be offered to this bill.

Mr. ROSS. Will the gentleman permit me to make a motion that the bill be recommitted with instructions to report an amendment of the character I have indicated?

Mr. INGERSOLL. I cannot, for the reasons I have already stated. The gentleman will remember that in our State it is a distinct act, independent of all other exemptions of personal property; and I think it should be the same here.

Mr. FARNSWORTH. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. I will yield for an inquiry.

Mr. FARNSWORTH. If I understand the amendment of the committee it excepts from the operation of this bill all actions for tort. Why should actions for tort be excepted? Why should a man by his tort deprive his family of the benefits of this exemption? It seems to me there would be much more propriety in excepting actions on contract. If a man makes a contract and agrees to abide by it, it seems to me there would be much more propriety in excepting it from a statute of exemption than to except an action for his tort merely. I think there should at least be the same exception of judgments for a contract as for a tort. I would like my colleague [Mr. INGERSOLL] to explain why he makes this difference.

Mr. INGERSOLL. The only reason I can give in favor of the present form of the bill—whether it is a good reason is for the House to determine—is, that if an exemption were provided in actions of tort it might have a tendency to produce breaches of the peace, men knowing that there would be no liability to the sale of their property for any judgment that might be rendered against them. This was the only reason urged in the committee; and it was deemed to be especially applicable to Washington city, where the population is to a great extent of a transient character, and where a provision of the sort referred to might have a bad tendency.

Mr. FARNSWORTH. The punishment of the offender personally for a breach of the peace would, it seems to me, have more terror than the fact that his property might be levied upon. Let a man be proceeded against personally and punished by imprisonment for any tort he may commit, but do not let a family be robbed of the means of support on account of the tort of the head of the family.

Mr. INGERSOLL. I have no objection personally to extending this exemption to cases of tort committed by the head of a family. I am willing that the amendment suggested by my colleague shall be adopted.

Mr. JOHNSON. I desire to call the attention of the chairman of the committee to one or two points; and first I beg leave to say that I would object very seriously to a bill extending this exemption to cases of tort. Take the case of slander or libel, which is punishable by damages; it might be argued that by compelling a man to pay damages for the injury he has done his neighbor by slander or libel you rob his family to that extent of their means of support. The same argument might be used in the case of a fine inflicted upon a man as punishment for his crime.

But this is not the point to which I desired to call attention. I do not see that the bill makes any provision for a proper estimate of what is a sufficient provision for three months' support of a family. There is no provision for any appraisement by any marshal, constable, or other officer. Who is to make this assessment? Is the officer to exercise his own judgment? He might not know how large the family was; and if he should not set apart sufficient for the maintenance of the family is he to be held responsible to the debtor for having set apart too little? It strikes me that the bill should

contain some provision for the selection of suitable persons as appraisers, so that the executive officers might be relieved of that responsibility.

One word as to the remarks of the gentleman from Illinois [Mr. ROSS] in regard to the exemption of the homestead to the amount of \$1,000. Such exemptions are common in the western States, and in those States are proper. There are reasons why the new States should extend to persons proposing to settle there advantages which they do not enjoy in the old States. But in a city like this, where the population is to a great extent transient in its character, an exemption of that sort would operate injuriously. It is not proper that a man should come here and, on the strength of a small homestead, contract debts to the amount of \$1,000, then set his creditors at defiance, sell his homestead, and move away. The reasons in favor of a large exemption in the Territories and new States do not apply to this city, where the population is of a different character.

As I have already remarked, it strikes me that the bill in its present form is defective because it does not provide for suitable persons to make the assessment of the property to be set apart for the maintenance of the family.

Mr. INGERSOLL. I am inclined, Mr. Speaker, to concur in the statement of the gentleman from Pennsylvania [Mr. JOHNSON] with reference to the assessment of the specified amount of provisions to be allowed for the support of a family. If the gentleman can frame an amendment to meet the case I shall be very happy to give it my concurrence.

I now yield the floor to the gentleman from Ohio, my colleague on the committee, [Mr. WELKER.]

Mr. WELKER. There is one objection to the amendment reported by the committee, to which I want to call the attention of the House. It provides that this exemption shall not apply to debts contracted after the passage of this bill. I think that that provision is unusual in legislation of this kind. In all the States where property is exempted from execution the law always applies to existing indebtedness. I object that this clause of exemption shall be confined to indebtedness that may occur after the passage of the law, and I hope, therefore, that this amendment will not be adopted. If we attempt to afford relief to this class of debtors in the District of Columbia, let us do it so far as past indebtedness is concerned as well as in relation to debts that may be incurred after the passage of the act. I hope the House will not adopt the amendment reported by the Committee for the District of Columbia.

Mr. MERCUR. Mr. Speaker, I am obliged to differ from my colleague on the committee who last addressed the House in reference to the restrictive clause of this bill by which it is confined to debts incurred after its passage. It seems to me that it is right and proper, as a general proposition, that a man shall have the benefit of all laws which were in force and effect at the time his contract was entered into. I am aware that it is held by the courts in many of the States that there is a difference between the contract itself and the remedy for its enforcement; that Congress has the right to impair the remedy I have no doubt. But I question very much the expediency of exercising that right, except in extreme cases; and it seems to me that this is not such an extreme case as to call for the exercise of any such power. The bill, as framed and reported, limits its operation to contracts entered into after the passage of the law, which, to my mind, is just and reasonable.

The other amendment is in reference to restricting the operation of the bill to actions predicated on contracts. The gentleman from Illinois [Mr. FARNSWORTH] objects to this, and can see no good reason why it should not extend to cases of tort. I will mention one reason which it strikes me has force, and shows that this restrictive clause should be kept in the bill. It is this: a man who commits a tort in taking the personal property of his neighbor may have judgment recovered against him. That is



the usual remedy which the owner of personal property resort to in a case of trespass or trover to get a judgment against the man who has taken from the owner personal property which it is adjudged has been improperly taken from him. He holds it exempt from execution. He sets at defiance the man whose rights he has infringed upon; and who has recovered a judgment against him; and there is no remedy by which the plaintiff can collect the amount of damages awarded to him by the court. It may be said, however, that instead of bringing an action of trespass and trover the man may bring an action of replevin and thus recover the specific article taken. I answer that it is not the province of the law to encourage expensive litigation, but to leave the ordinary and usual action open to every one whose rights of property have been infringed upon, and not only enable him to recover judgment, but enable him when he has recovered it to enforce it by execution, and not to enable the other party to retain the property and set the law at defiance; and therefore, in my judgment, this is a proper limitation.

Mr. INGERSOLL obtained the floor.

Mr. BROMWELL. Will the gentleman yield to me for a moment?

Mr. INGERSOLL. I will hear what the gentleman has to say.

Mr. BROMWELL. I desire to offer the following amendment to the bill:

The officer charged with the execution of any writ of attachment or execution shall ascertain the value and amount of provisions to be allowed to any family under this act by summoning three householders of the District, who shall, being first duly sworn by said officer faithfully to perform their duty, proceed to set apart the provisions necessary for the debtor's family, according to this act, if such provisions be found on the premises or in the possession of the debtor; and if not, they shall make out a return to such officer of the value of such provisions, and the same shall be allowed on any property of the debtor.

The amendment to the amendment was agreed to; and the amendment of the committee, as amended, was also agreed to.

The next amendment of the committee was in line twenty-one, after the word "library" to insert the words "not exceeding in value \$400."

The amendment was agreed to.

The bill was read a third time.

Mr. INGERSOLL. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

On motion of Mr. THAYER the title was amended by striking out the word "the" and inserting the word "certain;" so as to read, "An act to exempt certain property of debtors in the District of Columbia from levy, attachment, or sale on execution."

#### NATIONAL LIFE AND ACCIDENT INSURANCE.

Mr. MERCUR. I am instructed by the Committee for the District of Columbia to ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of Senate bill No. 290, to incorporate the National Life and Accident Insurance Company of the District of Columbia.

No objection was made; and the bill was accordingly read a third time. It declares H. D. Cooke, Charles Knap, Abram B. Olin, S. W. Lathrop, S. Fowler, John C. Durant, S. A. Peugh, John McKelvin, C. T. Sherman, Calvin O. Chaffee, John Murphy, John B. Hutchinson, A. M. Clapp, Giles F. Tilley, R. W. Latham, and Thomas Hood a corporation under the above title.

Mr. THAYER. I wish to ask the gentlemen on the Committee for the District of Columbia to allow me to move an amendment, in the shape of a proviso, that no insurance shall be effected by this company until at least \$30,000 of the capital has been paid in in cash.

Mr. ALLISON. Better make it \$100,000.

Mr. WASHBURN, of Illinois. Suppose they do not regard it, how will it appear that they have not paid it in?

Mr. THAYER. If they were to insure in con-

travention of their charter they would be subjected to instant forfeiture of all the franchises granted by it.

Mr. WASHBURN, of Illinois. That would have to be done by a court.

Mr. THAYER. It would be done by a *quo warranto*.

Mr. MERCUR. I suggest to my colleague [Mr. THAYER] that instead of inserting a proviso he move to increase the amount of the first installment from five dollars to twenty or twenty-five dollars.

Mr. THAYER. I desire to consult the wishes of the committee and I will therefore move to increase the amount of cash required to be paid on each share to thirty dollars.

Mr. MERCUR. The shares I believe are fifty dollars.

The SPEAKER. The shares are \$100 in the bill in the hands of the Clerk.

Mr. THAYER. I ask to have that part of the bill read.

The Clerk read as follows:

Said capital stock shall be divided into shares of \$100 each, and there shall be paid into the treasury of the company by each subscriber to said capital stock at the time of subscribing an installment of five dollars on each share of stock subscribed for, and a further installment of five dollars on each share at such time thereafter, not less than thirty days from the former, as this commission or incorporators may determine.

Mr. THAYER. I move to strike out the word "five" and insert "thirty."

A MEMBER. The whole capital stock is \$1,000,000.

Mr. THAYER. But the minimum is \$100,000, and what I want is to require \$30,000 to be paid in at the outset.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend the second section by inserting near the close, after the word "incorporation," the words "beyond the full amount of the shares subscribed for by him;" so that the clause will read as follows:

But no stockholder of said incorporation shall, in any event, be liable in his private capacity for the debts and liabilities of this incorporation beyond the full amount of the shares subscribed for by him.

The amendment was agreed to.

Mr. DAVIS. I would ask the gentleman from Pennsylvania [Mr. MERCUR] whether the subscription after the payment of the thirty dollars per share, or the thirty per cent., is to be secured in any other mode than by the notes of the subscribers; whether there is any other tangible security.

Mr. MERCUR. The bill provides—

That the accumulated funds of said company over and above the expenses, losses, and the guarantee fund may be invested in bonds, national bank stock, real estate, bond and mortgage, deeds of trust, or dividends, as the directors may determine.

Mr. DAVIS. The company is allowed to go into business on the payment in of \$30,000 or \$100,000; therefore the public have only the security of \$100,000 in addition to the security of the makers of the notes or subscribers to the stock. I want to know if there is any other security.

Mr. ALLISON. As I gather from the reading of the bill, the balance of the subscriptions must be secured as the incorporators may see proper to require. That is the provision in relation to security. Now, I would like to ask the gentleman from Pennsylvania [Mr. MERCUR] who has charge of the bill a question. I desire to know from the gentleman whether or no there is any provision in this bill which requires this corporation to make a statement to the public of the condition of their affairs.

Mr. MERCUR. There is a clause requiring the secretary of the corporation to make an annual report to the Secretary of the Interior showing all the material transactions of the company.

Mr. ALLISON. I desire, then, to suggest a further proviso to the bill. It seems to me that the operations of this company should be confined to the District of Columbia; otherwise this corporation may extend its business to every State in this Union without being sub-

ject to the local and State jurisdiction, and the people throughout the country may have no accurate knowledge of the condition of this corporation. Now, if it is a corporation designed for the accommodation of the people of this District its operations should be confined to the District; and I therefore move to add at the close of the last section of the bill this proviso:

*Provided*, That the operations of the company shall be confined to the District of Columbia.

Mr. MERCUR. I take it that all these insurance companies may take risks in any State of the Union, subject to the local laws of that State, and even foreign corporations can do the same. Hence I say that there is no reason for this amendment, because before in any State they permit corporations incorporated by Congress to take risks they will take ample security for their own citizens. I see no reason why an incorporation established by authority of Congress should have its powers and authority limited to the District of Columbia. There are insurance companies authorized by virtue of State legislation in most of the States of the Union, and this company should stand upon the same footing with them, subject to the laws of the several States in which they attempt to operate or perform any of their functions. I hope the House will attach no restrictive clause to this charter, because it will cripple the operations of the company.

Mr. ALLISON. It will be claimed by this company that inasmuch as it is incorporated by authority of the Congress of the United States it is not subject, and cannot be made subject, to State authority; I think, therefore, that the business of this corporation should be confined to the District of Columbia, where the Congress of the United States has exclusive jurisdiction, and I trust my amendment will be adopted.

Mr. MERCUR. While I think this amendment excessively objectionable, I would personally make no objection to a clause providing that all risks taken in any State shall be subject to the laws of that State. That would obviate the anticipated objection of the gentleman from Iowa, [Mr. ALLISON;] but it seems to me that a clause restricting the operations of the company to the District of Columbia would be unjust and improper.

Mr. INGERSOLL. I rise to move an amendment to the amendment of the gentleman from Iowa, [Mr. ALLISON.] I understand him to propose that a limitation shall be laid upon the operations of this company which shall confine them to the District of Columbia. Now, would it not be fair to allow a corporation created by Congress to transact its business in the States of the Union on an equal footing with corporations created by the State Legislatures? In the State of Connecticut, for instance, there have been created by the State Legislature many insurance companies; and they are not confined in their operations to their own State, but come into Illinois and into all the States, subject to the local laws of those States, and come in competition with the local institutions of those States, subject to such local regulations as the States see proper to impose upon them. I move the following amendment to the amendment:

That the operations of this company may be extended to all the States of the Union, subject to the laws of the respective States.

The question was put on the amendment to the amendment; and there were—ayes 27, noes 22; no quorum voting.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has expired. The first business in order is the consideration of Senate bill No. 456, for the admission of the State of Nebraska into the Union, which was pending as unfinished business when the House adjourned on Thursday last.

Mr. GARFIELD. I move to postpone the further consideration of that bill until the joint resolution for the increased compensation of

clerks in the civil service at Washington shall have been disposed of. It will take but a few minutes to pass it, as it has already been engrossed and read a third time.

Mr. KASSON. I thought it was understood by the House when we adjourned on yesterday that we would proceed to-day with the consideration of the legislative appropriation bill in the Committee of the Whole. It is a bill to furnish means to carry on the regular operations of the Government, and therefore of more importance than this extra compensation bill. If the compensation bill should now be taken up I am afraid it will entirely prevent us from getting the appropriation bill through the House to-day.

The SPEAKER. The gentleman from Iowa [Mr. KASSON] has the right to move to go into Committee of the Whole on the special order.

Mr. GARFIELD. I have twice waived my right to have this bill put upon its passage for the sake of giving to the House a morning hour. Now, if the bill shall not be considered and disposed of to-day it cannot be taken up on Monday under the rules, and on Tuesday the special order, the bill on reconstruction presented by the gentleman from Pennsylvania [Mr. STEVENS] will come up for consideration. I hope that gentlemen will not take advantage of my forbearance in twice waiving my right to put this resolution upon its passage. It is now engrossed and has been read a third time, and can soon be disposed of.

Mr. KASSON. I would inquire of the Chair what is the pending motion upon the bill for increased compensation to clerks.

The SPEAKER. The pending question is upon seconding the call for the previous question upon the passage of the bill.

Mr. STEVENS. I hope the previous question will not be seconded.

The SPEAKER. The compensation bill is not now before the House. The question is upon the motion of the gentleman from Ohio [Mr. GARFIELD] to postpone the further consideration of the Nebraska bill. If that motion is agreed to, then the House joint resolution No. 224, giving additional compensation to certain employes in the civil service of the Government at Washington, will come up for consideration, that being the next pending unfinished business.

Mr. ASHLEY, of Ohio. I would inquire of the Chair what would be the condition of the Nebraska bill should this compensation bill be now taken up and disposed of?

The SPEAKER. It will again come up as unfinished business when the compensation joint resolution shall have been disposed of.

The question was then taken upon the motion of Mr. GARFIELD to postpone for the present the further consideration of the Nebraska bill; and upon a division there were—ayes seventy-seven; noes not counted.

So the motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. STOKES asked and obtained leave of absence for his colleague, Mr. ARNELL, for ten days.

#### INCREASED PAY OF CIVIL EMPLOYEES.

The House accordingly resumed the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service at Washington.

The pending question was upon seconding the call for the previous question upon the passage of the joint resolution.

Mr. WILSON, of Iowa. Will the gentleman from Ohio, [Mr. GARFIELD], who called the previous question, withdraw his call for a moment?

Mr. GARFIELD. I cannot withdraw the call. This bill has already been engrossed and read a third time, and no amendment can now be made to it.

Mr. WILSON, of Iowa. I desire to inquire whether, if the previous question should not now be seconded upon the passage of the joint resolution, it would then be in order to move to reconsider the vote by which the bill was ordered to be engrossed and read a third time?

The SPEAKER. That motion would then be in order.

Mr. WILSON, of Iowa. And the joint resolution would then be open to amendment?

The SPEAKER. It would should the motion to reconsider prevail.

The question was then taken upon seconding the call for the previous question; and upon a division there were—ayes 59, noes 51.

Before the result of the vote was announced, Mr. WILSON, of Iowa, called for tellers.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. GARFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes 59, noes 55.

So the previous question was seconded.

The main question was then ordered; which was upon the passage of the joint resolution.

Mr. WARD, of New York. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. I desire to ask a question of the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. Very well.

Mr. STEVENS. By a law of the last session the pay of female employes was increased. I would inquire of the gentleman if by this joint resolution the female clerks will receive this increased compensation at the rate of twenty per cent?

Mr. GARFIELD. I suppose it was intended to include them when the committee drafted the bill; but if, as the gentleman says, their pay has been increased within the present fiscal year, that is since June 30, 1866, my opinion is that they will receive twenty per cent., minus that additional compensation.

Mr. STEVENS. No; it will not give them anything, because the \$900 is a larger increase than twenty per cent.

Mr. GARFIELD. Then I fear they would not receive anything under the resolution as it now stands. But everybody knows that if the bill needs amendment in this respect or any other it can be made in the Senate.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the main question was ordered on the passage of the joint resolution.

Mr. GARFIELD. I move that the motion to reconsider be laid on the table.

On the motion of Mr. GARFIELD there were—ayes 60, noes 53.

Mr. WILSON, of Iowa, called for tellers.

Tellers were ordered; and Mr. VAN HORN, of New York, and Mr. ROSS were appointed.

The House divided; and the tellers reported—ayes sixty-five; noes not counted.

So the motion to reconsider was laid on the table.

Mr. BENJAMIN. I move that the bill be laid on the table.

Mr. WARD, of New York. On that motion I call for the yeas and nays.

Mr. GARFIELD. I suggest to the gentleman from Missouri [Mr. BENJAMIN] that he had better withdraw his motion, and let the vote be taken at once on the passage of the resolution. It will amount to the same thing.

Mr. BENJAMIN. Very well; I withdraw the motion.

The SPEAKER. The question recurs on the passage of the joint resolution, on which the yeas and nays have been ordered.

Mr. ROLLINS. I call for the reading of the joint resolution; as now amended.

The Clerk read as follows:

That there shall be allowed and paid out of any money in the Treasury not otherwise appropriated, to the following-described persons employed in the civil service at Washington, namely: to clerks, messengers, watchmen, and laborers, and all the civil employes whose pay or salaries do not exceed the sum of \$3,500 each, as fixed by law prior to June 30, 1864, and including temporary clerks and female clerks and employes in the Department of State, and in the Treasury, War, Navy, Interior, Post Office, and Agricultural Departments, in the office of the Attorney General, Coast Survey, Naval Observatory, navy-yard, Paymaster General, including the division of referred claims, office of Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, in the office at the Capital extension, city post office, enlisted men of the Army, Navy, Marine corps, or general service of the United States serving as clerks, messengers, watchmen, or laborers in any bureau of the War Department, lamplighters

under Commissioner of Public Buildings, and detectives of the Metropolitan police, an additional compensation of twenty per cent. on their respective salaries or pay for one year from and after the 30th day of June, 1866: *Provided*, That the above-named additional compensation to the employes of the Pension Office be paid out of the funds of said office, and that where the salary or pay of any person entitled to receive additional compensation under this resolution has been increased by law since the date of June 30, 1864, aforesaid, except those clerks in the office of the Quartermaster General whose pay was equalized with that of first-class clerks by act of July, 1866, or where such person may have received during the current fiscal year additional compensation through the action of any head of any Department from funds placed by law in his hands for distribution, such person shall be entitled to receive only so much as will make the whole sum received as additional compensation equal to twenty per cent. on his salary or pay as aforesaid: *Provided further*, That such additional compensation shall be held to apply to all female clerks or employes in any bureau or division in the Treasury Department whose compensation does not exceed sixty dollars per month: *And provided further*, That this resolution shall apply only to such persons as may be in service at the time of the passage of this resolution.

The question was taken; and it was decided in the affirmative—yeas 98, nays 40, not voting 52; as follows:

YEAS—Messrs. Ashley, Allison, Anderson, James M. Ashley, Baxter, Bergen, Bidwell, Bingham, Blaine, Boyer, Broomall, Buckland, Bundy, Bunker, W. Clarke, Sidney Clarke, Cobb, Cooper, Davis, Dawes, Dawson, Deffrees, Delano, Denison, Dixon, Dodge, Donnelly, Eckley, Ferry, Finck, Garfield, Glossbrenner, Griswold, Henderson, Hill, Hise, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Hunter, Ingersoll, Johnson, Kasson, Kelso, Kerr, Ketcham, Koontz, Latham, George V. Lawrence, Le Blond, Loftwich, Loan, Marshall, Marston, Marvin, McIndoe, Me- Ruer, Mercer, Moorhead, Morrill, Niblack, Nicholson, Noel, O'Neill, Paine, Perham, Plants, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Schenck, Scofield, Shellabarger, Sitgreaves, Spalding, Stillwell, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Townbridge, Burt Van Horn, Henry D. Washburn, Stephen F. Wilson, Windom, and Woodbridge—98.

NAYS—Messrs. Ames, Ancona, Arnell, Baker, Baldwin, Benjamin, Boutwell, Brownell, Campbell, Cook, Doring, Driggs, Farnsworth, Grinnell, Hale, Aaron Harding, Abner C. Harding, Hart, Hawkins, James R. Hubbell, Julian, Kuykendall, William Lawrence, Maynard, McKee, Moulton, Orth, Pike, Price, Rollins, Ross, Sawyer, Shanklin, Stevens, Stokes, Thornton, Upson, Van Aernam, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, and James F. Wilson—40.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Barker, Beaman, Blow, Brandegee, Chanler, Conkling, Cullom, Culver, Darling, Dumont, Eggleston, Eldridge, Eliot, Farquhar, Goodyear, Harris, Hayes, Higby, Hogan, Hotchkiss, Isabel W. Hubbard, Hubbard, Jencks, Jones, Kelley, Ladin, Longyear, Lynch, McClurg, McCallough, Miller, Morris, Myers, Newell, Patterson, Phelps, Pomroy, Alexander H. Rice, John H. Rice, Rousseau, Sloan, Starr, Strouse, John L. Thomas, Trimble, Robert T. Van Horn, Whaley, Williams, Winfield, and Wright—52.

So the joint resolution was passed.

During the call of the roll the following announcements were made:

Mr. DEMING. My colleague, Mr. BRANDEGEE, is absent by leave of the House on business of the Committee on Naval Affairs. If he were present he would vote for the joint resolution.

Mr. O'NEIL. My colleague, Mr. MYERS, is absent by leave on business of a select committee. If here he would vote in favor of this joint resolution.

Mr. RADFORD. My colleague, Mr. WINFIELD, is absent on account of sickness. If he were present he would vote for the passage of this joint resolution.

Mr. DRIGGS. My colleague, Mr. LONGYEAR, is detained from the House by sickness.

The result of the vote was announced as above stated.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANNA R. SHEET.

On motion by Mr. PERHAM, by unanimous consent, leave was granted for the withdrawal from the files of the House of the petition and papers of Anna R. Sheet with a view to their reference to the Pension Bureau.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. KASSON. Before moving to go into Committee of the Whole on the state of the

Union. I move that all debate on the paragraphs relating to the Department of Agriculture be closed in twenty minutes after the committee shall resume the consideration of the legislative, &c., appropriation bill.

The motion was agreed to.

Mr. KASSON moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Pennsylvania, in the chair,) and resumed the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The Chairman stated the pending amendment to be as follows:

On page 83, line seven hundred and eighty-six, strike out "eighty" and insert "forty-five;" so that it will read:

For purchase of cereal, vegetable, and flower-seeds, and for labor in putting up seed, seed-bags, and miscellaneous items, \$45,000.

He also stated that debate by order of the House was limited to twenty minutes on the pending subject.

Mr. BIDWELL. Mr. Chairman, in the debate which occurred yesterday on this question allusions were made to the investigation pending before the Committee on Agriculture. The gentleman from Vermont, [Mr. MORRILL] appealed to me as chairman of that committee to corroborate what he said. I wish to state in advance it is not my purpose to exaggerate or to misrepresent anybody. His question was very general and my answer was general.

In addition, I will state now that I will not corroborate all of the facts enumerated in every particular; but I will say, speaking generally, that I believe the case will prove to be more unfavorable than he stated it. But in saying this I do not feel at liberty to so declare as chairman of that committee, for the reason that the majority of the committee differed from me. In stating this, I state it as an individual member of that committee, and as my own private opinion on that question.

It was my intention, Mr. Chairman, to reply to an intimation from the gentleman from Michigan [Mr. TROWBRIDGE] that I was in a minority on that committee. I never denied it. I will prosecute what I consider to be my duty in the investigation of the subject referred to that committee by this House though I may be in the minority. I am proud to be in a minority so long as I consider myself conscious of doing my duty. We differed on that committee, differed in opinion, and doubtless we differed honestly in opinion. And if any one has the curiosity to know whether my judgment was correct or the judgment of the majority of the committee, all they have to do is to call for the testimony taken before that committee. It was also my purpose to refer to a remark made, Mr. Chairman, by yourself; but on looking over the report in the Globe I feel inclined to believe I was mistaken. I thought the gentleman, in alluding to the chairman of the committee and his difference with the majority of that committee, inveighed against the minority of the committee. In reading the language I am happy to say I do not think it will bear that construction.

Now, Mr. Chairman, I beg to say I hope this appropriation will not be cut down. It would be like cutting down the appropriation for the War Department or any other Department of this Government simply because the head of it may be exceptionable. I think the great agricultural interests of this country require this appropriation should be made.

I beg leave to say that the gentleman from New York [Mr. VAN AERNAM] has an amendment to make to this item in the appropriation bill, which I think should meet with the concurrence of the committee. I suppose it is in order to move an amendment.

The CHAIRMAN. It will be.

Mr. BIDWELL. It is known to every one there is a valuable and interesting collection in the Department of Agriculture belonging to the entomologist, Mr. Glover, which he has spent years in forming, he being a highly scientific gentleman. It certainly would prove of great value to the agricultural interest of the country. It will form the nucleus of one of the grandest museums in the world.

I think in making appropriations for the Department of Agriculture, a certain amount should be set apart in order to collect specimens of natural history, especially those which concern agriculture. This collection is now about the only interesting thing in the Department, and I hope the amendment of the gentleman from New York will be agreed to.

[Here the hammer fell.]

Mr. TROWBRIDGE. Mr. Chairman, I desire to address myself for a moment or two to the amendment before the House, which is to reduce the appropriation for the collection and distribution of seeds by the Department of Agriculture from \$80,000 to \$45,000. Last year there was appropriated for this purpose the sum of \$65,000. This year the Department ask for an increase of \$15,000. I understand the reason is that they desire to extend the field of distribution of these seeds into the region lately in rebellion. I apprehend the mere statement of this fact, coupled with the knowledge of members of the House of the condition of that country, recently overrun by four years of devastating war, and cut off during all that time from the advantages of this distribution of seeds, will be sufficient to commend and justify the appropriation. While perhaps no member of the House will go further than I will in regard to the political restoration or reconstruction of these States, I assume that it is the interest of this country to encourage in every possible way the development of agriculture; and that is all that is proposed in this appropriation.

I desire to say one word in regard to the proposition of the gentleman from Ohio [Mr. DELANO] to discontinue this Department because the head of it does not exactly suit him. I have before me the bill creating and establishing this Department, and by an examination of it I find that the present Commissioner has discharged his entire duty under it; and if there is any fault to be found it is with Congress for not having more extensively provided for the necessities of the Department. I admit that a reorganization of that Department—and perhaps of some other Departments—by making the head of it a Cabinet officer, would be a very desirable thing; but I do not think we have arrived at that stage of development of the Department to provide for that. It may be proper at some future time; but since the organization of the Department this country has been directing its attention entirely to the prosecution of a great war. The Department is growing up and making itself useful, and in a very short time, perhaps, it will be necessary to reorganize it on a much more extensive scale. But until it is reorganized I claim that a plain, practical business man is better at the head of it than a scientific man, as suggested yesterday. I trust the House will leave the appropriation as it stands—\$80,000. That certainly is not a large amount to be spent for this purpose.

Mr. DELANO. I have an amendment which I desire to offer—to add at the end of line seven hundred and ninety-one the following proviso:

*Provided, That no money shall hereafter be paid to the present Commissioner on account of his salary, except so much as may be due for past services.*

The CHAIRMAN. That is not now in order.

Mr. DELANO. Then I will make my remarks without offering it. I want to be distinctly understood as not participating in the accusations of dishonesty or want of integrity on the part of the man who administers this Department. I do not stand here to defend him against such charges, but I desire distinctly to be understood as not joining in them. I do not know whether they are true or not; but I do aver that it is the universal sentiment

of the agriculturists of the country that he is incompetent for the position he holds, and there is a general feeling and desire that he should be removed.

The interest that he represents I took occasion to allude to yesterday as of vast importance. We have frequently given public lands for agricultural schools, and the whole amount so given will reach the sum of about five million dollars. The proceeds are in the hands of the State Legislatures, and are being used for the purpose of disseminating knowledge among agriculturists; and the time has come when we should all look more to the culture of that interest and bestow upon it that legislation which its importance demands. That can never be done, in my opinion, while this Department is in the hands of the present incumbent.

I will give you an instance of his intelligence—I have it from a former member of this House, now high in office: being in conversation with him some time ago on the subject of the origin and nativity of the Irish potato, to test the old gentleman's knowledge he asked him what his opinion was on the subject. Assuming a gravity that the occasion demanded, the Commissioner said: "It is a subject upon which I have bestowed a great deal of attention and much reading, but have not fully come to a conclusion in regard to it; but my best opinion is, that it originated in Pennsylvania." [Laughter.] I do not know, sir, if that was the reason that you found it necessary yesterday to come down from the Chair and defend this officer. [Laughter.]

Mr. THAYER. Can the gentleman prove that it is not so? [Laughter.]

Mr. DELANO. What is the name of that beautiful stream in Pennsylvania where some variety of this potato is said to have been cultivated once? Ah, the Neshannock.

But enough upon that subject. I only alluded to this as one of numerous instances of the same kind, and I say that it is a disgrace to the country that this man should be forced on the agricultural interest; it is lamentable that the President of the United States, who can find time to permeate the land with spies to find out who is going to vote for officers who will sustain his "policy," cannot find time to take this man's case in hand and provide properly for this great and important interest. I hope, therefore, as we have no other way of reaching this matter, that the House will apply this principle of withholding the supplies which was applied at the last session in the case of the minister to Portugal.

[Here the hammer fell.]

Mr. KASSON obtained the floor.

Mr. BROWWELL. I desire to ask the gentleman a question for information. The chairman of the Committee on Agriculture [Mr. BIDWELL] has stated here that the evidence taken before his committee more than confirms the charges brought by the gentleman from Vermont [Mr. MORRILL] against the Commissioner; that he wanted that evidence brought before the House; but that the committee does not desire to bring that evidence here, and several members of the committee have appeared before the House in vindication of the Commissioner. I would inquire now why that evidence is withheld from the House if these gentlemen really wish to vindicate the Commissioner of Agriculture, and the evidence taken tends to his exculpation?

Mr. KASSON. That is not a question addressed to the committee of which I am a member but to another committee, and I cannot answer it. I will yield now to the gentleman from Pennsylvania [Mr. STEVENS] for a few moments.

Mr. STEVENS. I have but a word to say in relation to this matter. The appropriation asked for by the bureau was \$90,000. The Committee on Appropriations reduced it to \$80,000. By the vote taken here the other day, authorizing cereals to be collected in New York, I have no doubt but that the appropriation may be still further reduced \$10,000. I



have to say as to my district that we look upon this item of appropriation as of more value than all the rest of your legislation put together.

I do not care whether the Irish potato was raised originally in Pennsylvania or not, but I should like some gentleman who is wiser than Mr. Newton to tell me where it did originate. I do not think my learned friend from Ohio (Mr. DELANO) or anybody else can tell us as to that. I believe it originated in the West Indies or in Pennsylvania; but I say that the ignorance of the Commissioner of Agriculture on that subject is an ignorance in common with every member of this House. Nobody knows any better.

Mr. DELANO. Did the gentleman ever hear that it originated in Pennsylvania?

Mr. STEVENS. I think so. I believe it was alleged long ago that it originated somewhere in the lower part of the State.

Now, sir, all I have to say is, that we are not trying the head of this bureau. These appropriations are for carrying on the Department. If the present head of the bureau is not a proper man for the place, let us take the proper means to get a proper man put there; but do not let us strike down the Department. I do not wonder at the course of the gentleman from Vermont, (Mr. MORRILL,) who has always opposed these agricultural appropriations. What use are they to people up there in Vermont? Can you sow seeds upon rocks and stones? I know that these appropriations are not useful there, and I am not surprised at the opposition which my friend has made to them from the beginning; but, depend upon it, if the people want anything at our hands it is the continuation of this agricultural appropriation and the dissemination of these seeds. There may be some worthless things distributed. There always will be under such circumstances.

As I said before, I did not rise to defend the integrity of this officer. That I believe is above reproach. His energy is beyond doubt. His science is not in question here. I believe that he has infused more vigor into this bureau since he has been there than any scientific man would have done bending over his crucibles night and day. He is a man of business; but we are not trying him. If you want to try him go before the proper tribunal; but give the appropriation necessary to carry on his office. What kind of legislation would it be for us to withhold the appropriations for the Army and Navy because we do not like the heads of those Departments?

The CHAIRMAN. By order of the House debate is now closed on this paragraph.

The question was upon the pending amendment, to strike out the word "eighty" and insert "forty-five," so that the clause, if amended, will read as follows:

For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed-bags, and miscellaneous items, \$45,000.

Mr. MORRILL. I move to amend the amendment by striking out "\$45,000" and inserting "\$60,000." That was the sum I originally moved.

The question was taken upon the amendment to the amendment; and it was not agreed to.

The question was then taken upon the amendment; and upon a division, there were—ayes 21, noes 86.

So the amendment was not agreed to.

Mr. MAYNARD. I move to amend by striking out "\$80,000" and inserting "\$90,000," the amount estimated for by the head of the Bureau of Agriculture. I think, after the debate which we have had here, we should appropriate the amount asked for.

Mr. STEVENS. I hope this item will be left as the committee reported it, although the original estimate was cut down \$10,000.

Mr. MAYNARD. Very well. I will withdraw my amendment.

Mr. VAN AERNAM. I move to amend this clause by adding the following:

*Provided further, That \$10,000 of the foregoing ap-*

propriation be used for the purchase of the Glover museum, and \$3,000 for the capture and experiment in the domestication of the American fur-bearing animals: *And provided further, That the Commissioner shall, on or before the 15th day of December of each year hereafter, make a report in detail to Congress of the moneys expended by him.*

Mr. KASSON. I ask for a division of the amendment; and that the vote be first taken upon the appropriation for the Glover museum.

The question was accordingly stated to be upon the following clause:

*Provided further That \$10,000 of the foregoing appropriation be used for the purchase of the Glover museum.*

Mr. BIDWELL. I move to amend this clause by inserting before "\$10,000" the words "not exceeding."

Mr. VAN AERNAM. I accept that amendment.

Mr. STEVENS. I move to amend by striking out the words "and \$3,000 for the capture and experiment in the domestication of the American fur-bearing animals."

Mr. KASSON. I would inquire if the question, under my call for a division, is not now upon the item in relation to the purchase of the Glover museum?

The CHAIRMAN. That is the first question.

Mr. MAYNARD. I hope that we may have some explanation of what the Glover museum is.

The CHAIRMAN. Debate is not now in order except by unanimous consent.

Mr. SPALDING. I object to any debate.

Mr. STEVENS. I move to amend the first clause of the amendment of the gentleman from New York [Mr. VAN AERNAM] by striking out the words "of the foregoing appropriation," so as to make this an independent appropriation.

The question was taken upon the amendment to the first clause of the amendment; and there were, upon a division—ayes 48, noes 16; no quorum voting.

The CHAIRMAN appointed Mr. KASSON and Mr. BIDWELL to act as tellers.

The committee again divided; and the tellers reported that there were—ayes 67, noes 35.

So the amendment to the first clause of the amendment was agreed to.

The question was then taken upon the clause as amended; and upon a division, there were—ayes 48, noes 41; no quorum voting.

The CHAIRMAN appointed Mr. TAYLOR, of New York, and Mr. COOK, to act as tellers.

The committee again divided; and the tellers reported that there were—ayes 58, noes 39.

So the clause, as amended, was agreed to.

The question again recurred upon the next clause of the amendment offered by Mr. VAN AERNAM, as follows:

And \$3,000 for the capture and experiment in the domestication of the American fur-bearing animals: *And provided further, That the Commissioner shall, on or before the 15th day of December of each year hereafter, make a report in detail to Congress of the moneys expended by him.*

Mr. BENJAMIN. I move to amend by adding the following:

*Provided further, That no portion of this appropriation need be expended in the capture and domestication of the fur-bearing animal known as the polecat. [Laughter.]*

Mr. KUYKENDALL. Is that the right name?

The amendment of Mr. BENJAMIN was not agreed to.

The question recurred upon the second clause of the amendment of Mr. VAN AERNAM.

Mr. VAN AERNAM. I hope the committee will give me the privilege of making a brief explanation of this amendment.

The CHAIRMAN. That requires unanimous consent.

Mr. SPALDING. I object.

Mr. VAN AERNAM. As I am not permitted to make a word of explanation, I ask leave to withdraw the amendment.

The CHAIRMAN. The gentleman cannot do that now, as the committee have already acted upon a portion of the amendment.

Mr. BROOMALL. I ask for a division of

the question, and that it be first taken upon the portion of the amendment relating to fur-bearing animals.

The CHAIRMAN. The Chair is of opinion that the amendment is not susceptible of division.

Mr. BROOMALL. Is it in order to move to strike out the portion relating to fur-bearing animals?

The CHAIRMAN. It is.

Mr. BROOMALL. Then I move to amend the amendment by striking out the words; "and \$3,000 for the capture and experiment in the domestication of American fur-bearing animals;" so that the amendment will read:

*And provided further, That the Commissioner shall, on or before the 15th day of December in each year hereafter, make a report in detail to Congress of all moneys expended by him.*

Mr. NIBLACK. Mr. Chairman, what has become of the amendment in regard to polecats?

The CHAIRMAN. It has been voted down.

Mr. NIBLACK. I only desired to suggest that the polecat is not a fur-bearing, but a far-smelling animal. [Laughter.]

Mr. BROOMALL's amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The Clerk, resuming the reading of the bill, read the following:

For propagation and distribution of plants, cuttings, and shrubs, \$14,000: *Provided, That the propagation of plants, cuttings, and shrubs shall be confined to such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States.*

For experimental garden in reservation No. 2, \$8,800.

Mr. SCHENCK. I move to amend by adding after the clause just read the following:

And it shall be the duty of the Commissioner to make distribution of seeds directly from the Agricultural Department, and not through members of Congress.

I desire to say, Mr. Chairman—

The CHAIRMAN. No debate is in order. Debate has been closed on the whole paragraph.

The amendment was not agreed to; there being—ayes eleven; noes not counted.

Mr. SCHENCK. I see that most of the members want to electioneer with these seeds. [Laughter.]

Mr. DELANO. I now offer the amendment I have already indicated. I move to amend by adding after the clause just read the following:

*Provided, That no money shall hereafter be paid to the present Commissioner on account of his salary except so much as may be due for past services.*

The amendment was not agreed to; there being—ayes ten; noes not counted.

The Clerk read as follows:

Mint at Philadelphia:

For salaries of the director, treasurer, assayer, melter and refiner, chief coinier and engraver, assistant assayer, and seven clerks, \$36,500.

Mr. BENJAMIN. I move to amend the clause just read by striking out the last word.

I offer this amendment for the purpose of making an inquiry. I see that in addition to the appropriation contained in this clause, there is another clause beginning on line eight hundred and forty-six, which reads: "For additional salary of the treasurer of the Mint at Philadelphia, \$1,500. I desire to know what is the salary of these officers as fixed by law, and whether the additional salary is authorized by law."

Mr. KASSON. This bill provides for no increase of salary whatever. By action during the last Congress, or perhaps during the last session of the present Congress, the salary was fixed by law. The "additional salary" is a technical phrase, having relation to certain additional duties which have been imposed on these officers by law.

Mr. BENJAMIN. I would like the gentleman to state what the additional salary is.

Mr. KASSON. Without referring to the book, I think the salary is \$4,000, and what is technically called the "additional salary" is

an allowance, I believe, of \$500, made in pursuance of a law imposing additional duties.

Mr. BENJAMIN. I withdraw the amendment.

The Clerk, resuming the reading of the bill, read the following:

For additional salary of the treasurer of the Mint at Philadelphia, \$1,500.

Mr. WASHBURNE, of Illinois. I move to amend by striking out the clause just read. I differ with the gentleman from Iowa [Mr. KASSON] in regard to the construction of the law. I say that, whatever may be the salary of this treasurer this bill adds to it \$1,500.

Mr. KASSON. Mr. Chairman, I am glad that this point has been distinctly made, for I have here the law which establishes the salary of this officer. It was passed on the 7th of April, 1866, and will be found in the laws of the last session.

Mr. WASHBURNE, of Illinois. I will ask what the salary of this officer is now by law.

Mr. KASSON. Forty-five hundred dollars.

Mr. WASHBURNE, of Illinois. If the present salary is \$4,500, this makes it \$6,000.

Mr. KASSON. I mean \$4,500 exclusive of this. The regular appropriation was formerly \$4,500. This "additional salary" was added by the law of last session. The gentleman's proposition is to repeal the law of last session.

Mr. WASHBURNE, of Illinois. No, sir; my proposition is this, and I defy the gentleman to controvert it: that there is an existing law fixing the salary of the treasurer of the Mint at Philadelphia, and this appropriation, which the gentleman proposes to pass, adds that much to it.

Mr. KASSON. If the gentleman desires it, and the committee will wait, I will send for the law. The salary is fixed at \$6,000, and this is for the additional \$1,500 fixed by law. If the gentleman turns back he will find we appropriate for the treasurer of the Mint instead of the Director which I had in my mind; for the treasurer it was \$3,500, and this is an additional salary for the treasurer of the Mint \$1,500, making the total \$5,000 instead of \$6,000.

I will refer to the law. It is section fourteen of the general law of last session. It provides that from and after the 1st day of April, 1866, there shall be paid, instead of the yearly salaries at present authorized to the Director, &c.—to the treasurer, \$6,500, and \$1,500 for additional compensation as Assistant Treasurer of the United States. And so it is with all the others. My first statement, then, is correct: his salary as treasurer of the Mint is \$3,500, and his salary as Assistant Treasurer of the United States, the duties of which office you imposed upon him by law, is \$1,500 a year additional.

Mr. WASHBURNE, of Illinois. That does not conform to the text of the bill. Here the provision is for additional salary to the treasurer of the Mint. I say this is adding \$1,500 to that man's salary.

Mr. KASSON. I must call the gentleman's attention to the mistake which he makes. This provides for the Assistant Treasurer of the United States at this place, as the treasurer of the Mint acts as Assistant Treasurer of the United States.

Mr. THAYER. Is there not a Treasurer of the United States at Philadelphia, and what occasion is there for the treasurer of the Mint to act as Assistant Treasurer of the United States? If there be necessity for it, then it is all well enough.

Mr. KASSON. I do not rise to discuss the laws of the last Congress, and while I say this is carrying out existing law, it is not proper to introduce into this bill any general legislation.

Mr. WASHBURNE, of Illinois. This is to strike out general legislation, for this provision is to increase by indirection the salary of a public officer who is already getting too large a salary.

Mr. RANDALL, of Pennsylvania. I should like to hear some reason why Philadelphia is selected for this curtailment of salary? All should be stricken out if it be stricken out in

this case. I hope no discrimination will be made of this character, but that the bill will be allowed to remain as reported. And I hope therefore the amendment of the gentleman from Illinois will be voted down.

The committee divided; and there were—ayes fifteen, noes not counted.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. RANDALL, of Pennsylvania, were appointed.

The committee again divided; and the tellers reported—ayes 34, noes 63.

So the amendment was disagreed to.

The Clerk read as follows:

For additional salary of the treasurer of the branch Mint at New Orleans, \$500.

Mr. WASHBURNE, of Illinois. I move to strike that out.

Mr. KASSON. It is provided by the same law of Congress. There is no increase of appropriation.

Mr. WASHBURNE, of Illinois. I ask the gentleman from Iowa what this \$500 will make the whole salary?

Mr. KASSON. The amount provided by existing laws. [Laughter.]

Mr. WASHBURNE, of Illinois. What is that?

Mr. KASSON. If the gentleman will give me time to refer to the original law I will answer him; I do not carry it in my mind.

Mr. WASHBURNE, of Illinois. I will modify my motion, instead of striking out to add the following proviso:

*Provided, This shall not be considered as additional salary to the one now provided by law.*

The amendment was agreed to.

The Clerk read as follows:

For additional salary of the treasurer of the branch mint at Denver, \$500.

Mr. WASHBURNE, of Illinois. I move to add the same proviso.

Mr. KASSON. If that is to be adopted, I ask the gentleman to change the language so as to provide that it is not an increase of the salary now provided by law.

Mr. WASHBURNE, of Illinois. I will agree to that if you will let me go back and move the same amendment to the paragraph concerning the treasurer of the Mint.

Mr. STEVENS. I object to that.

The amendment was agreed to.

The Clerk read as follows:

For additional salary of the treasurer of the branch mint at San Francisco, California, \$1,500.

Mr. WASHBURNE, of Illinois. I move the same amendment.

Mr. KASSON. With the consent of the gentleman from Illinois, [Mr. WASHBURNE,] I propose that a clause shall be inserted which we will draw and send to the Clerk, providing what I have already stated as the intention of the bill, that this shall not be construed as an increase of salary.

Mr. WASHBURNE, of Illinois. That is all I desire.

Mr. BIDWELL. I object.

Mr. WASHBURNE, of Illinois. Then I shall have to insist on taking the vote on my amendment.

Mr. BIDWELL. I object to any decrease of compensation.

Mr. KASSON. This is neither a decrease nor an increase, but for the purpose of satisfying the views of the gentleman from Illinois. I propose to insert a clause declaring that there shall be no actual increase by this bill.

Mr. BIDWELL. Is this to carry out an existing law?

Mr. KASSON. It is.

The amendment of Mr. WASHBURNE, of Illinois, was accordingly withdrawn.

The Clerk read as follows:

For salaries of additional clerks in the office of the Assistant Treasurer at Philadelphia, \$6,585.

Mr. O'NEILL. I move to amend by adding at the end of the foregoing clause these words:

And \$5,000 for an increase of the salaries of clerks,

additional clerks, messengers, and watchmen in the said office, each from 20 to 25 per cent.

Those employed in the Assistant Treasurer's office have very responsible positions. They perform the duties of clerks and other important duties, and are really not paid as they should be. They are selected for their capacity, integrity, and fidelity, and I know the compensation paid them is not what is paid by private employers to such clerks, messengers, and watchmen as they are. The very best men are required by the Government in these places, and the only way to get them is to give them proper compensation. I hope the committee will adopt my amendment.

Mr. KASSON. I will state to the gentleman that during either the last session or the session of the preceding Congress the compensation of these persons at the mints was provided for by making some increase. That was as far as the committee were willing to go, and we are certainly not willing to go further in this bill.

The amendment was disagreed to.

The Clerk read as follows:

For salaries of additional clerks and additional compensation of officers and clerks, under act of August 6, 1846, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, \$60,000.

Mr. WASHBURNE, of Illinois. I desire some information from the gentleman who has charge of this bill in regard to this item—\$60,000 to be paid out "at such rates as the Secretary of the Treasury may deem just and reasonable."

Mr. KASSON. This is the usual clause in all the appropriation bills for the administration of the duties imposed by Congress upon the Secretary of the Treasury in this respect by the original sub-Treasury act.

Mr. WASHBURNE, of Illinois. "At such rates as he may deem just?"

Mr. KASSON. Yes, sir. It was in the same language last year and the year before, and the amount is identical with that heretofore introduced in these appropriation bills.

Mr. HILL. I move to strike out the entire clause. I do it for the reason that I think the facts do not justify the placing of any more money at the disposal of the Secretary of the Treasury. I am unable to see why, if it is done in this case, it may not with equal propriety be done with regard to the heads of other Departments. We have been appropriating from time to time, I am quite sure, something like a million of dollars, if not more, in different sums, to be distributed at the discretion of the Secretary of the Treasury to persons in the employ of that Department. By a report recently made it appears that that money has been distributed among his favorites upon the principle that "to him that hath shall be given and from him that hath not shall be taken away even that which he hath." I find by the report contained in executive document No. 22 a statement showing that out of the \$160,000 appropriated at the last session, one assistant secretary received \$250 per quarter increase, being at the rate of \$1,000 per year. And I find \$375 per quarter appropriated to each of the two comptrollers, being at the rate of \$1,500 a year increase. And now it is proposed to give this sum of \$60,000 to be distributed in the same way.

It occurs to me that it was not in accordance with the intention of Congress in appropriating these sums; that the design of Congress in making the appropriation was to give to those who needed these sums of money, those not receiving a high rate of compensation from the Government, instead of placing these high salaried officers of the Department upon a vastly better footing than similar officers in any other Department. Under this provision, and the distribution of this sum heretofore by the Secretary of the Treasury, you have given to the officers of that Department, receiving salaries of \$2,500 and more, an addition of from one thousand to fifteen hundred dollars, while you have not made such increase to similar officers in the Interior Department, in the State De-

partment, and in other Departments where equal skill is certainly required, and where equal compensation should be paid for equally valuable services. This is an indirect way of increased salaries for which the law has made no provision, leaving the matter in the discretion of the head of the Department. I move to strike out this clause, because in my opinion no good reason exists for placing this money in the hands of the Secretary of the Treasury, to be distributed at his direction, that would not operate equally in favor of any other Department; and, as Congress has not extended a like liberality in regard to the other Departments, I insist that it should cease in regard to this one.

Mr. KASSON. My friend from Indiana entirely mistakes the object of the clause appropriating this money. It has no relation whatever to the distribution to which he has referred. The Committee on Appropriations is as much opposed as he is to a continuance of that system, but this does not relate to the clerks in the Treasury Department. It is for the services of clerks employed in the business of the sub-Treasurers over various parts of the United States, which the law cannot foresee sufficiently to make a specific classification of the clerks or a specific appropriation for their salaries. We have consequently adopted in the past this policy of placing money for this purpose in the hands of the head of the Treasury Department. I shall heartily coöperate with my friend in opposing any restoration of that system of distributing extra pay to which he has alluded; but this appropriation is necessary to carry on the current operations of the Department, and is entirely distinct from the matter to which he has referred.

Mr. BROMWELL. I would ask the member from Iowa if this clause does not provide for additional compensation to officers and clerks, and if it would not place it in the discretion of the Secretary of the Treasury to allow an increase of compensation.

Mr. KASSON. It follows the language of the acts heretofore passed on the subject, and it is not intended, nor has it the effect, of increasing salaries at all.

Mr. BROMWELL. What salaries would it increase, or what salaries does it contemplate?

Mr. KASSON. It is not contemplated to increase any salaries. The clause adopts the language of former laws, and carries out the system which we have followed from year to year in reference to these officers. I assure the gentleman that there is no such increase as he supposes contemplated.

Mr. BROMWELL. It seems to me that this clause conveys an implied authority to the Secretary of the Treasury to allow increased compensation to officers of that Department.

Mr. WASHBURN, of Illinois. I suggest to my colleague that he move to strike out the words "at such rates as the Secretary may deem just and reasonable," so that these salaries shall be paid in accordance with existing law, without leaving the matter at the discretion of the Secretary.

Mr. KASSON. I have no objection to that if the gentleman will say that these men shall be paid at the existing rates, or will use some such phrase as that.

Mr. BROMWELL. I do not see how additional compensation can be paid at the existing rates.

Mr. KASSON. I have not the original law before me, but I will say to my friend from Illinois that the word "additional" used in this clause is copied from the existing law. Some questions in relation to this matter were put in the House last session; the law was then referred to, and the explanations made were deemed satisfactory by the House.

Mr. BROMWELL. I will read the clause, and I think the gentleman will see that my objection to it is well taken:

For salaries of additional clerks and additional compensation of officers and clerks, under act of August 6, 1846, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, \$60,000.

It seems to me that the Secretary might draw from that authority to take the \$60,000, or some portion of it, and give it to such clerks in his Department as he may deem it just and reasonable to pay it to.

Mr. KASSON. The gentleman is in error in regard to the application of the words "at such rates as the Secretary may deem just and reasonable," if he supposes they are intended to have the effect he has indicated. The amount to be hereby appropriated is to meet the existing rates of compensation of these officers and clerks named in the original law. The limit we place upon the Secretary of the Treasury is in regard to the amount of the appropriation. We have no design to enlarge either the discretion or the amount. These clerks are already employed, and this amount is to pay them.

The CHAIRMAN. The debate upon the pending amendment is exhausted.

Mr. HILL. I withdraw my amendment in order to enable other gentlemen who may desire to debate an opportunity to offer amendments.

Mr. BENJAMIN. I move to amend this clause by striking out the words "and additional compensation of officers and clerks." If that amendment shall prevail, I will then move to further amend the clause by striking out the words "at such rates as the Secretary may deem just and reasonable." The clause would then read as follows:

For salaries of additional clerks, under act of August 6, 1846, for the better organization of the Treasury, \$60,000.

That leaves the appropriation as it now stands, as the gentleman from Iowa [Mr. KASSON] says it is necessary to fulfill the requirements of the existing law. I am opposed to these additional compensations. I prefer that the compensation should be fixed by law, and then we will all know what it is, and what amount is to be appropriated. As this now reads it seems to me to give a great deal of discretion to the Secretary of the Treasury in this matter.

Mr. HILL. Will the gentleman from Missouri [Mr. BENJAMIN] yield to me for a moment?

Mr. BENJAMIN. I will.

Mr. HILL. I desire to call the attention of the gentleman from Iowa, [Mr. KASSON,] as well as of the Committee of the Whole, to the fact that the language used in this clause is precisely the language of the law which authorized the distribution of the money reported to this House. The Secretary in his report makes this statement, quoting from the law:

"For compensation of temporary clerks in the Treasury Department, and for additional compensation to officers and clerks in the same Department."

The language of the clause now under consideration is as follows:

For salaries [instead of "compensation," as in the existing law] of additional clerks and additional compensation of officers and clerks."

That is precisely the language used in the act under which the \$160,000 was appropriated, and under which the Secretary has distributed that money to the heads of the bureaus.

Mr. FARNSWORTH. Except that this section limits the appropriation of this money to the classes specified in the act of August 6, 1846.

Mr. HILL. I have not the act of 1846 now before me.

Mr. THAYER. This clause does not limit the discretion of the Secretary in the distribution of the money.

Mr. STEVENS. We passed an act last year appropriating \$160,000, and an act the year before appropriating \$250,000, to be distributed at the discretion of the Secretary of the Treasury, which discretion he most shamefully abused.

Mr. HILL. I agree with the gentleman there.

Mr. STEVENS. He gave the money to those who did not need it, and kept it from those who did need it. He asked this year for the same amount, \$160,000, every dollar of which the

Committee on Appropriations struck out, and no part of it, therefore, is included in this bill. This \$60,000 is for the clerks authorized under the law of 1846. That law, I think, created sub-Treasuries and authorized the Secretary of the Treasury to employ clerks at his own discretion for that purpose. Those clerks have been employed, but none of them have their salaries fixed, except so far as they have been fixed by the discretion of the Secretary under the law of 1846. This appropriation is to enable the Secretary of the Treasury to pay these clerks as he has paid them heretofore; it does not allow him any discretion whatever.

Mr. THAYER. I would inquire if the act of 1846 does not classify the clerks and fix their pay according to certain classes?

Mr. STEVENS. I have not the law before me; but my impression is that that was left to the discretion of the Secretary of the Treasury.

Mr. BENJAMIN. I desire to call the attention of the gentleman from Pennsylvania [Mr. STEVENS] to another thing. This clause reads "additional compensation of officers and clerks," it does not say "clerks" simply.

Mr. STEVENS. We have used the same language here which we have always used in appropriation bills.

Mr. WASHBURN, of Illinois. It seems to me to be very evident that the effect of this clause which we are now discussing is to give additional compensation to the clerks; and it allows the Secretary of the Treasury a very wide discretion in fixing their rates of compensation as "he may deem just and reasonable." Now, I think we better fix the salaries ourselves, and not leave the matter to the discretion of anybody. I should like to see the law of 1846 so as to know whether there is vested in the Secretary of the Treasury any such discretion to fix the additional salaries of clerks. That is not the way Congress formerly legislated. It may have done so in that particular case.

Mr. KASSON. Since 1846 the enlargement of the operations of the Treasury Department has rendered it necessary from time to time to increase the number of clerks, and the provision for their compensation has been continued from year to year in the form now proposed in this bill. I will read a portion of the thirteenth section of the sub-Treasury act, showing how this matter started in the early days of the sub-Treasury:

"That said officers respectively, whose duty it is made by this act to receive, keep, and disburse the public moneys as the fiscal agents of the Government, may be allowed any necessary additional expense for clerks, fire-proof chests or vaults, &c., or any other necessary expenses of safe-keeping, transferring, and disbursing said moneys; all such expenses of every character to be first expressly authorized by the Secretary of the Treasury, whose directions upon all the above subjects by way of regulation and otherwise, so far as authorized by law are to be strictly followed by all the said officers."

And it was provided that the number of clerks should not exceed those named at that time, nor their pay at that time exceed \$800 each. Since that time the enlargement of the operations of the Department has rendered necessary a very large increase in the number of clerks, as everybody knows, and the language in which the appropriations have been made has been continued in this way. The limitation imposed by Congress upon the Secretary is found in the amount appropriated, namely, \$60,000, which is necessary for the payment of the existing force at the existing rates. This is the same amount which was appropriated last year.

I will only add that we cannot, without further facts than we now have before us, specify the number of clerks or the rates at which they shall be paid, classifying them properly. I should be very glad to do this if it were possible; and I trust that by the time another bill shall be introduced we may have from the Secretary of the Treasury a statement of the number of clerks employed and their respective compensation, so that we may impose a limitation in accordance with the existing condition of facts. We have not, however, at present such a knowledge of the facts as would



enable us safely to undertake any legislation of that kind.

The CHAIRMAN. Debate is exhausted on the pending amendment.

The question being taken on the amendment of Mr. BENJAMIN, there were—ayes 37, noes 24; no quorum voting.

Mr. WASHBURN, of Illinois. I trust the gentleman from Iowa, [Mr. KASSON,] if he does not wish to break up the committee for want of a quorum, will let this question go into the House.

Mr. KASSON. If the question can be passed in any way I am willing that the vote shall be reserved till the bill comes before the House. That will give us an opportunity meanwhile to obtain the information which some gentlemen desire.

Mr. WASHBURN, of Illinois. I suggest that we pass this paragraph informally, with the understanding that we may return to its consideration hereafter.

Mr. KASSON. I have no objection to that.

The CHAIRMAN. Does the gentleman from Missouri [Mr. BENJAMIN] withdraw his amendment?

Mr. BENJAMIN. No, sir; I insist on a vote upon it.

No quorum having voted, the Chairman, under the rule, ordered tellers; and appointed Messrs. BENJAMIN and LE BLOND.

The committee divided; and the tellers reported—ayes 47, noes 29; no quorum voting.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, of Pennsylvania, reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, had come to no resolution thereon.

#### PENSION LAWS.

Mr. HILL, by unanimous consent, introduced a bill extending the provisions of the pension laws; which was read a first and second time, and referred to the Committee on Invalid Pensions.

And then, on motion of Mr. LE BLOND, (at fifteen minutes of four o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Steven Hefington, and 160 others, loyal citizens of Parker county, Texas, asking for protection and relief from rebel rule.

By Mr. BUNDY: The petition of Leo Ebert, John Burgess, and 15 others, citizens of Lawrence county, Ohio, asking that the present tax on cigars be changed to a specific tax.

By Mr. DAVIS: The petition of R. M. Gere, Robert Gere, W. H. H. Gere, and 12 others, citizens of Geddes, New York, against legislation to reduce the amount of circulating notes, and against compelling all national banks to redeem their circulation in the city of New York.

By Mr. DONNELLY: The petition of William A. Jackson, and others, citizens of Maple Plain, Hennepin county, Minnesota, in favor of an amendment to the Constitution of the United States to give Congress the power to control the question of suffrage in the States of the Union; also, that Congress prohibit any inequality as to suffrage in the Territories by reason of race, color, or place of birth.

By Mr. GRISWOLD: The petition of a large number of wool-growers of Washington county, New York, for protection against importation of foreign wools.

By Mr. HARDING, of Illinois: The petition of citizens of Moline, Illinois, for preservation of the national currency and against requiring redemption for national bank notes in New York.

By Mr. HUBBARD, of Connecticut: The petition of Chauncey Peck, and others, soldiers of the war of 1812, asking pensions.

By Mr. JULIAN: The petition of 71 citizens of Blackfoot county, Indiana, praying an amendment of the Constitution of the United States, so that no inequality shall prevail among citizens on account of birth, race, color, previous inequality, or previous non-residence beyond the preceding year.

By Mr. KOONTZ: The petition of citizens of Schellensburg and Bedford, in the county of Bedford,

in the State of Pennsylvania, against the passage of any act authorizing the curtailment of the national currency, or compelling national banks to redeem their circulating notes in New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. LAWRENCE, of Ohio: The petition of citizens of Urbana, against a reduction of greenback currency.

Also, the memorial of Bellefontaine Temple No. 22, of Ohio, for an amendment to the Constitution rendering ineligible to election or appointment to any office any person habitually addicted to the use of alcoholic stimulants.

By Mr. MOULTON: The petition of citizens of Rosemond, Christian county, Illinois, against any curtailment of the currency.

By Mr. NIBLACK: The petition of George Fendrick, and others, of Vincennes, Indiana, praying for a reduction of taxes on cigars.

Also, the petition of George Caxson, and others, of Evansville, Indiana, praying for a reduction of taxes on cigars.

By Mr. ORTH: The petition of numerous citizens of Indiana and Illinois, on the subject of reconstruction.

Also, the petition of Captain Thomas W. Fry, of Indiana, asking for relief.

By Mr. PLANTS: The petition of Jacob Miller, and 12 others, cigar manufacturers and dealers and growers of tobacco in Washington county, Ohio, asking for such changes in the internal revenue law as will prevent frauds, and equalize the burdens upon the various qualities of tobacco manufacture.

By Mr. ROGERS: The petition of J. L. Curtis, Joseph Lepine, George H. Terey, citizens of Morris-town, New Jersey, manufacturers of cigars, relative to the present duty on foreign and domestic cigars.

By Mr. ROLLINS: The petition of S. D. Downs, and 45 others, citizens of Franconstown, Hillsborough county, New Hampshire, for a new post route between Franconstown and New Boston in said county.

Also, the petition of Joseph B. Walker and Nathaniel Bouton, officers of the New Hampshire Historical Society, for change in postage laws, so as to permit postage on pamphlets, papers, documents, and books forwarded to such societies and public libraries to be paid on delivery, and that the postage thereon be reduced fifty per cent.

Also, a petition of Weymouth Bean, of Upper Gilmanton, New Hampshire, for pension, he having lost two sons by the war, one in battle, the other by disease contracted in the service.

Also, the petition of Charles A. Hackett, and 19 others, citizens of Upper Gilmanton, in aid of the petition of said Weymouth Bean.

Also, the petition of 110 citizens of Georgia and other States, praying for an amendment to the Constitution of the United States, so that there shall be no inequality among citizens on account of birth, race, color, previous inequality, or previous non-residence beyond the preceding year, and for removal by immediate legislation of any such inequality from the District of Columbia, the Territories, and the ten unreturned States, and for taking necessary measures for peace, order, justice, and the security of life, liberty, and property in the same.

By Mr. SITGREAVES: The petition from the Union Republican Central Committee, of the city of Elizabeth, New Jersey, for a separate port of entry, and appointment of a collector at that place, &c.

By Mr. TROWBRIDGE: The petition of William Livingston, of the city of Detroit, Michigan, asking for authority to enroll the steam-tug John S. Noyes, a Canadian vessel, in the coasting trade of the United States.

By Mr. WARD, of New York: The petition of numerous citizens of Greenwood, Steuben county, New York, for the increase of the tariff on wool.

By Mr. WARNER: The petition of B. G. Warner, and others, manufacturers of cigars, praying for a change of *ad valorem* to specific tax on imported cigars.

Also, the petition of Charles Parker, for release of manufacturers of hardware from internal revenue tax on hardware.

Also, the petition of Benjamin Douglass, and others, for a can buoy and a spar buoy at the mouth of the Connecticut river.

By Mr. WENTWORTH: The petition of citizens of Illinois, for increased duties upon wool.

#### IN SENATE.

MONDAY, January 14, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Secretary proceeded to read the Journal of Friday last.

Mr. WADE. I move that the further reading of the Journal be dispensed with. Nobody is listening to it.

The PRESIDENT *pro tempore*. It can only be dispensed with by the unanimous consent of the Senate. No objection being made, the further reading of the Journal is dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 4th of December, information in relation to the amount of money paid or ordered to be paid since the

18th day of May last to the several newspapers printed and published in the District of Columbia for advertising notices and proposals for each of the Executive Departments of the Government, and the number and character of the advertisements for which said money was paid; which was ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of citizens of Ohio, praying that a duty of thirty cents per bushel may be imposed on imported flaxseed; which was ordered to lie on the table, the subject having been reported upon by the Committee on Finance.

He also presented a petition of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie on the table, the bill having been reported by the Committee on Finance.

He also presented a petition of forty officers of the United States Army, praying for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Daviess county, Kentucky, praying that Amos Metcalfe may be compensated for services rendered while in the United States service, and that he may be remunerated for losses incurred by him during the late war; which was referred to the Committee on Claims.

He also presented three petitions of citizens of Ohio, remonstrating against the restoration of any State that rebelled against the United States Government until security is obtained against a renewed attempt to secede, against any payment of the rebel debt, and against any distinction in its constitution on account of color or descent; which were referred to the joint Committee on Reconstruction.

He also presented three petitions of citizens of Ohio, praying for such an amendment to the Constitution of the United States as will prohibit any inequality in the laws of any State on account of birth, race, or color; which were referred to the joint Committee on Reconstruction.

Mr. GRIMES presented the memorial of the city council of Burlington, Iowa, praying that a certain lot of public land within the corporate limits of that city may be granted to the city for educational purposes; which was referred to the Committee on Public Lands.

He also presented the memorial of the board of public schools of the city of Burlington, Iowa, praying that a lot of public land in that city may be granted to the city for educational purposes; which was referred to the Committee on Public Lands.

Mr. SUMNER presented the petition of cigar manufacturers of the eighth collection district of Massachusetts, praying that a specific tax of five dollars per thousand may be imposed on all domestic cigars in lieu of the present tax, and that the present tariff on imported cigars may remain unchanged; that the cost of internal revenue stamps to cigar manufacturers may be limited to five dollars per thousand, and that the penalty for violations of the internal revenue laws may be increased; which was referred to the Committee on Finance.

He also presented a petition of citizens of Georgia, praying that the Constitution of the United States may be so amended as to prohibit any State from making any distinction in its laws among citizens thereof on account of race or color; which was referred to the joint Committee on Reconstruction.

He also presented eight petitions of citizens of the United States, praying for such an amendment of the Constitution as will prohibit any distinction being made in the laws of any State among the citizens thereof on account of race or color; which were referred to the joint Committee on Reconstruction.

Mr. SUMNER. I also present the petition of citizens of Arkansas, in which they earnestly

pray that Congress will ignore and set aside all the State governments established or controlled by traitors and such as are the determined enemies of our Government, and that Congress, with the least possible delay, will restore those States and State governments into the hands of the loyal citizens, to whom they respectively belong. I take it that the prayer of this petition presents the most practical question which is now before Congress, which is the setting aside of these rebel governments; and I trust that the committee to whom these petitions are referred will give us the benefit of a report very soon. I ask its reference to the joint Committee on Reconstruction.

It was so referred.

Mr. RIDDLE presented a petition of cigar manufacturers, praying that a specific tax of five dollars per thousand may be imposed on all domestic cigars in lieu of the present tax, and that the present tariff on imported cigars may remain unchanged; that the cost of internal revenue stamps to cigar manufacturers may be limited to five dollars per thousand, and that the penalty for violations of the internal revenue may be increased; which was referred to the Committee on Finance.

Mr. POLAND presented resolutions of the Farmers' Club of Windsor county, Vermont, and resolutions of the Farmers' Club of Springfield, Vermont, in favor of an increase of the duty on foreign wool; which were ordered to lie on the table, the Committee on Finance having reported on the subject.

Mr. RAMSEY presented the memorial of the Legislature of Minnesota, in favor of an appropriation of lands to perfect the navigation of the Mississippi river to the falls of St. Anthony; which was referred to the Committee on Commerce.

Mr. HOWARD presented the memorial of Rev. W. H. Furness, George Cadwalader, Daniel Smith, jr., and other citizens of Philadelphia, praying for the repeal of the law which retires officers of the Army at a certain age, and that no retirement may be made without the report of a board of examination; which was referred to the Committee on Military Affairs and the Militia.

Mr. CATTELL presented five petitions of manufacturers and operatives of Manayunk, in the twenty-first ward of the city of Philadelphia, praying for the repeal of the internal revenue tax levied on all goods manufactured; which were referred to the Committee on Finance.

Mr. CATTELL. I also present the petition of seven hundred and fifty employes of the glass-ware manufactories of Pittsburgh, Pennsylvania, and Wheeling, West Virginia, asking for a further increase of the tariff on imported glass-ware in order that their labor may be protected. I have only to add that the evidence which this paper contains, that it has been handled by the operatives themselves, rather beautifies than mars it in my opinion. As the Committee on Finance have reported on this subject, I move that the petition be laid upon the table.

The motion was agreed to.

Mr. HENDRICKS presented a petition of journeymen cigar-makers and manufacturers of cigars of Evansville, Indiana, praying for a specific duty of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged, and that Congress will alter the present system of stamping by selling the stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the revenue laws; which was referred to the Committee on Finance.

Mr. PATTERSON presented two memorials of citizens of Louisiana, praying for an appropriation to aid in repairing and rebuilding the State levees on the banks of the Mississippi and other rivers in that State, and for the proper supervision thereof by the appointment of a board of levee commissioners jointly by the President of the United States and the

Governor of Louisiana; which were referred to the Committee on Commerce.

Mr. HOWE presented a memorial of citizens of Wisconsin, remonstrating against the restoration of the States lately in rebellion until adequate security is obtained against a renewed attempt to secede, against any payment of the rebel debt or for emancipated slaves, and against any distinction in State laws among citizens thereof on account of color or descent; which was referred to the joint Committee on Reconstruction.

Mr. SHERMAN presented ten petitions of citizens of the United States, praying for a duty of thirty cents per bushel on flaxseed; which were ordered to lie on the table, the Committee on Finance having reported on the subject.

He also presented four petitions of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie on the table, the bill having been reported by the Committee on Finance.

Mr. HARRIS presented a petition of officers of the United States Army, praying Congress to rescind the section of the Army bill passed at the last session which abolishes regimental bands; which was referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE. I present the petition of John Hinde, and others, citizens of Ohio, in relation to flax manufactures, in which they say that in their opinion "none of the various articles of flax manufactures are sufficiently protected by existing laws, especially the different kinds of twines and yarns." They further say:

"They would also represent that in their opinion the interests of the country would be advanced by the addition of duty upon all hemp, jute, or flax, twines, and yarns, and also upon all twine and yarn made from the tow of hemp, jute, or flax, and imported from foreign countries, and which inferior articles, on account of price and appearance, come in competition with American products."

As this matter has been considered by the Committee on Finance, I move that the petition lie upon the table.

The motion was agreed to.

Mr. MORGAN presented a memorial of citizens of New York, remonstrating against the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

He also presented a memorial of file manufacturers of Providence, Rhode Island, remonstrating against any advance in the duty on steel; which was ordered to lie on the table, the Committee on Finance having reported on the subject.

He also presented five petitions of citizens of the State of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie on the table, the bill having been reported by the Committee on Finance.

He also presented ten memorials of manufacturers of wool and of constructors of burring machines, remonstrating against an extension of the letters-patent of Stephen R. Parkhurst, dated May 1, 1845; which were referred to the Committee on Patents and the Patent Office.

Mr. YATES presented a petition of citizens of Illinois, praying for an increase of the duty on foreign wool; which was ordered to lie on the table, the subject having been reported upon by the Committee on Finance.

He also presented the petition of citizens of Illinois, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was ordered to lie on the table, the bill having been reported by the Committee on Finance.

He also presented the memorial of the Illinois State Association of Teachers, praying for

the establishment of a national Educational Bureau; which was ordered to lie on the table.

Mr. SHERMAN presented the petition of female employes in the folding-room of the Government Printing Office, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. COWAN presented the memorial of citizens of Iowa, and the memorial of citizens of Pennsylvania, remonstrating against the passage of any act authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances; which were referred to the Committee on Finance.

He also presented twelve petitions of manufacturers of cotton and woolen fabrics, praying for a modification of the internal revenue laws by removing the five per cent. tax on goods, the allowance of a drawback of three cents per pound on cotton to be refunded to the manufacturer, and the imposition of a tax on all articles of luxury not produced in the United States; which were referred to the Committee on Finance.

Mr. DIXON presented two petitions of journeymen cigar-makers and manufacturers of cigars in Connecticut, praying for a specific tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged, and that Congress alter the present system of stamping by selling the stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the revenue laws; which were referred to the Committee on Finance.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that it had passed the bill (S. No. 383) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers; and also that it had passed the bill (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 457) for the relief of Hiram Paulding, rear admiral United States Navy;

A bill (H. R. No. 488) for the relief of Norman J. Hall;

A bill (H. R. No. 916) for the relief of James M. Bishop, who claims \$236;

A bill (H. R. No. 974) to indemnify Abial Morrison for property destroyed by hostile Indians in Washington Territory in the years 1855 and 1856;

A joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service at Washington; and

A joint resolution (H. R. No. 235) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (S. No. 383) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers; and it was thereupon signed by the President *pro tempore* of the Senate.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. W. G. Moore, his Secretary, announced that he approved and signed on the 11th instant the joint resolution (S. R. No. 154) to provide for the exhibition of the cereal productions of the United States at the Paris Exposition in April next, and on the 15th instant the bill (S. No. 459) suspending the payment of money from the Treasury as compensation

to persons claiming the service or labor of colored volunteers or drafted men, and for other purposes.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 457) for the relief of Hiram Paulding, rear admiral United States Navy—to the Committee on Claims.

A bill (H. R. No. 483) for the relief of Norman J. Hall—to the Committee on Claims.

A bill (H. R. No. 916) for the relief of James M. Bishop, who claims \$236—to the Committee on Claims.

A bill (H. R. No. 974) to indemnify Abial Morrison for property destroyed by hostile Indians in Washington Territory in the years 1855 and 1856—to the Committee on Claims.

A joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service at Washington—to the Committee on Finance.

A joint resolution (H. R. No. 285) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863—to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Mrs. Mary J. Dixon, of Alexandria, Virginia, praying for the restoration of property sold for taxes, submitted a report accompanied by a bill (S. No. 503) for the relief of Mrs. Mary J. Dixon, of Alexandria, in the State of Virginia, widow of the late Turner Dixon, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print extra copies of the memorial of the New England Emigrant Aid Company, praying for indemnification for the destruction of their property at Lawrence, Kansas, have instructed me to report it back adversely. It has not been the custom of the Senate to print memorials, and this memorial, which is one of some importance, has been once printed, and I presume there are on the files of the Senate as many copies as any Senators will require. The memorial should go to the Committee on Claims.

The PRESIDENT *pro tempore*. That order will be entered.

#### PENITENTIARIES IN THE TERRITORIES.

Mr. CRAGIN. The Committee on Territories, to whom was referred the bill (H. R. No. 715) setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota, have had it under consideration, and instructed me to report it back to the Senate with a recommendation that it pass; and if there be no objection I ask for the present consideration of the bill.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to set aside and appropriate the net proceeds of the internal revenue of the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota, for the fiscal years severally ending on the 30th of June, 1866, the 30th of June, 1867, and the 30th of June, 1868, for the purpose of erecting, under the direction of the Secretary of the Interior, penitentiary buildings in those Territories, at such places therein as have been or may be designated by the Legislatures thereof and approved by the Secretary of the Interior; but the moneys so set aside and appropriated in each of the Territories are to be devoted exclusively to the erection of a penitentiary in the Territory in which they have been and shall be collected, and not in any other; and that they shall not exceed in amount the sum of \$20,000 in the Territory of

Washington and \$40,000 in each of the Territories of Nebraska, Colorado, Idaho, Montana, Arizona, and Dakota.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 504) to improve the value of Government lands on the line of the McGregor Western railway, by aiding said railway company to construct said railroad; which was read twice by its title and referred to the Committee on Public Lands.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 505) to quiet title to land in the town of Santa Clara, in the State of California; which was read twice by its title and referred to the Committee on Public Lands.

#### PUBLIC BUILDINGS AND GROUNDS.

The PRESIDENT *pro tempore* laid before the Senate the following resolution, passed by the House of Representatives on Friday last:

*Resolved*, (the Senate concurring,) That the following be added to the joint rules of the two Houses, namely:

**RULE.**—There shall be a joint committee on public buildings and grounds, to consist of five members on the part of the Senate and seven on the part of the House, whose duty it shall be to consider all subjects relating to the public edifices and grounds within the city of Washington which may be referred to them, and report their opinion thereon, together with such propositions relating thereto as may seem to them expedient.

The resolution was referred to the Committee on the Judiciary.

#### MRS. ELIZABETH R. SMITH.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 451.

The motion was agreed to; and the bill (S. No. 451) for the relief of Mrs. Elizabeth R. Smith was read a second time and considered as in Committee of the Whole. It proposes to appropriate the sum of \$2,468 in full payment and satisfaction of the claim of Mrs. Elizabeth R. Smith, widow of the late Lieutenant E. H. Smith, of the third regiment United States artillery, for property lost on board the steamer San Francisco, in the year 1853.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PENSION AGENTS.

Mr. LANE. I move that the Senate proceed to the consideration of Senate bill No. 69, which has been up some four or five times; and I hope we shall dispose of it this morning.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pensions, the pending question being on the amendment moved by Mr. SUMNER, to add at the end of the House amendment the following additional section:

**SEC. —** And be it further enacted, That all other agents or officers appointed by the President or by the head of any Department, whose salary or compensation derived from fees or otherwise exceeds \$1,000 annually, shall be appointed by the President, by and with the advice and consent of the Senate, and the term of office of all such officers appointed since the 1st day of July, 1866, shall expire at the end of thirty days after the passage of this act: *Provided*, That this is not applicable to clerks of the Departments.

Mr. LANE. I just wish to say one or two words in reference to that matter. This is a bill to provide for the appointment of pension agents. It was well considered at the last session, and it has been well considered and debated at this session, and the Senate can vote knowingly, as it seems to me, in reference to all its provisions. Now, here is an amendment proposing to apply the same rule to all offices the salary attached to which is over \$1,000 a year. While I sympathize with the object sought to be accomplished by the Sen-

ator from Massachusetts, I hope that that amendment will not be placed upon this bill, for it opens the whole subject of removals and appointments, and I very much fear that the bill will fail if this amendment be adopted. In consideration of the facts that this bill is well understood, has been thoroughly debated, and its whole scope and object known to the Senate, I hope that now no general proposition to apply the principle to all offices will be adopted as an amendment to this bill.

Mr. SUMNER. The Senator from Indiana says that the amendment which I have moved will open the whole question of the appointment and the removal of officers. Does not the original proposition reported by him do the same thing? Does it not open the whole question of appointment and removal? It seems to me that it does. The bill, I know, on its face is only applicable to pension agents; but in discussing that bill and in reaching your conclusion upon it, you are necessarily called upon to review the whole subject. If the bill is right with regard to pension agents, it is right with regard to other agents and officers of the Government. I see no reason why the President should have this peculiar power with regard to all other agents and officers of the Government and be deprived of it only in the case of pension agents. There is no single argument which my excellent friend from Indiana can adduce for his bill which is not equally and completely applicable to the amendment which I now propose. I should say myself that the occasion for the amendment which I have moved is, if possible, greater than the occasion for the original bill. There is more reason for it, inasmuch as the cases to which it is applicable are more numerous. The bill under consideration looks merely to one class of officers; my proposition looks to all classes of officers; and if there is a reason for protecting one class of officers, I insist that there is equal reason for protecting all these other classes of officers.

Now, sir, the Senator from Indiana wishes that this proposition should be postponed, or that it should come up separately, or that it should be moved on another bill. He has the natural desire, I know, which belongs to a Senator who has reported a bill to see his work perfected in the Senate. He wishes his bill passed as he reported it. I will not criticize the Senator for that desire, into which I know the chairmen of committees so naturally fall. It is natural that a Senator in his situation should press his own bill; but I now do appeal to the Senator from Indiana to take my amendment, not to oppose it. Let it go upon his bill, and let us give to the country as complete protection as we can, instead of simply giving protection to a single class of officers.

Mr. LANE. The reason assigned for objecting to this amendment is a reason which will strike the Senate. The facts in reference to the appointment of pension agents have been fully discussed. Their original appointment by the War Department, then by the Interior Department, then the proposition to give the power of appointment to the President, the number of agents, their compensation, the duration of the offices, have all been debated fully and freely before the Senate. Here now is a proposition to apply the same rule to all other offices the salary of which is over \$1,000. As to the manner of their appointment, the duration of office, the compensation, and all these things, the Senate, if they vote upon the amendment, as it seems to me, must vote in ignorance of the facts. I think I should vote unhesitatingly for the amendment of the Senator from Massachusetts as a separate bill, or perhaps as an amendment upon some other bill. As I said before, I sympathize fully with the object sought to be accomplished by it; and if the amendment is engrafted upon this bill I shall still vote for the bill; but I prefer voting upon one thing at a time and upon a subject about which the Senate has been fully informed. I hope, therefore, that the Senator will forego



the offering of his amendment upon this bill, and let us digest and adopt some general bill reaching all these offices. At present I know not how many officers would be embraced by the amendment; I know not what has been the manner of their appointment heretofore. I ask simply now that this measure, which has been fully debated, running through two sessions, shall be voted upon on its own merits. I have no objection to the amendment, and I think I should cheerfully vote for it as an independent proposition.

Mr. HENDRICKS. I should think, sir, that there is more of principle and of rule in the proposition of the Senator from Massachusetts than in the proposition of my colleague, although I shall not vote for either. My colleague says by his bill, which he now indorses, that pension agents have become important officers, but that some of them must go out of office if they were appointed after a certain day, and others who were appointed before that date shall hold office; so that the importance of the office under the Constitution depends upon the date of their commission. I am not able to see the principle that is involved in that. I shall not vote for the amendment of the Senator from Massachusetts, but he embraces the whole subject, and his particular proposition might upon principle be adopted instead of the bill of my colleague.

The PRESIDENT *pro tempore*. The question is upon the amendment of the Senator from Massachusetts to the amendment of the House of Representatives.

Mr. SUMNER. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. I wish the Senate would reflect that we have one bill before us which, if it becomes a law, will deny to the President the right to remove, without the consent of the Senate, officers who are appointed with the consent of the Senate. Now, to place the large class of officers referred to by this amendment under the protection of that law, it is manifestly necessary that this provision should be enacted into law, here or elsewhere, now or at some other time. There is no conceivable bill that I know of in which it could be more properly placed than the pending bill, and if we pass it now then the work will be done. If we put it off to another time we shall still have it to do, if it is to be done, and it stands a "right smart" chance of not being done at all. So I really hope the amendment will be adopted on the pending bill.

The question being taken by yeas and nays, resulted—yeas 12, nays 21; as follows:

YEAS—Messrs. Conness, Grimes, Harris, Henderson, Howe, Morgan, Morrill, Sprague, Stewart, Sumner, Wade, and Williams—12.

NAYS—Messrs. Anthony, Cattell, Cowan, Cragin, Dixon, Fogg, Foster, Fowler, Frelinghuysen, Hendricks, Howard, Kirkwood, Lane, Nesmith, Patterson, Poland, Ramsey, Riddle, Saulsbury, Sherman, and Van Winkle—21.

ABSENT—Messrs. Brown, Buckalew, Chandler, Cresswell, Davis, Doolittle, Edmunds, Fessenden, Guthrie, Johnson, McDougall, Norton, Nye, Pomeroy, Ross, Trumbull, Willey, Wilson, and Yates—19.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment of the House of Representatives as it has been amended by the Senate.

The amendment as amended was concurred in.

Mr. MORRILL. Do I understand that that vote passes the bill?

The PRESIDENT *pro tempore*. It does. The bill is now disposed of so far as the Senate is concerned.

Mr. MORRILL. Then I move to reconsider the vote last taken, and I will mention as a reason that my colleague [Mr. FESSENDEN] expressed an interest in this measure when it was before the Senate on a former occasion, and I know he still continues to take that interest in the measure.

The question being put on the motion to reconsider, a division was called for.

Mr. GRIMES. I understand that an appeal has been made by the Senator from Maine in behalf of his colleague, who is confined to his lodgings by sickness, and who feels a special interest in this bill. I have never yet heard of a case where an appeal of this kind was made that the Senate did not listen to it.

Mr. LANE. The Senator from Maine has been here three or four days when this subject has been under consideration. I know that I saw him in his seat during at least two days while it was before us.

Mr. GRIMES. The Senator is mistaken. The last day this bill was under consideration the Senator from Maine was engaged in the room of the Committee on Finance in preparing the tariff bill, which I find on my table this morning, and he was sent for, but could not leave the room.

Mr. LANE. That may be, but I know he was here several days when the bill was under consideration.

Mr. GRIMES. He was sent for the last day it was before the Senate, but he could not come here. I sent for him myself.

Mr. CRAGIN. I wish to inquire of the Senator from Maine if his colleague expressed a desire to be present when this bill should be finally disposed of? I had a conversation with him and did not understand from him that he had any special wish in relation to it. He said he was opposed to the House amendment and in favor of the original bill as it was passed by the Senate; but he did not express any particular anxiety about it.

Mr. MORRILL. In reply to the Senator from New Hampshire I have to say that on a former occasion when this bill was up my colleague was obliged to be in the Supreme Court, and he called my attention to that fact, and expressed a desire to be present when the bill should be considered. That is the reason I called the attention of the Senate to the fact this morning. I know this morning that he is confined to his room by illness; and I should hope that, as the bill is not to go back to the House, at least this courtesy might be extended to my colleague.

Mr. LANE. I hope this motion to reconsider will not prevail. This bill was up at the last session, was debated three or four days, and passed by the Senate and sent to the other House. It has now been passed by the House of Representatives with an amendment. There has been a debate of three or four days on the amendment, and we have now reached an end and disposed of it. I hope that action will not be reconsidered. If we are to reconsider measures in this way there is no telling when we shall get through with them. I do not see any great importance in reconsidering this vote. I feel perhaps as little interest in the matter as anybody else; but I have watched this bill now through two sessions, and if this motion to reconsider be carried I shall consider my duty as discharged and my care of the bill as passed by entirely.

Mr. SUMNER. This bill is important, first in what it does, and secondly in what it does not. It does provide a rule in one case, but it miserably fails to provide a rule in the great and urgent classes of cases throughout the whole country. It is a bill specially to meet almost I may say a particular case, instead of a bill general to meet the interests of the whole country. And, sir, the Senate are called to act upon it merely at the last stage on a disagreement between the two Houses, when there is but one vote. On common occasions, I need not remind you that there are several votes. A bill is considered in committee and then in the Senate, and then again there is another vote on its final passage. There is nothing of that kind now. You act by a single vote. I mention these things as reasons, in addition to those which have been already assigned, why this vote should be reconsidered. I think it had better go over for another day, and let us look the bill more carefully in the face and see whether it is what under the circumstances we ought to pass.

#### TENURE OF OFFICE.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday, which is the bill (S. No. 453) to regulate the tenure of offices.

Mr. POLAND. I gave notice on Friday that I should this morning ask the Senate to take up the bankrupt bill, passed by the House of Representatives at the last session, for consideration; but I do not desire to antagonize that bill with the one now before the Senate, and therefore I shall not move this morning to take up the bankrupt bill. But I desire that it may be understood that as soon as this bill is disposed of I shall move the Senate to proceed to the consideration of the bankrupt bill. I apprehend that some of the Senators are more alarmed than is needful in reference to the length of time that will be consumed by that bill. I think we shall all agree that the bankrupt bill pending, if one is to be passed, is made very nearly as perfect as it can be. I merely desire to say that when this bill shall be disposed of I shall then ask that the bankrupt bill be taken up for consideration.

The PRESIDENT *pro tempore*. The question before the Senate is on the motion of the Senator from Indiana, [Mr. HENDRICKS,] to amend the amendment made by the Senate as in Committee of the Whole to this bill by striking out all of the third section after the word "thereafter," in the sixth line. The words to be stricken out will be read.

The Secretary read as follows:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid, during such next session of the Senate, such office shall remain in abeyance; without any salary, fees, or emoluments attached thereto, until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

Mr. WILLIAMS. I hope this amendment will not be adopted.

The question being put, a division was called for.

Mr. WILLIAMS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. As the Senator from Oregon has expressed to the Senate a hope that this amendment will not be adopted, I wish to ask him a practical question. What officer is authorized to exercise the powers and discharge the duties of an internal revenue collector in case of a vacancy in that office? I ask the question because that is an office which under this provision of the bill may become vacant, and if this bill becomes a law there will be no power to fill it during the recess of the Senate. I ask him the question simply as illustrative of perhaps a thousand other cases.

Mr. WILLIAMS. I suppose each collector has a deputy, and if so the deputy would discharge the duties of the office, or whether that be so or not this provision, as those who framed the bill understand the Constitution, is in conformity with that instrument; but if it shall be necessary to make further provision in reference to any particular office it may be made by law; but this is adopted as a general rule. Where a nomination is made to the Senate by the President and the Senate do not concur in making an appointment during the session of the Senate, it is to be taken and considered as the joint judgment of the President and the Senate that the office shall not be filled in that way at that time; and the committee understand that when upon a nomination of the President, or upon repeated nominations of the President, the Senate decide not to advise and consent to that nomination, it is the judgment of the Senate that the office shall not then be filled; and that the President ought not, if the Senate adjourns, to have the power to override the judgment of the Senate by making an appointment upon his own motion, because it is the province of the Senate to decide that ques-

tion.\* They are in fact the electoral body, and they having so decided it is to be regarded as the judgment of the competent body that the office shall not be filled at that time.

Mr. HENDRICKS. The question that is presented by this amendment is not the one suggested by the Senator from Oregon; and, if it be constitutionally possible, I have no objection to Congress providing that a person nominated for an office and rejected by the Senate shall not be appointed afterward in vacation by the President to the same office. I think the President ought not to disregard the expressed will of the Senate in reference to that officer, and I should not ask him to do so. I have no objection, then, if it can be done according to the Constitution, to such a provision.

But the question here is, whether in a case where the President and Senate have been unable to agree upon some man for an office and the Senate adjourns, the office shall remain vacant during the ensuing recess. That is the question: whether the President shall have power to appoint, not the rejected man, but anybody to the office; whether, as I said before, the office shall remain vacant, the interests of the people shall be neglected, because the President might appoint somebody not agreeable to the majority of Congress. That is the whole question.

There was force in the inquiry I put to the Senator from Oregon. He has assumed the championship of the bill by appealing to the Senate without assigning a reason not to vote for the amendment. Now, I want to know from him how the country is placed with regard to important offices where there is no person authorized by law to discharge the duties of the office if a vacancy occurs. The right of the President to fill the vacancy is taken away from him. How, then, practically, is the law to be executed? The Senator suggests that we must obey the Constitution whether there is practical inconvenience or not. I thought the constitutional question was discussed pretty fully the other day. It was conceded by the learned Senator from Michigan [Mr. HOWARD] that the precedents and practice of the Government were against the position assumed this morning by the Senator from Oregon. The Executive practice has been uniformly against it from the foundation of the Government. It has uniformly been in favor of the construction that in such a case the President could fill the vacancy; and I referred to two instances in which a legislative construction was placed upon this provision of the Constitution agreeing with the Executive construction; so that the authority upon the subject is altogether against the construction contended for by the Senator from Oregon.

Mr. WILLIAMS. Mr. President, I think I sufficiently answered the question of the honorable Senator from Indiana, and I do not propose to discuss the merits of this bill upon this amendment. I think it is evident that if this part of the bill be stricken out it will be deprived altogether of its value and will amount to nothing, for it will then provide that if the President makes a nomination to the Senate and that nomination is rejected, then after the adjournment of the Senate the President can proceed to appoint an officer to fill the supposed vacancy, and so it recognizes in the President practically the absolute power of appointment without any regard to the judgment of the Senate. Suppose the President nominates a man to-day to fill an office now vacant, and the Senate rejects the nomination, and the President declines to make any further nomination, and the Senate adjourns. Then, according to the argument of the Senator, the President may fill that office; and so, if that be the policy, the President may ignore the existence of the Senate so far as appointments are concerned, and take the whole power into his own hands. This clause of the bill is intended to strip him of that power and confine him to what the Constitution confines him to—the power of making nominations to the Senate, and allowing the

Senate to decide as to whether the office shall or shall not be filled.

Mr. COWAN. I should like to ask the honorable Senator from Oregon how the Government is to get along in case the Senate refuses to confirm any of the President's nominations. I ask whether he intends, whether the purport of his bill is, that the Government shall stop, cease to be, because of the want of concurrence between the two coördinate powers who have these appointments?

Mr. WILLIAMS. Mr. President, I hope the honorable Senator does not indulge in the supposition that the Senate of the United States will be more likely to act in a manner to overturn the Government than the President of the United States. There is nothing of that kind to be apprehended. Are the Senate to act upon the assumption that they themselves will arbitrarily and without reason reject nominations made by the President so as to prevent the administration of the Government? Are we not responsible to the people of the United States? Are we not as competent to decide upon the qualifications of a candidate for office as the President? Are we not as competent to determine whether a certain course will promote or prevent the administration of the Government as the President? Are we to surrender our power as the Senate of the United States and put it all in the hands of the President, upon the apprehension that we are incompetent to discharge our duty as Senators upon nominations made by the President? I expect that when the President makes a nomination the Senate will take a reasonable course in reference to that nomination. If the nominee be an unworthy or an incompetent man he will be rejected, and it will be the duty of the President to make another nomination in the place of the one rejected; and this bill is intended to devolve upon him that duty; and if he makes another nomination it is not at all probable that in many cases there will be a disagreement between the President and the Senate; but if it should so happen that in some few cases they should disagree and the duties of the office should devolve upon a deputy, or if the office should possibly be vacant for a short length of time, I say it is much better for the whole country than that this absolute and unlimited power over all the officers of this Government should be in the hands of any one man.

Mr. COWAN. I suppose, sir, the presumption is not any more violent against the President than it is against the Senate. I suppose that the responsibility of the Senate to the people is not indeed so direct as that of the President. And I suppose further, that if my honorable friend from Oregon has read very closely the history of the past he has found that the danger is far greater from a body irresponsible, because of its numbers, than it is from a single man. But it unfortunately happens for his theory here in this case that the President has the initiative. The office of the Senate is secondary; the office of the Senate is not to do good, it is to prevent mischief. It is not exactly in its nature active, but rather negative. The President appoints officers; the Senate advises and consents to those of them which are good; but it by no means follows from that that if there is a disagreement the President is to be deprived of his power of appointing officers, and it is too late in the day now to attempt to reverse the practice of seventy-five years, when the Government has gone upon an entirely different theory and one which I may say resulted from the necessity of the case. No matter how much the honorable Senator from Oregon and many other people may have lamented it, from the very necessity of the thing this rule has resulted, and it has been uniform in the Government; and the only question now is whether we shall be revolutionary and overturn it.

I think myself that this is revolution. I think myself the country is in a state of revolution. I think this passionate conflict between two departments of the General Government,

neither one willing to trust the other, neither one willing to abide upon the original foundation on which the Government was laid, is revolution. If it be revolution, the bill of the honorable Senator is perfectly in keeping. If it be so, and if it be necessarily so, that one or the other of these two powers or two parties or two factions (if you please to call them so) is to have the appointment of the officers and the regulation of the offices, revolution will bring about that result; but if we are to remain where the Constitution put us the President has that right, and the honorable Senator and his friends will have to submit to it. If they do not like to submit to it, and if they think they have the power to overturn it and have their way, that is revolution; and when you do that where are you going to stop? What next are you going to do? The very moment you take that step you are obliged to take another and another and another; and what is the end of it? The end of it is that the Government will be crushed between the upper and nether millstone, and nothing else.

Mr. FRELINGHUYSEN. Mr. President, I understand this question to be simply a question whether the Constitution of the United States shall or shall not be observed. I understand that the Constitution makes two things requisite to an appointment—a nomination by the President and the consent of the Senate. It would be revolutionary for this Senate to undertake to make a nomination, and it is equally revolutionary for the President to undertake to make an appointment without the consent of the Senate. The two must act together.

This subject has undergone very full consideration heretofore. The committee of detail in forming the Constitution had it before them. They reported to the Convention that ambassadors and judges should be appointed solely by the Senate, and that the other officers should be appointed solely by the Executive; but that report of the committee of detail was rejected, and after mature discussion the Constitution was made as it is, making it requisite that the two branches of the Government, the Senate and the Executive, should both concur in an appointment.

Now, what does this bill provide against? The President has the power, by making appointments in the recess and then by not sending those nominations to the Senate, to continue session after session the same person in office, actually abrogating the Constitution; actually making the approval of the Senate of no importance whatever in the appointments. Attention has been called to the books on this subject, and the advocates of this measure have been told that they have not properly examined the authorities. The other day the President commended to the Senate a long extract from Mr. Justice Story against usurpation on the part of the Legislature. Consequently he approves of the writings of that distinguished jurist. Now, I desire to read to the Senate what that authority says on this very subject:

"The power of appointment, one of the most important and delicate in a republican Government"

Mr. COWAN. What book does the honorable Senator read from?

Mr. FRELINGHUYSEN. I read from Story's Commentaries on the Constitution; not his extended Commentaries, but a work based upon them and prepared for colleges:

"The power of appointment, one of the most important and delicate in a republican Government, is next provided for. Upon its fair and honest exercise must in a great measure depend the vigor, the public virtue, and even the safety of the Government. If it shall ever be wielded by any Executive exclusively to gratify his own ambition or resentment, to satisfy his own personal favorites or to carry his own political measures, and still more if it shall ever interfere with the freedom of elections by the people, or suppress the honest expression of opinion and judgment by voters, it will become one of the most dangerous and corrupt engines to destroy private independence and public virtue which can assail the Republic. It should, therefore, be watched in every free Government with uncommon vigilance, as it may otherwise soon become as secret as it will be irresistible in its mischievous operations. If the time shall

ever arrive when no citizen can obtain an appointment to office unless he submits to the sacrifices of personal independence and opinion, and to become the mere slave of those who can confer it, it is not difficult to foresee that the power of appointment will then become the fittest instrument of artful men to accomplish the worst purposes. The framers of the Constitution were aware of this danger and have sedulously interposed certain guards to check, if not wholly prevent, the abuse of the power. The advice and consent of the Senate is required to the appointment of ambassadors, public ministers, as well as other high officers."

Then the learned jurist goes on to speak of the power of removal. It was first insisted, after the Constitution was formed, that no man could be removed from an office without the consent of the Senate as well as of the Executive. It was held for some time after the adoption of the Constitution and argued by the framers that the same power which made the appointment must make the removal, and that where an office was filled by the nomination of the President and the consent of the Senate, no power short of the President and the Senate could make the removal; but having all confidence in the first President, the great Washington, they surrendered that view. Now, Mr. Justice Story goes on to say:

"If we connect this power of removal thus practically expounded with another power, which is given in the succeeding clause, to fill up vacancies in the recess of the Senate, the chief guards intended by the Constitution over the power of appointment may become utterly nugatory. A President of high ambition and feeble principles may remove all officers and make new appointments in the recess of the Senate; and if his choice should not be confirmed by the Senate he may reappoint the same persons in the recess, and thus set at defiance the salutary check of the Senate in all such cases. The clause to which we have alluded is the clause giving the power to appoint in the recess. This is a provision almost indispensable to secure a due performance of public duties by officers of the Government during the recess of the Senate, and as the appointments are but temporary, the temptation to an abuse of the power would seem to be sufficiently guarded if it might not draw in its train the dangerous consequences which we have before stated."

This is the opinion of one of the greatest jurists of this country—one commended to us as Senators by the President in his veto message vetoing the suffrage bill for the District of Columbia. I think we may safely be controlled and guided by what Mr. Justice Story says.

Mr. President, this Senate, since it commenced its session, has given the right of suffrage to all the people of this District. It has stamped upon Nebraska and Colorado in their plastic form equal suffrage. It has done the same with the Territories. Therein it has followed the sovereign will of the people of the United States. Now the next step this Senate ought to take is to bring back all appointments to where the Constitution intended they should be placed—persons holding office by the nomination of the President and the advice and consent of the Senate. I think that every Senator, seeing the abuse that exists, owes it to this body, without any regard to partisan or party feelings, by proper legislation, to put a check to this mode of appointment, which practically ignores and destroys the power of the Senate.

Mr. COWAN. Mr. President, I have a very high respect, not only for the memory of Judge Story, but also for his teachings, and I have read the same argument which has been quoted by the honorable Senator from New Jersey, and I think I have felt its force. But the honorable Senator should have informed us at the same time that the question has been decided the other way. I admit that a very strong and very forcible argument can be made upon this side of the question; but the difficulty about it is, that it has been for seventy-five years the uniform rule of the Government of the United States to allow the President this power, and as I think from the very necessity of the thing, because it has not been answered yet: suppose the President and Senate disagree, what is to become of the office during the recess? For the first time in our history this body has been declared in permanent session. Heretofore there has been a vacancy from the 4th of March to the 1st of December, and during that time there was no Senate to consent and ad-

vised to the nominations of the President. Then you meet the alternative of either having no officers at all, the Government not administered at all in that particular, or you must allow the President this power. The power heretofore has never been deemed dangerous. The power may have been annoying, just as the power is now annoying to a dominant party, who cannot have themselves all control of the offices. But why should the President appoint bad men to office? He may not appoint a member of your party; but he is interested as much as anybody can be to appoint a member of his own party who will creditably execute and perform the duties of the office, and that has been the safety of the country always.

I have another thing to say, that whenever one or the other of the two parties of this country are afraid to trust the other, then the Government is in the throes of dissolution. The whole of its strength heretofore depended on the fact that the one party in this country was always willing to trust the other party. It is true, they said it will not administer the Government as well as we would do if we had it; it will not appoint as good officers as we would do if we had the appointment of them; but still being in the same boat, interested in the same way, there is no reason to suppose they should desire the destruction of the Government. So I say that whenever a party is unwilling to trust the other party with the appointment of the officers or the administration of any particular branch of the Government it is conclusive evidence that the Government is about in the agony of dissolution. Is not the President as much interested as anybody else to appoint good officers, to have them administer the public affairs creditably? Upon that supposition the Government can stand.

But if you proceed upon the supposition that the President is a traitor, that the President is a destructionist, that he is given over body and soul to the devil, and that all his adherents and all those who believe as he does are likewise given over, what then? Then, of course, you must end this Government in order to correct that mischief. If, however, honorable Senators and everybody else were to come back to the common sense view of this matter, rid themselves of their prejudices, rid themselves of their passions, and come to the conclusion to be patient and abide the regular normal working of our institutions, there would be no difficulty. But it is from this war of factions, roused passions, terrible prejudices, that the danger to all free Governments has come. Parties cease to be parties; parties become factions; and over the ruins of the very fabric they intend to save both have occasion to lament.

What will you gain by this crusade upon the President? What do you expect to achieve by curtailing him of his power? Do you pretend that he and the men who advocate the view he takes of things are not as honest as you are; that they have not the same stake in the country that you have? Do you not suppose that he and his friends have the same care of their reputation you have; that they desire the safety, and the success, and the glory of the country as much as you do? They may differ with you as to your means of obtaining this; but it is not possible that men may differ and differ honestly?

If the President abuses his power of appointment, how is that to be corrected? Heretofore it was corrected at the next election, and the next time you come to an election you correct it by electing a new President—a man who will not abuse his power; and why so? For the most obvious reason in the world, that it was far better to endure all the ills which you can conceive of from bad and mal-administration than that you should overturn the Constitution of the country—overturn its settled law and introduce revolution. I put it to any Senator on this floor whether, suppose you have the very worst President in the world, a man who is disposed to do all the mischief he

possibly can do within the scope of his not only legal but possible power, is not that better than revolution? When you take the first step in revolution, when you have overturned the first well-established principle, how are you going to stop? Is it not the law of revolution that the first step begets the necessity for the second, and so on? Is not that its history?

I see no difficulty about this thing. I see to gentlemen of the dominant party annoyance; but I believe that if they were of my temper and my disposition they would, so far from considering it an annoyance, thank God that they were relieved from the responsibility of pointing out the proper persons to administer this Government under the appointments of the Executive, because what any man under heaven can conceive of pleasure or human enjoyment in being run upon day and night and all the time in order to have his influence for office I cannot see. If my brethren upon the other side who are not consulted as to these appointments will just reflect for one moment they will see that they are happy. Wrest them out of the hands of the Executive, if you please, deposit them in the hands of some other officer over and above your conscientious convictions of duty with regard to the Constitution and the oath you have taken, and what then? You may feel conscious of a little more power, but you will not feel conscious that the Government is better administered than it was before, and you will not feel conscious that you enjoy greater ease and comfort in the part you take in it than you do now.

Mr. President, this Government has existed for a long while—seventy-six years—and for seventy-five years it has existed under this rule. Annoyance to be sure, heart-burnings to be sure, grumblings everywhere there have been by those who had not the distribution of the "plunder" and the "spoils;" but nevertheless the Government was preserved; and upon looking back over its history I think that you will find that they all got about their share. If we preserve our tempers, and if we preserve our trust in the people, (because trust in the people, as a matter of necessity, implies trust in the opposite party, in the other half of the people to which you belong,) we shall secure the perpetuity of our institutions; but nothing else will do it. I wish to say here that I have the firmest conviction in the world that if you take a single revolutionary step now in these excited times, if you overturn any well-settled principle of this Government, any well-settled principle of its Constitution, or I may say any well-settled item in its theory, you are on the brink of a precipice, and when you go over it you will have no Union, no Republic; you will have no free Government left.

Mr. SHERMAN. Mr. President, the Senate seems to-day to be in a mood not to do much business, and perhaps that may justify the honorable Senator in threatening us with revolution and all the dire woes unnumbered that may spring from it. In this bill Congress does not propose to do anything that is not sanctioned by the Constitution. It proposes to prevent the violation of the Constitution, that is all. And now we are threatened by those who have violated the spirit of the Constitution with woes unnumbered, with revolution, with being on the brink of a precipice! Let me say to my honorable friend from Pennsylvania that the Senate of the United States is not the place for threats like these. We have already been placed on the brink of a precipice by a different set of antagonists whom we have overthrown by war. They attempted to revolutionize this Government, but they were met and subdued by the American people. Let me say to him that whenever any other power in this Government or outside of this Government shall undertake to carry on a revolution or to carry the American people over the brink of a precipice, that power will be ground between the upper and the nether millstone.

Now, what is the question here? It is a dispute as to the power of appointment to



office. The Constitution of the United States declares that the President shall, by and with the advice and consent of the Senate, nominate and appoint certain officers. The President of the United States undertakes to nominate and appoint and hold in office men who have not received the sanction of the Senate and who have been actually rejected by the Senate; and now because we seek to correct this plain and palpable abuse of the Constitution—

Mr. COWAN. The honorable Senator will allow me to correct him?

Mr. SHERMAN. Certainly, if I misrepresent.

Mr. COWAN. The honorable Senator from Indiana expressly declared that it was not the purpose of the opponents of this bill to advocate the reappointment of one who had been rejected for a particular office to the same office.

Mr. SHERMAN. I shall come to that in a moment.

Mr. COWAN. Do not charge us with what we do not assert.

Mr. SHERMAN. Still the honorable Senator talked about a violation of the Constitution, about being on the brink of a precipice, about revolution, and so on. Now, sir, what has Congress done on this whole question of appointments? Nothing. We here, Senators elected by the Legislatures of the States, have seen men who voted for the present President of the United States, who were responsible for his election, turned out of office, and persons who have been opposed to us during the whole war put in their places. Have we grumbled or whined about it all? I have not seen any evidence of that kind. We simply propose by this bill to protect men who have been legally appointed to office in the enjoyment of their offices until the concurrent powers demanded by the Constitution concur in the selection of some one else. That is all there is about it. The President, on the other hand, removes without our consent the officers of the Government who are now familiar with their duties, in utter disregard of the interests of the Government, puts in men totally inexperienced to administer your financial affairs, jeopardizing your financial interests and all the material interests of the Government. Now, because we seek to resist his appointments of men to office without the sanction of the Senate, we are threatened with a revolution and with being on the brink of a precipice, &c.

I do not think we fear these things, nor do I think the American people fear them. On the contrary, I have no doubt that our constituents are far more determined, far more bitter, far more violent in their unyielding determination to resist these unconstitutional aggressions by the executive authority than either of us can be or will be.

Now, in regard to the pending amendment—for this extraordinary speech of my friend from Pennsylvania has grown out of a simple amendment—I can feel the force of the reasoning of the Senator from Indiana, that where the Senate and the President fail to agree there ought to be some way of filling the various offices in the Government—that the mere political or personal disagreement between these two constitutional powers that must concur in making an officer ought not to leave the office vacant, because if the office was vacant perhaps the Government would suffer in various ways. It might be unrepresented at a foreign court; it might not have a collector or an assessor; it might not have officers who are indispensably necessary. I might put the case of a single officer, a vacancy in whose office would prevent the payment of any money from the Treasury of the United States. No money can be paid from the Treasury without the concurrence of two or three officers, and if there was a vacancy in the office of Treasurer of the United States it would substantially suspend the whole financial operations of the Government. It is therefore obvious that we ought to

be careful to guard against the possible contingency of a vacancy in office, and I have looked at this bill to see whether such a contingency could arise, but I cannot see that it will.

By the first section of the bill, everybody now in office or who is appointed to an office for a fixed term is to hold his office until his successor shall be legally appointed and qualified. That is a principle contained in the constitutions of all the States, and usually in all the laws that we have any control over. To avoid the danger of a vacancy in an office we provide that the old officer shall continue in office until his successor is appointed. It is a provision in almost every act of incorporation. The president and directors of a railroad company continue in office until their successors are appointed, so that if the time fixed by law for the election of officers passes by without the election taking place there is a provision made for the continuance of the corporate franchise. The first section of this bill makes that very provision, that the persons now holding office shall continue to discharge the duties of the offices until their successors are appointed and qualified. The third section attempts to provide for a vacancy made by death, resignation of term of office, or other lawful cause. In such case there ought to be some mode of filling the offices. The law in almost all cases designates some one who shall fill the office of collector, for example, which the Senator from Indiana put, in case the collector himself dies or the office otherwise becomes vacant. The law designates which of the deputy collectors shall fill the offices, and so of assessors, and so of nearly all officers of the Government. It is so now in the case of the Treasurer and the Register. The law wisely provides in such cases for a vice officer to perform the duties of the office, as in the case of the President of the United States; so that there is no practical difficulty.

The only question with me is whether if we strike out this clause the President may not, in violation of the spirit of this law and in violation of the Constitution itself, continue to reappoint officers whom we have rejected or withhold from us his nominations. Take the case that we have now before us: during the last recess, according to some reports submitted and laid on our table, there were two thousand removals, and perhaps more than that number. Of those two thousand cases of new nominations I doubt whether one hundred have been reported to the Senate. Although it is our duty to pass upon all these nominations, up to this hour probably not one hundred of them have been sent to the Senate. Why are they delayed? Why were not all of those nominations sent to us on the first day of the session or within a reasonable period of time? Why is the consideration of all this multitude of nominations postponed to the closing hours of this short session when every Senator knows that his hands and his mind will be occupied? Is it the purpose of the President to withhold the nominations from the Senate and thus to defeat this plain constitutional provision, and then, after we have adjourned and gone to our homes, to reappoint again the same men? If so, it is a violation of the spirit of the Constitution, for which he or any other man who does it ought to be punished.

It is to prevent that very state of affairs that this provision is inserted, that in case the President does not send a nomination to the Senate, or in case the Senate rejects his nomination, the office shall be vacant unless the law itself provides that somebody else shall fill the office. In ninety-nine cases out of a hundred the law does provide for some one else to fill the office. It is so in almost all the offices that I now think of, so that no practical difficulty could grow up. The only exception to this rule that I now think of is in the case of postmasters, who are appointed for a definite period; but in regard to nearly all the officers of the Treasury Department and other branches of the Government the law itself designates who shall fill the offices in case of vacancies.

If this amendment of the Senator from Indiana prevails the result will be that the President will not send to us the nominations at all, or at least he may do so. We may fairly argue from the facts we have before us that he probably will do so, or that they will be sent at so late a period of the session that we shall not have time to consider them, and thus he will continue within himself the exercise of the appointing power in utter disregard of the Senate.

Besides that, we know that in several cases he has appointed men who have been deliberately rejected by the Senate after full and ample consideration. In the case of the postmaster at St. Louis, a person who was rejected by the Senate was reappointed by the President and now holds the office. In the case of a collector in Philadelphia, a man who receives and disburses large sums of money, his nomination was brought before us and deliberately considered, not on political but on other grounds—I may say that much at any rate—the case was before the Senate for months, was deliberately considered, and the nomination was rejected.

Mr. COWAN. I should like the honorable Senator now to state the grounds upon which Governor Johnston was rejected by the Senate.

Mr. SHERMAN. I do not refer to Governor Johnston at all.

Mr. COWAN. He is the collector at Philadelphia.

Mr. SHERMAN. I spoke of a collector of internal revenue.

Mr. COWAN. That is another man entirely.

Mr. SHERMAN. I will take the case put by the Senator from Pennsylvania, where a collector of customs in probably the second most important port of the United States—for I believe Philadelphia stands next to New York in the amount of the imported goods brought there—was nominated and his nomination was rejected by the Senate. The Senator may say it was for political reasons. It is not for him nor for the President to say what reason actuated the Senate. We have no right to call in question the reasons that influence the President in making his appointments.

Mr. COWAN. I am certain that my honorable friend now has forgotten all about the circumstances of the appointment of Governor Johnston.

Mr. SHERMAN. Perhaps I have.

Mr. COWAN. He certainly would not willfully desire to misrepresent that gentleman's case. Governor Johnston was appointed collector of internal revenue for a particular district in Pennsylvania—

Mr. SHERMAN. I did not allude to that.

Mr. COWAN. He did not reside in that district at the time, and the Committee on Finance, to whom his case was referred, asked the Senate not to advise and consent to his appointment because the law required the collector to reside in the district, and he not residing there was not qualified. He was afterward appointed collector of the port of Philadelphia—an entirely different office.

Mr. SHERMAN. In the case put by the Senator the President was at perfect liberty to appoint him to another office. Governor Johnston was appointed a collector of internal revenue; he was not confirmed; the reasons for that rejection we are not at liberty to debate here in open Senate. He was afterward appointed to another office, and nobody blames the President for that. My impression was, when the Senator first mentioned the case of Governor Johnston, that he had been nominated to us as collector of the port of Philadelphia before we adjourned last summer. It seems I was mistaken in that; if so, what I said would not apply to his case; but we know that a nomination of a person to be a collector of internal revenue in Philadelphia was submitted to us, was fully considered and rejected, and yet that person was appointed after we adjourned. There was a similar case in Cincinnati.

If we strike out this clause, on the motion

of my friend from Indiana, shall we not be involved in this trouble? I see the difficulty that he desires to guard against, and I should like to do it. We might do it either by providing in all cases who shall succeed an officer in the event of his death or resignation or vacation of the office, or we might do it by allowing the President to fill that office. If I believed that the President would do it and act in concert with the Senate, that he would regard the deliberate judgment of the Senate, and in each case where we rejected one appointment would select another person and send his name in, then in case there was not before the adjournment a concurrence between the President and the Senate, after a reasonable and fair effort to produce such concurrence, I should be willing to allow the President to fill the vacancy on the adjournment of the Senate until the close of the next session; but when it appears that there is a disposition to disregard and utterly ignore the action of the Senate in the matter of appointments, I am not disposed to do it. It is true, we may bring upon the American people some difficulty by vacating offices whose continued existence is important to the revenue and the public service; but in the language of the Senator from New Jersey, it would be better that the people of the United States should submit to this temporary inconvenience than that the power of the Senate over appointments should be entirely overthrown. The concurrence of the President and the Senate is essential to the making of any officers above those regarded as inferior by the Constitution. The Constitution so emphatically declares. We cannot act upon a construction of the Constitution which places this great political power in the hands of the President alone, but must construe the Constitution and must legislate so as to give full effect to the Constitution by dividing this enormous power between the Senate of the United States and the President of the United States. I shall not therefore, under the circumstances by which we are surrounded, vote to strike out this clause, because I believe that the temporary inconvenience of having offices not filled for a time is far less than the danger from the unlimited power of the Executive over all the offices of the United States.

Mr. BUCKALEW. Mr. President, I suppose it would be convenient and proper early in the debate to have the views of one or more members of the committee who reported this bill. I observe that the Senator from Vermont, [Mr. EDMUNDS,] chairman of the Senate branch of the Committee on Retrenchment, is not present this morning, and our colleague, the Senator from Oregon, [Mr. WILLIAMS,] is. Now, sir, I would propose to the Senator from Indiana that he withdraw his amendment for the present, allowing the debate to go on upon the general questions involved in the bill without being embarrassed by the particular considerations connected with his amendment. Certainly he can renew it afterward. For my own part I shall be very glad to hear either the Senator from Oregon or the Senator from Vermont upon this general subject. I have reflected upon it sufficiently to become interested in it; I have formed some convictions upon particular points, while upon others my mind is still open to conviction under the influence of debate. I propose, then, to my friend from Indiana that he allow the debate to take place on the general questions involved in the bill without being confined to the particular proposition offered by himself.

Mr. HENDRICKS. The suggestion of the Senator from Pennsylvania is entirely agreeable to me. I simply, before there is a vote on the bill, desire a vote on this proposition, and with the assent of the Senate will withdraw the amendment for the present that the debate may take place upon the bill generally. Perhaps that debate will touch the questions involved in this amendment.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered upon the amendment, and it can be withdrawn only by the unanimous consent of the Senate. Is there

any objection? No objection being made, the amendment is withdrawn, and the question now is: Will the Senate concur in the amendment made in Committee of the Whole?

Mr. HOWE. I move to amend the pending amendment in the fourth line of the third section by striking out the words "expiration of term of office or other lawful cause." The Senate will notice that the first section in effect continues all persons in office until the successor shall be appointed and qualified. So that if we do not insert any language to control that, there will be no vacancies occurring in the recess of the Senate. The only effect of keeping these words in is to create vacancies. Without them you will have no offices expiring during the recess.

The amendment to the amendment was agreed to.

Mr. HOWE. I now move to amend the same section in the ninth line by inserting after the word "Senate" the words:

Or if no appointment, by and with the advice and consent of the Senate, shall be made to any office the term of which shall expire during any session of the Senate before the expiration of that session.

So that the clause will read:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid, during such next session of the Senate or if no appointment by and with the advice and consent of the Senate shall be made to any office the term of which shall expire during any session of the Senate before the expiration of that session, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto, &c.

I will say in explanation what my purpose is. It has sometimes happened that offices the terms of which have expired during a session of the Senate, have not been filled during that session, but have been treated after the adjournment of the session as vacancies happening during the recess, and have been filled by commission; and the purpose of this amendment is to require these offices to be filled before the adjournment of the session, or to place them under the provisions of the section with reference—

Mr. WILLIAMS. There is no objection to the amendment.

Mr. COWAN. Suppose they are not filled; that has always been the trouble heretofore. There is only one of two courses to pursue: either a perpetual session of the Senate, or to run the hazard of having the office vacant until the Senate meets.

Mr. HOWE. That does not apply in reference to this case, whatever might be the inconvenience happening from the other class of cases. If the President does not fill this office during the session of the Senate, undoubtedly the old incumbent will continue to hold.

Mr. COWAN. The trouble is, the old incumbent may be utterly unfit to hold. Everybody may desire that he should be removed. He may be a defaulter; he may have committed frauds in the execution of his office; and then the question arises whether there is any power in the Government to fill that office, or shall the office go unfilled and the public suffer? I think this is an attempt to cure a mischief which from the nature of things is not curable. See what Story says about it; and here is the foundation upon which we have always heretofore acted. I am not prepared to say that it is not free from difficulty, not free from mischief. There is no part of the administration of the Government that is free entirely from mischief, or can be. But the question is whether this can be removed without creating a greater one. These difficulties exist everywhere. Nobody in the world will join gentlemen more heartily than I will if any way can be devised by which the offices are not to be converted into political spoils and plunder. If that can be done, I will join with anybody heartily in it; but here is what Story says with regard to the propriety of this grant of power to the President:

"The propriety of this grant is so obvious that it can require no elucidation. There was but one of two courses to be adopted—either that the Senate should be perpetually in session in order to provide for the appointment of officers, or that the President

should be authorized to make temporary appointments during the recess, which should expire when the Senate should have had an opportunity to act upon the subject."

That was the best thing that could be devised. A very fine point arose as to what recess the vacancy should happen in. If there is any reason why the President should have the right during the recess to appoint for a vacancy happening in that recess, is not the same reason equally potent why he should have the right to appoint to a vacancy happening in the next recess? I perfectly agree that if the Senate once decide upon the appointment of an officer, the President makes an appointment to the Senate and he is rejected, if he be afterward reappointed to that same office, it is against the spirit of the Constitution; but certainly the contrary for the last thirty-five years has been always held. Ever since the time of General Jackson it has been admitted that a man rejected by the Senate for the same office might be reappointed afterward and it was good; but that you can prevent the President from filling the vacancies occurring in any recess or at any time when the Senate is not in session is simply to say that you can abolish the office altogether, which I think ought not to be, and I think it is clearly contrary to the spirit of the Constitution, and as certainly clearly opposed to the practice of the Government for seventy-five years.

I have only to reply to what is said by the honorable Senator from Ohio when he declares that I threatened revolution, that I threatened no such thing. I deprecate revolution. I protest against revolution. I stated distinctly that in these excited and troubled times, when the passions of men were heated to the highest point and when factious prejudices and hatreds were in existence so rife, this was not the time to experiment in this way, and that it would be a great deal better for us to put up with the ills which we now know of than to adventure ourselves upon others as yet unknown. I would rather, for my own part, if I were a member of the dominant party here, wait for two years for a chance to have the control of the offices, if I wanted to control them, than that I would disturb any well-settled principle of the Government now. I am not only not in favor of revolution, Mr. President, but I am of the opinion that anything is better than revolution and better than war—anything at all. I would submit to any kind of misgovernment, any kind of maladministration, and trust to time and the good sense of the people in time, when they have suffered from the calamities of such misgovernment and maladministration, to correct it peacefully, as it was intended our difficulties should be corrected, through the medium of amendments to our Constitution and alterations in our laws. But in these times, when it is impossible to deny that the minds of men are in a state of great agitation, I think this is not the proper period to adventure ourselves upon an experiment of this kind. I think we had better stand upon the decisions until there is greater quiet.

Mr. HOWE. Mr. President, I wish to say to my friend from Pennsylvania that I sympathize most heartily with him in his hostility to revolution, but I want to assure him that I do not share at all in his apprehension of revolution. I want to point him to the valid and reliable security we have against revolution growing out of these measures, and it is in the acknowledged constitutional fact that legislation is a very different thing from revolution. We are legislating, and legislation is not revolution, and cannot be.

I want to add to that this simple remark, that legislation, under our form of government, can be no possible excuse for revolution, either made or threatened, for all legislation consists in the passing of acts by a deliberative body, and those acts are of two general kinds, either valid or invalid, and there can be no excuse for resorting to revolution against an invalid act because it has no force; and there is no justification or excuse for resorting to revolu-

tion against a valid act, because that we have a right to enact. Then, again, of valid acts there are two classes: one is good and the other is bad. You certainly ought not to resort to revolution against a good one; and in reference to a bad one I submit to the consideration of my friend from Pennsylvania that we have precisely the remedy that we have against the appointment of a bad officer. You had better submit to it until it is repealed than resort to revolution.

So, then, we shall not have any revolution growing out of this little enactment of ours, nor out of any other, if it is all the same to my friend from Pennsylvania. But in reference to this amendment, I think, if I understand his argument, it is entirely unobjectionable to him. At all events, it does no more than to put this class of offices under precisely the same regulation that those are where vacancies happen by death or resignation during the recess. This is the case of officers where the terms expire during the session of the Senate. The Constitution gives to the President no sort of power to let them lie over and treat them as vacancies happening in the recess; and this is only a provision to the effect that if such a vacancy is not filled, as the Constitution contemplates, by an appointment with the advice and consent of the Senate, the incumbent holds over; that is all.

Mr. WILLIAMS. Mr. President, sudden illness in the family of the honorable chairman of the committee reporting this bill has called him away, and its charge has unexpectedly devolved upon me. I suppose it is proper that I should submit some views in favor of the passage of the bill; and perhaps this is as suitable a time as any other, as I find that members are disposed to discuss the merits of the whole question involved.

Mr. President, I think that Congress has the constitutional power to pass this bill. No argument need be made as to its necessity, for that is obvious and generally admitted. Whenever doubts arise as to the meaning and effect of any provision of the Constitution, as they are supposed to arise in this case, it is customary to refer to the proceedings of the Convention by which the Constitution was formed to resolve or remove those doubts. Following that custom upon this occasion, I find that in the proceedings and discussions of that Convention there was no allusion whatever made to the subject of removals from office, and therefore all the light that we can obtain from that source upon the question must be altogether a matter of inference. Some effort has been made to construe those proceedings into evidence that they sustain the claim of executive power as to removals from office, and which has heretofore been exercised; but I claim that a fair and reasonable construction of those proceedings, so far as they have any bearing upon the subject, tend in a contrary direction. I argue, in the first place, that the absence of any express provision in the Constitution conferring any such power upon the President of the United States is presumptive evidence that the men who made the Constitution did not intend that he should possess and exercise that power.

Now, sir, the absolute power to remove from office in this country is a very great power, a power that enables the Executive to absolutely control, if not revolutionize, the administration of the Government. If the men who made the Constitution intended the President should possess it they would no doubt have said so, for to confer that power in express language was an easy thing; and the fact that they did not make any provision creating or delegating such a power is, I say, strong evidence that they did not intend that any such power should exist in the President.

All primary or principal powers delegated to any department of the Government, as a general rule, are expressly described in the Constitution, and only those powers which are incidental are left to be deduced and exercised by inference or construction. Is it reasonable to

suppose that the men who founded this Government and made the Constitution intended to confer this kingly prerogative upon the President of the United States—a prerogative that makes him in many respects equal to the Sultan of Turkey—without any direct or indirect allusion to the subject in the text of the Constitution? More room would be left to prove the existence of this power, by implication or construction, if the Constitution did not, when it created the executive department of the Government, describe and define the powers which that department should exercise.

Manifestly the subject was before the mind of the Convention; the question was presented and discussed there as to what powers the Executive of the United States should possess and exercise; and therefore it cannot be claimed that this omission to give the power of removal to the President was an accidental omission in the formation of the Constitution; but, on the contrary, it is to be presumed that after due consideration all provisions for such a power were excluded from the Constitution because those who made it did not intend that it should exist. Those powers which the President of the United States may exercise are specifically enumerated and defined in the Constitution; and I think it is a rule of construction recognized by all legal authorities that where general language is employed to create an office, and afterward in the same connection the powers which shall attach to that office are specifically enumerated, the particular words control those of a general nature, and the office has those powers which are contained in the specific enumeration and no others. There can be no other object in expressly declaring what shall be the powers or attributes of an office except to limit its jurisdiction and prevent the exercise of non-enumerated powers. I can see no reason why the framers of the Constitution did not grant to the Executive all the primary powers which they intended he should have, and I conclude that they did so, and they did not give him the right to remove from office, which is a power equal in magnitude to any that were conferred upon the Executive.

I fortify this conclusion by the fact that the proceedings of that Convention show that the men who made the Constitution were distrustful of executive power. Impressed with the lessons of history, they were of the opinion (and subsequent events have verified the correctness of that opinion) that it would be the tendency of power to concentrate in the hands of the Executive; and various propositions were made in the Convention to place a limitation upon his power. Suggestions were made that a council of state should be organized; that a privy or ancillary council should be formed; that persons should be placed around the President to advise with him as to his executive action. Those suggestions, however, were not adopted; but the Senate of the United States was, to some extent, placed in the relation of a council of state to the Executive.

No opinion, as I am advised, prior to the adoption of the Constitution was expressed on this subject by any member of the Convention, or any other distinguished man in the United States, except the one that is found in the 77th number of the *Federalist*, and ascribed to Alexander Hamilton. When the Convention submitted the Constitution to the different States of the Union objections were made to it such as had been presented to the Convention, that there was reasonable ground to apprehend that too much power was vested in the Executive; and to silence those objections, and to satisfy the country that such an apprehension was not well founded, Alexander Hamilton, who was then recognized as one of the ablest men of the day and one of those best qualified to expound the Constitution, published to the country his view of that subject; and I will trouble the Senate to hear what he said at that time as to the question before the Senate. Mr. Hamilton said:

"It has been mentioned as one of the advantages

to be expected from the coöperation of the Senate in the business of appointments that it would contribute to the stability of the Administration. The consent of that body would be necessary to displace as well as to appoint. A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the Government as might be expected if he were the sole disposer of offices. Where a man in any station had given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that the discountenance of the Senate might frustrate the attempt and bring some degree of discredit upon himself. Those who can best estimate the value of a steady Administration will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body; which, from the greater permanency of its own composition, will in all probability be less subject to inconstancy than any other member of the Government."

Now, sir, to answer the objections that were made to the Constitution of the United States at the time it was submitted by the Convention, Alexander Hamilton published these views, and, so far as I am able to learn from history, they were acquiesced in by every member of the constitutional Convention; and, with the understanding that these views of Alexander Hamilton were a correct interpretation of the Constitution, it was ratified by the requisite number of States; and I say that it is fair to infer from the history of that day that the people who adopted the Constitution adopted it with the understanding that, as Hamilton says, it was as necessary that the consent of the Senate should be obtained to displace as it was to appoint an officer. Taking, then, all the authorities (and they are very meager) upon the subject prior to the discussion in the Congress of 1789, I say that the proceedings of the Convention and the statements of those who were members of the Convention tend to show that it was not the intention of the men who made the Constitution to confer upon the Executive of the United States the absolute and unqualified power of removal from office.

Coming down, then, to the Congress of 1789, we find that a discussion there took place which is relied upon by those who contend for the existence of this Executive power as settling the question in favor of their position. Whenever allusion is made to this discussion there is an effort made to surround it with some extraordinary sanctity, and we are admonished sometimes to pull off our shoes as we tread upon this ground because it is holy ground. Sir, I hope I have a suitable reverence for old men and old things; but I do not think that old decisions, like wine, grow better by age. On the contrary, they are very apt to partake of the obsolete customs and manners and opinions which obtained in the day in which they were made. I say as to that decision, in the first place, that it is not applicable to the question now before the Senate. During that Congress a bill was introduced to create a department of foreign affairs, and the bill proposed to confer upon the President the power to remove the head of that department at his pleasure, and a motion was made to strike that provision from the bill, and upon that question the discussion arose; so that the precise question before that Congress was as to whether by legislation the power ought or ought not to be conferred upon the President to remove a certain officer. The question before that Congress was not as to whether the Constitution of the United States did or did not confer any such power upon the President. I think every Senator will admit that it does not follow, because Congress can pass a law creating an office and in that law confer upon the President the power to remove the person appointed to fill the office, that therefore the Constitution confers upon the President any such power; for there is a vast difference between the powers which may be conferred upon the President by the legislation of Congress and the powers that are conferred upon the President by the terms of the Constitution. I acknowledge that the discussions upon that motion indicate that a majority of the members of Congress were of the opinion that this power did belong to the President; but it is to be



remembered, in considering the weight of that decision, that there was a very large minority, including some of the most eminent statesmen of that day, who did not concur in that view. The opinion of the Senate upon the subject was equally divided, and the question was then decided by the casting vote of the presiding officer. Although, numerically, there were more votes in favor of the right of the Executive to remove under the Constitution, it is not altogether certain that the argument and the logic and the reasons were not on the side of the minority.

To sanction this doctrine of Executive power reference is always made to Mr. Madison, and it is supposed to be hallowed because it is associated with his name. I do not, of course, presume to say anything in disparagement of that great and good man; but I will take the liberty to say that Mr. Madison was not infallible, that he might have been mistaken in his opinion; that he might have been influenced by considerations which cannot and ought not to influence Congress at this time, in confirmation of which it has been said by distinguished men in discussing this subject that the probability was that the judgment of Mr. Madison was very much influenced by his confidence and respect for the then President of the United States, who was justly denominated "the Father of his Country." But, sir, in respect to this subject, Mr. Madison might have been mistaken as he was in other opinions which he then expressed, according to the judgment of modern times, and particularly in his views as to the doctrine of State rights, which has been repudiated and condemned by the judgment of the present day.

Mr. JOHNSON. Will the Senator permit me to ask him what doctrine of State rights as advocated by Mr. Madison has been condemned?

Mr. WILLIAMS. Take his doctrine as enunciated in the resolutions of 1798.

Mr. JOHNSON. If my friend will permit me to interrupt him again, is he not aware that Mr. Madison, in more than one letter, written in 1832, when nullification was then maintained throughout the South, and particularly in South Carolina, said he had been entirely misunderstood; that so far from the resolutions of 1798 justifying secession, they denied it; and his letters are written with great ability. From the character of the man, however unfortunate he may have been in the language of the resolutions he had to explain, there can be no doubt his explanation was a very sincere one.

Mr. WILLIAMS. I have no doubt that during this discussion I shall be greatly indebted to the venerable Senator from Maryland for information in respect to the matters involved. I know that when Mr. Madison saw what would be the legitimate effect of the doctrines contained in the resolutions of 1798 he did in letters repudiate the construction very generally put upon them, but the language employed in those resolutions is susceptible at any rate of the construction which has been put upon them by those who have contended for the extreme doctrine of States rights. I do not propose to discuss that question, as it is foreign to the one before the Senate; but I say that those resolutions, put any construction upon them you please, were the nest-egg of nullification and secession in the United States, and they have been repudiated and condemned by the American people notwithstanding their respect for the author. Mr. Madison, on the subject of the National Bank claimed, if I am not mistaken, that it was unconstitutional, but still upon grounds of expediency he thought proper to approve the act creating the bank. I refer to these things simply to show that it does not necessarily follow because Mr. Madison advocated this claim of power on the part of the Executive that therefore it exists. And, sir, if it be necessary to offset the name of Madison with another, I will put into the opposite scale the name of Alexander Hamilton,

who entirely differed with Mr. Madison in the construction of the Constitution relative to this subject; and nobody will deny that if Hamilton was not the noblest he was the ablest Roman of them all.

Since the decision in 1789, which is relied upon as the great authority for those advocating the unlimited power of removal in the Executive, different men have expressed different opinions upon this subject; distinguished statesmen have differed as to the correct construction of the Constitution in respect to this power of removal. Some, such as Webster and Clay and Calhoun, have followed the opinion of Mr. Hamilton, have concurred in the doctrine that the Constitution did not contain any such authority as the President claims to exercise; while others, such as Wright, Woodbury, and Buchanan, have followed the opinion that was expressed by Mr. Madison. Some opinions have been expressed by the Attorneys General in favor of the exercise of this power; but, sir, when it is found that any Attorney General in a conflict of jurisdiction between the President and Congress has decided against the claim of the President by whom he is appointed, then I shall begin to think that their opinions upon this question are entitled to considerable attention. To illustrate my view of the weight of those opinions I will refer to what tradition says occurred when Andrew Jackson proposed to remove the deposits. Consulting with his Attorney General, he found that some doubts were entertained by that officer as to the existence of any law authorizing the Executive to do that act, whereupon Old Hickory said to him, "Sir, you must find a law authorizing the act or I will appoint an Attorney General who will." Attorneys General act generally in the capacity of advocates and not in the position of judges, and their opinions upon legal questions are entitled to as much weight as the opinions of other respectable lawyers, and no more. Looking at the authorities on this subject since the discussion in the Congress of 1789, we find prominent men arrayed on each side of the question, and it is perhaps difficult to decide on which side of the question the authorities preponderate.

Those who advocate the executive power of removal rely altogether upon the legislative construction of the Constitution, sustained by the practice and opinions of individual men. I need not argue that the legislative construction of the Constitution has no binding force. It is to be treated with proper respect; but few constructions have been put upon the Constitution by Congress at one time that have not been modified or overruled at other or subsequent times; so that so far as the legislative construction of the Constitution upon this question is concerned, it is entitled to very little consideration. Congress passes an act at one session which involves a constitutional question, and of course the passage of the act is a construction of the Constitution by that Congress; but at a subsequent time that act is repealed, or another act relating to the same subject is passed involving a different construction of the Constitution; and so you may find, in tracing the legislative history of this country, that the construction put upon the Constitution by the legislative department of the Government has been exceedingly conflicting upon nearly all of the prominent questions upon which public opinion has been divided.

Putting aside, then, the opinions of individual men on both sides of this question, which are perhaps equal; putting aside the legislative construction of the Constitution for the present, let us inquire what, if any, has been the judicial exposition of the Constitution so far as this question is concerned. I do not pretend to say that the Supreme Court of the United States has made any decision exactly in point; but I undertake to say that their decisions have a direct bearing upon the question, and so far as they do go they tend to sustain the constitutionality and correctness of this bill. I will refer in the first place to the case of *ex parte*

Hennen, 13 Peters, where the Supreme Court of the United States maintain the doctrine that—

"In the absence of all constitutional provisions, or statutory regulations, it would seem to be a sound and necessary rule to consider the power of removal as incident to the power of appointment. This power of removal from office was a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of this Government."

I refer to this decision simply to show that the Supreme Court of the United States laid down the doctrine, in express terms, that where there was no constitutional provision or statutory regulation to the contrary, the power of removal was incident to the power of appointment. Notwithstanding it was alleged the other day by the honorable Senator from Maryland that until within a recent time there has been no controversy as to this power in the President, I do not see how the existence of this power can be reconciled with the decision of the Supreme Court in the case of *Marbury vs. Madison*. I suppose that honorable Senators who oppose this bill will undertake to show that the exercise of absolute power over the offices of this country by the President is consistent with the decision of the court in this celebrated case. During the administration of Mr. Adams there were five justices of the peace appointed for the District of Columbia. Their nominations were consented to by the Senate; but before the commissions were issued Mr. Madison became President and refused to issue commissions to these five justices of the peace, and application was made to the Supreme Court of the United States for a *mandamus* upon Mr. Madison to compel him to deliver to these justices their commissions. I wish to call the attention of the Senate, in the first place, to the law under which these appointments were made, for it substantially conforms to all laws that create offices and fix a term of office in the act of their creation. After dividing the District into two counties, the eleventh section of this law enacts:

"That there shall be appointed in and for each of the said counties such number of discreet persons to be justices of the peace as the President of the United States shall, from time to time, think expedient, to continue in office for five years."

Persons were to be appointed, and they were to hold their offices respectively for the term of five years. Under that law Mr. Adams made those appointments. Those appointments were ratified by the Senate. Mr. Madison refused to deliver the commissions; and the court granted a *mandamus* upon Mr. Madison compelling him to give to these men so appointed their commissions, upon the ground that after these men had been nominated by the President and confirmed by the Senate, under that law they were beyond the reach of executive power and were entitled to hold those offices for the five years, and that Mr. Madison had no right to withhold their commissions.

Mr. HOWARD. If the Senator will permit me, in the case to which he refers he will discover that Mr. Jefferson had made out and signed the commission of *Marbury*, but that the commission had never been formally delivered, but was retained.

Mr. JOHNSON. Mr. Adams, not Mr. Jefferson.

Mr. HOWARD. I believe it was Mr. Adams.

Mr. JOHNSON. Mr. Adams signed the commission just as he was going out of office.

Mr. HOWARD. Yes, and Mr. Madison refused to deliver it. I think it was made out and left on the President's table, but never formally delivered. The question was, in the first place, as to the power of the court to compel by *mandamus* the delivery of the commission to *Marbury*, and that was really the whole question before the court.

Mr. WILLIAMS. I do not differ with the view of the case as suggested by the Senator, and nothing that I have said is in conflict with that suggestion. I may be in error as to the person by whom the commission was signed.

Mr. HOWARD. It was signed by the first Adams—John Adams.

Mr. WILLIAMS. Yes; it was signed by Mr. Adams; but I wish to call the attention of the Senate to the opinion of the court delivered in that case, which relates to this subject. Chief Justice Marshall says:

"It is, therefore, decidedly the opinion of the court that when a commission has been signed by the President the appointment is made; and that the commission is complete when the seal of the United States has been affixed to it by the Secretary of State.

"Where an officer is removable at the will of the Executive the circumstance which completes his appointment is of no concern, because the act is at any time revocable; and the commission may be arrested if still in the office. But when the officer is not removable at the will of the Executive the appointment is not revocable and cannot be annulled. It has conferred legal rights which cannot be resumed."

Now, I say that the Supreme Court of the United States in deciding this case affirm the doctrine that under a law which fixes the tenure of office the President of the United States has no power of removal; and the decision proceeds upon the assumption that where the officer is not removable at the will of the Executive the appointment is not revocable and cannot be annulled; and the Supreme Court make a plain distinction between a law which authorizes the President to remove the officer at his pleasure and a law which declares that a person appointed to an office shall hold that office for a term of years; and this decision is to the effect that in the one case the President may exercise this power of removal, while in the other case he cannot exercise any such power. The court further say:

"The discretion of the Executive is to be exercised until the appointment has been made. But having once made the appointment, his power over the office is terminated in all cases where by law the officer is not removable by him."

Please to notice particularly this language.

"But having once made the appointment, his power over the office is terminated in all cases where by law the officer is not removable by him. The right to the office is then in the person appointed, and he has the absolute, unconditional power of accepting or rejecting it.

"Mr. Marbury, then, since his commission was signed by the President and sealed by the Secretary of State, was appointed; and as the law creating the office gave the officer a right to hold for five years, independent of the Executive, the appointment was not revocable, but vested in the officer equal rights, which are protected by the laws of his country."

Mr. BUCKALEW. If the Senator will permit me to make a suggestion to him, I do not understand that the particular line of argument upon which he is now entering, and which was followed by a gentleman from Pennsylvania in the House of Representatives at the present session, relates at all, or has any application to the class of officers referred to by this bill, who are officers appointed by and with the advice and consent of the Senate. The field of argument to which we are invited by the Senator's last remarks is one relating to the appointment of subordinate officers, the appointment of which, under a particular clause of the Constitution, may be lodged in the President alone, with the courts of law, or with the heads of Departments. Now, the powers which may be exercised by Congress in the establishment and regulation of those offices is one thing; the power of Congress over offices, the incumbents of which are appointed by and with the advice and consent of the Senate is another thing; and it is over the latter field of inquiry that this bill invites us to travel. I call the Senator's attention to this wide distinction at the present time, because I intend to speak throughout my remarks upon this bill with distinct reference to this broad and marked distinction between what have been sometimes called constitutional offices and offices which are legislative purely, both in their creation and in the regulation and arrangement of the duties of the incumbents of the same.

Mr. WILLIAMS. I suppose that the Senator intends by his remarks to suggest that this authority is not applicable to the question before the Senate, but I claim that it is applicable because these identical persons were appointed by the President by and with the advice and consent of the Senate; and therefore this decision relates to the same class of officers

contemplated by this bill, and for that reason this is an authority in point. I cannot see why Mr. Madison, notwithstanding the views that he expressed at an early day, did not assume in this case that he had no power to remove these officers after they had been appointed by and with the advice and consent of the Senate. His manifest object was to keep these men from having their offices, and he undertook to effectuate that object by withholding their commissions; but if the doctrine that is now practiced upon had then been recognized, instead of doing that he would at once have removed those officers and appointed others in their places, for that is the rule at the present day. Men are nominated to the Senate; the Senate advises and consents to their nomination, and the President, if he sees proper, instead of withholding the commission, at once removes them and appoints other persons in their places. If Mr. Madison had recognized any such authority in the President, he would have pursued that course instead of attempting to defeat these appointees by withholding their commissions.

Now, sir, I refer to another case in 17 Howard's Reports, the case of the United States *vs. Guthrie*, where this question was elaborately argued, but not decided, by the court, but in the opinion of Mr. Justice McLean he refers to this subject and the authorities upon the point; and I invite the attention of the honorable Senator from Maryland to what Mr. Justice McLean there said:

"It was supposed that the exercise of this power by the President"—

And he is discussing the power of removal—

"was necessary for the efficient discharge of executive duties. That to consult the Senate in making removals, the same as in making appointments, would be too tardy for the correction of abuses. By a temporary appointment the public service is now provided for in case of death, and the same provision could be made where immediate removals are necessary. The Senate when called to fill the vacancy would pass upon the demerit of the late incumbent."

"This I have never doubted was the true construction of the Constitution; and I am able to say it was the opinion of the late Supreme Court, with Marshall at its head."

This statement of Justice McLean is either false or true, and he had an ample opportunity to know whereof he affirmed; and I say that he declares that the Supreme Court of the United States, with Chief Justice Marshall at its head, was of the opinion that the President of the United States could not exercise the unlimited power of removal. Sir, you may bring on the opinions of your Attorneys General and the arguments and speeches of your politicians, and I overwhelm them all with the authority of the Supreme Court of the United States, with Chief Justice Marshall at its head, a court that towered in its wisdom and purity above the partisan clamor and strife by which it was surrounded, as Teneriffe towers above the noisy and impotent waves that break around its base.

Now, sir, it is admitted by honorable Senators who contend for the existence of this power that there is no express provision for it in the Constitution. But the great argument that has been offered time and again and repeated here from day to day is, that it would be inconvenient for the President not to have and to exercise this power. Sir, can a power of this magnitude be incorporated into the Constitution upon the argument *ab inconvenienti*, because it is inconvenient that such a power should not exist? It is inconvenient very often that other powers which do not exist cannot be exercised by different departments of the Government. Take for instance, if you please, the election of a representative from any State, the State in which I live, where the law requires a candidate to have a majority, and suppose no man at the election receives a majority. It is inconvenient for the State not to be represented in Congress; but does it therefore follow that the Governor has a right to appoint a member of Congress? When the electoral body has decided that there shall be no election, then can it be argued on the ground of inconvenience that the Executive

shall have the power of appointment? Take many other cases that have occurred, where the two branches of a legislative assembly fail to agree in the choice of a Senator; it is exceedingly inconvenient to the State to be without its whole senatorial representation in Congress; but it has been time and again decided by this body that the Executive had no power of appointment in that case.

Take the case of my honorable friend from New Jersey whose election is now pending, [Mr. FRELINGHUYSEN;] suppose the Legislative Assembly of that State now in session does not effect any election at all; it will be inconvenient for that State to be without one of its Senators on this floor; but the Governor of New Jersey would have no power to fill the vacancy, because the legislative body whose province it was to elect chose not to elect, and that choice is the judgment of the State constitutionally expressed that there shall be no representation in the Senate so far as that office is concerned.

It is very inconvenient, when we pass bills here by a large majority, in accordance with the wishes and interests of the people, to have the President interpose his veto; but the Constitution gives him that right; and can we, because it is inconvenient, because it is contrary as we believe to the will of the people for him to exercise his power in that way to defeat our legislation, disregard the veto of the President and treat it as a nullity?

I might multiply cases where it is inconvenient for certain powers to exist, or for certain powers not to exist; but the fact that there is some inconvenience attending the one or the other does not prove that one or the other does or does not exist. When you come to consider the argument as to the inconveniences that may result from the enactment of this law, you must remember that there are other inconveniences and abuses that exist because there is no such law which threaten to change our republican Government into a practical despotism.

Sometimes it is argued that this power belongs to the President because the Constitution declares that the executive power shall be vested in a single person who shall be called the Executive of the United States. I answer any argument that may be derived from that source by saying that the clause of the Constitution referred to was evidently intended simply to create the office and not to confer power, because it is followed by other provisions defining and describing the powers of the office, and similar phraseology is employed as to this as is employed in creating the other departments of the Government; and besides that, I find by reference to the proceedings of the Convention that this portion of the Constitution when it was reported was in these words: "that there shall be instituted an executive department to consist of a single person," which was referred to the Committee on Style, and that committee changed the phraseology, substituting the word "vested" for "instituted," and it was passed without question, showing that the Convention understood the word "vested" in that connection to be equivalent to the word "instituted," and did not understand it to convey any other or greater power than was conveyed by words necessary to create the executive department of the Government.

All executive powers are defined and described in the Constitution, and I claim, therefore, that a new and independent power cannot be drawn to the Executive by mere inference or by some imaginary reason for its existence. Whatever idea may obtain in a country where the Government is a monarchy or a despotism as to executive power, that idea cannot be adopted in this country, for the Executive here is as much under constitutional limitations as any other department of the Government, and it was so intended by the men who framed the Constitution. Beyond question they determined to restrict and control the President, for Mr. Franklin is reported to have said, not-

withstanding the provisions which the Constitution contains, that the country was about to try an experiment with an Executive that would end in monarchy.

The Constitution, as it will be seen, does not confer upon the President the power of appointment. I know that in common parlance it is said that the President appoints an officer, but the Constitution does not give him that power. It provides that "he shall nominate, and by and with the advice and consent of the Senate shall appoint." The President names persons for offices. A name is transmitted to the Senate; but whether or not that person so named shall fill the office for which the President designates him is the province of the Senate to determine. I say that the Constitution of the United States, not in phraseology perhaps as explicit as might be employed, practically constitutes the Senate an electoral body, and when a name is submitted the Senators proceed to vote, and if a majority vote in favor of the appointment of a man nominated the Constitution contemplates that he is appointed; if a majority vote against his appointment he is not appointed; and so the power over the appointment is in the Senate of the United States.

Now, sir, if it is claimed that the Constitution confers upon the President the power of appointment in any of its general clauses, I will ask the honorable Senator from Pennsylvania what it means when it provides that "the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone?" Does not the Constitution clearly convey the idea that the President alone has no power to appoint unless that power is conferred by Congress? To assume that under the Constitution the President has the absolute power of appointment in all cases is to make the Constitution, so far as this clause is concerned, perfect nonsense; for if all power to appoint was conferred upon the President by the Constitution it would be absurd to confer such power in specific cases. Why should Congress be authorized to confer a power which is already in the hands of the Executive by virtue of the Constitution?

It is to be remembered, too, that the President is authorized to fill vacancies that may happen during the recess of the Senate. I argue that if entire power of appointment was in the hands of the President it would not be necessary to specify these particular cases in which he should exercise the power, and the inclusion of these cases is the exclusion of all others. Sir, it seems to me, when you put a reasonable construction upon the clauses referred to in the Constitution, there is no escape from the conclusion that in all other cases, except where it is otherwise specially provided, persons must be appointed to office upon the nomination of the President by and with the advice and consent of the Senate.

To concede the power of removal to the President is to concede the absolute power of appointment. Assume that the President of the United States may, without the advice and consent of the Senate, remove a man from office, and you *ex necessitate rei* assume that he may make an appointment to fill the vacancy so created.

Let us illustrate this view by the course of the present Executive. During the recess of the Senate he removed good men from office upon party grounds and then appointed his own creatures to fill the vacancies so made by granting to them commissions that would expire at the end of the next session of the Senate. The nominations of some of these creatures were rejected by the Senate and thereupon the President, instead of nominating other persons, waited until the Senate adjourned, and then reappointed the persons so rejected, thus at his own will displacing good men and perpetuating his own creatures in office in spite of all efforts of the Senate to prevent it.

Sir, if the President can exercise the power

in one case he can in all cases. I object, therefore, to this right of removal on the part of the President, because it necessarily involves the right of absolute and unlimited appointment, and I am confident that the Senator from Pennsylvania will not contend that the Constitution contemplates that the Executive should possess any such power.

Two ideas are made prominent in the clause which provides that the President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which will expire at the end of their next session. Let it be observed that this clause does not confer upon the President the power of appointment, but he may "fill up vacancies," clearly implying that it is a temporary arrangement required by the necessity of the case, that it is only to continue until the advice and consent of the Senate can be taken; otherwise the Constitution would declare that the President might make an appointment to fill a vacancy. But, sir, another idea which is made prominent by this section is, that this power is to be exercised within a given time "to fill up vacancies that may happen during the recess of the Senate;" no other vacancies. Any vacancy that may happen during the recess of the Senate the President may fill; and the clear intent of that clause of the Constitution is that as to time his power shall be limited until the next session of the Senate. I say that there are two noticeable ideas in this clause as to vacancies. One is that this filling up is to be temporary; and the other that it is to be exercised within a given time; and it is in disregarding this last idea that the President pretends to find his power to fill an office at any time that is not filled by a person appointed by and with the advice of the Senate. What is the use of taking the advice of the Senate as to an officer if as soon as the advice is taken that officer can be removed by the President and another appointed in his place without consulting the Senate? Such a power in the Senate is a shadow and a mockery. I understand this clause as to vacancies of the Constitution to be intended simply to bridge over that space of time which may intervene between different sessions of the Senate; but when this designation, or appointment if you choose, is made during the recess, then when the Senate convenes the control of the President over that vacancy ceases, and it then becomes a question between the President and the Senate as to whether the vacancy shall or shall not be filled.

The Senator from Maryland suggested that this clause ought to be construed as though it read, "vacancies that happen to exist;" and that the construction contended for by those who advocate this bill was equivalent to saying "any vacancy that may happen to occur." Now, to say that a vacancy happens to occur is simply to say that it happens; but when you speak of a vacancy that happens to exist you speak of a vacancy without any reference to the time when it originated. Take the reading of the Senator, and the President has the power to fill any vacancy; but the reading for which I contend restricts his power to certain vacancies; a certain time is described. The power is to be exercised with reference to that time. Now, sir, can it be said with any propriety that when the President of the United States, for personal ends or party objects, deliberately removes a man from office, and so makes a vacancy, that the vacancy has happened? "Vacancy" here, as connected with the word "happen," implies some casualty, something unforeseen, something like the death or resignation of the incumbent. So far as the expiration of term is concerned, it happens as to the President. Whenever an office during the recess of the Senate is made vacant by any power over which the President has no control, then a vacancy happens as to him; but when he proceeds and by his own deliberate act creates a vacancy, then it does not happen, but it is made. Sir, you might as

well argue that when the husbandman plants his seed and cultivates his crop that the harvest which follows "happens" to him; or you might as well argue that when the mechanic proceeds deliberately and carefully to construct a watch that upon its completion it happens to him. When the President of the United States, consulting with his political friends, concludes that the removal of a certain man from office is necessary to advance the interests of his party, and therefore proceeds to remove him and make a vacancy, how it can be said that a vacancy then happens is more than I can understand; and to say that is doing violence to the English language and to the common sense of all men who can read the Constitution.

Commissions granted during vacancies expire at the end of the next session of the Senate. One question involved in this bill is, whether or not, when the vacancy is not filled at the session after it happens, the President can afterward proceed and appoint a person to fill the office upon the assumption that the place is vacant. I have before said that when a nomination is submitted to the Senate by the President, and the Senate refuses to agree to that nomination, refuses to elect anybody to fill the office, it must then be concluded that it is the judgment of that body that the office shall not at that time be filled. Whether the Senate acts wisely or unwisely is not material to the question; whether they ought or ought not to make such a decision is of no consequence; but if they do so decide they only exercise their constitutional power, and it is to be presumed that the decision is made for good reasons and ought to stand, notwithstanding the objections of the President.

I deny that the President of the United States, by virtue of the Constitution, has any power of removal. I affirm, and it will not be denied, that the existence of that power involves the existence of the absolute power of appointment, and the Constitution is thus made to defeat itself. All the Constitution says about the action of the Senate as to appointments amounts to nothing if you find within its provisions any power in the President to make removals at his individual will or pleasure. I do not understand that this absolute power of removal has ever been contended for until within a late period. If I am not mistaken as to the history of the country, removals without cause averaged about two for each Administration for the first forty years of the Government; and General Washington, instead of removing an officer during the recess of the Senate when he was found to be unfit to discharge its duties, suspended him, as this bill provides that the President shall now suspend in such a case. He did not claim this extraordinary power of removal; it was not claimed by his successors until within a comparatively late period; and in the discussions of 1789 it was not contended by Mr. Madison that the President had the unlimited power of removal; but it was argued that if an officer was incompetent or dishonest he might be removed by the President. When there was good cause the President, it was said, might remove; but it was admitted then by the advocates of this power that if the President of the United States, for any other purpose than to subserve the public interests, displaced a good officer it would be ground for impeachment.

This is the view of the subject taken by the founders of the Republic. Some of them claimed that the President could exercise this power but only where there was cause. Now it is claimed that the President has the unlimited control of all the officers in the Government, and that he may remove any or all of them at his pleasure and without any reason or any cause. This bill only undertakes to control what has been confessed by the advocates of this power to be an abuse of the executive authority. What does it propose to do? Take it altogether and it amounts practically to this: that the President shall not



remove persons from office without cause; but whenever an officer should be dismissed from the performance of his duties and another person put in his place this bill provides that it may be done. It provides for every case where the public necessities or interests demand a change, and it only prohibits the abuse of executive power. I presume that no Senator will contend that Congress cannot prohibit by law the abuse of his authority by any officer of the Government.

Acknowledge, if you please, that the President has the power of removal, then cannot Congress by legislation declare and provide that he shall not abuse that power? It was admitted by Mr. Madison, and, for forty years after the Constitution was formed, by everybody, that a removal from office for personal ends or party purposes was an abuse of executive authority, and was a violation of the spirit if not the letter of the Constitution.

Now, sir, all we propose to do is simply to prohibit and prevent the abuse of that power. I referred to the case of *ex parte* Hennen, where the power of removal was held to be an incident of the power of appointment. All respectable authorities sustain that position. Now, is that law or not? Will some of these honorable Senators who contend for the existence of this power in the President tell me whether that opinion of the Supreme Court, deliberately pronounced, is or is not the law of the land? I assume that it is the law, because it has been sustained by other authorities and is not denied; and if it be the law, then I say that this bill stands upon an immovable foundation, because the power of appointment is undeniably vested in the President and Senate of the United States. One cannot appoint without the other. Now, is it good logic to argue that the power of removal is incident to the power of appointment—the power to appoint is in the President and Senate, and therefore the President has the right to remove? Is it not just as good logic to argue that the power of removal is incident to the power of appointment—the President and Senate appoint, and therefore the Senate may remove? But, sir, the correct logic is, that the power of removal is incident to the power of appointment; the President and Senate appoint, therefore the President and Senate may remove. There is no constitutional prohibition, there is no statutory regulation upon this subject, to prevent the application of that doctrine; and I say that unless gentlemen can overthrow the opinion of Alexander Hamilton, the opinion of the Supreme Court in the case of *Marbury vs. Madison*, the opinion of the Supreme Court in the case of *ex parte* Hennen, they cannot escape from the conclusion that the consent of the Senate is necessary to the removal of an officer to whose appointment it was necessary to have the advice and consent of the Senate.

The Constitution provides for certain appointments, but Congress is authorized to provide for certain other appointments. All the clauses of the Constitution bearing upon this subject contemplate that much of the control of the appointing power is to be in Congress. Where the President appoints, he is to appoint with the advice and consent of the Senate; but Congress may confer the appointment of certain officers upon the President alone or upon the heads of Departments; and so the Constitution recognizes the legislative control of Congress over this question. Congress has power to create an office; Congress has power to define the tenure of that office; and I ask why Congress has not power to say that when a man is appointed to an office which it has created, and the tenure of which it has fixed, he shall not be removed before the expiration of his term? Tell me, if you can, where in the Constitution can be found any provision that deprives Congress of this right. Does not the power to create an office necessarily imply a power to declare when and how it shall be filled? Does not the power to create an office

necessarily embrace the power to declare that when a man, upon the nomination of the President, by and with the advice and consent of the Senate, is appointed to fill it, he shall hold that office until by and with the advice and consent of the Senate he is removed?

I hope, Mr. President, that Senators who argue this question on the other side will not fail to notice this distinction. The question is not so much as what the Constitution does or does not provide, or as to what the Constitution does or does not confer upon the President, but the question is, has the Congress of the United States the power under the Constitution to create offices and declare during what time the persons appointed to fill shall hold those offices? All that this bill proposes is simply to say, in substance, that when a man, under the Constitution, upon the nomination of the President, is appointed by and with the advice and consent of the Senate, he shall hold until his successor is nominated by the President and appointed by and with the advice and consent of the Senate; and I ask any reasonable man if that is not what the Constitution contemplates. I say it is a plain perversion of the Constitution when, under that clause which authorizes the President to fill vacancies, he undertakes to absorb all the power of the appointment and ignores and disregards the authority and will of the Senate.

I have briefly and hastily gone over the grounds on which I assume that this legislation is within the constitutional power of Congress; and surely its necessity is apparent. The honorable Senator from Pennsylvania, [Mr. BUCKALEW,] who will address the Senate upon this subject, is too candid to stand up here and say that there is no necessity for such legislation, because the encroachments of the executive power upon the legislative in this respect, if in no other, are alarming; and the abuse of executive patronage is tending to undermine our institutions and is producing a demoralizing and disastrous effect upon the best interests of the country. I shall not, therefore, undertake to argue the necessity of this legislation. Everybody knows what is transpiring and what has occurred since the last session of the Senate. Hundreds of officers, good and true men, have been removed without any cause, and greatly to the prejudice of the public service, simply to promote certain party ends and purposes; and others who were nominated and rejected by the Senate at its last session have been reappointed; and in this high-handed way the interests of the country have been sacrificed and the authority of the Senate contemned to subserve the purposes of an ambitious, unscrupulous Executive. And if this policy, which has been growing every year and has at last assumed its present formidable proportions, is allowed to go on unchecked, the time is not far distant when the Senate of the United States will become a cipher and the President a perfect despot, so far as the offices of the Government are concerned.

Sir, this bill is only intended to vindicate the constitutional power of the Senate. We have more light on this subject than the men who made the Constitution. Sir, they were good men and patriots, but they were born and educated under a monarchical form of government. Some of them had certain ideas about the executive power derived from their education. I do not intend to impeach their wisdom, but they lacked our experience. We have seen the operation and effect of this power; we have seen how dangerous it can become in the hands of a bold, bad man; we have seen how it can be used to debauch the public mind. When the mischief is so great and obvious it is our duty, regardless of precedents, to apply the remedy. Believing that there is nothing in the provisions of this bill which is in conflict with the Constitution, I hope that it will become a law. I trust it will not be regarded as any mere party measure, but as an honest effort to bring back the Government to the purposes and views of the men who made it.

Mr. JOHNSON obtained the floor, and on his motion the Senate proceeded to the consideration of executive business.

After some time spent in executive session the doors were reopened and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, January 14, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### CALL OF STATES AND TERRITORIES.

**THE SPEAKER.** The first business in order is the call of States and Territories for bills and joint resolutions for reference, and not to be brought back by a motion to reconsider. By the amended rule joint resolutions from the Legislatures of States and Territories may be presented under this call.

### CERTIFICATES OF DISCHARGE.

Mr. TAYLOR, of New York, introduced a joint resolution authorizing the President to issue certificates of muster and discharge, on parchment, to all honorably discharged officers of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

### BOUNTY.

Mr. HART introduced a bill providing for the payment of bounty to the representatives of soldiers killed or who died in the service whose term of enlistment was less than one year; which was read a first and second time and referred to the Committee on Military Affairs.

### PRIVILEGES OF CITIZENSHIP.

Mr. SHELLABARGER introduced a bill declaring the forfeiture of certain privileges of citizenship by acts of rebellion against the United States, and providing for the restoration of those privileges in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### TREASURY DEPARTMENT POLICE.

Mr. ECKLEY submitted a concurrent resolution that the United States police at the Treasury buildings be placed upon the same footing, with the same powers, and the same compensation as the Capitol police, and be under the orders of the chief architect of the Treasury building; which was referred to the Committee on Public Buildings and Grounds.

### WASHINGTON HOMESTEAD COMPANY.

Mr. WELKER introduced a bill to incorporate the Washington Homestead Company; which was read a first and second time and referred to the Committee for the District of Columbia.

### SALARY OF FIRST COMPTROLLER.

Mr. DELANO introduced a bill to establish the salary of the First Comptroller of the Treasury; which was read a first and second time, and referred to the Committee of Claims.

### SURVEYOR GENERAL'S OFFICE—MONTANA.

Mr. ASHLEY, of Ohio, submitted a joint resolution and memorial of the Legislature of Montana, asking for the establishment of a surveyor general's office, &c.; which was referred to the Committee on the Territories, and ordered to be printed.

### INCREASE OF PAY.

Mr. ASHLEY, of Ohio, also submitted a joint resolution of the Legislature of Montana Territory, asking Congress to amend the organic act so as to increase the pay of the Federal officers, as also the members of the Legislative Assembly of said Territory; which was referred to the Committee on the Territories and ordered to be printed.

## CAPTAIN DAVID BEATTY.

Mr. STOKES introduced a bill for the relief of Captain David Beatty and his men, of Tennessee, independent scouts; which was read a first and second time and referred to the Committee on Military Affairs.

## RECONSTRUCTION.

Mr. WASHBURN, of Indiana, introduced a bill to reestablish civil governments in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, and Texas, and to restore said States to position and the exercise of political and representative power in the Federal Union; which was read a first and second time, referred to the joint select Committee on Reconstruction, and ordered to be printed.

## TAX ON COTTON.

Mr. NIBLACK introduced a bill to repeal so much of an act entitled "An act to reduce internal taxation," and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, as imposes a tax on unmanufactured cotton; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

## JOHN RANDOLPH CLAY.

Mr. NIBLACK also introduced a joint resolution authorizing the proper accounting officer of the Treasury to reopen and readjust the accounts of John Randolph Clay, late United States minister to Peru; which was read the first and second time and referred to the Committee on Foreign Affairs.

## BILL PRINTED.

On motion of Mr. HILL, a bill introduced by him on Saturday was ordered to be printed.

## MILITIA.

Mr. JULIAN introduced a bill to amend the twenty-first section of an act entitled "An act to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes;" which was read a first and second time and referred to the Committee on Military Affairs.

## CANAL SEWERAGE COMPANY.

Mr. INGERSOLL introduced a bill to incorporate the Washington and Georgetown Canal Sewerage Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

## QUIETING TITLE IN DISTRICT OF COLUMBIA.

Mr. INGERSOLL also introduced a bill to provide more effectually for quieting title to property in the District of Columbia; which was read a first and second time and referred to the Committee for the District of Columbia.

## FEMALE SUFFRAGE IN THE DISTRICT.

Mr. NOELL introduced a bill to amend an act to regulate the elective franchise in the District of Columbia; which was read a first and second time. The bill provides that no person shall be disfranchised from voting or be ineligible to office on account of sex.

Mr. NOELL. I move to refer the bill to a select committee of five.

Mr. THAYER. I object.

The SPEAKER. The gentleman has a right to make the motion under the rule.

Mr. THAYER. I object to the reference to a special committee, and I move that it be referred to the Committee for the District of Columbia.

The SPEAKER. The latter motion has priority; when two committees are moved the vote first is on the reference to the standing committee.

Mr. NOELL. I demand the yeas and nays. The yeas and nays were refused.

The bill was referred to the Committee for the District of Columbia, and ordered to be printed.

## MILITARY ROAD IN WISCONSIN.

Mr. McINDOE introduced a bill to amend an act entitled "An act granting lands to the State of Wisconsin to build a military road to Lake Superior;" which was read a first and second time, and referred to the Committee on Public Lands.

## MINING BUREAU.

Mr. HIGBY introduced a bill to establish a Mining Bureau; which was read a first and second time, and referred to the Committee on Mines and Mining.

## RIGHTS OF ACTUAL SETTLERS.

Mr. DONNELLY introduced a bill to protect the rights of actual settlers upon the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

## JAMES P. PECK AND REUBEN WOOD.

Mr. HITCHCOCK introduced a joint resolution for the relief of James P. Peck and Reuben Wood, of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

## TOWN OF PRESCOTT, ARIZONA.

Mr. GOODWIN introduced a bill donating two quarter sections of land to the town of Prescott; which was read a first and second time and referred to the Committee on Public Lands.

## ROADS IN ARIZONA.

Mr. GOODWIN also introduced a bill donating lands to the Arizona Central Road Company and to the Mosave and Prescott Toll Road Company for maintaining stations and digging wells on said roads; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

## ACCOUNTS OF REVENUE OFFICERS.

Mr. WARNER introduced a bill to regulate the settlement of the accounts of revenue officers in certain cases; which was read a first and second time and referred to the Committee of Ways and Means.

## LOST DOCUMENTS.

Mr. RANDALL, of Pennsylvania, introduced a bill to supply records of documents lost during the late rebellion; which was read a first and second time and referred to the Committee on the Judiciary.

## FRANKING PRIVILEGE.

Mr. BUNDY introduced a joint resolution continuing the franking privilege to the members of the Thirty-Ninth Congress the same as if the Fortieth Congress did not meet till the first Monday in December next; which was read a first and second time and referred to the Committee on the Post Office and Post Roads.

## NAVY-YARD AT CHARLESTOWN.

Mr. BANKS. I desire to introduce for reference a bill to repeal so much of the act approved April 17, 1866, chapter forty-five, section one, as appropriates the sum of \$25,000 for the purchase of the right of draining through the navy-yard at Charlestown, Massachusetts.

I have received a copy of a paper which purports to be a deed of the land occupied now by the navy-yard, which land is sold to the United States upon the express condition that the United States shall forever keep open this sluice or drain. There may have been some transfer since that time which is not known to me; but unless there be something of that kind the act which was passed last year appropriating \$25,000 to extinguish that right ought to be repealed. I ask that the bill be referred to the Committee on Naval Affairs.

Mr. WASHBURNE, of Illinois. I ask if this provision was not passed by the House with full knowledge.

Mr. BANKS. Not by me.

Mr. WASHBURNE, of Illinois. I knew it and tried to stop it.

The bill was then read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

## IMPEACHMENT OF THE PRESIDENT.

The House then resumed the call of the States and Territories for resolutions where the call ceased on Monday, the pending question being upon the following resolution offered by Mr. KELSO, upon which the previous question was demanded:

*Resolved*, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people, as expressed at the polls during the late election by majorities numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take, without delay, such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office, upon his conviction in due form, of the crimes and high misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

Mr. KELSO. Is it in order to debate the resolution this morning?

The SPEAKER. The rules prohibit debate on a resolution on the same day on which it is introduced. As this is not the same day, unless the previous question shall be demanded and seconded, the resolution is open to debate.

Mr. KELSO. I then withdraw the demand for the previous question, and, retaining the right of the floor, yield to my colleague [Mr. LOAN] for ten minutes.

Mr. LOAN. A few words will suffice for all I wish to say at present on the pending resolution. Events transpiring since the assassination of the late President have shed new light upon that horrible and bloody act. At first it was supposed to have been the rash act of a reckless young man, rendered desperate by the failure of the cause to which he was devoted. But subsequent developments have shown it to have been the result of deliberate plans adopted in the interests of the rebellion. The appeal to arms on the part of the rebels had failed; the only alternative left them upon which they could hope for success was fraud and treachery.

Experience had satisfied them that such agencies could not be successfully invoked so long as the incorruptible Lincoln guided the destinies of the Republic; but next to him in the direct line of succession stood one who by birth, education, and association was a southern man—a life long pro-slavery Democrat. In a spirit of conciliation and catholic liberality he was unfortunately placed in the position he occupied by the loyal people of the Republic, because he was a Democrat and a resident of one of the States declared to be in insurrection and rebellion. The mistake was a terrible one. True to his instincts, teaching, and political principles, in entering upon his official career as Vice President of the United States, in utter violation of every principle of common decency, he exhibited in a most disgusting manner the moral degradation to which he had attained.

Powerfully influenced by all the grosser animal instincts of our nature, without moral culture or moral restraint, with a towering ambition, which is well illustrated in his frequent egotistical boasting of his rise through all the grades of office, from that of a village alderman to that of the highest in the Republic, he was peculiarly and eminently qualified to supply a necessity which the rebel cause at that time imperatively required for its ultimate success.

The Jesuitical leaders of the rebellion, realizing the signal and hopeless failure of their appeal to force for the success of their cause, were quick to understand the advantages offered them by such a person, occupying the second office in our Government. They readily comprehended the means necessary to reach and use such a subject; but one frail life stood

between him and the Chief Magistracy of the Republic; and those who could devise the infernal cruelties of Andersonville and Salisbury, of Belle Isle and Libby, and of Castle Thunder, and could quietly and unmoved observe the horrors and sufferings of those hells of malignant spite and fiendish hate, would not hesitate to accomplish their purposes by another murder, though it might be of him who was the highest, the greatest, and the best in the land, and hence the assassination of Mr. Lincoln.

The crime was committed. The way was made clear for the succession; an assassin's bullet, wielded and directed by rebel hand and paid for by rebel gold, made Andrew Johnson President of the United States of America. The price that he was to pay for his promotion was treachery to the Republic and fidelity to the party of treason and rebellion.

Mr. HALE. I rise to a question of order, and I ask that the words first uttered by the gentleman be taken down at the Clerk's desk. My point of order is this: I understand the gentleman from Missouri to charge the President of the United States with complicity in the assassination of Abraham Lincoln. I desire to know if that be so—and I think it is the fair import of his remarks—whether such a charge is in order, made by a member upon this floor in a speech?

The words objected to by Mr. HALE were taken down at the Clerk's desk and read as follows:

"The crime was committed. The way was made clear for the succession; an assassin's bullet, wielded and directed by rebel hand and paid for by rebel gold, made Andrew Johnson President of the United States of America. The price that he was to pay for his promotion was treachery to the Republic and fidelity to the party of treason and rebellion."

Mr. HALE. The gentleman had read another sentence to the same purpose. I ask that those words also be taken down.

Mr. LOAN. I think the gentleman is in error on that point.

The SPEAKER. The Chair would prefer that those words should be read now, so that the Chair may rule upon the whole of it.

Mr. LOAN. I was about to read the next paragraph when the gentleman interrupted me, and had taken up a page of manuscript for that purpose.

Mr. HALE. There were other words uttered in my hearing at the end of the paragraph which has been read by the Clerk, and it is those words that I desire to have taken down.

Mr. LOAN. I am not under any obligation to furnish the words the gentleman desires to have taken down. Let him repeat them, and when they are taken down I can say whether I had uttered them or not. You made the point of order, and you must tell what the words are to which you object.

Mr. HALE. Am I to respond to such an address as that made to me by a member of this House?

The SPEAKER. The gentleman from New York has a right to state the words which he desires to have taken down. The whole House knows that where speeches are read from manuscript, as in the case of the gentleman from Missouri, [Mr. LOAN,] they are not taken down stenographically by the Globe reporters.

Mr. HALE. I will state that the words I refer to were to the same effect substantially as those I have had taken down. I cannot repeat the exact language, but it carried the idea directly that the now President of the United States was a party to the assassination of Abraham Lincoln, and contracted to pay, and did pay, a price for that assassination. I cannot give the words of the gentleman from Missouri. I do, however, state that the words which he used unquestionably conveyed that charge.

Mr. LOAN. I submit that if the gentleman cannot give the other words, the point of order must stop at that point at which he can give them.

The SPEAKER. The ruling of the Chair, however, will cover the whole case, so that the point will not be lost to the gentleman from

New York, [Mr. HALE,] although the words objected to by him cannot be transcribed from the reporters' short-hand notes to be read at the Clerk's desk, as the reporters, supposing it to be all a written speech, were not taking notes at the time the objection was raised.

The Constitution of the United States, article two, section four, reads as follows:

"The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Another section of the Constitution provides that the articles of impeachment must be found by the House of Representatives and tried by the Senate.

On last Monday a resolution was submitted by the gentleman from Missouri, [Mr. KELSO,] a colleague of the gentleman now upon the floor. The Chair will read a portion of that resolution. It declares that—

It is the imperative duty of the Thirty-Ninth Congress to take without delay such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office, upon his conviction in due form of the crimes and high misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

This is a charge of crimes and high misdemeanors without specifying particularly what those "crimes and high misdemeanors" were. That resolution is now open to debate. If the gentleman from Missouri [Mr. LOAN] now charges as one of the "crimes and high misdemeanors" of which the President of the United States is guilty that he was in complicity with the assassination of Mr. Lincoln, it is certainly within the rules of this House and the provisions of the Constitution. And the Chair so rules for this reason: if it is not in order, then if any member charges the President of the United States to be guilty of treason, or of any high crime or misdemeanor, he could not state what were his reasons for making the charge; or if he believed the President or Vice President to be guilty of the crime of bribery, and desired to have the matter investigated, he could not state the specific grounds of his charge.

The charge contained in the resolution from which the Chair has read is general and not specific; it is "the crimes and high misdemeanors of which he [the President] is manifestly and notoriously guilty." The gentleman from Missouri, [Mr. LOAN,] in debating the resolution, saw fit to specify one of the charges against the President of the United States. That is certainly not out of order.

Mr. HALE. I fear my point has not been stated sufficiently explicitly. My point is this: that the President of the United States cannot be put on trial before this House except by solemn form of impeachment; and that under a resolution declaring simply, as does the resolution now pending, that it is the duty of this House to inaugurate such proceedings as will lead to the impeachment of the President, these charges cannot be made; that before such charges can be made here against any officer of this Government he must be put on trial in the constitutional form.

The SPEAKER. That would be a good rule, the Chair would suggest, for action in the Senate when they are trying a specific charge of any impeachment. But before the impeachment is ordered by the House, it is in order for any member of the House to state the grounds upon which he proposes to ask the action of the House. If complicity in the assassination of President Lincoln is a high crime and misdemeanor, and the Chair has no doubt it is, then it is in order for any member to make the charge here. The charge is made here in the House, upon the responsibility of the member from Missouri, [Mr. LOAN,] It is to be tried by a committee of this House, and if they report in favor of articles of impeachment, then the ques-

tion is to be determined by this House; and if the House find articles of impeachment, they are to be tried by the Senate, where the specific charges presented by the House can alone be considered.

Mr. HALE. Is the resolution now before the House a resolution for the impeachment of the President of the United States?

The SPEAKER. It is a resolution declaring it to be the imperative duty of Congress so to do, which opens up the whole question, according to the rules, as they have been construed by all who have preceded the present occupant of the chair as Speakers of this House. The Chair, therefore, cannot restrain the gentleman from Missouri [Mr. LOAN] in his remarks to that effect.

Mr. HALE. Very well; I will not appeal from the decision of the Chair.

The SPEAKER. The Chair would take it as a personal favor if the gentleman would take an appeal, in order that so important a question may be decided by the House and not the Chair only.

Mr. HALE. I do not take an appeal for the reason that I consider the Speaker's decision satisfactory, so far as the practice of the House is concerned, although it is different from my own idea of it.

The SPEAKER. The Chair would prefer that the House of Representatives should decide a question so solemn and responsible as this is.

Mr. STEVENS. The decision of the Chair is all right.

Mr. WASHBURN, of Indiana. I will appeal from the decision of the Chair in accordance with the Speaker's request, though I shall vote to sustain it.

The SPEAKER. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. WENTWORTH. I move to lay the appeal upon the table; and upon that question I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. WENTWORTH. I will withdraw the motion to lay on the table, and call for the yeas and nays on deciding the appeal.

Mr. THAYER. I renew the motion to lay the appeal on the table.

The question was taken; and upon a division, there were—yeas 101, noes 8.

So the appeal was laid on the table.

Mr. LOAN. Mr. Speaker, at the time when the gentleman from New York interposed his objection, I had just raised a sheet of paper to read that which in my manuscript immediately follows what has been read at the Clerk's desk. In order that the connection may be clear I will repeat a few words which I have already read.

The price that he was to pay for his promotion was treachery to the Republic and fidelity to the party of treason and rebellion. Has he performed his part of this agreement as faithfully as the rebels did theirs? How answer you, Representatives of the people? Has not the nation been betrayed by its acting Chief Magistrate? And does not Andrew Johnson stand to-day the avowed and acknowledged chief and leader of all those lately in rebellion, and of those who sympathized with them?

The conspirators having thus secured the executive department of the Government, and being sure that they might implicitly rely on the judiciary for all required aid when the assistance of that department should be invoked, it only remained for them to obtain control of the legislative department to give them full and absolute control of the Government, which being done, they, profiting by past experiences, would be careful to avoid the mistake they made under the administration of Mr. Buchanan in surrendering again the control of the Government, but would use it and its agencies as the sure means to effect their purposes and accomplish its destruction. This ascendancy in the legislative department was to be acquired by the admission of Senators and Representatives from the rebel States,



and by the acquisition of sympathizing friends from the loyal States, whose elections were to be secured by means of the distribution of the patronage of the Government.

For the purpose of accomplishing the first of these objects, the Executive, in the vacation that intervened between the adjournment of the Thirty-Eighth Congress and the time appointed by law for the assembling of the Thirty-Ninth, and which (the Thirty-Ninth Congress) he could have convened in extra session at any time, by the most unheard-of usurpation of power, proceeded to reorganize the revolted States upon a rebel basis and to restore them to their practical relations with the Government. By executive orders provisional governors—officers unknown to the law—were appointed over those States; conventions were called; the qualification of voters was prescribed, and the elections were conducted under military surveillance; in a word, the will of Andrew Johnson was imprinted upon every political action there, and the result was the selection for Senators and Representatives for those States, with scarcely an exception, of the most capable, active, energetic agents of the rebellion, civil and military, that the confederacy contained. While engaged in these acts of usurpation and crime, and when some of the discerning minds in the country saw danger to the Republic in this monstrous abuse of executive authority, the President, to hide his criminal purposes, craftily misled the public—who are ever confiding in the high officers of the Government—by declaring to individuals who spoke to him upon the subject, and in official communications to those who were in the exercise of authority in the rebel States, that his interference for the purpose of reorganizing those States was only an experiment to ascertain the real temper and disposition of the rebels for the purpose of deciding the proper course that should be pursued toward them, and that the whole matter would have to be referred to Congress, when it met, for the action of that body, as it had exclusive jurisdiction over the entire subject. In the mean time extraordinary exertions were used to secure the organization of the rebel States prior to the time appointed by law for the assembling of Congress, which, with one or two exceptions, was accomplished. In the President's annual message to Congress all disguise was thrown off, and the Executive boldly demanded as a right the admission into Congress of Senators and Representatives from the rebel States as organized under his authority and by his direction.

The effect this insolent demand had on the two Houses of Congress, and the changes that the minds of various members have since undergone in relation thereto, are probably known to the most of us; but it is not necessary at this time further to allude to them than to say that the action of the two Houses has been such as to refuse admission to these Halls to the Senators and Representatives of all the States lately in revolt, with the single exception of those from the State of Tennessee.

In this action of the two departments of the Government the issue "whether loyalty or treason shall rule the Republic" was fairly made between the loyal majority in Congress on the one side, and the Executive, the reconstructed rebels and their sympathisers on the other; and upon this issue both parties appealed to the people. Pending this appeal the second proposition of the conspirators, that of securing additional members in the rebel interest by carrying the elections in the loyal States by means of the patronage of the Government and other Administration influences, was to be accomplished.

The SPEAKER. The ten minutes of the gentleman from Missouri have expired.

Mr. LOAN. I appeal to my colleague to give me further time.

Mr. KELSO. I yield to my colleague so much time as he may need to finish his speech.

Mr. LOAN. The better to conceal their purposes it was proposed to organize a third or Johnson party, and for that object the "lock-jaw" convention was called and held in Phila-

delphia on the 14th of August last. But no one was deceived by its mummeries. The least informed and the simplest minded clearly understand that on these great questions there are but two parties—one for the country and the other against it. In the very nature of things it cannot be otherwise. He who created the universe created a heaven above and a hell beneath. There was no provision made for an abiding place for the third or the Johnson party; and all those who are unworthy of admission with the Union people in the courts above must be content to be collected together with that mass of discordant material down below. Apostates and renegades, rebel sympathizers and rebels, guerrillas, bushwhackers, and cut-throats, harmonize with the most wonderful unanimity on the presidential policy; and I am sure that no good reason can be given for their separation hereafter.

All the agencies that result from the blandishments of high official power and from the immense patronage of the Government, sufficient to corrupt any people less intelligent or less honest than ours, were brought to bear to bribe the people with their offices and their money to forsake their devotion to their country and its free institutions, its free ideas, and free speech. It is not necessary for me to enter into any detail of the desperate and reckless manner in which these agencies were used, as they are matters of public notoriety and are known to all. It is, however, proper to say that they met with that signal failure which was their just fate at the hands of an intelligent, virtuous, but outraged people.

In this canvass questions were raised and discussed before the people, one of which at least has a pertinent bearing upon the question now under consideration, and that is: why did not Congress, when it became evident that Mr. Johnson had betrayed the country and identified himself with the rebels, at once impeach and remove him, and confide the administration of the Government to the hands of some one who was in sympathy with the people who saved the Republic from rebel rule and dismemberment? There were those here then who fully realized the necessity for such action, and were then ready to adopt radical and efficient measures for securing the faithful administration of the Government, in obedience to the Constitution and laws. But there were others who, if not more hopeful of a change for the better, were at least more cautious, and they advised delay to await further developments, and in the mean time consult the people upon questions so momentous.

Yielding to these demands, golden moments and golden opportunities were allowed to pass unimproved. Upon these and all other questions submitted to them the people at the last elections, through the ballot-box, sent us their response in no doubtful tones; they have declared that they have no sympathy with traitors or treason. The conspirators, undismayed by the overwhelming majorities with which the people condemned "my policy," and with courage, determination, and energy that challenge admiration, are boldly perfecting their plans for another armed collision if success for them cannot be otherwise obtained. I have no time to enter into details now. Provoked at the fidelity of the people when a presidential party were recently swinging round the circle indiscreet utterances such as "Would you have Mr. Johnson President or King?" and the threat made at Newark, in Ohio, of internecine war unless the people by their suffrages sustained the presidential policy, indicate that revolutionary and forcible measures had been contemplated as means, in certain contingencies, to accomplish the ends they have in view. More recently the toasts proposed and the sentiments uttered in response thereto at the 8th of January banquet at the National Hotel in this city go to show the extent to which the plans of the conspirators had been perfected, and their jubilant exultation, the confidence with which they expected success. The carefully prepared declarations of the President on

that occasion show his fixed and unalterable determination, regardless of consequences, to restore rebel domination in the Republic.

And the impetuous gentleman from New Jersey, who was also heard on that interesting occasion, and whose courage in speaking his sentiments is unquestioned, whatever may be thought of his judgment, discretion, or prudence in so doing, gives us reliable information of the means that will be finally resorted to to secure success when he says: "That if the electoral votes of the southern States and the conservatives of the North should constitute a majority at the next regular presidential election, and should the radicals dispute the right of their President to control the Government, he, for one, was for calling on the Army of the country." [Tremendous cheering.] "The issue would come and the brave would meet it. No one should close his eyes to the fact that this issue would have to be met."

The tremendous cheering with which these sentiments were received conclusively shows that they were not the heedless utterances of a reckless and impulsive young man, but the well-considered and approved purposes of those who heard and applauded them, among whom, be it remembered, was the President of the United States, who spoke no word of disapproval of the words of the speaker which committed him to such criminal purpose. Mark the words: "No one should close his eyes to the fact that this issue would have to be met." There is nothing doubtful in that language. But when must this fearful issue be met? I commend the inquiry to the careful consideration of those Republicans who are not prepared to act decisively on the question under consideration; and I tell them now, as the gentleman from New Jersey has told them in his speech, that that "issue has to be met." But when?

The brave man meets the danger that is inevitable, and by courage and prompt action takes it at disadvantage and overcomes it. Others wait and dread a danger that they cannot escape and which they dare not meet until, by their inaction and delay, it accumulates a strength and power that is resistless, and then it crushes them. Shall we wait until the conspirators have perfected their plans and success is sure to follow the blow they strike? Remember the issue has to be met. The brave soldiers of the Republic met it on more than two hundred battle-fields, and more than six hundred thousand of them fill untimely graves that the Republic might live. The people met the issue between loyalty and treason at the recent elections, and through the ballot-box they spoke their condemnation of all that belongs to treason and traitors, and clothed us, their agents, with full power and authority to remove the curse of treason from the Government and from all its offices, and they require us to act at once, and decisively and efficiently. They have made us masters of the situation and require us to act. They demand the immediate reorganization of the rebel States upon the basis of loyalty, universal liberty, and impartial suffrage, free speech and a free press and protection to person and property alike in every part of the Republic. For the sake of excluding rebel Senators and Representatives from Congress they are not content to have discord and anarchy under control of rebel influences to continue its rule in the rebel States; to have the loyal sentiment there crushed out for want of active protection from the Federal Government; the Union people murdered and their property confiscated; nor are they willing to continue the Government in its present anomalous condition, whereby nearly one third of the States that ought to compose the Union are prevented from resuming their practical relations to the Government to the great injury of the national credit and to the great danger of the Government itself. Inaction on our part may enable the rebels to secure the absolute control of the Government. Already they can rely with the most implicit confidence upon two of the three

departments of the Government, and they are now preparing to take control of the third; and should success attend their efforts, which is not at all improbable so long as we fail to do our duty, it will then become an immaterial question to consider what we will do with the rebels, and the pertinent inquiry will be what will the rebels do with us? But enough of this; let us return. In the language of the gentleman from New Jersey, "the issue has to be met."

To-day we have the advantage and the power. Have we the courage to act? To strike down and forever destroy that fell spirit of treason and rebellion that has draped our land in mourning and threatened our existence as a nation?

The past is gone; the future may never come to us; the present only is ours. Our duty is clear. Let none fail in the performance of their duty.

Mr. HALE. Will the gentleman from Missouri allow me to ask him a question?

Mr. LOAN. Certainly.

Mr. HALE. The gentleman has upon this floor deliberately charged upon the Chief Executive of this nation complicity in assassination. I wish to ask the gentleman whether he does not feel it due, as well to his own sense of self-respect as to a proper regard for the dignity of this House and for the character of this Government both at home and abroad, that, before he takes his seat, he shall at least disclose to the House some particle of evidence on which that charge, so grave in its nature, is founded. I have waited thinking that before the gentleman took his seat he would at least intimate to this House that he had such proof. I now challenge him to specify any particle of proof which he can lay before the House or to which he can point as existing in any quarter. I insist that it is due to the dignity of this body, as well as to the character of this nation, that he shall do so before he takes his seat.

Mr. LOAN. I propose, Mr. Speaker, to pursue this matter in my own way and in my own good time. I have taken the initiatory steps in regard to this matter. It is now in course of progress. The course which this resolution will take will carry it before the proper tribunal to inquire into this matter; and there in a legitimate way the proofs, I presume, will be furnished to the gentleman's satisfaction.

Mr. HALE. Will the gentleman answer the other part of my question?

Mr. LOAN. I must decline.

Mr. HALE. A single question—

The SPEAKER. The gentleman states that he declines answering further. The morning hour has expired, and the resolution goes over till next Monday. The gentleman from Missouri [Mr. KELSO] has thirty-three minutes remaining of his time.

#### RECORDING VOTES.

Mr. LE BLOND. I rise for the purpose of submitting a motion to suspend the rules. On account of sickness in my family I was unable to be here on the reassembling of Congress after the holidays. During my absence the House adopted three propositions upon which I desire to record my vote. One is the joint resolution introduced by the gentleman from Iowa [Mr. KASSON] relative to the construction of the constitutional amendment abolishing slavery; another is the bill relative to suffrage in the District of Columbia; and the third the impeachment resolution of my colleague, [Mr. ASHLEY, of Ohio.] I move that the rules be suspended to allow me to record my vote on all those propositions.

The SPEAKER. The Chair will state that the manuscript of the Journal has already gone to the printer, and is probably printed by this time.

Mr. LE BLOND. Then it makes no difference. I should have voted with the minority on all those questions.

The SPEAKER. If there is no objection the rules will be regarded as suspended and

the gentleman's vote will be recorded, if the Journal is not already printed.

There was no objection.

Messrs. WASHBURN, of Massachusetts, STEVENS, ROLLINS, MOORHEAD, RADFORD, and MARSHALL asked and obtained, under a suspension of the rules, leave to record their votes on the same propositions.

Mr. WASHBURN, of Illinois. I move a suspension of the rules to allow any member during to-day to record his vote on the three propositions which have been named.

The motion was agreed to.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained indefinite leave of absence for Mr. LAWRENCE, of Ohio.

#### TEXAS.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of War be directed to communicate to this House any report in his possession of General Wright, and also the reports of his subordinate officers, in regard to the condition of affairs in Texas.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

#### A. B. MOREY.

Mr. WASHBURN, of Illinois, by unanimous consent, submitted the following resolution:

*Resolved*, That the Attorney General be directed to communicate to this House all the papers before him in the matter of A. B. Morey, indicted in the local court at Vicksburg, Mississippi, together with his opinion thereon.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

#### COST OF SMALL-ARMS, ETC.

Mr. PRICE. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Secretary of War be requested to furnish this House with a list showing the number of small-arms furnished by the manufactory at Springfield, and the cost thereof; also the number of small-arms furnished by contractors, manufactured in the United States, other than those obtained at Springfield, and the cost of the same; and also the number of small-arms purchased of foreign countries, and the cost of the same.

The SPEAKER. This being a call for executive information, requires unanimous consent.

There was no objection, and the resolution was adopted.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. WILLIAM G. MOORE.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. JOHN W. FORNEY, its Secretary, in which he announced that that body had passed without amendment House bill No. 715, setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota.

It further announced that the Senate had passed a bill (S. No. 451) for the relief of Mrs. Elizabeth K. Smith, in which he was directed to ask the concurrence of the House.

#### CURTALMENT OF CURRENCY.

Mr. WILSON, of Iowa. I ask unanimous consent to submit the following resolution:

*Resolved*, as the opinion of this House, That the public interests will not justify a greater curtailment of the national circulation than \$4,000,000 per month, or \$48,000,000 during the year 1867, which \$48,000,000 ought not to be exclusive of and in addition to the compound-interest notes falling due during the current year.

*Resolved*, That in lieu of such an amount of compound-interest notes as may become due and be re-

deemed within the year as may be in excess of the four millions of currency now authorized by law to be withdrawn from circulation each month, the Secretary of the Treasury ought to be authorized and required to issue United States legal-tender notes without interest.

Mr. LE BLOND. I object.

Mr. WILSON, of Iowa. I move to suspend the rules. A bill was referred to the committee at the last session and no report has yet been made on this important subject. I think it is time we should have some expression by this House.

Mr. LE BLOND. I rise to a point of order. The rules have not been suspended, and debate is not in order.

The SPEAKER. It is not in order.

Mr. LE BLOND. Then I object.

Mr. HOOPER, of Massachusetts. When the resolution is introduced will it be in order to move its reference to the Committee on Banking and Currency?

The SPEAKER. It will if the rules be suspended and the previous question be not sustained.

Mr. MORRILL. I will say, Mr. Speaker, I have been anxious for a fortnight to have this subject taken up, discussed, and acted on.

Mr. LE BLOND. I object.

Mr. WILSON, of Iowa, demanded the yeas and nays on suspending the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 75, nays 67, not voting 39; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Benjamin, Bingham, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Davis, De-frees, Donnelly, Driggs, Eckley, Eliot, Farquhar, Ferry, Griswold, Abner C. Harding, Hart, Hawkins, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Koontz, Kuykendall, Loan, Longyear, Lynch, Marshall, Marston, Marvin, Maynard, McClurg, McIndoe, Mercer, Moulton, Orth, Paine, Patterson, Perham, Plants, Price, Ross, Sawyer, Schenck, Shellabarger, Stevens, Stillwell, Stokes, Strouse, Nathaniel G. Taylor, Francis Thomas, Thornton, Trowbridge, Tison, Burt Van Horn, Henry D. Washburn, Welker, Williams, James F. Wilson, and Stephen F. Wilson—75.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Baxter, Bergen, Bidwell, Blaine, Boyer, Campbell, Cooper, Culver, Daves, Dawson, Deming, Denison, Dixon, Dodge, Farnsworth, Finck, Garfield, Glossbrenner, Hale, Aaron Harding, Hise, Hogan, Hooper, John H. Hubbard, Humphrey, Hunter, Jencks, Johnson, Kerr, Ketcham, Latham, George V. Lawrence, Le Blond, Lettwith, McRuer, Moorhead, Morrill, Niblack, Nicholson, Noell, O'Neill, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Ritter, Rogers, Rollins, Scofield, Shanklin, Spalding, Taber, Nelson Taylor, Thayer, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, and Wentworth—67.

NOT VOTING—Messrs. Arnell, Barker, Beaman, Blow, Branderage, Chanler, Sidney Clarke, Conkling, Darling, Delano, Dumont, Eggleston, Eldridge, Good-year, Grinnell, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kasson, Kelley, Kelso, Laflin, William Lawrence, McCullough, McKee, Miller, Morris, Myers, Newell, Phelps, Alexander H. Rice, Rousseau, Sitgreaves, Sloan, Starr, John L. Thomas, Trimble, Van Aernam, Robert T. Van Horn, Warner, Whaley, Windom, Winfield, Woodbridge, and Wright—39.

So (two thirds not voting in the affirmative) the rules were not suspended.

During the vote,

Mr. LE BLOND stated that Mr. ELDRIDGE was detained at his room by illness.

The vote was then announced as above recorded.

#### NATIONAL BANK CIRCULATION.

Mr. HOOPER, of Massachusetts. I move to suspend the rules to enable me to offer the following resolution:

*Resolved*, That in the opinion of this House it is not expedient to increase the amount of the national bank notes for circulation beyond the amount of \$300,000,000, now authorized by law.

On suspending the rules there were—ayes 65, noes 35.

Mr. HOOPER, of Massachusetts. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 88, nays 51, not voting 52; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Baker, Baldwin, Banks, Baxter, Benjamin,

Bergen, Bidwell, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cook, Cullom, Davis, Dawes, Dawson, Defrees, Delano, Deming, Denison, Donnelly, Eckley, Eliot, Finck, Glossbrenner, Griswold, Hale, Aaron Harding, Abner C. Harding, Hawkins, Higby, Hise, Holmes, Hooper, Chester D. Hubbard, James R. Hubbell, Humphrey, Hunter, Johnson, Julian, Kasson, Kelso, Kerr, Ketcham, Kootz, Kuykendall, George V. Lawrence, Le Blond, Loan, Lynch, Marshall, Marvin, Maynard, McClurg, McRuer, Mercer, Moulton, Niblack, O'Neill, Orth, Paine, Pomeroy, Price, Samuel J. Randall, John H. Rice, Ritter, Rogers, Scofield, Shanklin, Stokes, Taber, Thayer, Upson, Andrew H. Ward, Warner, Elibu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, and Stephen F. Wilson—83.

**NAYS**—Messrs. Delos R. Ashley, James M. Ashley, Bingham, Blaine, Boyer, Bundy, Campbell, Cobb, Cooper, Dixon, Dodge, Driggs, Farquhar, Ferry, Garfield, Henderson, Hill, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Latham, Lettwich, Longyear, Marston, McIndoe, Morris, Nicholson, Patterson, Pike, Pomeroy, Radford, Raymond, Rollins, Ross, Sawyer, Schenck, Shellabarger, Spalding, Stevens, Stilwell, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, Henry D. Washburn, and Wentworth—51.

**NOT VOTING**—Messrs. Arnell, Barker, Beaman, Blow, Brandegee, Chanler, Sidney Clarke, Conkling, Culver, Darling, Dumont, Eggleston, Eldridge, Farnsworth, Goodyear, Grinnell, Harris, Hart, Hayes, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kelley, Laffin, William Lawrence, McCullough, McKee, Miller, Moorhead, Morrill, Myers, Newell, Noell, Phelps, William H. Randall, Alexander H. Rice, Rousseau, Sitgreaves, Sloan, Starr, Francis Thomas, John L. Thomas, Trimble, Robert T. Van Horn, Whaley, Windom, Winfield, Woodbridge, and Wright—52.

So (two thirds not having voted in the affirmative) the rules were not suspended.

#### RECUSANT WITNESS.

**Mr. ROLLINS.** I rise to a question of privilege. I present the following preamble and resolution from the Committee on Public Expenditures:

Whereas Thomas H. Oakley, of the city of New York, was, on the 11th day of January, A. D. 1867, duly summoned to appear and testify before the standing Committee of this House on Public Expenditures appointed to investigate the frauds in the New York custom-house, and has appeared and refused to testify before said committee pursuant to said summons: Therefore,

*Resolved*, That the Speaker issue his warrant directed to the Sergeant-at-Arms, commanding him to take into his custody the body of said Thomas H. Oakley, wherever to be found, and to have the same forthwith brought before the bar of the House to answer for contempt of the authority of the House in thus failing and refusing to testify before said committee.

**Mr. ROLLINS.** I move the previous question.

**Mr. UPSON.** I would inquire whether any report has been made upon which this resolution is based?

**Mr. ROLLINS.** I have a letter from the chairman of the committee, which I will read if desired.

**Mr. WILSON, of Iowa.** I would inquire whether this party has been duly served with process.

**Mr. ROLLINS.** He has; he came before the committee and refused to testify at all.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

**Mr. ROLLINS** moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### COMPENSATION FOR SLAVES ENLISTED.

**Mr. COOK.** I am instructed by the Committee on the Judiciary to move that the rules be suspended for the consideration of a joint resolution to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes."

The joint resolution was read. It provides that so much of section twenty-four of an act approved February 24, 1864, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March 3, 1863, as provides that the Secretary of War should appoint a commission in each of the slave States then represented in Congress charged to award to each loyal person to whom a col-

ored volunteer might owe service just compensation, not exceeding \$300 for each colored volunteer, be suspended until otherwise provided by law; and that the duties and compensation of the commissioners heretofore appointed under said section shall cease from the date of the passage of this resolution.

The question being upon suspending the rules in order to allow the Committee on the Judiciary to report the joint resolution,

**Mr. FINCK** demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 32, not voting 48; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, Baker, Baldwin, Banks, Baxter, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farquhar, Ferry, Garfield, Griswold, Abner C. Harding, Henderson, Hill, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketcham, Kootz, Kuykendall, George V. Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, Mercer, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Pomeroy, Price, Raymond, John H. Rice, Rollins, Ross, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stilwell, Stokes, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elibu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Stephen F. Wilson—104.

**NAYS**—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Campbell, Cooper, Darling, Dawson, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Johnson, Kerr, Latham, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Andrew H. Ward—39.

**NOT VOTING**—Messrs. Arnell, James M. Ashley, Barker, Beaman, Benjamin, Blow, Brandegee, Chanler, Sidney Clarke, Conkling, Denison, Dumont, Eggleston, Eldridge, Farnsworth, Goodyear, Grinnell, Hale, Harris, Hart, Hayes, Higby, Hotchkiss, Asahel W. Hubbard, Jones, Kelley, Laffin, William Lawrence, Marston, McCullough, McRuer, Miller, Myers, Newell, Phelps, Plants, Alexander H. Rice, Rousseau, Sloan, Starr, John L. Thomas, Trimble, Robert T. Van Horn, Windom, Winfield, Woodbridge, and Wright—48.

So (two thirds voting in favor thereof) the rules were suspended.

During the roll-call,

**Mr. MORRILL** said: I am requested to inform the House that my colleague, **Mr. WOODBRIDGE**, is detained from the House by sickness.

The result of the vote having been announced as above recorded, the joint resolution was then read a first and second time, and the question recurred upon ordering it to be engrossed and read a third time.

**Mr. COOK** demanded the previous question on the engrossment of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the joint resolution.

**Mr. COOK** demanded the previous question.

The previous question was seconded and the main question ordered.

**Mr. HARDING, of Kentucky.** I call for the reading of the joint resolution.

The joint resolution was again read.

**Mr. FINCK.** I call for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 36, not voting 48; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Davis, Dawes, Defrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Griswold, Abner C. Harding, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketcham, Kootz, Kuykendall, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee,

McRuer, Mercer, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Raymond, John H. Rice, Rollins, Ross, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elibu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—107.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Dawson, Denison, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, Hogan, Edwin N. Hubbell, Humphrey, Johnson, Latham, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Andrew H. Ward—36.

**NOT VOTING**—Messrs. Arnell, Barker, Beaman, Blow, Brandegee, Sidney Clarke, Conkling, Cooper, Darling, Dodge, Dumont, Eggleston, Eldridge, Garfield, Goodyear, Grinnell, Hale, Harris, Hart, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburd, Hunter, Jones, Kelley, Kerr, Laffin, William Lawrence, McCullough, McIndoe, Miller, Moorhead, Myers, Newell, Phelps, Alexander H. Rice, Rousseau, Sloan, Starr, Stilwell, Francis Thomas, John L. Thomas, Trimble, Robert T. Van Horn, Winfield, Woodbridge, and Wright—48.

So the joint resolution was passed.

**Mr. COOK** moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL LEGAL-TENDER CURRENCY.

**Mr. CULLOM.** I move that the rules be suspended in order to allow me to offer the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to report a bill providing for the repeal of all laws and parts of laws giving to the Secretary of the Treasury authority to withdraw any of the national legal-tender currency from circulation, except compound-interest notes, which shall be funded in the bonds of the United States as soon as they mature.

**Mr. CULLOM.** I ask for the yeas and nays on my motion to suspend the rules.

The question was taken on ordering the yeas and nays, and there were on a division—ayes fourteen, noes not counted; not one fifth voting in the affirmative.

Before the result of the vote was announced, **Mr. CULLOM** called for tellers upon ordering the yeas and nays.

The question was taken; and upon a division there were ayes seventeen; not one fifth of a quorum voting in the affirmative.

Tellers were accordingly refused, and the yeas and nays were refused.

So the rules were not suspended.

#### ENROLLED BILLS SIGNED.

**Mr. COBB**, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title:

An act (S. No. 383) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers; when the Speaker signed the same.

#### FIRST COLLECTION DISTRICT OF ILLINOIS.

The **SPEAKER** laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of January 4, 1867, a report of the Commissioner of Internal Revenue relative to collections in the first district of Illinois, penalties assessed therein, &c., during the year 1866.

**Mr. WENTWORTH** moved that the communication, with the accompanying documents, be printed, and referred to the Committee of Ways and Means.

The motion was agreed to.

#### WRECK OF STEAMER SCOTLAND.

The **SPEAKER** also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of January 9, 1867, a report of the Quartermaster General relative to the wreck of the steamer Scotland; which was referred to the Committee on Commerce, and ordered to be printed.

#### OCCUPATION OF MATAMORAS.

The **SPEAKER** also laid before the House



the following message from the President of the United States:

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 19th ultimo, requesting information regarding the occupation of Mexican territory by the troops of the United States, I transmit a report of the Secretary of State and one of the Secretary of War, and the documents by which they were accompanied.

ANDREW JOHNSON.

EXECUTIVE MANSION,

WASHINGTON, January 14, 1867.

Mr. BANKS moved that the message and accompanying documents be printed and referred to the Committee on Foreign Affairs.

The motion was agreed to.

REVOLUTION IN CANDIA.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit to the House of Representatives, in answer to a resolution of the 17th ultimo calling for information relative to the revolution in Candia, a report of the Secretary of State, with accompanying documents.

ANDREW JOHNSON.

WASHINGTON, January 10, 1867.

Mr. BANKS moved that the message and accompanying documents be printed and referred to the Committee of Ways and Means.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 715) entitled "An act setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota; whereupon the Speaker signed the same.

SUPPRESSION OF THE COOLIE TRADE.

Mr. BANKS. I ask unanimous consent to offer the following resolution, which is rendered necessary by events that are transpiring every day:

Whereas the traffic in laborers transported from China to other eastern countries, known as the coolie trade, is regarded by the people of the United States as inhuman and immoral; and whereas it is abhorrent to the spirit of modern international law and policy, which have substantially extirpated the African slave trade, to permit the establishment in its place of a mode of enslaving men differing from the former in little else than the employment of fraud instead of force to make its victims captives: Therefore,

*Be it resolved*, That it is the duty of this Government to give effect to the moral sentiment of the nation, through all its agencies, for the purpose of preventing the further introduction of coolies into this hemisphere or the adjacent islands.

There being no objection to the introduction of the resolution, it was considered and unanimously adopted.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON IMMIGRATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting the report of the Commissioner of Immigration, in compliance with the act of Congress, approved July 4, 1864; which was referred to the Committee on Commerce, and ordered to be printed.

COLORADO.

The SPEAKER also, by unanimous consent, laid before the House a copy of the laws of the Territory of Colorado; which was referred to the Committee on Territories.

EXTRA PAY OF HOUSE EMPLOYEES.

The SPEAKER also, by unanimous con-

sent, laid before the House a communication from the Clerk of the House in regard to extra compensation voted by various resolutions of the House at the last session; which with the accompanying documents was referred to the Committee on Appropriations, and ordered to be printed.

ADMISSION OF NEBRASKA.

Mr. ASHLEY, of Ohio. I call for the regular order.

The SPEAKER. The regular order is the bill (S. No. 456) entitled "An act for the admission of the State of Nebraska into the Union." The pending question is upon the motion of the gentleman from Illinois [Mr. INGERSOLL] to refer the bill to the Committee on the Territories.

The bill was read, as follows:

Whereas on the 21st day of March, A. D. 1864, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so formed, into the Union upon compliance with certain conditions therein specified; and whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State of Nebraska shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 19, 1864.

SEC. 3. *And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgement or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed.

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] is entitled to the floor.

Mr. ASHLEY, of Ohio. I propose to yield fifteen minutes of my time to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. GARFIELD. I desire to inquire, Mr. Speaker, whether this bill has been printed.

The SPEAKER. According to the recollection of the Chair, no order has been made for the printing of the bill.

Mr. BLAINE. I desire to inquire of the gentleman from Ohio to what extent he proposes to allow debate.

Mr. ASHLEY, of Ohio. At the expiration of my hour I shall ask the House to sustain the previous question.

Mr. DAWES. Does the gentleman propose to confine the whole debate to an hour? I desire to offer a few remarks on this bill.

Mr. ASHLEY, of Ohio. I am entitled to two hours, one after the previous question shall have been sustained.

The SPEAKER. The Chair will state to the gentleman from Ohio that the usual rule does not apply in this case, as this bill is not reported from a committee. If this bill were reported back from a committee, the gentleman reporting it would be entitled to an hour after the previous question had been sustained. But in the present posture of the bill, debate, except by unanimous consent, will close when the previous question has been sustained.

Mr. ASHLEY, of Ohio. So far as I can control the matter the gentleman from Massachusetts [Mr. DAWES] shall have all the time he wishes.

Mr. STEVENS. I trust I shall have consent to offer at this time an amendment.

The SPEAKER. The motion to refer, which is now pending, precludes any motion to amend the bill.

Mr. ASHLEY, of Ohio. I yield to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I desire to ask whether

the bill is debatable generally under this motion to refer.

The SPEAKER. The motion to refer opens up the whole question.

Mr. BROOMALL. Mr. Speaker, this is the same bill which passed this House at the last session with an additional section now put to it. At the last session I among others voted against the bill upon the ground that it disfranchised a part of the adult male citizens of the United States residents of that Territory. If the bill was in the same shape at the present time I would vote against it again. It is because I believe the bill has been altered in that particular effectually that I propose to vote for it. I am sorry in the limited time which will be allowed me it will be impossible to enter to any extent into the argument on which conviction I have reached is founded, but I will venture at least to state my conviction and some of the reasons which have produced it.

The section to which I allude is the section which has just been read by the Clerk, and which attaches the fundamental and unalterable condition to our enactment that no adult male shall be deprived of the right of suffrage in the future State of Nebraska.

It is clear that neither the people nor the Legislature of a Territory can make a State government without an act of Congress. It is also clear—and the practice justifies the assertion—that the act of Congress need not necessarily precede the formation of the constitution by the people. It may be subsequent or it may be precedent. Where the action of Congress is precedent, in the nature of an enabling act, it does not bind Congress unless in its terms it amounts also to an act of admission. Congress may change, and in repeated instances has changed by the act of admission, the constitution formed by a convention of delegates under an enabling act. This is upon the ground that the whole action emanates from Congress, and that the sole authority to create State governments within the limits of the United States, in territory not embraced within any organized State, rests with Congress, to be exercised through a convention of delegates, through the territorial Legislature as its agents, or by its own action.

I have said Congress has on various occasions, after an enabling act, changed and altered the constitution presented here by a convention pursuant to the enabling act; and I will give one or two instances in which that has been done.

In the case of Arkansas Congress rejected a portion of the constitution formed by a convention authorized by an enabling act.

In the Iowa case Congress rejected an ordinance of the convention and proposed a substitute.

In the case of Kansas precisely the same action was had.

In the case of Louisiana, after the enabling act and when the State came up for admission, Congress annexed a condition that her navigable waters should be free to all the citizens of the United States.

Where there is no enabling act, where the people of their own motion have got together in convention, or in any other unauthorized way, and prepared a constitution and form of State government, then of course the whole vitality of the constitution arises from the subsequent action of Congress ratifying that movement of the people.

In the case of California there was no enabling act, and Congress at the time of her admission as a State, and in the act of admission, annexed these conditions: 1. That the State should never interfere with the Government of the United States in disposing of the public lands. 2. That the State should never tax the public lands. 3. That the State should not tax non-resident land owners at a higher rate than resident; and 4. That the navigable waters of the State should always remain free to citizens of the United States.

In the case of Michigan, where as in California there was no enabling act, and where the

constitution and form of government proceeded from unauthorized men, Congress in the passage of the act admitting the State limited the boundaries thereof, throwing out some of those who had actually by their representatives participated in forming the constitution.

The uniform action of Congress upon the question of the admission of States justifies me in saying that the Government of the United States, by its Congress, either mediately or immediately makes the State constitution in all cases.

I maintain that nothing that is done by the people of the Territory about to become a State, even by virtue of an enabling act, binds Congress, unless the enabling act itself does; that is, unless it is itself an act of admission as well as an enabling act.

In the case in question the constitution and form of government presented by Nebraska is not the result of any enabling act. No convention of the people of Nebraska have presented that form of constitution and government here. It comes from an unauthorized body of men. Some citizens of the Territory, without any authority of law, got together and made this document, and are now presenting it here for us to enact into a law. It is true there was an enabling act, but for reasons best known to themselves the citizens of that Territory have not acted under it, or if they have they have chosen not to avail themselves of its provisions, and the territorial Legislature, without any authority of law whatever, have presented this document to Congress. It is true it was submitted to a vote of the citizens of the Territory, but there was no authority so to submit it, and the submission is of no further effect than to satisfy us that in the form in which it was presented during the last session, that is, without the last section here inserted, it was satisfactory to the people. Their action was not by reason of any law enabling them either to adopt or reject it. Hence no man was authorized to vote at that election, and the vote was only given for the purpose of affording the information as to what his wish was. He was not called upon to make any election in the premises.

If I am right here, that Congress is doing all the business in its present enactment, is really taking up that which never had any validity and proposing to give it validity, then it is not this act alone that we are now proposing to pass, but it is the entire Constitution that is proposed to be made; the proposed action of Congress is to make a constitution for Nebraska. Now, I grant that it is right and proper that a constitution formed for the people of the Territory and intended for their future State should be submitted to them for adoption. It is fair; but I ask where is the provision of the Constitution or laws of the United States requiring it? I grant that Congress should do nothing in violation of the principle that the people of a State should be allowed self-government within constitutional State powers; but Congress may do this, and what I maintain is, that we are now getting up a constitution and form of government for the future State of Nebraska, and that we may make it what we please so that we keep within our own powers under the Constitution. The people of the Territory should of course have a chance of accepting or refusing, but there is no constitutional or legal obligation upon us to submit it to them. We ought to do it, and we propose to do it.

Now, there are several modes by which a constitution may be submitted to the people intended to be bound by it, and one of these is by enacting that constitution into a law and letting the people say whether they will organize under it. If after the lapse of a month from the passage of such an act we find a State actually existing there, duly organized with executive, legislative, and judicial departments, with representatives in both Houses of Congress, then history will have determined that the people of that State have accepted the provisions of the Constitution. If they

organize as a State, they do it under this act. This act then becomes a part of their organic law. In fact, this act, embracing as it does the Constitution itself, becomes their organic law, and every part of it is binding upon them. They cannot accept the law and reject the proviso.

It is urged against the proviso to the bill that it is an attempt on the part of Congress to fix the right of suffrage in a State. This is not so. It is only an attempt to fix the right of suffrage for the future State at a time when everybody will admit that no power but Congress can fix it. Who but Congress can legally say what citizens of the United States, residing in a Territory, shall vote in the organization of a State or in the State when organized? How long the proviso will bind the future State and whether the people can alter that as well as other parts of their constitution, are questions to be decided when they arise. It is no objection to it in my mind that it proposes to bind them forever.

I contend that the legal effect of the proviso is to strike the word "white" out of the constitution we are proposing to legalize. Congress is about to give the citizens of the United States residing in Nebraska a State government. It is surely competent for us to say that we give that government to all the citizens of the United States residing in the Territory, and not to a portion of them; and that is just what the proviso purports to do.

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I yield five minutes to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. Mr. Speaker, I think the gentleman from Pennsylvania, who has just taken his seat, has signally failed in the precedent which he has cited to sustain this kind of legislation. If I mistake not, the very citations which he makes all apply to just that kind of question over which Congress would have had the right to exercise its control, even had the provision not been inserted in the act admitting the States. For instance, the act declared that the rivers of Louisiana should be open to free navigation, and in the case of California it declared that the public domain should be wholly governed by the United States without interference by State legislation. Those are matters which, even if not mentioned at that time, would have been entirely within the power of Congress at any subsequent time. But this is a matter wholly relating, according to the uniform practice of the Government heretofore, to something internal, something which the States alone, without any external action or interference on the part of Congress, have had control and authority over since the foundation of the Government.

Now, I wish to ask the distinguished gentleman from Pennsylvania, [Mr. BROOMALL,] or any other lawyer upon this floor—and I want the chairman of the Committee on Territories to answer it—the question, whether he thinks this amendment will effect the end which he declares he desires?

Mr. ASHLEY, of Ohio. I hope so.

Mr. BLAINE. He hopes so. Is it not a faint hope? Does the gentleman indulge very lively hopes in that direction?

Now, for myself, there is one thing I have a great prejudice against, and that is being duped and humbugged. If gentlemen wish to admit Nebraska here without any condition at all, just as States have been admitted heretofore, leaving the question of suffrage to be settled by that State in its own legislative or constitutional convention, I can understand it. That is a fair, square, and manly proposition. If, on the other hand, you mean to say that Nebraska shall be admitted on this condition only, and that you will exact her concession to it, I can understand it. But to dodge between the two positions, to say, upon the one side, that this provision effects the object, and then turn round and say to the other side that it does no harm because it is a mere placebo to certain prejudices here, I confess I think it disgraceful legislation; and I have not heard any gentleman

here say that he has any confidence that this amendment will amount to anything as a legal and binding condition on the people of Nebraska.

The gentleman from Pennsylvania [Mr. BROOMALL] says that if subsequent action occurs it will be presumed that they have ratified the condition, and that action is if they send Senators and Representatives to Congress. Now, I understand that if this act goes through and the President approves it, his signature will not be dry upon it before a Representative will be sworn in here and two Senators at the other end of the Capitol. How does that become the popular assent of the people of Nebraska? How do you impose any obligation upon them by letting in three gentlemen, who are anxious to take seats here, to come in and swear their oaths and take their seats. How will that affect the question? Now, if this thing is valid, if the EDMUNDS amendment, as it is popularly termed, has any validity at all in it, why the reconstruction problem is very simple. If the gentleman from Ohio [Mr. ASHLEY] will tell me that as chairman of the Committee on Territories or as a member of the House he believes in this, why not apply it to Virginia to-morrow and to South Carolina the next day? Let us apply it right through and settle the question of reconstruction at once. If it is valid in this case it must be valid in any case. But I repeat there is scarcely a gentleman here who has the slightest confidence in it or who does not confess that it is a legislative humbug; and for one, while under certain circumstances I might be willing to vote for the admission of Nebraska—and I wish she was in; she is a growing, prosperous State that ought to be in the Union—I protest for one against humbugging myself, or being humbugged, or assisting in humbugging my constituents. I protest, therefore, against the bill in its present form.

I wish to ask the gentleman from Ohio, before I take my seat, a single question. Is he willing to let me offer an amendment providing that the people of Nebraska, either through their Legislature or convention, shall assent to and ratify this condition?

Mr. ASHLEY, of Ohio. No, sir.

Mr. BLAINE. That exposes the hollowness of the whole affair.

Mr. ASHLEY, of Ohio. I yield now to my colleague from Ohio [Mr. BINGHAM] for twenty minutes.

Mr. ROGERS. Let me ask the gentleman from Ohio what course he proposes to take with this bill?

Mr. ASHLEY, of Ohio. I shall ask the House to sustain the previous question at the end of two hours, and I propose to have a vote on the bill to-night.

Mr. ROGERS. There are several gentlemen upon this side of the house who are opposed to the bill, and who would like to discuss the question.

Mr. ASHLEY, of Ohio. All the speeches which have been made thus far have been in opposition to the bill.

Mr. BINGHAM. Mr. Speaker, I intend to give my support to this bill; but before doing so I desire to state my reasons. It is known to the House and to the country that at the last session we passed bills for the admission of the States of Nebraska and Colorado into the Union, upon an equal footing with the original States in all respects whatsoever. The constitutions upon which the people of those Territories organized their forms of State government were the same then that they are now; and I submit, therefore, to the House and to the country, that the Thirty-Ninth Congress cannot, without stultification, refuse to do this session what it did at the last session in relation to these two States and their admission. Your Journals will show that in each case the bills for the admission of the States passed this House by a vote of more than two thirds. The one perished by the veto of the President; the other perished by the act of the President and by lapse of time, the Congress having adjourned

before the expiration of ten days after its passage. I propose to stand now by the record I made then, and trust the House also will stand by its own record on the premises.

I regret that the Senate have deemed it necessary to add the third section to this bill. In other respects the bill is the same that we passed at the last session. Notwithstanding the third section, I shall vote for the bill for the reasons I shall give. My first objection to the third section, imposing a condition upon the State of Nebraska, is that it is repugnant, in every sense of the word, to the first section of the bill and the preamble. The preamble of the bill recites that the people of Nebraska have adopted a constitution in conformity with the provisions and conditions of the enabling act of Congress and republican in its form of government. The first section of the bill enacts:

That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

The section added to the bill of the last session by the Senate provides—

That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of exercise of the elective franchise, or of any other right to any person by reason of race or color, excepting Indians not taxed.

The constitution of the State, which is confirmed by the first section of this bill, limits, as do the constitutions of an overwhelming majority of the States of this Union, the exercise of the elective franchise and the privilege of the franchise of office to white citizens of the United States. That constitution with that limitation is expressly ratified and confirmed by the first section of the bill, while the same constitution is attempted to be disaffirmed by the third section of the bill; so that the two sections cannot stand together. If the third section is passed and valid in law Nebraska becomes a State, not upon the constitution made by the people, but on a constitution made by Congress; if the first section is valid, the State is admitted in violation of the third section; therefore, if this bill shall pass in the form in which it now is, the one or the other of those sections must fall.

Again, the first section declares that the—

State of Nebraska shall be, and is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

Now, I venture to affirm that the legislation which is attempted to be imposed upon this State by the third section of this bill has no parallel in anything that has ever before been attempted by an American Congress. It is a guaranteed right of every State in this Union to regulate for itself the elective franchise within its limits, subject to no condition whatever except that it shall not so exercise that power and so regulate the elective franchise as to transform the State government from one republican in form into any other form of government. The right of the majority of the male citizens of the United States of full age to control its political powers is of the essence of the rights guaranteed to the States by the first article, second section, of the Constitution of the United States, and reaffirmed by that other provision of the Constitution of the United States which declares "that the United States shall guaranty to every State in this Union a republican form of government."

The provision of the Constitution of the United States is—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for the most numerous branch of the State Legislature."—Article I, section 2.

Now, sir, what is a republican form of government? If there is anything settled under the American Constitution by the traditions of our people and by the express laws of this land, it is the absolute, unquestioned, unchallenged

right of a majority of American male citizens, of full age, resident within an organized constitutional State of this Union, to control its entire political power, both State and national, in the mode prescribed by the Constitution of the United States. It has been so settled time and again, legislatively and judicially, and finally it was so settled upon hundreds of stricken fields of battle, through four years of war, that the majority of the people, speaking through organized State governments, had an unquestioned right to control unchallenged the exercise of the elective franchise under their respective State laws and compel obedience to the decision. That and all other political rights of the people of the several States, acting under the Constitution of the United States, were challenged by the late rebels in arms, and the American people by wager of battle reaffirmed in fire and blood, where the earthquake led the charge, that there should be no appeal in this land from the decision of the legal majority, either in the affairs of the State or in the affairs of the nation. I stand, sir, by that decision, the right of the majority to rule under the law and subject to the Constitution.

Again, sir, this principle has been affirmed since our session opened by the solemn act of twelve million people, through their representatives in the Legislative Assemblies of twelve organized States, in the solemn ratification of that constitutional amendment which this Congress proposed, and upon the final adoption of which, and its incorporation into the Constitution, depends, in my judgment, the future safety of the Republic. The last clause of this bill is in utter conflict with one of the provisions of the proposed constitutional amendment, as it is in conflict, as I have already shown, with the existing text of the Constitution. The provision of the constitutional amendment to which I refer is as follows:

"Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

What is this but a reaffirmation of the principle that the power of the several States in this Union shall be equal in this: that their representative power must be according to the whole number of their representative population and not otherwise. It was so always, with the exception of that provision which was made on account and in restraint of slavery then in our midst; just as this amendment is now made in restraint of any abuse by the States of the reserved power in each to prescribe the qualifications of electors.

But, Mr. Speaker, I recur to the provisions of the third section of this bill, and ask, if that is to be held valid and become law, what becomes in that event of the second section of the first article of the Constitution, before recited, that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Why, sir, Congress might as well determine by law of Congress who shall be elected to the most numerous branch of the State Legislature; and to be consistent, by the third section of this bill Congress is asked so to determine, by the words, "there shall be no denial of the elective franchise or of any other right on account of race or color." Why not add nor on account of age, sex, or residence; and thereby subject this new State to be over-run and governed by the population of other States and Territories?

I for one enter my protest against any such pretended and attempted usurpation of author-

ity. I would not vote for this bill but for the conviction that the section in question has no more validity than so much blank paper, and that so much of the bill as is valid is just and ought to pass that the people of Nebraska may be admitted as a State of the Union. The third section, of which I have spoken as void and an attempted usurpation, declares that—

This act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color.

If you should be able to give effect to this section you thereby say who shall be eligible to the office of Governor; you say by that who shall be eligible to the legislative and to the judicial offices of that State, contrary to the constitution of the people of the State, and forever after the State shall be admitted. I deny the right of Congress to do this. I would say once for all that this dual system of national and State government under the American organization is the secret of our strength and power. I do not propose to abandon it. I shall vote for the bill, protesting that the third section has no validity and ought not to be embraced in the bill, and from the conviction that the residue of the bill ought to become a law without delay in the interests of the people of Nebraska and of the Republic.

"But," gentlemen say, "other bills have been passed admitting States upon the condition that they should not allow involuntary servitude or slavery except as a punishment for crime." New States in that behalf were excepted by the very text of your Constitution. The language of that Constitution as it came to us provided that the power to continue that infernal traffic, the slave trade, should be exercised till 1808 only by the States existing at the time of the adoption of the Constitution. The attempt was made in the convention to extend this provision to the new States; but the proposition to that effect was voted down and rejected. There is therefore no justification in such restrictions against slavery in new States for what is attempted to be done here to-day.

It is urged also that States have been admitted upon the condition that non-resident citizens of the United States should be subject to no other or higher rate of tax than resident citizens or be denied the immunities or privileges of citizens therein. But this is simply a carrying out of that provision of the Constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens" [of the United States] (supplying the ellipsis) "in the several States."

It has been urged also that States have been admitted with the condition that the public lands should not be subject to tax within the State. But, sir, the provisions of the Constitution declare that wherever the Government of the United States acquires property, even within the limits of an organized State, the Congress shall have exclusive jurisdiction in all cases over the same; and therefore such property of necessity is not subject to State taxation. Thus all these limitations have been imposed in strict accordance with the letter and spirit of the Constitution, in aid of, and not, as in this case, in violation of its express provisions.

Suppose, sir, to complete this new-fangled system of legislation, Congress should provide for the admission of a State "with the fundamental and perpetual condition" that it shall not enjoy as a State of the Union its equal representation in the Senate. The provision securing to the States equal suffrage in the Senate is no more obligatory than the second section of the first article, which declares the right of the people of every State every two years to choose Representatives in Congress by the votes of such persons as are qualified electors for the most numerous branch of the State Legislature as prescribed by State law, thus affirming the equal right of the respective States to prescribe the qualifications of voters at all elections therein.

If in an event Congress was to be allowed



to alter the fundamental law of a State as to the qualification of electors or originally prescribed their qualifications, how comes it when the grant was made in the Constitution of the United States that "the Congress might at any time by law make regulations or alter State regulations as to the 'time, place, and manner' of holding elections for Representatives," that the power now claimed was not added—"and to prescribe or alter the regulations fixing the qualification of the electors?" The answer must be, because it was not intended to give to Congress that power.

The other provision of the Constitution is, that the Senate of the United States shall be composed of two Senators from each State chosen by the Legislature thereof. And if it is competent, therefore, for the Congress of the United States to impose any such condition as this upon this young State of Nebraska, it is equally competent for the Congress to impose that other condition, that said State shall have unequal representation or no representation at all in the Senate of the United States. Sir, the American people will never submit to it. By the sacrifice of life, by the sacrifice of treasure, that people have written upon the mountains and the plains of this land in letters of living light, never, I trust in God, to be erased, that hereafter all the States and all the people of this Union shall be equal before the law; that we shall neither have vassal States nor vassal men in the Republic.

Mr. WILSON, of Iowa. I desire to get the gentleman's attention to this point: suppose this bill should be so amended as to send this limitation of the power of the State back to the people of the Territory to be accepted, and it should be so accepted, I ask the gentleman whether in his opinion that acceptance by the people of a proposition submitted by Congress would be binding upon them after their admission as a State to secure the right of suffrage to all?

Mr. BINGHAM. I do not believe it would at all, for the reason you cannot impose any condition on any State admitted into this Union as a perpetually binding condition save such conditions as stand with the text and spirit of the Constitution. The people of to-day in Nebraska have no power by contract to barter away the essential rights of the people of tomorrow in that State under the Constitution. I say it is essential to the life of the Republic that the will of the majority in every State should rule, subject to the limitations of the Constitution, unless forfeited by crime.

But in further response to the gentleman's question, in the language of the author of the "Spirit of Laws," the President Montesquieu, I would say "political liberty is a right of doing whatever the laws permit; and if a citizen could do what they forbid he would be no longer possessed of liberty, because all his fellow-citizens would have the same power." The Constitution of the United States is the supreme law; it is obligatory alike upon all the citizens and all the States, and forbids to be done what the gentleman would propose to do. It is the shield of our liberties, and we cannot consent to its violation.

Mr. WILSON, of Iowa. Let me ask the gentleman but one question.

Mr. BINGHAM. I do not wish to be interrupted any further, as my time is limited; but if it is not to be taken out of my time I will answer with pleasure.

Mr. WILSON, of Iowa. I wish to ask the gentleman from Ohio whether, in his opinion, a majority has the right to deprive the minority of their fundamental rights?

Mr. BINGHAM. The gentleman omitted to notice what I said in the opening of my remarks, that there was no limitation of the rights of the majority to exercise and control the political power in a State save that the constitution of the State should be republican in form of government and not inconsistent with the Constitution of the United States. That is a republican form of State government, and invades no fundamental rights, I apprehend,

in which an overwhelming majority of the male adult citizens of the United States resident therein have exclusive control of its political power.

Mr. GARFIELD. How large a majority would my colleague call an overwhelming majority? What per cent. of the citizens of a State can be disfranchised before its constitution will cease to be republican?

Mr. BINGHAM. A majority as overwhelming, sir, as controls the political power of your own State. Does my colleague hold that the constitution of Ohio is not republican, or does he propose to reform it by act of Congress?

I see, sir, that some gentlemen here are very vigilant on this subject now who, when I ventured to assert long years ago that the majority should not discriminate against classes because of race or color, were then as dumb dogs. That has always been and now is my own opinion; the time is coming and I trust is not far distant when through the final action of the people—where this question alone belongs in every State of this Union—manhood, fidelity to the law, and citizenship shall be the only test of suffrage or eligibility to office.

But it is not the way to hasten this consummation so devoutly wished for to undertake to force it by act of Congress upon new States, and thereby degrade them and deprive them of their just equality before the law. While we stand by the other section of this bill admitting Nebraska into the Union as a State on an equal footing with the other States, we thereby give her no right to do wrong, but we secure to her the essential right of a government republican in form, adopted by her own people, and securing to the majority the exclusive right to govern.

Mr. WILSON, of Iowa. I ask another question in connection with the last one. In the Territory of Nebraska, according to the information I have, there live citizens of the United States of African descent. When the initiatory steps were taken by the people of the Territory to frame the constitution here presented, they denied to that class of citizens any voice in determining any of the steps so taken resulting in the formation of this constitution. I wish to ask the gentleman from Ohio whether in his opinion that majority had the right to exclude from all participation in the first or initiatory steps taken for the organization of the government? And whether it is the right of the majority to say the minority shall have no voice in determining what the government shall be?

Mr. BINGHAM. Well, I answer the gentleman in the language of a profound statesman:

"There is no such thing as majority or minority without a corporate organization."  
"A number of men in themselves have no collective capacity. The idea of a people is the idea of a corporation."

Those are the words of Burke, a man who was said to have "laid all nature under tribute." Standing upon his words, I submit that no majority spoke in Nebraska save in conformity to the act of Congress as declared in the preamble of this bill. What that majority did was expressly authorized by the act of Congress of March 21, 1864, and by his vote on that bill the gentleman may have authorized the very act to be done of which he now complains. Sir, men who live in "glass houses ought not to throw stones." [Laughter.]

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I yield twenty minutes to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. Mr. Speaker, in the last Congress I was unable to vote for the enabling act which invited the people of this Territory to form a constitution preparatory to its admission as a State into this Union; for the same reason I was also unable to vote at the last session for its admission into the Union under the constitution now before the House. I confess some embarrassment as to what is clearly my duty upon the new phase which is presented in the case at the present time. With some

little hesitation as to the soundness of the convictions to which I have arrived, and with no disposition to embarrass the action of the House or of the majority, whatever it may be in the judgment to which they shall arrive, I beg the indulgence of the House for a few moments as briefly as possible to give the reasons not only which induced my vote in the last Congress and at the last session, but which, as at present advised and unless convinced by the arguments which may be submitted hereafter, I shall be obliged to follow upon the present occasion.

I know of no act of the Congress of the United States more solemn than that upon which we are now about to pass. It is the creation of a State, breathing into it the breath of organic life, fixing its fundamental law for the present, and probably for the long future, under which its history commences, its prosperity or adversity begins, its career for glory or otherwise has its origin, its social institutions spring up. Its growth, its development, everything pertaining to its future as a State are involved in the question submitted to the House this afternoon. It is a question of no less importance to the United States themselves. It is introducing into the family of States a State upon an equal footing with all the other States of the Union, clothed in the other branch of Congress with the same power and with a proportionate power to the popular branch, sharing our legislation, helping to mold and shape the future destiny and career of the country as well as of itself, and assuming for the first time, upon the passage of this act, self-government for all future time.

It was wise, then, that the Constitution of the United States left this question as it has to the largest discretion of the people whose Representatives assemble in this body, untrammelled by any requisition, unlimited by any consideration except those under the Constitution from which they derive their authority, and which the present and future, enlightened by the past, shall light up the path of our duty. The Constitution says that "new States may be (not shall be) admitted into the Union by the Congress of the United States." It is, therefore, a question brought before us untrammelled by any consideration save those which we ought to bring to our deliberation here of the largest and the most comprehensive statesmanship of which we are capable. It should be decided upon no temporary expedient, upon no question of temporary policy. It is a work, however well or however ill we may perform it, that we cannot undo. It is a work for all time, and just as we shall perform it so it must remain, unaltered and unqualified, upon the statute-book of the country through the whole coming career and history of the Government.

Let us therefore weigh this question as becomes the Representatives of the people of the whole Government—this whole family of States—before taking into its embrace another upon an equal footing, sharing all the power, all the benefits, all the responsibilities, all the burdens which we bear here to-day. The policy which has governed the country heretofore is one of which I have no complaint to make here to-day—that of an early admission of States into this Union out of the new and constantly added territory of the Government whenever there has arisen therein a community, a body of people sufficient in number, in ability, in industry; with an organization sufficiently stable to bear the burdens and share the responsibility of a State. It has always been, and I trust always will be, the policy of this Government to admit them as soon as possible, at the earliest possible period that they shall manifest a disposition to form for themselves a republican form of government and come into the family of this nation.

I do not trouble myself about the effect of the relative strength of the old States. I yield to the power of numbers, as one of the Representatives of a section of this country that suffers relatively by the addition of new States

from the western country continually. It will yield; as I have heretofore done and do again, to the ultimate and absolute power of the numbers who concentrate themselves in the great valley of the Mississippi, at the earliest practicable period. I hail these States as they come in. I welcome them into the family of States. Each one of them adds strength to the common Government, standing around this common temple, and bearing gladly upon their shoulders their share of the continually increasing expenses and burdens of the Government.

But, sir, the question of the time when these States shall be admitted into the Union depends also upon other circumstances. Sometimes, when the condition of things in a Territory is disturbed; when the administration of a territorial government is so uncertain, or so at war in spirit with the fundamental rights of the citizens of the United States; when there is such a failure in its administration, such a disturbance of society, and such a lack of ability for self-protection under the law, such a peculiarity in social institutions or in local laws as to require us sooner than otherwise to take them into the family of nations and prescribe for them, that they shall conform to the common law of the country, and the supreme law of the land, then it becomes the duty of the Representative to vote for an earlier admission of such Territory into the Union. Such were the conditions that governed Congress in the admission of Kansas into the Union; and such have been some of the reasons why the neighboring Territory of Nebraska has continued up to this time out of the Union—the lack of those disturbing elements which existed in Kansas, and which seemed to be beyond the power and control of the territorial administration, and only to be settled by the admission of that Territory as one of the States. But are any of those conditions existing touching the Territory of Nebraska or the Territory of Colorado? None at this time. I submit to the House, on the contrary, that such has been the legislation of Congress, and such is the administration of the law in the Territory of Nebraska, and I suppose also in the Territory of Colorado, that never in the history of territorial governments have the rights of the citizen, without distinction of race or color, been so guaranteed and protected, both civil and political, as they are at this hour in those Territories. The civil rights bill, which is above any territorial legislation or any adverse judicial decision in a Territory where our power is supreme, has guaranteed to him beyond peril every civil right known under the Constitution of the United States; and within one week past the same sovereign power of this Congress has guaranteed to him also every political right known under the Constitution of the United States, so that every citizen of the United States, be he high or be he low, be he white or be he black, of whatsoever name or nation or color or clime, to-day in the Territory of Nebraska enjoys, beyond the power of local laws or adverse judicial decisions, every right, civil or political, known under the Constitution of the United States.

Mr. INGERSOLL. Will the gentleman from Massachusetts yield to me for a moment?

Mr. DAWES. I will.

Mr. INGERSOLL. I rise for the purpose of withdrawing my motion to refer this joint resolution to the Committee on Territories; and I may be permitted to say here that I made the motion on Saturday, not from any hostility that I entertained to the joint resolution, but in order that there might be time allowed to the House to debate it, or to a committee to reflect upon it. There has been an hour allowed for discussion this morning, and there will probably be an additional hour allowed, and I have no desire that the bill shall be committed.

Sir, I voted for the admission of this Territory as a State at the last session of Congress, and I shall do so again. The constitution presented by the State of Nebraska is not exactly

what I should desire it to be, but under the peculiar circumstances surrounding the case I shall vote to admit the State into the Union.

The SPEAKER *pro tempore*, (Mr. POMEROY in the chair.) The gentleman from Ohio [Mr. ASHLEY] is now entitled to one hour on the passage of the bill.

Mr. ASHLEY, of Ohio. I will yield a short portion of my time to the gentleman from Massachusetts [Mr. DAWES] to conclude his remarks.

Mr. ROGERS. I would ask the gentleman from Ohio if he expects to allow any gentleman upon this side of the House to say anything upon this bill?

Mr. ASHLEY, of Ohio. All the speeches that have been made thus far have been against the bill.

Mr. ROGERS. Every single one of those speeches has been made by a gentleman who expects to vote for the bill. We upon this side of the House have some rights.

Mr. ASHLEY, of Ohio. I will try to yield to some gentleman on that side.

Mr. DAWES resumed. In this condition of things we are asked to take from citizens of the United States resident in Nebraska and in Colorado the political rights guaranteed to them by an act of this Congress, passed not one week ago.

Mr. STEVENS. Is that act a law?

Mr. DAWES. So far as we are concerned it is the law; and I doubt not it will be the law long before the bill now under consideration shall become one. I felt that we had achieved something when over the objections of the President and by a two-third vote we secured to the colored men of this District the political rights we are now asked to take by the passage of this bill from a portion of the people of Nebraska.

Mr. BINGHAM. Will the gentleman yield to me for a moment?

Mr. DAWES. I would be willing to answer any question if I was not limited as to time.

Mr. ASHLEY, of Ohio. But you are.

Mr. DAWES. I know I am. Now, to go on with my argument, if I could understand that we had got over this difficulty, if I could understand that the State constitution which the people of Nebraska have adopted and sent here, and which confines all political rights to white men, would be so modified by the last section of this bill if passed into a law, as to secure to all men equally those rights, then I would vote for this bill with great cheerfulness. If any one can convince me that by passing this bill we would secure the very thing which the people of Nebraska, in forming their constitution undertook to deprive the colored people of, I would go earnestly with every man in this House for the admission of that Territory as a State into this Union.

Now, under what circumstances is it that a constitution is brought here from the State of Nebraska, which by its very terms attempts to prevent anybody but white men from participating in the government of that State hereafter? At a time in the history of this Government, when the whole nation has been educated up to the belief and conviction that not only the true interpretation of the fundamental principles of government, but the absolute safety of our Government itself, requires the giving full and free scope to the Declaration of Independence, "that all men are born free and equal;" and that law, in whatever shape and form administered, "derives its authority only from the consent of the governed;" when we are struggling to reform the social institutions of the eleven rebel States and to bring them up to this standard, we are called upon in the same breath to take from these poor citizens of Nebraska the very political rights we sought only last week by a solemn act of Congress to clothe them with. I am told that there are not more than one hundred of these colored persons in Nebraska. The more the pity then; it shows the infernal hate of the negro which prompted it. It was from no well-grounded apprehension that the negro

would ever influence the politics of the State. It was from pure desire—

Mr. BLAINE, (in his seat.) Pure cursedness.

Mr. DAWES. Well, "pure cursedness;" the purest desire to persecute and still further press down this unhappy race. The State reserves to itself the right to give to aliens the right to vote before they become citizens of the United States if only they are white. It can give the right to vote to a man who but yesterday landed from the ship which brought him from a foreign land, if only he be white. But under its constitution, which we are now asked to ratify, no colored man, whatsoever he may have done, however he may have testified by his blood his love for the country of his birth, can ever have the right to vote.

And further, this was done a year ago, and this State has been from that day to this knocking at the doors of Congress for admission as one of the States of this Union, and it has known all along that the only obstacle to its immediate admission has been the fact that by its constitution the black man is deprived of his political rights, and that its people could in ten days' time have removed every obstacle in the world to its admission as a State.

Mr. BINGHAM. Does the gentleman suppose that that was the reason why President Johnson did not sign the bill which we passed last session for the admission of Nebraska?

Mr. DAWES. I do not suppose it was. But that is the reason the gentleman and myself have used for not voting for the admission of new States. Why, sir, eight years ago the gentleman from Ohio [Mr. BINGHAM] stood shoulder to shoulder with me, and in words of thunder, unequalled by those of anybody else who participated in the debate—

Mr. BINGHAM. I hope the gentleman will pardon me for interrupting him; but no such question at all arose on the bill for the admission of Oregon. The question then under consideration had regard to universal rights; and I stand to-day where I stood then.

Mr. DAWES. I was going on to say when the gentleman interrupted me that he then, in words of thunder, unequalled by those of anybody else who participated in the debate, opposed the admission of Oregon for this, among other reasons: "that no negro, Chinaman, or mulatto shall be allowed the right of suffrage" in that State.

Mr. BINGHAM. That was not the point.

Mr. DAWES. Mr. Speaker, what has happened since that day? Have the events which have shaken this nation to its very foundation, and taught us, amid the throes of our country's peril, lessons which we perhaps never before appreciated, given us occasion to falter, to manifest less courage? The gentleman from Ohio and myself resisted at that time the admission of Oregon. I suppose he did it—certainly I did it—for that, among other reasons—because its constitution contained the provision I have read. We told the House of Representatives eight years ago, "Send that constitution back to the people of Oregon and in one month's time they will conform it to the requirements of the Constitution of the United States." And I say now, if we meet this question fairly and fully, this constitution which the people of Nebraska now present will in one month's time be conformed to the principles of our republican system.

But, sir, there is attached to this bill a section which, it is supposed, is sufficient to save our consciences—not sufficient to save the rights of the poor black men in Nebraska; for in the discussion of this question, on this floor and elsewhere, I have not heard any man express the opinion that this section has the slightest force or effect. What does it provide?

That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or any other right, to any person, by reason of race or color.

Now, sir, that provision of course is not a part of the constitution of the State, for if it

were it would be unnecessary to put it in this bill. The bill does not propose that this provision shall be made a part of the constitution of the State. As has been well said by the gentleman from Ohio, [Mr. BINGHAM,] the only power that we have to interfere with the constitution of Nebraska, or any other State after its admission into the Union, is the power which we derive under that clause of the Constitution which imposes on us the obligation to "guaranty to each State in the Union a republican form of government." What is the extent of this power?

Mr. BINGHAM. Will the gentleman allow me to correct a mistake of his before he goes further?

Mr. DAWES. Yes, sir.

Mr. BINGHAM. The mistake which the gentleman has made has been in reading from his own speech instead of mine. [Laughter.] I spoke against the provision of the Oregon constitution, which denied to colored citizens, not the right to vote, but the right to live in the State or to hold property therein, or to prosecute a suit in its courts either for the vindication of a right or the redress of a wrong. Of the right of the majority to regulate the suffrage I spoke as follows:

"Of my resistance to the passage of this bill, sir, and to the enactment into a law of this Oregon constitution, let no demagogue say that it is a mere negro question, and for making a negro equal, politically, with a white man. I ask no change of the law as it is written in the Federal Constitution. I leave the States as that Constitution leaves them, free to regulate the elective franchise among citizens of the United States; to extend it to or withhold it at their pleasure from all colored citizens, or only some of them; from all minors, white or black; and, if they see fit, from the best portion of the citizens of the United States—from all the free intelligent women of the land. But I protest against the attempt to mar that great charter of our rights, almost divine in its conception and in its spirit of equality, by the interpolation into it of any word of caste, such as white or black, male or female; for no such word is in that great instrument now, and, by my act or word of vote, never shall be."

Mr. DAWES. The gentleman is mistaken in supposing that I read an extract from my speech. I was a little too modest to do that. I read from the constitution of Oregon, and not one word from any speech. I stated to the House that I opposed the admission of Oregon for that among other reasons, that her constitution contained that provision; and I supposed the gentleman from Ohio opposed her admission on the same ground.

Mr. BINGHAM. The gentleman made a mistake; that is all.

Mr. DAWES. Well, it is not the first time.

Mr. BINGHAM. Oh, no, not at all. [Laughter.]

Mr. DAWES. I must have mistaken the gentleman this morning when I understood him to pronounce a section of this bill palpably unconstitutional, and yet to declare his intention to vote for it.

Mr. BINGHAM. The gentleman did misunderstand me. I pronounced that section void, and therefore said that I would vote for the bill with or without the section, because it is of no more effect than so much blank paper.

Mr. DAWES. I did not, I believe, misunderstand my friend from Ohio when he declared just now that he persisted in the position taken in his speech on the admission of Oregon against allowing the Constitution to be marred with the word "white."

But, Mr. Speaker, I was about to say that the third section of this bill is not a part of the constitution of Nebraska; because if it were it would not be necessary to insert it in the bill. The bill does not propose to make the provision a part of the constitution of the State. Our only warrant, then, for interfering is under the authority to "guaranty to each State in the Union a republican form of government." But to "guaranty" does not mean to prescribe; to "guaranty a republican government" does not mean to impose upon a State a form of government, for the very essence of a republican form of government is that it shall have the consent of the governed. And, sir, under this very bill, as was cited by the gentleman from Ohio before, we pronounce the constitution

to be republican in form. We declare it conforms to the Constitution. We declare it comes up fully to the measure of that obligation of the Constitution upon us to interfere. And there is no power to interfere when we pronounce it republican in form.

If, therefore, what is obvious and admitted, this "fundamental condition" contained in the third section of this bill of admission is neither a part of the constitution already, nor proposed by the bill to be made a part of it, nor yet enacted under authority of the clause guarantying republican forms of government, the bill reciting that the constitution is republican in form without it, then, by what authority and for what end is it enacted? Is it proposed by force of the enactment of Congress to prescribe the qualification of voters in Nebraska after she becomes a State? By the construction of the Constitution from the foundation of the Government that is beyond the power of Congress. The exercise of this power has been left from the origin of the Government with the States. No one claims this power in the present instance. Under what authority, I repeat, is it proposed to enact this provision? I hope that the singular proposition just advanced by the gentleman from Pennsylvania, [Mr. BROOMALL,] that Congress makes the constitution of the State of Nebraska, needs no answer before those who believe that the very essence of a republican government is that it is made by those it governs.

It is gravely asserted at the other end of the Capitol, in support of this proposition, that the Senators and Representative of that State, by taking their seats under this act, give, as the agents of the State, its assent to this condition, and thereby make it a part of the organic law of the State. But when and where did the people of Nebraska make these three men their agents to enact or fix organic laws for the State? Not these men, but a convention was elected to make this constitution, and the people passed upon it themselves as it is now, not as it is proposed that it should be. These men were chosen for another purpose. Besides, if they could be agents for such a purpose, still they are expressly instructed by the very terms of their commission against giving any such assent. The very constitution under which they came here expressly declares that none but white men shall vote. It is beyond the power of their agents to assent.

It is further said that this section is at least the expression of the will and purposes of Congress, which must be regarded. I admit that it is an expression of the wishes of Congress, but not of its purposes, and as an expression of its wishes I appreciate it and regard it as a great gain. But we are dealing with organic law, not with the wishes of Congress, which may change with the hour. But will it be regarded? I propose an amendment submitting this proposition to the voters of Nebraska and you reject it: her Senators and Representatives here reject it. They have known for nearly a year that all opposition to their admission would be silenced in a moment if they would but strike the word white out of their constitution, and they have persistently refused. But refer this to their voters. Say to them, you shall not come in until you strike out the word white from your constitution and clothe all men with political rights, and you give to them and the world not only an expression of your wishes, but also of your purposes, which will be understood and heeded. You would never have another State come here with the word white in its constitution. You would also make one grand stride toward that measure to which you must come sooner or later, and the sooner the better—the incorporation of impartial suffrage into the Constitution of the United States, the supreme organic law to which every citizen and every State must bow.

I ask the gentleman from Ohio [Mr. ASHLEY] to permit me to offer the following amendment:

Sec. 4. Be it enacted, &c., That this act shall not

take effect until said "fundamental condition" shall receive the assent of the legal voters of said Territory, either upon direct vote or by convention legally assembled for that purpose, as shall be determined by the Legislature thereof; and the same shall be certified to the President of the United States by the proper certifying officer of the Territory. And it is hereby made the duty of the Governor of said Territory, within sixty days from the passage of this act, to convene the Legislature of said Territory to determine the mode and manner of taking the assent or dissent of said voters to said condition; and it is also made the duty of the secretary of said Territory to forthwith certify the result to the President, and of the President, by proclamation, to proclaim said result without delay to the people of the United States.

Mr. ASHLEY, of Ohio. I cannot yield to the gentleman from Massachusetts any further. I have given him already nearly three quarters of an hour.

Mr. DAWES. I understood the gentleman would give me as much time as I needed.

Mr. ASHLEY, of Ohio. I cannot yield any further.

Mr. STEVENS. I do not understand that the previous question has been called.

The SPEAKER. It has not.

Mr. STEVENS. I want to know whether the gentleman from Ohio then has the right to claim his hour before the previous question has been seconded?

The SPEAKER. The gentleman was entitled to an hour on the motion to refer. When that hour expired the motion to refer was withdrawn, and the gentleman is speaking now on the bill itself. There is no hour after the previous question has been seconded, because the bill does not come from any committee.

Mr. ASHLEY, of Ohio. I yield three minutes of my time to the gentleman from Vermont.

Mr. MORRILL. In the brief period of three minutes I do not expect to argue the question, and can only state some of the reasons why I shall vote against the bill.

The privilege, sir, of being admitted as a State into the Union is one of inestimable value, and those who ask to be so admitted should come in white robes, pure and unspotted. We have a right to inquire whether the parties come up to the standard we now proclaim to the world or not. This constitution of Nebraska excludes all but white citizens from the elective franchise, and that, in my opinion, is an insuperable obstacle to immediate admission.

Then, in the next place, I find the third section conflicts with the first. The first section admits the State, without any conditions at all, "upon an equal footing with the original States in all respects whatsoever;" while the last proposes fundamental and perpetual conditions, that the act shall take effect with no "abridgment or denial of the exercise of the elective franchise, or any other right, to any person by reason of race or color, (excepting Indians not taxed.)" This is correct doctrine; but they have already made their fundamental law and denied these rights to some of their own citizens. It will raise a question for the courts, and I prefer not to go into the courts at all on such questions. Being now within our control it is far better to keep them there.

We ought to make our laws on this subject symmetrical, making such rules that we shall be willing to admit a dozen States out of the Territories in the Northwest upon the same terms as would be satisfactory in the case of the southern States; for I cannot myself see why there is any necessity to have one rule in one case and a different one in another. Let the rule be just, but uniform in all cases; otherwise we shall have precedents that hereafter may be very embarrassing. If we may trust the people of Nebraska to perform "a condition-subsequent," why not the people of Georgia or Louisiana?

Mr. Speaker, there is no sort of hurry about the matter. And we are not sure there is population enough in the Territory to warrant her admission as a State. The new railroad, it is said, will soon add largely to her population. Railroads are all very well, but they are not exactly the equivalent of population. Let us welcome Nebraska, but not until she is ready, as I have no doubt she soon will be. In my



judgment, a Territory to be admitted as a State should have a population sufficient at least for one member of this House. It should have at least fifty thousand, while I do not believe, from the information we have, that in the present case there is over forty thousand. I know of no census which has been taken by which any one can speak of the number of her population with any authority, and before Nebraska is admitted there ought to be an authentic census, if for no other purpose than to see whether she has a sufficient number to support a State government. A State government is a very considerable burden for a small number of people in a new country.

Mr. ASHLEY, of Ohio. I now yield five or ten minutes to my colleague.

Mr. SHELLABARGER. Mr. Speaker, I think the objection which has been urged by those who oppose the admission of this Territory upon the ground there will not be secured to the persons of African descent in that State when admitted the right to vote is well taken. In other words, if in the mind of any member it be sufficient reason for the rejection of this application that by her admission under this act persons of African descent will not in law be entitled to vote, then I think such member ought to vote against this bill, because in my judgment the proviso which has been added to the bill will not under the law secure the end its purport indicates. The reason for that is, sir, as was remarked by one gentleman, it does not make this a part of the constitution, nor is there any method, legal I mean, by which the Congress or the Government of the United States can, if Nebraska shall refuse to conform to the suggestions contained in this proviso, enforce that proviso.

Now, then, when I have said that it seems to me, if I am not mistaken, I have suggested a vital objection, it is no answer to that objection that we are attempting to legislate in reference to the control of the right of suffrage within a State. We will not have controlled it; that will not be the effect of this proviso.

Now, let me suggest right here that these objections that have been taken on the ground that we are attempting to legislate for a State upon the matter of suffrage are not well taken, because we are now legislating about a Territory and not a State. Hence it must not be said that this proviso is, on that account, in conflict with the second section of the first article of the Constitution, to which my colleague [Mr. BINGHAM] alluded.

The next suggestion I wish to make is the one which relates to the most common objection made to this proviso and to the admission of this State with this proviso in it. It is that the proviso itself not being a thing within the power of Congress to legislate upon so as to make it a law according to the Constitution is doing a vain and an absurd thing. That is the most grave objection that I have really heard to this proviso. It is not, however, it seems to me, a vain thing to do; and the reason that it is not so is the same that has operated again and again upon the minds of perhaps one half of the Congresses that have ever legislated upon the admission of a State into the Union. It is not a vain thing, because the moral sanction and effect of this proviso will have potency and force, not in the way of being a law, but by being vastly persuasive and influential in controlling the action of the Territory that is admitted to become a State upon the terms contained in the proviso.

Mr. MORRILL. Will the gentleman allow me to ask if the moral sanction would not be as great or as effective by rejecting the application now as it would be by incorporating a null and void provision?

Mr. SHELLABARGER. I answer certainly; and if, as I said a moment ago, I occupied the position of my friend from Vermont, that it is a good and sufficient reason to refuse to admit a State because there are one hundred people in it that will be temporarily disfranchised, then I would be compelled to vote with him. But I deem the persuasive effect and force of

this proviso sufficient to secure the universal enfranchisement that we on this side of the House desire; and hence I can vote for the bill, although this section, known as the EDMUNDS amendment, will not become a law by reason of it being inserted here. Now, the moral force and persuasiveness of this clause, as it appears to me in the light of the past as well as the present, is this: that it becomes a matter of moral obligation on the part of these people to conform their legislation to the fundamental conditions upon which their members have taken their seats in this House and their States have been admitted into the Union.

Let me refer to an example or two bearing directly upon this point. I have already stated that perhaps a majority of the Congresses that have legislated on this subject have legislated in exactly the direction that this proviso points. Take an example that I happen to have before me, the admission of Missouri into the Union. In the act of admission of that State on the 2d of March, 1831, which will be found in the United Statutes-at-Large, page 645, you find this provision, which is identical in the regard in which I am looking at the matter with the proviso before the House.

"That the State of Missouri shall be admitted into this Union upon the fundamental condition [adopting the very language of this proviso] that the fourth clause of the second section of the third article of her constitution shall never be construed to authorize the passage of any law, and no law shall ever be passed by the State of Missouri in conformity thereto, by which any citizen of either the States of the Union shall be excluded from the enjoyment of any privileges or immunities to which such citizen is entitled under the Constitution of the United States."

There, then, is a State admitted into the Union upon the fundamental condition—subsequent, if you please, that she shall not thereafter ever pass any law of a given character. But it is said, what if Missouri should violate that fundamental condition; are you going to turn her out of the Union? How are you going to enforce this provision? I answer as I do in this case, that there is no way of enforcing it except by the moral forces which belong to the action I have suggested.

My friend before me suggests what is pertinent, that this subject-matter is one coming within the Federal powers and jurisdiction. Now, that is no reply to what I am saying, because I am arguing that there is no way for Congress to compel conformity to the fundamental condition. The conformity would have to be compelled, not by turning the State out of the Union, not by turning her members out of Congress, but by simply appealing to the courts to know whether the law passed by the State was or was not constitutional. And, let me remind gentlemen, that appeal to the courts would be exactly as effectual without this fundamental condition as with it. And hence I point to the act admitting Missouri as a case showing, not that the condition becomes the law, but showing the judgment and sense of the former Congress in putting such terms into the act for admission that they might have the persuasive moral force that belongs to those acts.

As my colleague [Mr. BINGHAM] well knows—for he is very learned in such matters—in the only act ever passed for the admission of our own State of Ohio, there was inserted a provision that for five years after the State should be admitted into the Union certain lands within the limits of the State should not be taxed. Now, let me ask gentlemen is not that matter of taxing lands a matter coming within State and not within Federal jurisdiction? Is not that a case of equal force with the one now before the House?

[Here the hammer fell.]

Mr. ASHLEY, of Ohio. I will yield to my colleague [Mr. SHELLABARGER] more of my time to allow him to conclude his remarks.

Mr. SHELLABARGER. I hope my colleague [Mr. ASHLEY] will allow my friend near him [Mr. BINGHAM] to say what he now desires to say.

Mr. ASHLEY, of Ohio. Very well.

Mr. BINGHAM. In the hurried remarks I

made a short time ago, apprehending that the discussion would take the direction it has taken, I called attention to the very cases my colleague [Mr. SHELLABARGER] has cited, and I called the attention of the House to the fact that in every one of those cases there were remedies in the courts. And I now assert here that in regard to the lands of the United States reserved from taxation in any State organized and admitted into this Union, there is a remedy in the courts to enforce that reservation. But what I assert here in regard to the political powers of the States is that there is no such remedy in any of the courts. And in the remarks which I submitted I myself cited the provision of the Missouri act, and showed that it was an enforcement of the express text of the Constitution of the United States, "that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." But I deny that it ever was enacted that the citizens of the United States are entitled as such to the privilege of voting in any State. That is the privilege of the citizens of an organized State, and it is the privilege of nobody else; a privilege limited only by the will of the majority.

And now I come back to the point from whence I started: that this provision added by the Senate to the bill of last session is perfectly nugatory, because there is no tribunal on this earth, save the Congress of the United States, that can take jurisdiction of any case arising under it. My colleague [Mr. SHELLABARGER] has well said that Congress cannot well expel the State. And I add that the Thirty-Ninth Congress cannot by its acts bind the power of the Fortieth Congress to act; nor can the Fortieth Congress bind the Forty-First Congress. Therefore, as I said before, this last section is void. For that reason, and that reason only, I will vote for this bill with it in, as I would without it.

Mr. SHELLABARGER resumed the floor.

Mr. HILL. Will the gentleman from Ohio allow me to ask him a question?

Mr. SHELLABARGER. Certainly.

Mr. HILL. I desire to ask the gentleman if in his opinion there is any difference in the legal effect of the provision under consideration whether it be contained in the bill admitting Nebraska into the Union or contained in the constitution of the State? In other words, could not the people of the State of Nebraska, immediately after its admission into the Union with a constitution containing this provision, change their constitution so as to deny the right intended to be conferred by this provision?

Mr. SHELLABARGER. The question of the gentleman, from Indiana [Mr. HILL] is a pretty long one, and I do not know that I can remember all of it. If I understand his question, the first part of it is whether there would be any difference in the legal effect of having this conditional provision enacted here by Congress in a law and having it incorporated into the constitution of the State of Nebraska? I answer that there would be just this difference: if it were in the constitution of Nebraska it would become binding and operative; if it were in the act of admission it would have only the moral force I have stated. As to the last branch of his question, whether the people of Nebraska could not in any event change their constitution if they chose so as to disfranchise a portion of the people there, I answer that they could.

Mr. WILSON of Iowa. Will the gentleman from Ohio [Mr. SHELLABARGER] answer a single question?

Mr. SHELLABARGER. Yes, sir.

Mr. WILSON of Iowa. The gentleman has referred to the proviso attached to the act admitting Missouri. My recollection of that proviso is that it required the State Legislature by a solemn public act to declare an affirmation of that condition.

Now, I wish to ask the gentleman from Ohio a question in connection with the suggestion of the moral obligation which would rest upon the

people of Nebraska under this provision. If we should propose to the people of Nebraska a condition in the same terms as that submitted to the people of Missouri, and if the Legislature of Nebraska should give its consent, thereby ratifying the condition, would not the moral obligation resting upon the people of Nebraska be greater to carry out in good faith the terms of that proviso than it would be in the case of the condition proposed in this bill, to which their assent is not asked in any manner?

Mr. SHELLABARGER. I answer, Mr. Speaker, that it is not my recollection that in the Missouri act to which I have referred there was any provision for asking the assent of Missouri to the fundamental condition which I read. My recollection is exactly to the contrary. But, however that may be, I can answer the part of the gentleman's question as to which would impose the greater moral obligation. I think that the course of proceeding stated by him would impose, if possible, a more distinct and definite obligation than will be imposed in this case.

Mr. FARNSWORTH. Would it add to the legal effect?

Mr. SHELLABARGER. It would not add to the ultimate legal effect.

Mr. STEVENS. I desire to ask the gentleman whether, in his view, the condition imposed by Congress in the case of Missouri was in conflict with any provision of the constitution of Missouri as presented?

Mr. SHELLABARGER. In my opinion it was. It was supposed to be in conflict with and would modify one of the provisions of the constitution of Missouri. The condition imposed by Congress was for the purpose of changing the effect of that clause of the constitution, or if not to change its effect, to exclude and prevent a certain construction.

Mr. STEVENS. As I understand, it was a construction of a part of the constitution of Missouri.

Mr. SHELLABARGER. Still it was a fundamental condition that certain legislation should be had.

Mr. ASHLEY, of Ohio. I resume the floor, and yield to my friend from Michigan [Mr. DRIGGS] one minute.

Mr. DRIGGS. Mr. Speaker, I voted against the admission of Nebraska when the question was up before, because her constitution contained the word "white." I find that there is a great difference of opinion among legal gentlemen as to whether the provision attached to the present bill will control the action of the State when admitted. After listening to and weighing, so far as I am able, the various arguments presented to-day, I have made up my mind to vote in favor of this bill. Sir, emigration is flowing to that Territory, and in view of the progress of enlightened sentiment, neither Nebraska nor any other State can long retain in her constitution this objectionable provision.

Mr. ASHLEY, of Ohio. Mr. Speaker, I yield the remainder of my time to the gentleman from Massachusetts, [Mr. BANKS,] with the understanding that he will call the previous question.

Mr. BANKS. Mr. Speaker, I do not vote for the admission of Nebraska except for the reason that I think the condition of the country justifies if it does not demand its admission at this time. There are many things in the condition of the Territory and some things in the constitution presented which I do not like; but I waive them in consideration of higher and stronger reasons for her admission. I do not vote for the admission of Nebraska with the idea that the exclusion of colored men from the exercise of unrestricted political power is to be permanent. On the contrary, I am impressed with the belief—indeed, it is in my mind a conviction—that this disqualification must be speedily removed. I regard this as an inevitable result. The exclusion is in deference to the traditions of the past. It has no foundation in positive reason or public interest. The time is not distant when all parties will concur in the perfect enfranchisement of the colored race

in all parts of the country. The situation of Nebraska, its increasing population, the development of its material wealth, the loyal sources from whence its emigration must come, and the laudable ambition which prompts its people to assume the responsibilities and powers of a State, make it certain to my mind that they will voluntarily recognize the demands of the age and secure to all people, without distinction of race or color, by irrevocable public law, a complete and perfect enfranchisement. Hence, though it is an objection, it does not outweigh the stronger and broader reasons for admission.

Mr. Speaker, there is more in this bill than appertains to the admission of Nebraska. It involves a principle which I concede is novel, but which is within the power of the General Government, and the exercise of which will hereafter be imperatively demanded.

It is mainly to the discussion of that principle that I propose, for the few minutes I am permitted to occupy the attention of the House, to direct my remarks.

The admission of a State to the Union, as has been well said, is one of the highest duties which can be exercised by Congress. It is a right entirely within the discretion of the two Houses of Congress and the executive department of the Government; that is to say, within the discretion of the law-making power of the Government. And, sir, we have the power, in the exercise of that right, to refuse admission or to impose conditions, or to admit without condition. And that constitutional right has been exercised since the foundation of the Government.

The State of Vermont was excluded from the Union of the States for several years, and was finally admitted on the condition that she should pay to the State of New York the sum of \$40,000; the historical charts of that period state that Vermont was admitted upon that condition, and the facts justify the belief upon which the people of that State acted, that unless they had paid this sum to New York upon some disputed question of boundary, the justice of which Vermont always denied, Vermont would not have been admitted to the Union at that time; and some of our people imagine that this payment was the foundation of the marvelous prosperity which has since blessed New York. [Great laughter.]

The most violent contest of our political history grew out of efforts to deprive States claiming admission of privileges enjoyed by many of the States of the Union, exactly as we propose in this case. Missouri was not admitted, except in company with the State of Maine; and Maine was denied admission except upon condition that Missouri should become a State. Congress not only fixed this condition upon Missouri, but imposed other conditions affecting the rights of future States in nearly half the territory we then occupied. For more than a quarter of a century this balance of irreconcilable political interests was maintained by the rejection of all States, South or North, unless their admission should be so regulated as to perpetuate the equilibrium between freedom and slavery, which had been established. The momentous results that followed the war with Mexico, the acquisition of the Pacific coast, the discovery of gold in California, the unprecedented creation of new States, and the prohibition of slavery by an uncontrollable popular will dissipated the equilibrium which had been maintained so long, and led us through the terrible history which is too familiar to us all, to the question now before the House, the condition upon which we are willing to admit Nebraska into the Union.

These conditions, I will agree with gentlemen, are expressed in the act of admission; but they will be as palpable to the students of history as that expressed so clearly in this bill if it shall become a law. Hitherto the terms of admission have been settled before the fact, and the statutory recognition of the new State marks only the result often reached through great tribulation and peril.

But a new age enforces the necessity of new

precedents and principles of action, and the time has now come when the conditions upon which a State shall be admitted to the Union, or restored to political power, must be made in express terms in the act of admission or restoration by the law-making power. And if I ever spoke a solemn word in my life it is now, when I say the reorganization of this Government can never be safely effected except it be upon conditions irrevocable by the States which may be the subjects of its legislation and expressed in the act of admission or restoration. Take, for instance, South Carolina. Suppose she applies for admission to the Union, or restoration to political power. She exhibits to Congress a constitution that embodies every principle which may be regarded as necessary to admission, and she is admitted or restored by unanimous consent of Congress and recognized by all the departments of the Government, and the very next day after her admission she changes every provision in her constitution and makes such a constitution as would make it impossible for any member of this House to give his consent to her admission; what, then, are we to do? Is the exercise of such power one of the reserved constitutional rights of South Carolina? No, sir; I think not. We have the right to say to South Carolina, in my opinion, or to any other rebel State, that when restored to power she is restored to power upon certain express conditions imposed by Congress or by the law-making power, which should be expressed in the act of restoration and made irrevocable by that or any other seeking admission or restoration; and she violates such conditions at any time we have the power to proceed against her in such manner as in our judgment the public safety may demand.

I notice, Mr. Speaker, that gentlemen debating this question carefully limit their objections to one consideration, and that is whether a condition of this character imposes upon the State an obligation or duty that can be enforced in a court of law. I will admit if we pass this bill the condition made fundamental, and in consideration of which many of us vote for this bill, cannot be enforced in a county court of the State of Nebraska; but I do not look for the interpretation of the political rights of the Government or the administration of public law to any county or State court, nor even to the judicial opinions of the Supreme Court. Why, sir, the very ground taken in this debate will enable, if it does not justify, the courts in exercising political power to such an extent as to deprive the people of this country of the control of their own Government. If the people have no rights and Congress has no power except such as may be recognized and confirmed by courts of law, then we give to courts of law the political and administrative powers that belong exclusively to the people of this country, which are indispensable to the safety of their Government, of which they alone are judges, and which the courts of law ought to enforce and not to overthrow.

There are two powers necessary to the efficient and wise administration of the Government: first, the power vested in courts, which operates between man and man, to which we all bow when restricted to its legitimate sphere; and second, the administration of political power, which the courts of the United States cannot and ought not to control, and that power is vested in the representatives of the people in the administrative rather than in the judicial departments of the Government, and can be applied whenever it is necessary to their safety in the admission of new States or the restoration of insurgent States to the Union. What is necessary to their safety it is the right of the people to determine. They cannot be held to the admission or recognition of States upon such conditions as will lead to the destruction of the Union, and this gives them the right to determine what is necessary to their safety. It is the mission of courts to administer the laws and not to organize or control governments; that belongs to the people.

Let me turn for a moment to the principal question presented in this bill. I need not restate in exact terms the condition it imposes, but upon Nebraska gentlemen know what it is. They say this condition is invalid; that it is of no effect. I concede that it is not in the form of law, such as might be administered in the courts of Nebraska. It is not presented in the form of statutes which are submitted to the interpretation of lawyers and the decision of judges. But then it is not among the subjects submitted to this judicial arbitration. It is a clear statement of the conditions upon which Nebraska may become a State of the Union. It shows what Congress deems necessary to a republican form and to the safety of the Government.

Similar stipulations have been imposed, either in precedent, action, or in express terms, in the admission of other States. Nebraska is not compelled to enter the Union upon such terms; but if she accepts admission when so tendered she will be held to an observance of the act by which she is admitted. The act of admission is not by any means the finality to the power of the Government in this or in similar cases. If this bill be passed with this fundamental provision, and she does not conform to that condition, she can never be regarded as acting in good faith toward the Government and people of the United States. What they would or should do I cannot say. It may be that no extraordinary measures would be taken in this case. The laws of Congress have sometimes been disregarded by States; but if any Congress hereafter should deem this observance of this condition essential to the public safety, and the State even after admission, should continue in violation of its provisions, or enact laws in direct conflict with the condition, Congress would have a right to declare such action a violation of solemn duty and an act of bad faith to the Government and people of the United States, and to take such measures to enforce its rights as the people might deem necessary to their safety. The rights of the Government in such case would be the same as if the State had accepted the condition previous to admission. She could not claim the rights of a State and disregard the solemn stipulation of the act by which she became a State.

Let me take the case of an insurgent State. Suppose we had admitted Tennessee upon condition, expressed in the act of restoration, that she should maintain for a limited period her laws which excluded the enemies of the United States from political power, and that after restoration upon this condition she should reinstate in power implacable public enemies, would not the Government have the right not only to declare that she had acted in violation of the law, but to reject her Representatives and Senators, and if need be send the Army of the United States there to enforce the rights of the Government? Sir, if Congress represents the political and administrative power of the Government, and admits a State upon a condition indispensable to its safety, and that State accepts its privileges knowing the condition upon which they rest, and subsequently organizes a government in opposition to it, the Government has an indisputable right to resume the power which it conferred; without this the Government cannot maintain its authority or its existence.

Mr. STEVENS. I would like to ask the gentleman a question. If in the act admitting her you do not make it a condition, can you ever make it afterward?

Mr. BANKS. It makes no difference whatever; if we impose the condition of admission of which the gentleman from Pennsylvania speaks, and admit her upon that condition, whether or not the State accepts it before admission, she assumes her position of one of the States of the Union with a knowledge of the terms upon which it is granted, and is as much bound by them as if she had accepted them before the admission. No explanation of that condition will strengthen the rights of

the Government under the act of admission. We admit her upon a condition which we have a right to impose, which the interest of this country demands, and which the people will sustain, and if she violates it she must suffer the consequences in precisely the same manner as if she had violated an accepted condition. I thank God that this great question in which the future peace of the country is involved arises, not in regard to an insurgent State, but a Territory that is loyal, people that are patriotic, and a State, if it becomes one, which will fulfill all its duties. But if hereafter this question shall arise in regard to the restoration and readmission of the insurgent States, and they shall be able to affirm that the Government has no right to impose conditions, or imposing conditions it has no power to enforce them, from the moment that doctrine is accepted the Government of the Union is at an end. It is in the hands of its enemies and will be destroyed.

Mr. STEVENS. One single word. Does the gentleman make no distinction between free Territories and conquered Territories?

Mr. BANKS. I make a distinction, a wide distinction; but so far as this principle is concerned the supremacy of the Government of the United States is one and the same in the loyal and disloyal Territories.

[Here the hammer fell.]

Mr. BANKS. As the gentleman from Ohio [Mr. ASHLEY] has required me to do so, I call the previous question. I do it not upon my own, but upon his motion.

On seconding the previous question, there were—ayes 65, noes 62.

Mr. ASHLEY, of Ohio, demanded tellers. Tellers were ordered; and the Chair appointed Mr. ASHLEY, of Ohio, and Mr. GLOSS-BRENNER.

The House divided; and the tellers reported—ayes 68, noes 67.

So the previous question was seconded.

Mr. ALLISON. I demand the yeas and nays on ordering the main question.

Mr. FARNSWORTH. I move that the House adjourn.

Mr. FARNSWORTH. I ask unanimous consent that the bill be printed.

No objection was made.

The motion to adjourn was agreed to; and thereupon (at four o'clock and thirty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Adin Nordyke, A. Wolcott, W. H. H. Rader, and 23 others, citizens of Princeton, Indiana, praying that there may be no curtailment or reduction of the national currency, &c.

By Mr. ASHLEY, of Ohio: The petition of John Riley, of Toledo, Ohio, praying that the Secretary of the Treasury be authorized and directed to issue American register or enrollment.

Also, the petition of Dennison Steele, of Toledo, Ohio, and George Berriman, of Erie, Pennsylvania, asking that the Secretary of the Treasury be authorized and directed to issue American register or enrollment.

By Mr. BUCKLAND: The petition of George W. Wenger, and 87 others, citizens of Springfield, Clark county, Ohio, against the curtailment of the national currency, and against compelling national banks to redeem their circulation in New York.

By Mr. DENISON: The claim of Hon. John Reichard, for money unlawfully collected by the internal revenue collector of the twelfth district, Pennsylvania.

By Mr. ELIOT: The petition of Sewell H. Fessenden, and others, of Massachusetts, praying that coal may be admitted free of duty.

Also, the petition of Nathaniel Cobb, of Kingston, Massachusetts, and 500 others, praying for an amendment of the Constitution securing to all citizens in States and Territories equality before the law.

By Mr. FARQUHAR: The petition of T. J. Taylor, J. G. Kennedy, and others, of Aurora, Indiana, against further curtailment of the national currency or contraction of the present volume of currency, as injurious to the banking, manufacturing, and mercantile interests of the country; also against compelling national banks to redeem their notes in the city of New York, or prohibiting them from paying or receiving interest on bank balances.

By Mr. HOLMES: The petition of G. B. Mowry and others, citizens of West Eaton, New York, against any curtailment of the national currency, and against the enactment of any law compelling national banks to redeem in New York.

By Mr. MORRILL: The petition of Ebenezer

White, Jacob Young, Samuel Hodge, Aaron Beede, Robert Sargent, Samuel McMaster, Perley Powell, and John G. Clogston, soldiers of the war of 1812, of Stratford, Vermont, praying Congress to grant them a pension, and setting forth their reasons therefor.

Also the petition of C. L. Barber, and 61 others, citizens of Castleton, Vermont, praying for passage of tariff bill as it passed the House of Representatives at the last session.

Also the petition of Samuel Ross, and 70 others, citizens of Castleton, Vermont, praying for passage of tariff bill the same as passed the House of Representatives at the last session of Congress.

By Mr. MOORHEAD: The petition of James Whaley, Alexander McClean, and Charles Williams, soldiers of the war of 1812, praying for the passage of a law allowing them pensions from the date of their discharge.

By Mr. MORRIS: The petition of R. M. Morris, Esq., and many others, of Springwater, Livingston county, New York, approving of the tariff bill agreed upon by the joint committee of wool-growers and manufacturers, and which passed the House of Representatives at its last session, and asking the immediate passage of the same into a law.

Also, a like petition, signed by J. C. Shelton, Esq., and many others, of West Bloomfield, Ontario county, New York.

Also, a like petition, signed by G. Arnold, Esq., and various others, of Conesus, Livingston county, New York.

Also, a like petition, by D. C. Snyder, and numerous others of Springwater, Livingston county, New York.

Also, a like petition, signed by the supervisors of the county of Yates, in the State of New York.

Also, a like petition, by F. P. Shelton, Esq., and many others, of New Bloomfield, Ontario county, New York.

By Mr. NIBLACK: The petition of Hon. J. L. Alcorn, of Mississippi, praying that certain moneys arising from tax on cotton may be set apart for repairing levees on the Mississippi river.

By Mr. PAINE: A memorial of the Governor, Lieutenant Governor, Justices of the supreme court, State officers, and 100 citizens of Wisconsin, praying for the enactment of a pension law for the benefit of the soldiers of the war of 1812.

By Mr. RANDALL, of Kentucky: The petition of Henry H. Hunter, of Knox county, Kentucky, for a pension in consequence of an injury received in the military service of the United States.

By Mr. RANDALL, of Pennsylvania: The petition of Charles Valence, for the payment of his pension from the date of his discharge.

By Mr. SCHENCK: Subduty petitions of officers of the United States Army, praying for the restoration of fifty cents as the commutation price of the ration.

By Mr. WARD, of New York: The petition of 70 citizens of Alleghany and Cattaraugus counties, in the State of New York, in favor of a constitutional amendment giving equal and civil political rights to all men.

Also, a petition of numerous citizens of Addison, New York, in favor of compelling all national banks to redeem their circulation in New York city, and for other purposes.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. RANDALL, of Pennsylvania: A bill for the relief of Charles Valence.

#### IN SENATE.

TUESDAY, January 15, 1867.

Prayer by Right Rev. THOMAS M. CLARK, D. D., Bishop of Rhode Island.

The Secretary proceeded to read the Journal of yesterday.

Mr. WILLIAMS. I move that the further reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. It can only be dispensed with by the unanimous consent of the Senate. Is there any objection to the motion?

Mr. SUMNER. I think we had better not dispense with the reading of the Journal at this period of the session. The Journal should be read.

Mr. SHERMAN. It is very long to-day.

The PRESIDENT *pro tempore*. Objection being made, the reading of the Journal will be proceeded with.

The Secretary resumed the reading of the Journal, but, before concluding, was interrupted by

Mr. CONNESS. I move to dispense with the further reading of the Journal.

The PRESIDENT *pro tempore*. It is suggested that the further reading of the Journal be dispensed with. It can only be done by the unanimous consent of the Senate. No objection being made, the further reading is dispensed with.

#### CREDENTIALS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Governor



of South Carolina, inclosing the credentials of Hon. James B. Campbell, chosen by the Legislature of that State as a Senator for the term commencing March 4, 1867; which were ordered to lie upon the table.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the petition of the Norwich and Worcester Railroad Company, through their president, respectfully asking Congress to reduce the impost duty on iron rails used for railroads to one half of a cent per pound in gold; on steel rails for railroads to one cent per pound in gold; on iron tires and axles to one half of a cent per pound in gold; on steel tires and axles to one cent per pound in gold; and on all frogs, crossings, and plates made of steel, and used exclusively for railroads, to one cent per pound in gold. As the committee having charge of this subject have reported a bill, this petition, if there be no objection, will be received and laid upon the table.

Mr. LANE presented a memorial of Dempsey Reece, praying to be relieved from any further performance of his contract to carry the mail on route No. 12068, between Newcastle and Mechanicsburg, in Indiana; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY. I offer the memorial of certain citizens of West Virginia, asking Congress to propose for ratification to the several States an amendment to the Constitution substantially to the effect that no inequality among citizens on account of birth, race, color, previous inequality, or previous non-residence beyond the preceding year, shall be made or recognized by the laws of the United States; also to remove, by immediate legislation, any such inequality from the District of Columbia, the Territories, and the ten unrestored States, and to take all necessary measures for peace, order, justice, and the security of life, liberty, and property in the same. I ask its reference to the joint Committee on Reconstruction.

It was so referred.

Mr. WILLEY. I also offer the memorial of certain citizens of West Virginia, praying Congress to refrain from the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments; and also praying Congress to refrain from the enactment of any law compelling the national banks to redeem their notes in New York, or prohibiting national banks from paying and receiving interest on bank balances. I ask that this memorial be referred to the Committee on Finance.

It was so referred.

Mr. BUCKALEW presented two petitions of journeymen cigar-makers and manufacturers of cigars of the second and fourth congressional districts of Pennsylvania, praying for a specific tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged, and that Congress will alter the present system of stamping by selling the stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the internal revenue laws; which were ordered to lie on the table.

Mr. SUMNER. I present the petition of the artists of Boston, in which they ask for the imposition of a specific duty on imported oil paintings of \$100 each, with an addition of ten per cent. on the excess of value above \$1,000 each. They say that this will increase the revenue of the Government and afford a needed protection to native art. In presenting this petition I deem it my duty to say that while I sympathize with its object I doubt seriously whether the petitioners do not ask for too large a specific duty on foreign pictures. I ask its reference to the Committee on Finance.

Mr. FESSENDEN. I think it had better be laid upon the table. All matters of that sort relating to the tariff should now be laid

on the table, because the committee have reported on the subject.

Mr. SUMNER. Very well; I agree to that.

The PRESIDENT *pro tempore*. The petition will be laid upon the table if there be no objection.

Mr. SUMNER. I also present the petition of colored citizens of Norfolk, Virginia, in which they set forth their grievances at length and very precisely indeed. They say that the civil rights bill is not enforced, and that they have not the protection which it promised; that the juries are all filled by rebels and against them; that they are shut out from the schools for which they are obliged to pay taxes; that they cannot purchase land for the land owners will not sell them; and that they are even shut out from the grave-yards which formerly were open to them. They ask for suffrage, thinking that if that were granted, they would in some measure be able to apply a remedy themselves. I ask the reference of this petition to the joint Committee on Reconstruction.

It was so referred.

Mr. KIRKWOOD presented a memorial of the State Historical Society of Iowa, praying for a modification of the postal laws so as to permit postage on pamphlets, papers, documents, and books forwarded to historical societies and public libraries to be paid on delivery, and that the postage on such papers, documents, &c., be reduced fifty per cent. below the present charges to such societies and libraries; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORRILL presented a memorial of the mayor and recorder of Georgetown, District of Columbia, praying for the passage of Senate bill No. 395, relating to the aqueduct bridge of the Alexandria Canal Company over the Potomac river at Georgetown, in the District of Columbia; which was ordered to lie upon the table.

Mr. HARRIS presented eight petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

Mr. HOWE presented a petition of Michael Mangan, late a private in the sixth Wisconsin infantry, praying that he may be placed on the same footing as private soldiers in regard to bounty or that he may be allowed an increase of pension; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Wisconsin and Michigan, praying for such an amendment to the Constitution of the United States as will prohibit any inequality among its citizens on account of birth, race, or color; which was referred to the joint Committee on Reconstruction.

He also presented two petitions of citizens of Wisconsin, praying the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

Mr. SHERMAN. I am requested to present the memorial and resolutions adopted at a large meeting of citizens of Bellefontaine, Ohio, praying that Congress may, by suitable legislation, exclude from holding office any person who is in the habit of drinking spirits to excess, and may make, as a cause of removal from office, the exhibition of any person in a state of intoxication while holding an office under the Constitution. I have no doubt that the principle of this memorial if adopted would save a great deal in the administration of the Government, and it ought, in my judgment, to be applied to every officer of the Government; but as it is a constitutional question, I suppose it is beyond our reach except by an amendment to the Constitution. I move that the memorial be referred to the joint select Committee on Retrenchment, which I believe has the subject of removals from office under consideration.

It was so referred.

Mr. PATTERSON presented a petition of citizens of the United States, remonstrating against the passage of any act authorizing the

curtailment of the national currency or the return within a limited time to specie payments, and against any law compelling national banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances, and also suggesting a reduction of the liquor tax; which was referred to the Committee on Finance.

Mr. RAMSEY. I have a communication in the nature of a petition from the employes of the Washington arsenal, in which they say:

"The undersigned, in behalf of the civil employes at Washington arsenal, beg leave respectfully to call your attention to what they believe to be an accidental omission in the joint resolution giving additional compensation to certain employes in the civil service of the Government.

"The word 'arsenal' has been omitted while provision has been made for the Government employes at the 'navy-yard,' and in all other branches of the civil service in Washington.

"We believe that it is manifestly an unintentional omission, as we think the House of Representatives could not have intended to exclude us from the benefits conferred upon other civil employes.

"There are now employed at the arsenal about one hundred and thirty men, including clerks, master workmen, mechanics, and laborers. The highest per diem received by any of them is \$4.50, and the greatest amount paid to any of them for civil service either as salary or per diem during the past year was less than \$1,100."

I ask that this paper may be referred to the Committee on Finance, who have the joint resolution to which it refers in their charge.

It was so referred.

Mr. COWAN presented a petition of the journeymen cigar-makers and manufacturers of cigars of the third congressional district of Pennsylvania, praying for a specific tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged, and that Congress will alter the present system of stamping by selling the stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the internal revenue laws; which was referred to the Committee on Finance.

Mr. HENDERSON presented a petition of Isaac H. Sturgeon, praying for the passage of an act to authorize the North Missouri Railroad Company to import certain railroad iron free of duty; which was referred to the Committee on Finance.

Mr. WILLEY presented a memorial of the trustees of the Foundry Methodist Episcopal church of Washington city, praying for authority to sell certain lands in the limits of the city; which was referred to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (S. No. 493) supplemental to an act to establish the Treasury Department, approved the 2d of September, 1789, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 457) to provide for the defense of the northeastern frontier, reported in favor of printing the bill, and that it be recommitted to the Committee on Foreign Relations; which was agreed to.

#### BILL INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 505) to authorize the trustees of the Foundry Methodist Episcopal church to sell and convey square No. 235 in the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### DEBTORS IN THE DISTRICT.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution; which were as follows:

In line twenty-four, after the word "library," insert the words "not exceeding in value \$400."

Add to the bill the following proviso:  
Provided, however, That this act shall not in any manner interfere in the collection of debt or in the enforcement of any contract made prior to the pas-

sage of this act, and shall apply to cases founded upon contract only. The officer charged with the execution of any writ of attachment or execution shall ascertain the value and amount of provisions to be allowed to any family under this act by summoning three householders of the District, who shall be first duly sworn by such officer faithfully to perform their duty, and proceed to set apart the provisions necessary for the debtor's family, according to this act, if such provisions be found on the premises or in possession of the debtor; and if not, they shall make out and return to such officer the value of such provisions, and the same shall be allowed in any property of the debtor.

Amend the title of the bill by striking out the word "the" where it first occurs, and inserting in lieu thereof the word "certain."

Mr. HOWARD. I move that the bill and the amendment be referred to the Committee on the District of Columbia.

The motion was agreed to.

#### FRENCH INTERVENTION IN MEXICO.

Mr. HOWARD. I ask the Senate to take up the resolution, which I offered a few days since in regard to Mexico, instructing the Committee on Foreign Relations to make some inquiries and report upon the subject embraced in the resolution to the Senate.

Mr. SUMNER. Let the resolution be read. The Secretary read the resolution submitted by Mr. HOWARD on the 4th instant, as follows:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire and report to the Senate the present relations between France and the republic of Mexico; the extent, both with respect to population and territory, of the successes of Maximilian in his endeavors to overthrow that republic; the amount and character of his military force, including his French auxiliaries; the action of the executive branch of the Government of the United States in reference to the intervention of France in the affairs of Mexico, including any treaty or project of treaty proposed, assented to, or recommended by our minister to France with a view to a settlement of the difficulties between France and Mexico; the present prospect of the withdrawal of the French troops from Mexican soil, and the probability in the case of such withdrawal of Maximilian being able to maintain his standing there; and that for the purpose of such inquiries said committee be authorized to send for persons and papers.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion?

Mr. DOOLITTLE. Is the motion to refer?

The PRESIDENT *pro tempore*. The motion is that the Senate proceed to the consideration of the resolution which has just been read.

Mr. DOOLITTLE. I move that the resolution be referred to the Committee on Foreign Relations.

Mr. HOWARD. It is a resolution instructing the Committee on Foreign Relations to make these inquiries.

Mr. SUMNER. The motion now is to take it up.

Mr. DOOLITTLE. I withdraw the motion to refer if it is not taken up.

The PRESIDENT *pro tempore*. It is not necessary to withdraw it. The motion now pending is that the Senate proceed to the consideration of the resolution. It is not yet before the Senate. The question is, will the Senate proceed to the consideration of the resolution?

Mr. SUMNER. I have no objection to its consideration, though if it should be taken up I shall move an amendment to it.

Mr. HOWARD. Very well; let us take it up.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. HOWARD. Mr. President, I do not propose to occupy the time of the Senate at any length on the subject of this resolution, and yet I think it due to the country and to Congress that the resolution should pass. There has been a state of war existing in Mexico since 1862. It sprang into existence in consequence of disagreeing parties in that republic, and an attempt on the part of one of these parties to overthrow the republican government of Mexico, as established by her constitution and to establish another government in its place. In this condition of things the Emperor of the French saw fit to intervene and to espouse the cause of one of the parties, whose object was the overthrow of the republican government long established there.

The pretext for this wanton, totally unauthorized, and unjustifiable intervention on the part of the Emperor was the undoubted fact that the Government of Mexico was indebted in a considerable amount to certain French subjects, and that the republic had not been able to pay the amount of their claims. Ostensibly the cause of the war on the part of France was the enforcement of this claim; but nobody can for a moment doubt that that indebtedness was but a hollow pretext for this bloody and wanton war. Its object must be looked far beyond that claim. The intervention looked to the complete subversion of the republican government in Mexico and the establishment there of the imperial power of France under a protectorate which the Emperor had seen fit to extend to Maximilian, who, by his advice and connivance, was called at the head of affairs in Mexico by what is commonly known as the priest party.

The Government of the United States have not thus far, as I understand it, made any very strenuous efforts, either by diplomacy or otherwise, to procure the withdrawal of the French forces from Mexico. The war has been raging for years, and has been prosecuted by the French army with great bitterness, and in some cases with great barbarity, if we are to credit the rumors brought to us by the journals of the country. I do not, however, propose to enter into the character of the war. What I want to know, and what I think the country desires to know, is the present exact political and legal posture of the republic in regard to the Government of the United States and in regard to the Government of France. The state of war has interrupted our trade with Mexico; it has greatly involved our relations with the legitimate Government of that republic; and our own interests, the interest of our commerce, the interest of our own citizens, the interest of mankind generally, require that it should be brought to a speedy close. We are not informed to what extent the imperial forces have succeeded in subjugating the people of Mexico; we do not know to-day how many towns or cities they hold in their possession, or how important may be the conquests they have made; and I have been waiting with great patience and a feeling of great personal indulgence to the honorable chairman of the Committee on Foreign Relations of this body for some report, some statement by which I could learn the exact posture of affairs there. I think the same anxiety has filled the breast of more than one Senator.

The country and the world have been amused for the last fifteen or eighteen months with occasional rumors that the French army were about to be withdrawn from Mexico, and that consequently the usurper Maximilian would retire again to his home, the people of Mexico be left to enjoy their own sovereign right of self-government in their own way, and peace be thus restored. I am without faith in these rumors. I wish to call the attention of Senators, and especially of the Chairman of the Committee on Foreign Relations, to a few facts in this connection.

As long ago as the 10th of April, 1864, the Emperor of the French entered into a solemn convention with Maximilian in regard to the amount of force the Emperor was to furnish to him in his expedition to Mexico. I hold in my hand a document, containing several of the articles of that convention. They read as follows. I desire the attention of Senators to the convention, so that there shall be no misapprehension in regard to the conventional relations existing between the Emperor and Maximilian, and no mistake as to how far the Emperor is bound to continue his military forces in Mexico. Articles one, two, and three of this convention read as follows:

"ARTICLE 1. The French troops which are now in Mexico will be reduced as soon as possible to a corps of 25,000 men, including the foreign legion.

"This corps, to protect the interests which have caused the intervention, will remain temporarily in Mexico, under the conditions arranged by the following articles:

"ARTICLE 2. The French troops will evacuate Mexico according as his Majesty the Emperor of Mexico shall be able to organize the troops necessary to replace them.

"ARTICLE 3. The foreign legion in the service of France, composed of 8,000 men, will, nevertheless, still remain for six years in Mexico after all the forces shall have been recalled, conformably to article two. Dating from this moment, the said legion shall pass into the service and pay of the Mexican Government. The Mexican Government reserves to itself the faculty of shortening the duration of the employment of the foreign legion in Mexico."

It is plain from this that the continuance of the French forces in Mexico depends entirely upon the will and the interests of Maximilian himself. The Emperor of the French stipulates to furnish him with at least twenty-five thousand French troops, and this force is to remain in Mexico so long as he desires. At all events, whatever disposition may be made of a portion of this large force by Maximilian, the Emperor is bound by his contract to permit his foreign legion to remain in Mexico for at least six years from the date of the convention. That would be until the 10th of April, 1870. Now, sir, I have yet to learn that this convention has in any respect been altered or modified by the consent of the two contracting parties. I know that we have had many rumors that the French troops were about to depart. We had a story during the last summer, and we were told, if I remember rightly, that the whole of the French forces would be withdrawn by the 1st of November; but instead of this rumor being verified by the facts it turned out that France was increasing her force in Mexico and sending additional regiments to uphold the tottering throne of the adventurer.

I will not pursue the subject but a step further at this time; I do not deem it necessary; but I wish the learned chairman of the Committee on Foreign Relations to give this subject his most earnest attention, and to inform us whether there be not some means by which the friendly intervention of the Government of the United States may be speedily used for the restoration of peace to Mexico and independence to the republic.

Sir, we have been, according to my apprehension, on the very point of recognizing the authority of Maximilian as Emperor of Mexico. I call the attention of Senators to a very small portion of the diplomatic correspondence which has passed upon this subject. The French version of our relations with France is best stated in a paper in the *Memorial Diplomatique*, published in Paris, under date of March 12, 1865. The document bears upon its face very strong evidence of being official, or at least semi-official. Allow me to read a passage or two from it. The writer says:

"As soon as the note of the notables of Mexico, conferring the crown upon the Archduke Ferdinand Maximilian of Austria, had by the subsequent adhesion of the *ayuntamientos* obtained the legal sanction of the country, the French diplomacy made it its duty to assure itself of the true dispositions of the American Cabinet in regard to the new empire of Mexico. President Lincoln and Mr. Seward, at Washington, as well as Mr. Dayton, at Paris, did not cease to assert the well-defined purpose of the Government of the United States to respect the results of the free vote of the Mexican people."

Here comes the passage to which I desire attention:

"They added"—

Who? The President of the United States, the Secretary of State of the United States, and Mr. Dayton, our minister at Paris—

"that out of regard to France, whose friendly sympathies for the Union were confirmed by her scrupulous neutrality in the war between the North and the South, President Lincoln, in case of reelection, formally promised to enter into diplomatic relations with the Government of Maximilian if he was generally recognized by the other Powers of Europe and America."

I believe he has been so recognized.

"The best-informed American journals agree in stating that President Lincoln only awaited the date of the renewal of his functions on the 4th of March to recognize officially the new Mexican empire; and this recognition positively decided upon and making a part of the political programme of the Government at Washington, will no doubt establish without delay between the two countries relations of perfect understanding and neighborliness."

"Never in its discussions has the Cabinet of Wash-

ington allowed to transpire the slightest allusion to the Monroe doctrine."

And in this respect I believe the writer is entirely correct—

"still less has it from this leading point made reserves implying any right whatever in the internal affairs of Mexico. In effect the last attempt at conciliation between the confederates and the Federals have revealed to us that the initiative tending to prop up the Monroe doctrine does not belong to the Government of the North, but to that of the confederates, who, in a common undertaking based upon this doctrine, saw means of bringing back the opinion of the population of the South to ideas of conciliation and Federal unity."

Now, sir, I wish to know by a formal, solemn report from one of the standing committees of this body, whether it be true in point of fact that Mr. Lincoln or Mr. Seward or Mr. Dayton or any other accredited organ of the United States has ever proposed, directly or indirectly, to recognize the authority of Maximilian, Archduke of Austria, as the legitimate or even *de facto* ruler or governor of the republic of Mexico or any portion thereof. I wish to know how far this intrigue has proceeded and who are parties to it. While I say this, however, I am bound to say in truth that our minister, Mr. Bigelow, in Paris has upon more than one occasion intimated, in terms which could not be mistaken, his willingness, nay, his anxiety to recognize the authority of Maximilian as the Emperor of Mexico.

I beg to take one more step, sir. The paper from which I have read was one of the inclosures contained in the dispatch of Mr. Bigelow, the American minister at Paris, dated March 4, 1865, numbered 55; and Senators have seen what were the views then taken of this subject by the French Government, if the paper itself from which I read can be regarded a proper exposition of those views. In the inclosure from which I have read you will see that there is a positive statement implicating the American Secretary of State in the plan to recognize Maximilian. There it was written and printed in plain terms. On the 28th of March, 1865, only a few days after that dispatch was sent by Mr. Bigelow to Mr. Seward, the latter writes him the following dispatch, to which I call the attention of the Senate:

SIR: Your dispatch of the 14th of March, No. 55—

Which contained the inclosure from which I have just read charging the President and the Secretary of State of the United States and the American minister at Paris with favoring a recognition of the imperial government of Maximilian in Mexico—

has been received, and I have read with much interest the papers which accompany it—

That is, this paper which I have read—

and which illustrate the disquietude now prevailing in Paris.

Fortunately, I have in my dispatch of 15th inst., No. 71, explained to you the views and sentiments which our military and political situation suggests. We want our national rights. We are not looking for ulterior national advantages or aggrandizement, much less for occasions for retaliating in other forms of hostility against foreign States. We are not propagandists, although we are consistent in our political convictions.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN BIGELOW, Esq., &c.

Making no allusion whatever to this distinct allegation contained in the *Memorial Diplomatique* of a purpose on the part of our Government, including him by name, to recognize the authority of Maximilian; omitting all notice of it, passing it over in silence as if it were a matter utterly unworthy of his notice.

Mr. SUMNER. I should like to inquire of my friend whether it is customary always or expedient for the representatives of our Government to undertake to reply in so many words to statements of anonymous writers in journals however respectable? The *Memorial Diplomatique*, as the Senator well knows, is simply a journal conducted by eminent writers, but I do not know that it can be entitled to a different kind of consideration from that which is bestowed upon other journals.

Mr. HOWARD. It is unnecessary for me to answer the question put by the honorable Senator from Massachusetts specifically. It is

sufficient for me to say that the Secretary of State in other cases has seen fit to take notice of similar articles from publications sent him as inclosures by our minister to Paris. Whether it be usual among diplomats is another question. This charge was a grave one, involving the honor of his Government, and well worthy of his attention and solicitude. But, sir, the Secretary says:

"Fortunately I have in my dispatch of 15th inst., No. 71, explained to you the views and sentiments which our military and political situation suggests."

I know not where to find this dispatch of the 15th of March, 1865, No. 71. The document has not been, so far as I am aware, laid before Congress, and has never yet seen the light. Congress are, I believe, in ignorance at present of the contents of that very important dispatch of the 15th of March, in which the Secretary of State had "fortunately explained his views and sentiments in regard to our military and political situation." I may possibly be mistaken as to the fact that this dispatch has never been published. I have searched for it diligently, however, and have thus far been unable to detect it, although there was an express call made upon the President as long ago as the 11th of December, 1866, requesting him "to communicate to the Senate, if not incompatible with the public interests, all correspondence, not yet officially published, between our Government and that of France, touching the occupation by French troops of the republic of Mexico and the establishment of a monarchy there." I ask the honorable chairman of the Committee on Foreign Relations whether he has ever seen that dispatch of the 15th of March, 1865?

Mr. SUMNER. I do not recall it by its date.

Mr. HOWARD. Mr. President, it seems to me that there is an unnecessary mystery hanging over the whole subject of our relations with Mexico and her relations with France—a mystery which ought to be solved. Our interests as a nation, as a sister republic, older by birth and stronger in every way than Mexico, require, it seems to me, a full and complete narration of all the material facts involving her in the present imbroglio with France. I hope the learned chairman of the Committee on Foreign Relations will for a few days, or a few hours at least, pretermit that attention which he has been giving to other subjects, very necessary and very praiseworthy to be sure, and endeavor to enlighten the Senate and the country upon the historical, diplomatic, and political status of Mexico. I think the people of the United States, as well as the people of Mexico, will thank him for it.

One word further, sir, and I have done. We have had various rumors of a settlement with Mexico, and among these rumors was this: that the United States were endeavoring to bring about a peace by purchasing from Mexico, or rather from Juarez's government, a large portion of the republic, including Lower California and Sonora, and, as a consideration, to pay to the Government of the Emperor of the French some twenty-five or thirty million dollars in satisfaction of its claims. Of course I do not know how much foundation there may have been for this newspaper rumor; but just here I beg to be indulged in saying France has prosecuted a war against that republic for four years and more. She has thus far utterly failed of success in her project of subjugating the people, and utterly failed of obtaining the indemnity for French citizens which was the pretext of the war. The subject of the war was the claim of France for indemnity for her citizens. Upon that subject and for that end she has waged this long, bloody, and wasteful war. She has seized—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. HOWARD. I shall be through in a moment if the Senate will indulge me.

The PRESIDENT *pro tempore*. No objec-

tion being made, the Senator from Michigan will be allowed to proceed with his remarks, and the order of the day will be laid aside informally.

Mr. HOWARD. I assure the Senate I shall occupy but a moment longer.

She has seized the ports of Mexico; she has confiscated her revenues; she has drenched her soil with blood; she has made it necessary for the republican government of Mexico to enter into obligations of indebtedness which must hereafter weigh heavily and oppressively to her people; and notwithstanding the gigantic efforts made by the Emperor of the French to convert Mexico into a French province, he has failed; and if to-day, or if at any time, France withdraws her troops from Mexico and abandons this war which she has thus cruelly and unjustly waged, I hold it to be one of the principles of the law of nations and the law of war that the subject of the war, to wit, the indebtedness on account of which it was waged, has become extinguished, and that France can never hereafter resume the war on account of the same subject-matter. She of her own motion took out an execution against poor Mexico to levy a debt. She resorted to the last remedy of kings in the prosecution of the debt. She has failed. Sir, the debt is dead and extinguished. The subject of the war passes into that oblivion and amnesty which is always implied by a peace, whether the peace be established by treaty or by the mutual cessation of hostilities. And I say here in my place that such a treaty on the part of the United States as I have alluded to, a treaty by which we should seize upon a large portion of that republic and out of the avails of which we should satisfy the French Government in respect to the indemnities she has claimed, would be an outrage upon the feelings of the American people and a gross departure from the plain principles of the law of nations.

I invite my friend's attention to this branch of this subject. It is one of great importance. Can the United States, by paying France this debt which she has claimed, and thus recognizing the justice of the war she has made upon Mexico, stand up in the presence of the other nations of the world and claim not to have been dishonored?

Mr. SUMNER. Mr. President, the Senator from Michigan has opened a great question—

The PRESIDENT *pro tempore*. The Chair will consider the order of the day as laid aside if no Senator calls for it.

Mr. EDMUNDS. Let it be laid aside informally.

The PRESIDENT *pro tempore*. If no objection be made, that will be considered the understanding of the Senate.

Mr. McDUGALL. I shall not object if it is understood that the order of the day is to be laid aside until this discussion is concluded. I object if the purpose is simply that the chairman of the Committee on Foreign Relations shall make his discussion and that conclude the debate, as I choose to participate in it myself if I have the opportunity. If the debate is to be continued until its conclusion I shall consent.

Mr. JOHNSON. I object to that.

Mr. McDUGALL. Then I object to laying aside the special order.

The PRESIDENT *pro tempore*. Objection being made, the Chair considers it his duty to bring before the Senate the unfinished business of yesterday.

Mr. SUMNER. With the permission of the Senate, I would state that I propose to move an amendment to the resolution of the Senator from Michigan, and I had better give notice of it now. It is to insert after the word "Senate" the words "if in their opinion this inquiry and report shall be deemed expedient;" so that it shall read, "the Committee on Foreign Relations be instructed to inquire and report to the Senate, if in their opinion this inquiry and report shall be deemed expedient." By that amendment this resolution will be brought to a certain extent in harmony with



the usage of the Senate. Without that it would certainly not be in such harmony. If the discussion be renewed I shall have something to say upon it, though I should have no objection to the resolution with the amendment I proposed going to the committee.

Mr. McDUGALL: I propose to offer a substitute for both the resolution and amendment; and as the subject may come up for discussion hereafter, I desire to present it now, and for this reason: it was my good fortune some years since to be upon the Committee on Foreign Relations, and I introduced resolutions of inquiry before that committee on the subject of French intervention in Mexico. The chairman of that committee did not think it prudent to have the subject considered; and claiming the right to direct the order of business never allowed it to be considered as long as I was on the committee; and so long as it is sent to that committee subject to their discretion it will never be considered.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is Senate bill No. 453.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 456) for the admission of the State of Nebraska into the Union, with an amendment, in which the concurrence of the Senate was requested.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 715) setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota; and it was thereupon signed by the President *pro tempore* of the Senate.

#### TENURE OF OFFICE.

The Senate resumed the consideration of the bill (S. No. 453) to regulate the tenure of offices, the pending question being on the amendment proposed by Mr. HOWE to the third section of the amendment agreed to as in Committee of the Whole as a substitute for the bill.

Mr. JOHNSON. Mr. President, before the question is taken I propose to submit to the Senate some remarks in answer to what was stated yesterday by the Senator from New Jersey, [Mr. FRELINGHUYSEN] and the Senator from Oregon, [Mr. WILLIAMS.] The Senator from New Jersey, if I understood him aright, referred to a passage from Story's Commentaries, which he considered as showing that the power vested in the Executive of appointing to and removing from office was a very dangerous one in a Government like ours, and he thought that it was proper to call the attention of the Senate and the public to the opinion of Mr. Justice Story, because the President of the United States had deemed it proper to cite from the same commentator upon the Constitution several paragraphs, and also from a number of the Federalist, written by Mr. Madison, and from Keht's Commentaries, for the purpose of showing that in a Government like ours the tendency to the usurpation of power was more strongly exhibited in the legislative department than in either of the other departments into which it is divided.

Whether the President was right or was not right in referring to these passages upon the occasion of his veto of the District suffrage bill is a matter about which there may well be differences of opinion. My own impression, as I stated a few days since, was that it would have been better in a message relating to that particular bill to omit any discussion of the question whether the abuse or usurpation of power was more to be apprehended from the legislative than from the executive department of the Government. I did not, however, understand my friend from New Jersey as meaning in the reference which he made to other passages in Story to deny that there does exist a greater tendency to abuse or usurpation in the

legislative department than in the executive or judicial; and still less did I understand him as referring to the passages which he read to the Senate for the purpose of showing that there was any inconsistency between the doctrine of the commentator referred to by the President and that to which he called the attention of the Senate; and there is none.

Mr. Justice Story, as well as the author of the number of the Federalist referred to, was considering the theory of such a popular Government as we have, divided into the three branches which all the writers upon political law tell us it should be divided into in order to secure freedom—the theory as to the tendency of each of those branches respectively to usurp power; and they all of them came to the conclusion—Mr. Justice Story and Chancellor Kent, as well as Mr. Madison, in the Federalist—that the danger of abuse or of usurpation of power was more to be apprehended from the legislative department than from the executive.

I could add nothing to the reasoning of the men to whom I have referred to make good that opinion. I think their reasoning is controlling, and I do not understand that my friend from New Jersey disputes it; but he says, and says properly, as everybody who has written on the Constitution has said from the beginning of the Government, and as was said while the Constitution was under consideration in the Convention, that the President may abuse some of the powers with which he is clothed. There can be no doubt about that; and the particular power which it is imagined he may abuse and may have a disposition to abuse is the power to appoint officers, and the power which has been heretofore recognized to remove, without the consent of the Senate, officers who have been appointed by and with the advice and consent of the Senate.

As far as relates to the power of appointment, my friend from New Jersey has not failed to consider that that may be abused by the Senate as well as by the President. The power of appointment of all constitutional officers, that is, those whose appointments are specially provided for by the Constitution, is not in the President alone. He can only exercise it (except in the case of a vacancy during the recess) with the approval of the Senate. The Senate, therefore, are just as much the appointing power as is the President in relation to all such officers. If, then, the possession of such a power carries with it a tendency to abuse in its exercise, that tendency is just as great in the Senate as in the Executive.

The reasoning in support of the proposition that there is danger in clothing the President with the power of appointment is that he may use it for the purpose of rewarding favorites and continuing party ascendancy to accomplish his reelection. That is all true; but it requires no particular foresight to see that each one of those motives may operate upon the Senate, if not collectively, individually.

In a Government like ours parties must exist; the Senate therefore must necessarily be divided into parties, formed because of the adoption of different political principles either in relation to the construction of the Constitution or in relation to matters of mere expediency. How the Constitution is to be construed as regards the powers which it may be supposed to contain, and how the powers which may be granted with the assent of all are to be exercised, are matters about which there will be differences of opinion. And that the fact is so is illustrated by the position of the Senate now, and has been from the commencement of the Government to the present time. There are now in the Senate but very few who concur in what has been called "the policy" of the President, which was neither more nor less than the policy of his immediate predecessor, in the steps which have been taken to restore into the Union for all purposes the States which attempted to escape from it. A large majority of the Senate are of a different opinion; and they think that that is a subject vital to the interests and to the safety of the United States.

Now, what is the purpose of this bill? The President, it is said, has removed officers and appointed others in their stead because the first were adverse to his policy and the last are not; and it is said that he has been governed by the same motives in appointing to offices which have become vacant without the exercise by him of his power of removal. Their names are sent here, and what says this bill? The Senate, supposing that under the administration of his immediate predecessor nearly all the offices of the Government were held by men who favor what is termed the congressional as distinguished from executive policy, if the President removes men of that description we will not only not confirm those whom he appoints to take their places, but if he removes and appoints as successors those who have been nominated and rejected by the Senate they shall not receive any salary, and every officer of the Government through whose hands the money is to pass from the Treasury in the payment of the obligation of the Government who pays the salary to such a man is to be punished criminally. That is this bill.

Why is that? Why does the Senate desire to take to itself that power? Why does the Senate charge as against the President an abuse of the power of appointment, founded upon the fact that he appoints those who concur with him instead of those who concur with Congress and differ from him? It is only because the Senate think proper to exercise the power of appointment which is in them to attain some political end or some party end, and to secure the continuance in power of the political party in the country to which they belong. And if my friend from New Jersey would, if he has not already done so, recur to what has been said by some of the lights who carried the Government through in the beginning of its existence, he would see that there is such danger to be apprehended from the conduct of the Senate in this particular as from the conduct of the President. In this connection I wish to read from a letter written by the elder Adams to Mr. Sherman, a member of the Convention from Connecticut, in reply to one which he had received from that distinguished man, stating that he thought there would be very great danger to be apprehended from vesting the power of appointment in the President alone, and insisting upon it that there should be associated with him either the Senate or some other tribunal by way of a check, so as to guard against the abuse into which he might fall. Mr. Adams, after admitting that the President might through ambition exercise the power of patronage which the sole authority would give him, if the sole authority was vested in him, as he thought it should be, objected to associating the Senate with him, and used these words:

"A Senator of great influence will be naturally ambitious and desirous of increasing his influence. Will he not be under a temptation to use his influence with the President as well as his brother Senators to appoint persons to office in the several States who will exert themselves in elections to get out his enemies or opposers, both in Senate and House of Representatives, and to get in his friends, perhaps his instruments?"

There are several other passages in this letter which are full of instruction, and were intended by way of warning to members of the Convention. It is published in Pitkin's History, but I read it from the second volume of the last edition of Story on the Constitution, page 394, where the greater part of the letter will be found. It does not apply to us, I know, for we have not any ambition; we do not want to get enemies out of office; but if Mr. Adams is right it may be in the future, though not in the present, that each individual Senator of those constituting the majority may be very anxious to keep his enemies out and to get his friends in; of course Mr. Adams meant political enemies and political friends, and with a view to accomplish both results a Senator may be very anxious to have appointed to office only his own friends, who will minister to his own purposes, or, to state it in the stronger language

of Mr. Adams, who may be his mere instruments to serve the purposes of his ambition.

The whole, then, results in this: that the tendency to abuse of the appointing power, as that appointing power now exists, is just as great in the Senate as it is in the President. That abuse may be caused precisely by the same causes which may originate the abuse on the part of the Executive. In the beginning of the Government, as we all know, the power was sparingly exercised. In the debate of 1789 Mr. Madison admitted that the power of removal might be abused, and that to remove without good cause (that good cause, as he said, consisting only in the want of competency or faithfulness on the part of the officer) would be a good reason for impeachment; but that doctrine has fallen—I suppose some of my friends will say in the progress of liberty. General Washington turned out very few, and appointed in no case except upon a conviction of the fitness of the particular person appointed. Of those who immediately succeeded him Mr. Adams turned out almost as few; Mr. Jefferson rather more, but still very few; and such continued to be the conduct of the Executive until the period of General Jackson's administration; but up to that time nobody doubted that the President had a right to remove, whether the officer was appointed by himself alone or by and with the advice and consent of the Senate.

The doctrine was received as one settled from 1789 down to the period when General Jackson assumed the presidential office. We know how he came into it. He was one of the three returned to the House of Representatives in 1828, when there was no person elected by the people, receiving a majority of the electoral votes; and in that contest Mr. Adams received the proper vote of the House under circumstances which caused almost a convulsion in the United States. He was voted for by Mr. Clay, of Kentucky, although as it was said, and I suppose correctly said, if the question had been submitted to the people of Kentucky, as between Mr. Adams and General Jackson, General Jackson would have received ninety votes out of every one hundred. But Mr. Clay, in the discharge of a duty which he thought he owed to the public—and nobody who knew him as well as I knew him could doubt the purity of his purpose—exercised the power with which the Constitution clothed him, and gave his vote for Mr. Adams. General Jackson was elected at the succeeding election by the people and re-elected. He had a strong hold upon the people. Under his command the war of 1812 had terminated in a blaze of military glory. The result of his great battle was then unexampled and has never been exampled since—I mean in relation to the disparity between the killed and wounded on each side. That gave him a deep seat in the hearts of the American people, and they justified almost everything that he was disposed to do or did.

And how did he administer this power? It is stated in a note, which I have no doubt is perfectly authentic in its facts, to be found at page 404 of the same volume of Story and the same edition before referred to, that he removed six hundred and sixty-four officers. The most of them were removed before he was re-elected. Who found fault with him? His political opponents found fault with him, not upon the ground that he had not the power to remove, but upon the ground that it was an abuse of the power. He went before the people a second time, and he was re-elected by an increased majority. The people, therefore, according to the doctrine which says that the people when they decide in favor of a President who has been before in office settle finally what the true construction of the Constitution is and what the true policy of the Government is, decided in that instance that the true construction of the Constitution in this particular is that the President is clothed with the power to remove, and that the true policy is to exercise that power, carrying out the doctrine announced in this

Chamber by a very distinguished son of New York, afterward Secretary of War and Secretary of State, equally distinguished in both characters, that "to the victors belong the spoils," a mischievous doctrine, in my opinion, as a political doctrine looking to the true interests of the country. But nobody then doubted or ventured to question General Jackson's authority to make those removals; and the bill upon your table, Mr. President, admits that the power is necessary; for what difference is there, so far as relates to the power, between suspending an officer for a time and taking from him the salary attached to his office during the whole period for which he is suspended and removing him altogether? That suspension is provided for by this bill, so that the friends of this measure—including, of course, my friend from Oregon—admit by the very bill itself that the true interest of the country requires that there should be vested somewhere an authority to get rid of an incompetent officer and that it should be vested during the recess in the President.

Now, I have said all that I propose to say in regard to the remarks submitted by my friend from New Jersey; and I have next something to say respecting what fell from the Senator from Oregon. In the first place, that honorable Senator assails the authority of Mr. Madison upon these grounds, which he supposes he has made good: first, that it stands in opposition to the authority of General Hamilton, and secondly, to the authority of the Supreme Court. It is true that as far as relates to General Hamilton, in the number of the Federalist to which the Senator referred, it was stated by that very distinguished man that the power to remove being incident to the power to appoint, and the power to appoint being vested in the President and Senate conjointly, the power to remove could only be exercised conjointly. Now, I speak from recollection, but I am sure it is a recollection which does not fail me, when I say that, after General Hamilton had been in the Government as Secretary of the Treasury and had been an anxious spectator and a student of the measures adopted by the Government from time to time, engaged in all the great political controversies that ensued even after he ceased to be the Secretary of the Treasury of the United States, he changed that opinion. He saw that the practical working of the Government demanded that such a power should be vested in the President if the Senate was not in session. He yielded to the reasoning of Mr. Madison, and he not only yielded to the reasoning of Mr. Madison, but yielded to the fortification of that reasoning which experience, after the power was held to exist, demonstrated to be the true policy of the Government and the true construction of the Constitution.

I beg leave to say to my friend from Oregon, with all respect, that he has entirely misapprehended the cases in the Supreme Court to which he referred. He first cited the case of *Marbury vs. Madison*, reported in 7 Cranch; which I understood him to say decided that it was not in the power of the President to remove. There is no such doctrine in that case. Just at the close of the Administration of Mr. Adams, he having appointed justices of the peace for the District of Columbia under a law which limited their services to four years and required the appointments to be passed upon by the Senate, and the Senate having confirmed the particular nominations, among others that of *Marbury*, Mr. Adams signed the commission and sent it to the State Department, and there it was found when Mr. Madison became the Secretary of State, as he did upon the inauguration of Mr. Jefferson as President. *Marbury* applied to the Supreme Court of the United States for a *writ of mandamus* against Mr. Madison to compel him to deliver to him that commission.

There were two questions before the court: the first was whether the court had power to issue a *writ of mandamus* in such a case as that. The act of 1789 gives the Supreme Court only the authority to issue that writ and the other writs which it mentions when they become necessary

to the exercise of their own jurisdiction, and that is generally an appellate jurisdiction—their original jurisdiction is limited to a very small class of cases—cases between the States, cases affecting foreign ministers and ambassadors. The court went beyond the mere question of their power to issue a *writ of mandamus* in that case, and for so doing were not censured as the Supreme Court in modern days has been; I mean the judges who decided the case of *Dred Scott* upon the ground that the immediate question decided by them was not necessary to be decided in order to dispose of that case. Chief Justice Marshall, speaking for the whole court, enters into a labored argument, able as a matter of course, because he never labored in vain, for the purpose of proving that the office was vested in *Marbury* and that he was entitled to his commission; but concluded the opinion in a few sentences by stating that the court had no jurisdiction under which they could grant him redress in that form or perhaps in any form; certainly not in that form. The opinion in that case has never been assailed by either lawyer or judge upon the ground that that part of it was extra judicial, and yet it was just as extra judicial as was the opinion in the *Dred Scott* case. Marshall had been baptized in the blood of the Revolution; he had served his country as diplomatist and as Secretary of State; he had illustrated the Constitution in judgments that challenged the admiration of the whole country; and no one ventured to assert, as against an officer of that description, that any improper motive, any desire to trench upon the legitimate power of the Executive, entered at all into the consideration of that judgment.

But, says my brother and friend from Oregon, that case decided that the President had no right to remove. Surely that is an entire misapprehension. The Constitution gives to the President the authority to appoint, by and with the advice and consent of the Senate, to certain high offices, but gives to Congress the power to vest the appointment and to give the removal of inferior officers to anybody they think proper; and these justices of the peace were inferior and not high officers within the meaning of those two terms in the Constitution. Congress, therefore, by providing that such an officer should hold his commission for four years, removed the officer from the power of removal of the President, as they could have taken from him the power to appoint. Nobody doubts that if they were inferior officers, as they were, Congress might have given the power to appoint those officers to the people of the district by election, or to any individual that they might think proper, or to any tribunal other than the executive department of the Government. They had a right, although they thought proper to give it to the President himself, to provide that it should endure for four years as against any such power of removal. That is all the case decided upon that question.

My friend supposes that Mr. Justice McLean, in the case in 17 Howard of the United States vs. Guthrie, to which he referred us, held a different doctrine. That also is an error into which the gentleman has fallen. The then Attorney General of the United States maintained that what was done in that case was properly done, because the President had the authority to remove a judge of a Territory, and having removed the judge the salary attached to the office failed as a matter of course as far as he was concerned. The court in deciding it, however, say that that question is not before them, and it is not necessary therefore to decide it. The question before them was whether they could, in the case of a *writ of mandamus* which might be applied for by an officer to get his salary, enter into the Treasury by judicial process and command the officers of the Treasury to pay the amount claimed. They said not, because that would be to administer the Treasury Department. If the Supreme Court had that authority any other court of the United States had it; and it would be therefore to open the doors of the Treasury to every

man who fancied that he was entitled to be paid money by the Government. It would be to convert the judges of the several courts into Secretaries of the Treasury.

Now, what said Mr. Chief Justice McLean? What had been done in that case was done by Mr. Fillmore, and it is a striking case to show how universal was the opinion that the authority to remove was in the President. The case then before the court was the case of the removal of a territorial judge. Mr. Justice McLean thought—and I cannot add to the authority of his name by saying that in my judgment he thought correctly—that however true it was, for he does not deny that it is a settled question that the President has the power to remove, a judicial officer is not within this power.

Mr. WILLIAMS. Will the Senator allow me to interrupt him?

Mr. JOHNSON. With pleasure.

Mr. WILLIAMS. I think it is proper that I should say that I did not cite that case to show that the court there decided that the President had no power of removal, or for any such purpose; but I produced the statement of Justice McLean to the effect that the Supreme Court of the United States, with Chief Justice Marshall at its head, and of which Justice McLean was a member, did entertain the opinion that the President had no such power. In the absence of any decision of the Supreme Court upon that question, I consider the statement of Justice McLean as the next best authority as to the views of the Supreme Court with regard to it.

Mr. JOHNSON. My friend did not read the whole of that dissenting opinion or he would never have come so positively to that conclusion. Mr. Justice McLean said—and it is better that I should read his very words, and it will be seen that he admits the power of removal, instead of contesting it:

"It was supposed that the exercise of this power by the President was necessary for the efficient discharge of executive duties. That to consult the Senate in making removals, the same as in making appointments, would be too tardy for the correction of abuses. By a temporary appointment the public service is now provided for in case of death, and the same provision could be made where immediate removals are necessary."—17 *Howard*, p. 306.

"Immediate removals" of whom? There was nobody but the President authorized to remove such officers as are spoken of by the learned justice. He admits, therefore, so far from contesting, that the exigencies of the Government may require an immediate removal; and as there existed no power to make a removal known to the laws in relation to the officers of which he was speaking except the President, he admits that the President has the power in certain cases to make an immediate removal. But that is not all; he goes on upon the next page, which my friend did not read, to say:

"If the power to remove from office be inferred from the power to appoint, both the elements of the appointing power are necessarily included. The Constitution has declared what shall be the executive power to appoint, and by consequence the same power should be exercised in a removal."—*Ibid.*, p. 307.

In other words, he agreed with those who denied the power in the beginning; but what does he say is the law now? Something must be settled; the age cannot go on without having some principles established; no Government can last which has one constitution to-day and another constitution to-morrow. Contemporary construction, acquiesced in by the people, recognized by the courts, adopted by the Executive, in relation to any particular subject, must be the law. Now, what does he say, looking to the effect of what had been the practice of the Government?

"But this power of removal has been perhaps too long established and exercised to be now questioned. The voluntary action of the Senate and the President would be necessary to change the practice; and as this would require the relinquishment of a power by one of the parties to be exercised in conjunction with the other, it can scarcely be expected."—*Ibid.*, p. 307.

So that Mr. Justice McLean considered it settled that the absolute power of removal

was in the President, according to the settled practice of the Government under the Constitution. On the same point I take occasion also to refer to the case of *ex parte Hennen*, 13 Peters, 250. Mr. Justice Thompson, delivering the opinion of the court in that case, said:

"This power of removal from office was a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of this Government. This related, however, to the power of the President to remove officers appointed with the concurrence of the Senate; and the great question was, whether the removal was to be by the President alone, or with the concurrence of the Senate, both constituting the appointing power. No one denied the power of the President and Senate jointly to remove, where the tenure of the office was not fixed by the Constitution: which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted as the practical construction of the Constitution that this power was vested in the President alone."—13 *Peters*, p. 259.

Mr. President, I have but a few words more to say, and they will be addressed particularly to a vindication of Mr. Madison, not in respect to the opinion which he maintained that the Executive had the power to remove, but as to the effect and meaning of the resolutions of 1798. I will not trouble the Senate by reading them. When the doctrine of nullification was started by Mr. Calhoun and maintained by a plausible course of reasoning which deceived, as I think, the unthinking, and certainly carried along with him the judgment nearly of his whole State, the Legislature of South Carolina, and the politicians of the South generally maintained that that doctrine of nullification or secession was found incorporated in the Kentucky resolutions of 1799 and the Virginia resolutions of 1798. Mr. Madison then wrote several letters to his relative, Mr. Cabell, of Richmond; he wrote to Mr. Webster after Mr. Webster pronounced his celebrated speech upon the Foot resolutions; he wrote to Mr. Everett; and the work which I have before me contains all of the letters to which I have adverted upon that subject, in which he denies positively that the resolutions of 1798, which he admits were drawn by him, and the celebrated report in support of those resolutions, which also was drawn by him, gave the slightest color in his view to the doctrine either of nullification or secession. I have not time to read the letters, nor is it necessary for my purpose. By a course of reasoning that I think must carry conviction to the judgment of all who are not past conviction, he demonstrates that either doctrine is utterly inconsistent with the continuance of the Government, and being so inconsistent, can have no foundation in the Constitution of the United States; and he tells us what he meant by those resolutions of his and the report; and not only that, but the Kentucky resolutions, which were drafted by Mr. Jefferson, he tells his correspondent, Mr. Cabell, were never intended by that statesman to imply any such doctrine.

At that time Mr. Jefferson had left this land of his love and of his hope. Before he died he thought that he saw in the temper of the public mind—it is immaterial to inquire whether he supposed the danger was in the South or in the North, or in the general prevailing temper of the country—danger to the continuance of our institutions; but as Mr. Madison tells us, who knew Mr. Jefferson's thoughts, who had served as his Secretary of State for eight years, who was his constant correspondent after he himself became President of the United States, and when he retired continued to be his correspondent, Mr. Jefferson never contemplated as constitutional the doctrine either of nullification or of secession. I am glad, therefore, to be able, with what I think consists with the truth of history, to vindicate the memory of each of these great men from the assertion that they were guilty of an error which would have rendered, and if it was recognized as a truth would render the continuance of our institutions as temporary as the shadows.

A word more, and I shall cease to trouble

the Senate. My friend from Pennsylvania [Mr. COWAN] was supposed by some of the Senators to threaten another revolution if this bill or bills of a like character were passed. He disavows any such purpose; and those who know his frankness will have no hesitation in believing in the sincerity of that disavowal. I do not anticipate and do not fear any such revolution as that; but there may be a revolution of a different kind, the kind of revolution which changed the whole political destiny of the country for a time, and which was successfully brought about in 1800. The Congress of the United States, acting with the assent of the then President, Mr. Adams, because he approved of the bills, had passed the alien and sedition laws. The country became alarmed. No force was threatened of a physical kind; but the subjects of the alleged usurpation of power by Congress became matters of political speculation and discussion in the papers of the day. The people of the country came to the rescue of the Constitution thus, in their opinion, invaded, and swept from power those who had adopted such measures. I am no prophet, Mr. President. I may not live to see the day when it shall occur, if it occurs at all, when the same revolution will be seen condemning many of the measures of the present day precisely upon the same ground that the people in 1800 censured and condemned what had been done at that time. A latitudinarian construction of the Constitution, the absorption of nearly all power into the legislative department of the Government, an unwillingness to submit to the judiciary, an interference with what have heretofore been considered the legitimate powers of the President—I do not say from any bad motive—these are the symptoms of the times.

We have just emerged from a war without example in the annals of civil strife or any other strife. Every house in our broad land is filled more or less with mourning for the departed dead who, upon one side or the other, have died in support of what they believed to be the principles of liberty. The angry passions have been excited. They more or less affect us all, for members of Congress are but men. They lead to a claim for power that would not have been thought of in the beginning of the Government. When everything becomes quiet and settled; when the particular circumstances to which the party who are now dominant owe their present condition shall cease to exist; when they shall have a President of their own choice, (if that is to be the result of the present state of things,) who will carry out what they believe to be the true policy of the country, reason then, with them and with the Opposition, (if it does not control us now,) will control, and a better day will dawn upon a now distracted land. But, sir, that is not to be done through the instrumentality of a civil war. Its desolation; the affliction with which it has visited individual men and women; the loss of material wealth; the danger to which our very Government was subjected during its existence, and must be more or less subjected during any such strife—all are warnings to keep us again from entering into any such conflict. The conflict into which alone the people will enter will be that which the ballot will decide, for which that weapon alone will be used; and when, as I believe in my existence, the time shall come when the excitement of the day shall have terminated and the judgment of the people shall be what it was from the beginning of the Government up to the commencement of this strife, the Constitution will be restored in all its integrity and each department of the Government be permitted to exercise every power which the Constitution as construed in the past vests with it.

Mr. BUCKALEW. Mr. President, I listened yesterday with very much of interest and attention to the remarks of the Senator from Oregon [Mr. WILLIAMS] in support of the bill before the Senate; but I listened in vain for a statement by him, distinctly and clearly made, of the ground of power upon which this bill



was reported and its passage proposed. I understood him, however, at one stage of his argument to take the ground which was originally taken when this question was discussed in the Congress of 1789 by most of those who then opposed the construction given to the Constitution upon this subject, to wit: that the power of removing from office in our Government arose by implication from the provision which confers upon the President the power of appointment, "by and with the advice and consent of the Senate." If this bill be pressed upon that ground, upon the ground that there is an implied power in the President and the Senate to remove from office because they are joined together for the purpose of appointment, it will inevitably follow that this bill will stand condemned; it cannot be justified upon the ground which is stated in its support.

Mr. President, there are but two possible locations in this Government for the power of removal under the Constitution of the United States; and I say this in view of former discussions and in view of the expressed opinions of leading men at different periods of our history, both those who have been concerned in the enactment and execution of the laws and those who have written expositions of the Constitution as scholars in the retiracy of their closets.

If this power to remove be one conferred by the Constitution, it must be vested in the President of the United States alone, who is the head of the executive department and charged with the execution of the laws, or it must be vested in the President by and with the advice and consent of the Senate upon the ground of implication which I have already mentioned. If the power be not vested in the President alone or in the President and the Senate, it is located nowhere; it exists nowhere; and the argument in favor of the enactment of a law proposing to vest it anywhere must be upon the ground that it is an ideal or latent power which may be created or called into active existence by virtue of those general powers of legislation which are vested in the Congress of the United States. But inasmuch as this is a Government of granted and vested powers, and inasmuch as the grants to Congress are specific, upon the very statement of the point itself the conclusion must be against it. We must reject the argument and recur back to the alternative before mentioned. Before I am done I will read authorities upon these several points by which my statement of them will be fully vindicated.

I say, then, that the Senator from Oregon, in his argument in favor of this bill, was not satisfactory in his statement of the ground of power upon which he claimed that we could enact it. Taking for granted that he stands upon the ground that this is a power arising by implication and by virtue of the Constitution vested in the President and in the Senate, how stands his bill? Why, sir, upon that implication this power must be exclusive in the President and in the Senate; neither can divest themselves of it; nor can the law-making power charge its exercise upon one to the exclusion of the other. And yet what does this bill do? You propose by law to provide that the President shall suspend from office—an exercise of the power of removal to a certain extent, and standing upon the same grounds of argument as the absolute and complete power of removal itself. If your argument be sound, you cannot by law provide that the President shall suspend, that he shall make a partial removal from office, without the advice and consent of the Senate before the suspension is made or ordered.

Equally clear is it upon the very face of this bill that the main, the important exception which is made, and properly and necessarily made from it, is in this view unconstitutional, to wit, the exception of the several heads of Departments from the operation of this proposed law. If the President and Senate are by the Constitution united for the purpose of removal as well as appointment, it will follow

that you cannot, as you propose by this bill, permit the President alone to remove the heads of the executive Departments—the principal officers who are associated with him in the execution of the laws.

Your bill, then, stands condemned upon this ground, which is the only ground in my opinion that can be with any plausibility urged in its support. The premises from which you proceed will not justify the conclusion at which you arrive.

The bill before us gives to Senators the same participation in removals from office that they possess under the Constitution in cases of appointment. Their "advice and consent" is necessary by the express terms of the Constitution to the appointment of "ambassadors, other public ministers and consuls, judges of the Supreme Court," and all other officers of the United States whose appointments are not otherwise provided for in the Constitution, and which may be "established by law." The question now is whether their "advice and consent" is necessary under the Constitution to the removal of such officers, or whether a requirement of such advice and consent to removals may be established by law. The question is one of the first magnitude among all those which can arise in the practical action of the Government, and deserves debate which shall rise above the passions and selfish interests of the hour.

The proposition which has been heretofore maintained by all the great departments of the Government, that is, by Congress, by the President, and by the Supreme Court, has been that all removals from office (except of "inferior officers" whose appointments are vested by law "in the President alone, in the courts of law, or in the heads of Departments") are to be made by the President without any senatorial advice or consent. He is to act alone without check or limitation upon his power or division of his responsibility. And this has been held to be a constitutional principle, secure from molestation by statute.

The President's power of removal was well considered in the First Congress which assembled under the Constitution, and fortunately the debate as well as the decision then made has been preserved to us. There is no express provision in the Constitution on the subject of removals from office, except one under the head of impeachment, which is to be found in the third section of the first article. The power, therefore, if it exist at all, except in the Senate when sitting as a court of impeachment, must be an implied one, and manifestly it must be vested in the President of the United States or in the President and Senate.

That this power is vested in the President alone by the Constitution ought not now to be questioned in view of the past practice of the Government, and of the decisions which have been made by its several departments. But as this bill does question that location of the power, and brings up again the objections which were urged on former occasions against such location, we are obliged once more to traverse the field of debate upon the general subject, and to repel again those arguments which were formerly advanced in favor of senatorial participation in removals.

The most favorable occasion which has ever presented itself for considering and deciding this subject was presented in the Congress of 1789; for the Government was then about to be put in operation. Its organization was just begun. Most of the offices under it were unfilled. There were no private interests to be effected by a construction of the Constitution upon the question of removals from office. Political parties, as they afterward took form, were unknown. General Washington was President, and many leading men who had participated in the forming of the Constitution and in its adoption by the several States were members in both Houses of Congress. This point was put with great propriety and force by one of the members who participated in the

debate in the House of Representatives, and who had been prominent in the constitutional convention; I mean Mr. Madison. He said:

"In another point of view it is proper that this interpretation should now take place rather than at a time when the exigency of the case may require the exercise of the power of removal. At present the disposition of every gentleman is to seek the truth and abide by its guidance when it is discovered. I have reason to believe the same disposition prevails in the Senate. But will this be the case when some individual officer of high rank draws into question the capacity of the President, with the Senate, to effect his removal? If we leave the Constitution to take this course it can never be expounded until the President shall think it expedient to exercise the right of removal, if he supposes he has it; then the Senate may be induced to set up their pretensions. And will they decide so calmly as at this time, when no important officer in any of the great departments is appointed to influence their judgments? The imagination of no member here or of the Senate or of the President himself is heated or disturbed by faction. If ever a proper moment for decision should offer, it must be one like the present."—*Annals of Congress*, vol. i, p. 547.

These words of wisdom deserve as much consideration now as they did when uttered, exhibiting as they do in contrast the superior competency and fitness of the Congress of 1789, before parties were formed and personal interests in the tenure of offices had come into existence, over the present Congress filled with heated partisans and subject to the influence of thousands of officers deeply interested in the subject of our debates.

The question was decided after full discussion in both Houses in favor of the presidential power of removal under the Constitution, and this decision was indorsed by the signature of President Washington to the bill in which it was contained. And that decision stands unreversed to this day during a period of seventy-seven years. No more authoritative decision upon a constitutional question, open to debate, appears anywhere in our political history, nor one in which there has been more uniform and complete acquiescence by all departments of the Government. Even those public men and jurists who have sometimes suggested their doubts of the propriety or correctness of the decision have acquiesced in its binding force and asserted the impropriety of attempting to disturb it.

It is true that the "pretensions" of the Senate to participate in removals, spoken of by Mr. Madison in the extract just read, were faintly pressed, although not persisted in in the senatorial debates of 1834. At that time Mr. Madison was yet living and gave once more an emphatic expression of his opinion. In a letter to John M. Patton, dated March 24, 1834, he said:

"Should the controversy on removals from office end in the establishment of a share in the power, as claimed for the Senate, it would materially vary the relations among the component parts of the Government, and disturb the operation of the checks and balances now understood to exist. If the right of the Senate be, or be made, a constitutional one, it will enable that branch of the Government to force on the executive department a continuance in office even of the Cabinet officers, notwithstanding a change from a personal and political harmony with the President, to a state of open hostility toward him. If the right of the Senate be made to depend on the Legislature, it would still be grantable in that extent; and even with the exceptions of the heads of Departments and a few other officers, the augmentation of the senatorial patronage, and the new relation between the Senate directly and the Legislature indirectly, with the Chief Magistrate, would be felt deeply in the general administration of the Government. The innovation, however modified, would more than double the danger of throwing the executive machinery out of gear, and thus arresting the march of the Government altogether."

"The Constitution of the United States may doubtless disclose, from time to time, faults which call for the pruning or the ingrafting hand. But remedies ought to be applied, not in the paroxysms of party and popular excitements, but with the more leisure and reflection as the great departments of power according to experience may be successively and alternately in and out of public favor; and as changes hastily accommodated to these vicissitudes would destroy the symmetry and the stability aimed at in our political system."

In a letter to Edward Coles, dated Montpelier, August 29, 1834, he said:

"For claims are made by the Senate in opposition to the principles and practice of every Administration, my own included, and varying materially, in some instances, the relations between the great departments of the Government."

In a subsequent letter to the same person, dated October 15, 1834, he said:

"You are at a loss for the innovating doctrines of the Senate to which I alluded. Permit me to specify the following:

"The claim on constitutional ground to a share in the removal as well as appointment of officers is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary essentially the existing balance of power, but expose the Executive occasionally to a total inaction, and at all times to delays fatal to the due execution of the laws."

Lastly, on this point I quote from his letter to Charles Francis Adams, dated October 13, 1835, being one of the very last letters written by him, in which he said:

"The claims for the Senate of a share in the removal from office, and for the Legislature an authority to regulate its tenure, have had powerful advocates. I must still think, however, that the text of the Constitution is best interpreted by reference to the tripartite theory of government to which practice has conformed, and which so long and uniform a practice would seem to have established."

"The face of the Constitution and the journalized proceedings of the Convention strongly indicate a partiality to that theory, then at its zenith of favor among the most distinguished commentators on the organizations of political power."

"The right of suffrage, the rule of apportioning representation, and the mode of appointing to and removing from office are fundamentals in a free Government and ought to be fixed by the Constitution. If alterable by the Legislature the Government might become the creator of the Constitution of which it is itself but the creature; and if the large States could be reconciled to an augmentation of power in the Senate, constructed and endowed as that branch of the Government is, a veto on removals from office would at all times be worse than inconvenient in its operation, and in party times might, by throwing the executive machinery out of gear, produce a calamitous interregnum."

"In making these remarks I am not unaware that in a country wide and expanding as ours is, and in the anxiety to convey information to the door of every citizen, an unforeseen multiplication of officers may add a weight to the executive scale, disturbing the equilibrium of the Government. I should, therefore, see with pleasure a guard against the evil by whatever regulations having that effect may be within the scope of legislative power; or, if necessary, even by an amendment to the Constitution, when a lucid interval of party excitement shall invite the experiment."

But it was not formally proposed in 1834 that the concurrence of the Senate in removals should be required, although a proposition to that effect was mentioned. The debate was mainly upon a proposition that in case of removals from office by the President he should report his reasons to the Senate. The power in his hands was to be left undisturbed, entire and without limitation. But the question was never pressed to a vote, although the Senate was politically opposed to the President, and much feeling existed with the majority regarding removals which had been made.

That the power of appointment is with the President will appear from considering particular clauses of the Constitution. The second article declares "that the executive power shall be vested in the President of the United States." By the second section "he shall nominate, and by and with the advice and consent of the Senate shall appoint, all officers of the United States" except such "inferior officers" as Congress may think proper to be appointed "by the President alone, by the courts of law, and by the heads of Departments." Further, "he shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session." By the third section of the same article, it is provided, that "he shall take care that the laws be faithfully executed and shall commission all officers of the United States."

Thus it appears that the general mass of executive powers is vested in the President, including the power of appointment to office and the commissioning of offices appointed, and he is charged with the duty of taking care that the laws be duly executed, which has particular reference, as I understand the injunction, to his control or influence over the officers of his department or branch of the Government. And although laws may be enacted for the appointment of certain inferior officers by the heads of Departments, his con-

trol or influence is preserved, as to them, by his selection of the heads of Departments who appoint them. For particular reasons, however, not affecting the general argument, certain officials may be selected or appointed by the legislative and judicial departments. Each House of Congress may select their own officers necessary to the transaction of their business, and the officers so selected are not considered to be "officers of the United States" within the language of the Constitution, but simply officers of each House. So subordinate officers of the courts may by law be made appointable by the courts in which they serve, and the President will have but a slight or remote influence over them. For although he appoints the judges, the judicial tenure is during good behavior and the judges cannot be removed by him. Excepting, however, these two classes of subordinate officers in other departments of the Government beside his own, his power of appointment extends directly or indirectly to every officer of the United States at home and abroad. It is a great and extensive power and is appropriately placed in his hands as the executive head of the Government.

But this power is subjected to an important check in that provision of the Constitution which requires the advice and consent of the Senate to all appointments except the subordinate ones before mentioned. He must in all other cases obtain senatorial assent before appointing and commissioning an officer, unless in case of vacancy during a recess of the Senate. I do not understand the act of the Senate in advising and consenting to a nomination to be in any sense an act of appointment. It is simply a permission and recommendation that the appointment shall be made, and the actual appointment and the issuing of a commission to the person appointed, acts executive in their nature, are performed by the President alone. The advice and consent of the Senate does not compel him to make an appointment. It is simply a prerequisite to his exercise of the power and no part of the power itself.

Such appearing to be, upon examination, an exact and just description of the nature and effects of senatorial advice and consent in cases of proposed appointment to office, we are prepared to go on to the main question involved in this debate, which is the question of removals.

It must be manifest to every man of reflection that in any constitution of government there must be provision made for dismissing criminal and incompetent persons from the public service. For without this power it would be impossible to preserve the Government from corruption and imbecility. Our ancestors were not so foolish as to overlook this great necessity, this indispensable requisite, for rendering their work complete. Having established the great departments of the Government, they conferred upon each all the powers necessary to its successful action. The question with which we are now concerned is, what provision did they make for removals from office—for relieving the public service, when necessary, from incompetent and vicious men? The answer to this question is given in part by the fourth section of the second article of the Constitution, which provides that—

"The President, Vice President, and all civil officers of the United States shall be removed from office upon impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."

By the third section of the first article the Senate has the sole power to try all impeachments, which are to be preferred before it by the House of Representatives, and in case of conviction the judgment shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the United States. The members of the Senate are to sit under oath, and a two-thirds vote is required for a judgment of condemnation. This remedy for official misconduct is certainly extensive in in-

cluding all civil officers of the United States, but it can be invoked only in case of criminal conduct of a high order of enormity, and is utterly inadequate to the ordinary demands of the public service. As to Senators and Representatives in Congress, who are not liable to impeachment, they can be removed from their offices by two-thirds votes of the respective Houses to which they belong. Military and naval officers are also excluded from the impeachment power for reasons which need not now be investigated.

Manifestly also the Congress of the United States, by virtue of its general legislative powers, may in certain cases prescribe the punishment of removal from office and disqualifications for holding office, in case of conviction of crime in the courts of the United States. But none of these remedies, important as they are, and necessary to the working of our constitutional system, are sufficient as a check to official delinquency. They are inadequate to secure integrity and efficiency in the administration of the Government, to guard against the innumerable abuses of official life and conduct, and to retain to republican institutions that degree of excellence which is necessary to their popularity and perpetuity. And hence the contestation has commonly been made that a power of summary removal from office in addition to those already mentioned must exist somewhere in the Government, and the debate has been not so much upon the existence of the power as upon its particular location. Is it vested in the President, or in the President and Senate, or is it a floating, unlocated, or latent power, which may be defined and located or called into existence by statute law? These are the questions to which we may turn our attention, to which all further debate may be confined.

A strong objection to "advice and consent" by the Senate to removals from office is the incompatibility of such function with the senatorial powers of trying "all impeachments of civil officers of the United States." When acting upon an impeachment the Senate sits as a court and its members are under oath; and the judgment it renders is a judicial judgment, imposing punishment upon the accused if guilty, and completely discharging him from the accusation if innocent. Now, the most indispensable requisite upon the trial of an impeachment is, that the Senate shall be impartial between the Government and the accused; in fact, impartiality is indispensable above every other qualification to a judicial tribunal, and the utmost care is to be exercised in constituting such tribunals in order to secure it.

But if the Senate is to participate in removals from office, if it is to be consulted and its judgment taken in cases of proposed removals, it is manifest that it cannot be an impartial court for the trial of impeachments. Its character as an impartial tribunal for judicial purposes will be destroyed.

In exercising a power or function of advice and consent in questions of removal two classes of cases will arise: first, those where the Senate will advise and consent to a removal; and second, those where their assent will be refused. Let us examine each of these classes in the order mentioned. First, where the Senate upon investigating complaints against a public officer shall be of opinion that the charges are sustained and shall thereupon advise and consent to his removal, the President still may not remove the officer. The preliminary consent of the Senate will not compel, but only permit him to remove. He may change his opinion either upon new evidence presented to him or by reason of fuller reflection upon the case, or, pending the proceeding, a new President may come into office who may disagree in opinion with his predecessor. If for any cause the officer shall not be removed by the President, the House of Representatives may impeach the officer and bring him to the bar of the Senate for trial. But the Senate has already disqualified itself from trying the case as an

impartial tribunal. It has already formed and expressed its opinion in the prior proceeding, and it would be an outrage upon justice for it to assume and exercise its duties as a court.

Take another case, a case where a removal is actually made by the President after senatorial advice and consent. The officer is removed from his office, and nothing more. But this punishment for transgression is very different from that which might be adjudged to him upon impeachment. Upon impeachment in a proper case the sentence would include a disqualification for holding office in the future under the United States. So it appears that in acting upon an impeachment of an officer preferred before it, the Senate would impose one form of punishment, while in acting with the President upon the same question of misconduct it would advise and consent to a smaller punishment; to one into which no disqualification for holding office would enter. We need not here determine the question whether an officer thus removed by the President, with senatorial consent, would still be liable to impeachment by the House of Representatives; for whether liable or not the participation of the Senate in his removal stands equally condemned. If no proceeding of impeachment can be instituted against an officer when out of office for a crime or misdemeanor committed by him when in office, it follows that the right of the House to have a judgment of disqualification pronounced upon him is evaded and defeated. If, on the other hand, the House can still prefer articles of impeachment against him and bring him before the Senate for trial, you have again the difficulty of a tribunal already committed in opinion and judgment upon the guilt of the accused, and thereby disqualified for giving him an impartial trial.

Take another case from the second class of cases, according to the division already mentioned—a case of the refusal of consent by the Senate to a removal. The officer remains in office; the President cannot remove him because the Senate has formed and expressed its opinion in his favor upon all the grounds of charge against him. But the right of the House to prefer articles of impeachment and to demand his removal, if they are sustained by proof, must remain unaffected and in full force. But, as in the former case, the Senate has disqualified itself for entering upon the trial. Its impartiality is gone from it; it is already committed against the prosecution; and its pride, self-respect, and regard for consistency, its feelings, passions, and opinions, all fix it as a partisan of the accused, and commit it to his vindication and support against the impeachment of the House. Under such circumstances a proceeding by the House to bring an offender to justice would be vain, fruitless, absurd.

As regards all cases of this description, the impeachment power might as well as not be struck from the Constitution, for its operation, its vitality is destroyed. It may be said that the Senate, upon a full trial, might change its opinion, might obtain and act upon new views regarding the official conduct of the officer accused. This is not a reasonable supposition; it is opposed to the teachings of experience and to human nature itself. Besides, it is to be remembered that a two-thirds vote is necessary to a judgment of condemnation upon impeachment, whereas a majority merely may advise and consent or refuse their advice and consent to a removal from office by the President. If therefore a majority have refused their consent to a presidential removal and become committed in favor of the officer accused, it is hardly within the bounds of possibility that two thirds should afterward condemn the same officer upon a proceeding of impeachment.

In whatever light, then, you view the alleged power of the Senate to advise and consent to removals from office, it appears utterly inconsistent with its unquestioned power and duty to try all impeachments of "civil officers of the United States." The conclusion is inevitable

that the authors of the Constitution, who conferred upon the Senate in express terms the power to try all impeachments, did not intend them or empower them to act in any way whatever in conjunction with the President or as advisers of the President in questions of removal from office; and it is equally clear that so long as the Senate shall be the constitutional tribunal for the trial of impeachments it ought not to be authorized to act upon questions of removal, either to investigate them or to give advice upon them.

This argument, then, founded upon the impeachment clauses of the Constitution, is decisive upon both points of the present inquiry; it is decisive against the existence of this alleged power in the Senate, and also against the policy, the propriety, I had almost said the possibility, of vesting it in the Senate by constitutional amendment or (if that were possible) by statute law.

And this argument might be extended and strengthened by observations upon the impeachability of the President himself and the impropriety of involving him in warm controversies before the very body which may be required to sit in judgment as a court upon his official conduct.

But not only is there no advisory power in cases of removal vested in the Senate by the Constitution, but there could have been no reason for so vesting such power. The Constitution of the Senate does not adapt it to the performance of such duty, and the argument against it, upon this ground, becomes stronger every year. It might have been possible in the earlier years of the Government that the Senate should investigate questions of removal and determine them; for offices were few in number and the cases of removal were rare. Now, however, when offices have multiplied enormously; when they are counted by thousands in each great branch of the public service, civil, military, and naval, and when removals must be frequent and promptly made, it is impossible that the Senate should exercise the advisory power in question intelligently and justly, with convenience to itself or advantage to the public. As much of time is now bestowed by it upon questions of appointment as can be spared from the performance of legislative duties. But in the execution of the duty now charged upon it, it acts summarily, and not with prolonged or thorough deliberation. The evidence before it is partial and inexact; witnesses are rarely examined; papers are rarely verified by certificates or oath, and parties nominated are either unheard or heard irregularly and imperfectly. Only such information is sought or received as will enable members to form a general, unstudied opinion upon the qualifications and character of nominees. And this is supposed to be sufficient for the due performance of the duty charged upon the Senate. The actual appointment, after all, is made by the President, and he is mainly responsible to the country for the selection made.

It is found, I repeat, that the executive duties of the Senate upon appointments, although discharged in the manner described, are a serious tax upon the time and attention of the members, and interfere to some extent with the performance by them of other duties.

How would the case stand if they were required to advise and consent to removals from office? In the first place, the charges against an officer, or the causes alleged for his removal, would be laid before them in specific form. This would be necessary to their investigation of the case. Next, they would be compelled to receive evidence in some form or manner, both for and against the officer accused or sought to be removed; and as it would be monstrous to condemn him unheard, rules for notice to him and for hearing him would have to be fixed. And as it would be impossible for the Senate in executive session to conduct an examination, that duty would have to be charged upon committees, and those committees armed with adequate powers for the pur-

pose. Then would follow examinations of witnesses before committee, or the taking of their depositions in some regular manner upon commission or rule. Possibly counsel might be introduced, or the parties themselves be heard. In any case, the decision and report of a committee on a case must be subject to review and debate by the Senate, with a consumption of time, and possibly with an exasperation of debate of which members can now form no conception. A code of rules for the management of this new business must grow up or be established, and the investigations made must assume a judicial character. If justice is to be attained, if private right is to be respected, if sound or safe conclusions are to be reached, both the Senate and its committees must act through judicial forms; at least through such as are everywhere held necessary to the ascertainment of truth. The accusation and the defense must be both heard; the evidence must be taken under oath and before competent authority, and upon reasonable notice; and opportunity must be afforded for argument and for deliberation and debate.

Let no one tell me that these speculations are extravagant or chimerical because we do not encounter intolerable difficulty or inconvenience in acting upon questions of appointment. For the reasons already stated, and for many others which might be mentioned, questions of removal are widely different from those of appointment, and they will involve senatorial duties of a different description and more arduous character—duties to which the Senate is unsuited by its very constitution as well as by the pressure of other duties upon it.

It is said that this bill may be a valuable check upon political removals from office, upon proscription for opinion's sake by the executive Department. Well, sir, it is manifest that it will not be so when the President of the United States and the majority of the Senate agree together in their political opinions. Because the responsibility of removals will then be divided between two departments of the Government instead of being charged upon one, it is more likely that proscription will be increased, that instead of the volume of proscriptive action in the Government being abated and reduced, it will be enlarged and swollen. The division of responsibility between the two departments will induce more extravagant and extensive action in purging all departments of the public service from political opponents. Nay, sir, the political majority in the Senate itself will be apt to urge forward the President in the business of proposing to them the removal of officers of the United States subject to their joint power. This will be the case, one half the whole time or more, at all times when the President and the majority of the Senate shall agree in political sentiment and shall be inspired by common political passions and purposes leading to concert of conduct.

Again, when the President and the majority of the Senate shall disagree, which is the only other possible case, we shall incur the danger that the Senate, for political reasons, will keep in office persons who ought to be removed.

Mr. EDMUNDS. Allow me to ask my friend is that danger any greater in the nature of the thing than that the President for political reasons should do precisely the opposite?

Mr. BUCKALEW. It is, because at present the President may retain an improper officer in office, or, to speak to the precise point, he may retain him in office for political reasons when he ought to be removed. That is an existing inconvenience of our system. Now, what is the remedy proposed? Not that the President may not hereafter keep him in office in such a case; but that, besides that inconvenience and evil, there shall be another inconvenience and evil added to it, to wit: that the Senate shall act in the same way and for the same reason, and that instead of having a single inconvenience in the Government with regard to keeping improper officers in office for political reasons you shall have it doubled; there shall be two



interests distinct, independent from each other, acting in this direction, instead of one. That will be the state of the case when the President and the majority of the Senate disagree in political sentiment, the alternative to the other case which I mentioned, the case when they will be agreed.

Again, sir, by this proposed system of senatorial advice and consent to removals, the President is put in the attitude of a public prosecutor before the Senate against officers of the United States whose removal may be desired by him. He is put in the position of a prosecutor to be sustained by his political friends in the Senate when they are in a majority, and to be voted down by his political opponents when they are in a majority. He is to be strengthened and encouraged in the work of proscription at one time by his political friends in the Senate, and to be deterred from, or frustrated in, the performance of his duty at another time by his political enemies here. It must be admitted, then, that the value of this bill as a check upon political removals has been overstated and misconceived; and if the balance be struck between the good and evil to be expected from it in regard to political removals alone, it is not at all certain that the former will be in excess.

But let us examine this senatorial "pretension" upon other grounds of expediency and policy.

In the first place, it transfers power over removals to a body of men who are less responsible than the President, both to the people and to the law. The President (notwithstanding the formalities of electors and electoral colleges) is, in fact, chosen and appointed to his high office by a popular vote taken throughout the States of the Union, and must return his trust to the people at the end of four years, to be renewed to him or the renewal withheld according to their sovereign pleasure. But the members of the Senate are chosen by the State Legislatures, and for six-year terms. One third only of its members go out biennially, and in its constitution and character it is a perpetual body. It is therefore less responsible than the President to the people. But it is also less responsible to the law, because its members cannot be impeached. It was determined in the case of Senator Blount that the House of Representatives cannot prefer articles of impeachment against a member of the Senate, and that is now an established doctrine or rule of constitutional law.

But if the Senate is to be considered a popular body, though removed in the second degree from the people, it is such upon a principle of gross inequality. Three million of population east of the Hudson have twelve representatives in the Senate, while seven millions in Pennsylvania and New York have but four. And new States and small States in other sections of the Union have power here grossly disproportioned to the populations they contain.

Upon this point of State representation in the Senate I say let the Constitution stand as it is, at least let it stand until it shall be regularly amended. As a legislative body, the Senate stands intrenched in the Constitution. But it is now proposed to extend to it (and in part by its own vote) executive powers of the most extensive and dangerous character, never heretofore assumed or exercised by it during the seventy-seven years since the Government was organized. Will its comparatively irresponsible domination over all official patronage and all executive action be satisfactory to the people? Is it expedient by this measure to invite keen scrutiny into its character and conduct, and generally into its claims to the possession of additional, delicate, and dangerous powers?

In the next place, what effect will be produced upon the Senate itself by the possession and exercise of this new power? Are the officers of the United States to be the clients of members of the Senate, as persons accused at one stage of Roman history were clients of the Senators; their retainers? What effect is to be

produced upon the popular politics of the country, upon the selection of members of this body in the different State Legislatures; ay, sir, upon the purity of this body itself, when it comes to be connected, and connected intimately, with the innumerable questions concerning the retention of officers in all parts of the United States; when power is lodged here with individual members to hold men in their offices, or to instigate and assent to their removal by the President? I beg gentlemen to consider what effect is to be produced upon the character of the Senate itself by this new, portentous, unexampled jurisdiction upon which the Senate has never heretofore ventured to enter. The Senate has never set up this pretension, at least in any form of practical action, from the time when it was first denounced and branded by the father of the Constitution in the debate of 1789.

Again, consider, sir, the effect of this executive power lodged in the Senate in another point of view. It will give to this branch of the Government domination over the executive department to an extent never contemplated heretofore, and of the effects of which we are incompetent to form a distinct opinion. It was well described, perhaps, by one member of the House of Representatives, in the debate to which I have referred, when he said that a provision of this sort—I mean a provision conferring upon the Senate power over removals from office—would establish it as a two-headed monster, with a legislative and an executive head, planted here in the Government, dominating over each of the other two great departments, the President and House, one of which is united with it in the enactment of laws, and the other in their enforcement.

Upon every ground, then, upon which I have examined this measure, it is in my opinion open to insuperable objections. Instead of a measure of reform it is one of degeneracy. Instead of applying in practice a principle of the Constitution it invades that instrument. Instead of introducing purity into the Government it will be the source and parent of corruption and of evil. It treats with contempt the whole past history of this Government and the decision even of Congress itself upon a former occasion. It sets precedent at naught, while on grounds of reason it stands condemned, as I have attempted to show, by the most conclusive and indisputable arguments.

It remains only in the execution of my task to state clearly the grounds of authority against this measure. I have stated those of reason already. The Congress of the United States assembled on the 4th of March, 1789. In the Senate a quorum appeared for the first time on the 1st of April, nearly a month afterward. On the 19th of May, early in the session, in the House of Representatives, in Committee of the Whole House on the State of the Union, Mr. Madison moved—

"That there shall be established an executive department to be denominated the Department of Foreign Affairs, at the head of which there shall be an officer to be called the Secretary to the Department of Foreign Affairs, who shall be appointed by the President, by and with the consent of the Senate, and to be removable by the President."

On the same day, after protracted debate, Mr. Bland moved to add to the motion the words "by and with the advice and consent of the Senate." The question on adding these words was put and lost. Afterward, on the same day, the question was taken and carried by a considerable majority in favor of declaring the power of removal to be in the President; that is, the motion I have already read was adopted.

In debate at that time, Mr. MADISON said: "On the constitutionality of the declaration of presidential power I have no manner of doubt."

Mr. BENSON, another member who supported it, said:

"This clause would be a mere legislative construction of the Constitution."

Mr. VINTON, another and a leading member of the House—

"Had no doubt but the Constitution gave this

power to the President; but if doubt were entertained he thought it prudent to make a legislative declaration of the sentiments of Congress on this point."

There were prolonged debates upon this subject.

"On the 19th of June, on a motion to strike out the words 'to be removable by the President,' the question being taken, the motion was rejected—yeas 20, nays 34."

"On the 22d of June, Mr. BENSON moved to amend by inserting the words 'whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy.' This was carried—yeas 30, nays 18."

"Then, the words 'to be removable by the President,' were, on motion of Mr. BENSON, struck out—yeas 31, nays 19."

These latter motions were made for the purpose of avoiding an argument which had been made against the measure by its opponents, to wit: that by saying in the bill itself that this officer should be removed by the President, it would be inferred that Congress conferred the power upon him, and therefore the phraseology was changed deliberately by the friends of the presidential power, and the bill was made simply to declare that when the President should remove the officer, or in any other case of vacancy, the office should be filled by the chief clerk; so that there should be upon the face of the statute an express recognition by Congress of the President's power of removal under the Constitution. The debate shows that a new form was given to the measure for the express purpose of excluding in all future time and from any quarter any allegation that the President derived his power from the legislation of Congress. That bill finally passed the House on the 24th of June, by a vote of—yeas 29, nays 22.

Now, sir, I propose to read from the debates attending the passage of the measure, the history of which I have traced, certain opinions of prominent men upon the point mentioned by me in the outset of my remarks. I mean the question of the right of the Legislature to confer upon the Senate and President jointly this power of removing from office. That point was suggested, and Mr. Madison replied as follows:

"Several constructions have been put upon the Constitution relative to the point in question. The gentleman from Connecticut [Mr. SHERMAN] has advanced a doctrine which was not touched upon before. He seems to think (if I understood him rightly) that the power of displacing from office is subject to legislative discretion; because, it having a right to create, it may limit or modify as it thinks proper. I shall not say but at first view this doctrine may seem to have some plausibility. But when I consider that the Constitution clearly intended to maintain a marked distinction between the legislative, executive, and judicial powers of Government; and when I consider that if the Legislature has a power, such as is contended for, they may subject and transfer at discretion powers from one department of our Government to another; they may on that principle exclude the President altogether from exercising any authority in the removal of officers; they may give it to the Senate alone, or the President and Senate combined; they may vest it in the whole Congress, or they may reserve it to be exercised by this House. When I consider the consequence, of this doctrine and compare them with the true principles of the Constitution, I own that I cannot subscribe to it."—*Annals of Congress*, vol. 1, p. 496.

Mr. Gerry, of Massachusetts, one of the most distinguished men of that age, said upon this same subject:

"This has been supposed by some gentlemen to be an omitted case."

That is, this power of removal—

"and that Congress have the power of supplying the defect. Let gentlemen consider the ground on which they tread. If it is an omitted case, an attempt in the Legislature to supply the defect will be in fact an attempt to amend the Constitution. But this can only be done in the way pointed out by the fifth article of that instrument, and an attempt to amend it in any other way may be a high crime or misdemeanor, or perhaps something worse."—*Ibid.* p. 503.

And he goes on with a further argument in support of the same view. Again, he said, in a subsequent stage of the debate:

"If the Legislature have not the power of removal they cannot confer it upon others; if they have it, it is a legislative power, and they have no right to transfer the exercise of it to any other body. So view this question in whatever point of light you please, it is clear the words ought to be struck out."—*Ibid.*, p. 576.

Mr. Smith, of South Carolina, said:

"It is contended that the Legislature have the

power of supplying the defect if this is an omitted case. I cannot be of that opinion. But it is unnecessary to extend this argument after what has been urged by the gentleman from Massachusetts, [Mr. GERRY.] If the Legislature can supply defects, they may virtually repeal the Constitution."—*Ibid.*, p. 508.

Mr. White, of Virginia, said:

"Some gentlemen have supposed that the Constitution has made no provision for the removal of officers; and they have called it an omitted case or defect. They ask if we may not supply that defect? I say in general we may not; for if we can assume the right of supplying defects and making alterations, we may go on and make the Constitution just what we please."—*Ibid.*, p. 517.

Finally, I will read the opinion of Mr. Boudinot. He said:

"For my part, I conceive it is impossible to carry into execution the powers of the President in a salutary manner unless he has the power of removal vested in him. I do not mean that if it was not vested in him by the Constitution it would be proper for Congress to confer it; though I do believe the Government would otherwise be very defective, yet we would have to bear this inconvenience until it was rectified by an amendment of the Constitution. For my part, I would adhere to every principle contained in it, however defective, and not infringe it for any purpose whatever."—*Ibid.*, p. 529.

So much for that question. From the same debates I propose to read so much as will show the grounds upon which the majority acted at that time. In the first place I read the opinion of George Clymer, a Representative from Pennsylvania, who said on the 19th of May, 1789:

"The power of removal was an executive power, and as such belonged to the President alone by the express words of the Constitution: 'the executive power shall be vested in a President of the United States of America.' The Senate were not an executive body; they were a legislative one. It was true, in some instances, they held a qualified check over the executive power, but that was in consequence of an express declaration in the Constitution: without such declaration they would not have been called upon for advice and consent in the case of appointment. Why, then, shall we extend their power to control the removal which is naturally in the Executive, unless it is likewise expressly declared in the Constitution?"—*Ibid.*, p. 332.

I will conclude these extracts by reading what Mr. Madison said in the debate on the 17th of June, and at other times, in vindication of his own position and in answer to the argument in favor of senatorial power:

"But let us not consider the question on one side only; there are dangers to be contemplated on the other. Vest this power in the Senate jointly with the President, and you abolish at once that great principle of unity and responsibility in the executive department which was intended for the security of liberty and the public good. If the President should possess alone the power of removal from office, those who are employed in the execution of law will be in their proper situation, and the chain of dependence be preserved: the lowest officers, the middle grade, and the highest will depend, as they ought, on the President, and the President on the community. The chain of dependence therefore terminates in the supreme body, namely, in the people, who will possess, besides, in aid of their original power, the decisive engine of impeachment. Take the other supposition; that the power should be vested in the Senate, on the principle that the power to displace is necessarily connected with the power to appoint. It is declared by the Constitution that we may by law vest the appointment of inferior officers in the heads of Departments; the power of removal being incidental as stated by some gentlemen. Where does this terminate? If you begin with the subordinate officers, they are dependent on their superior, he on the next superior, and he on—whom? On the Senate, a permanent body; a body, by its particular mode of election, in reality existing forever; a body possessing that proportion of aristocratic power which the Constitution no doubt thought wise to be established in the system, but which some have strongly excepted against. And let me ask gentlemen, is there equal security in this case as in the other? Shall we trust the Senate, responsible to individual Legislatures, rather than the person who is responsible to the whole community? It is true the Senate do not hold their offices for life, like aristocracies recorded in the historic page; yet the fact is, they will not possess that responsibility for the exercise of executive powers which would render it safe for us to vest such powers in them. But what an aspect will this give to the Executive? Instead of keeping the departments of Government distinct, you make an executive out of one branch of the Legislature; you make the Executive a two-headed monster, to use the expression of the gentleman from New Hampshire, [Mr. Livermore,] you destroy the great principle of responsibility, and perhaps have the creature divided in its will, defeating the very purposes for which a unity in the executive was instituted. These objections do not lie against such an arrangement as the bill establishes. I conceive that the President is sufficiently accountable to the community; and if this power is vested in him, it will be vested where its nature requires it should be vested; if anything in its nature is executive, it must be that power which is employed in superintending and see-

ing that the laws are faithfully executed. The laws cannot be executed but by officers appointed for that purpose; therefore, those who are over such officers naturally possess the executive power. If any other doctrine be admitted, what is the consequence? You may set the Senate at the head of the executive department, or you may require that the officers hold their places during the pleasure of this branch of the Legislature, if you cannot go so far as to say we shall appoint them; and by this means you link together two branches of the Government which the preservation of liberty requires to be constantly separated."

*Ibid.*, pp. 499, 500.

Again he said:

"The Constitution affirms that the executive power shall be vested in the President. Are these exceptions to this proposition? Yes, there are. The Constitution says that in appointing to office the Senate shall be associated with the President unless in the case of inferior officers when the law shall otherwise direct. Have we a right to extend this exception? I believe not. If the Constitution has invested all the executive power in the President, I venture to assert that the Legislature has no right to diminish or modify his executive authority. The question then resolves itself into this: is the power of displacing an executive power? I conceive that if any power whatsoever is in its nature executive it is the power of appointing, overseeing, and controlling those who execute the laws."—*Ibid.*, p. 463.

Mr. President, I have but one additional citation to make, and I shall then relieve the Senate from these copious extracts in which I have indulged. I read from the protest of Andrew Jackson, dated April 15, 1834, and directed to the Senate of the United States, the extract being upon the very question involved in this debate, the very question raised by this bill. He says:

"The executive power vested in the Senate is neither that of 'nominating' nor 'appointing.' It is merely a check upon the executive power of appointment. If individuals proposed for appointment by the President are by them deemed incompetent or unworthy, they may withhold their consent, and the appointment cannot be made. They check the action of the Executive, but cannot, in relation to those very subjects, act themselves, nor direct him. Selections are still made by the President, and the negative given to the Senate without diminishing responsibility furnishes an additional guarantee to the country that the subordinate executive as well as the judicial offices shall be filled with worthy and competent men."

"The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle the power of removal, which, like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible. In the government from which many of the fundamental principles of our system are derived, the head of the executive department originally had power to appoint and remove at will all officers, executive and judicial. It was to take the judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behavior. Nor is it conceivable why they are placed in our Constitution upon a tenure different from that of all other officers appointed by the Executive unless it be for the same purpose."

"But if there were any just ground for doubt on the face of the Constitution, whether all executive officers are removable at the will of the President, it is obviated by the contemporaneous construction of the instrument and the uniform practice under it."

"The power of removal was a topic of solemn debate in the Congress of 1789 while organizing the administrative departments of the Government, and it was finally decided that the President derived from the Constitution the power of removal, so far as it regards that department for whose acts he is responsible. Although the debate covered the whole ground, embracing the Treasury as well as all the other executive departments, it arose on a motion to strike out of the bill to establish a Department of Foreign Affairs, since called the Department of State, a clause declaring the Secretary 'to be removable from office by the President of the United States.'"

And then proceeds in explanation of the subsequent proceedings on that bill as I have already read them from the original record. He proceeds:

"This change having been made for the express purpose of declaring the sense of Congress that the President derived the power of removal from the Constitution, the act as it passed has always been considered as a full expression of the sense of the Legislature on this important part of the American Constitution."

"Here, then, we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the Convention which framed the Constitution and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is

'beyond the reach of legislative authority.' Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of executive officers, from the heads of Departments to the messengers of bureaus."

The argument is then carried on and applied to the particular case upon which disagreement had arisen between himself and the Senate, to wit: the case of the head of the Treasury Department, the incumbent of which had been dismissed by him in the recess in connection with the well-known question regarding the removal of the deposits.

I have thus gone over, in the first place, the leading points of the argument from the point of view in which the subject has presented itself to my mind; and next, I have shown by the authorities cited how those views and opinions supported by me are rooted and founded in the strongest authority which our political history can furnish; that this authority begins with the organization of the Government, and that along with it is to be taken the uniform practice of the Government for a period of seventy-seven years. President Jackson expressed his surprise in 1834 that, after a period of forty-five years, in which the practice of the Government had been in a certain direction, it should be called in question. How much more reason have we in 1867 to express surprise that a question which has stood determined for seventy-seven years, and the determination of which is sustained by uniform practice and by the highest authorities, should now be involved in debate!

Why is this? Has there been any demand of public opinion brought to bear upon us on this particular point? Has any new light from any quarter been shed upon the Constitution? Why is this bill introduced, and why is it pressed? There is but one explanation. The reason is avowed. It is not concealed; it is not held back. It is, that the President of the United States is not in complete political accord with the majority of the Senate, and therefore this bill is to be passed to put a bit into his mouth to curb and to check him, to prevent him from exercising a power which has been exercised almost unquestioned by all his predecessors. Sir, if I am correct in my argument, and if the great men of former times were correct in their views on this subject, you have no power to pass this bill even for the high object avowed of curbing, limiting, and restraining the President of the United States in the exercise of his powers.

But is there such pressing necessity that we ought to overleap all practice and set aside the past construction of the Constitution? Why, sir, after all that has happened, after all that has been said, there can be no question that two thirds of the offices of the United States, even in the adhering States—the States which did not rebel—are held by persons who are in accord with the political majority in the Senate. This thing of removals has not been carried to such lengths that it is necessary to resort to extreme and doubtful measures of legislation in order to find security and relief to an oppressed majority in this Chamber; and there is no such necessity impending. As was well said by the Senator from Wisconsin [Mr. Howe] in this very debate, the exercise of this power of removal by the present President has not been carried to such an extent as it was by former ones. No political proscription of officers in this country was ever carried to greater lengths than it was carried by President Lincoln and those associated with him in the executive branch of this Government. This power—I acknowledge it to be a fearful, a terrible power in the hands of one disposed to abuse it—was wielded by him and his political associates with an absence of all consideration for opposing opinion and private interests which had no example in our previous political history. It was wielded strongly and with power by that man of iron from whose protest I have read to you, and by other Presidents. I repeat there is less reason now, upon the

ground alleged by the advocates of this bill for its enactment, than there was for such a measure upon many former occasions, some of them recent and others more remote.

Why, then, is this measure introduced to revolutionize the practice of the Government and to unsettle the fixed and declared opinions of the American people and of their authorities upon this question? Is it because gentlemen suppose that the public mind is so unfixed by revolution, by war, and by the passions of this war, that it will assent to anything demanded by party interests or instigated by party passion? Is it under the inspiration of popular elections held and determined upon other considerations than this that we are to see the inauguration of a new system in our Government with reference to the patronage of the Government, which changes altogether the relations of the legislative and executive departments with each other; which puts this Senate at the head of the executive department, to dominate it; which makes it the two-headed monster which was spoken of in the debate of 1789?

I beg Senators to reflect upon the several points elaborated by me against the deposition of this power in the Senate, independent of the question of power. I beg them to consider the irresponsibility of this body, an appropriate fact enough when you consider the Senate in its legislative capacity as a check upon the popular House, as a sort of breakwater against the popular passions of any particular year. It is to stand here and perform in this Government the same function which is performed in the British Government by the House of Lords. It is to check and to hold in restraint popular impulses when they first appear, and when they may carry the Government out of its course and establish injustice or mischief in its administration. That is the great function of the Senate. It is a check upon the hot and heady passions which may hold sway over the other branch of the legislative department. But, sir, never in theory or in practice was it intended that this Senate should dominate the executive department. You have a complete veto upon the House. No bill or resolution passed by that branch can take effect or have force as a public law or regulation until you assent to it. The House cannot overrule your dissent to a measure as Congress can overrule a presidential veto. You hold by a fast grip that popular branch which speaks the heart of the people and speaks the passions of the people whenever their rashness or injustice require a check.

It may be said that the Senate is the aristocratic feature of the Constitution, and it may be said, as it was said in the Convention of 1787, that it is objectionable for this reason, and that it ought not to be admitted into the Constitution. On the contrary, I think the provisions creating it were among the wisest provisions of the Constitution; that the Senate should be constituted as it is, that here calm thought and just action should take refuge against the passions of the time. But to have a Senate performing its appropriate, constitutional functions, holding this Government steady in its course, protecting it against impulse and passion and violence, you must have it as the Constitution made it, and as it has heretofore existed, a body substantially separated from questions of private emolument, from questions of official patronage and management. As can be shown, your action upon appointments does not constitute efficient control of or active participation in executive power. You must not have the officers of this country tied to the skirts of Senators and pulling upon them. You must not run the risk of a corrupt influence upon this body. You must not make it an interested participant in the hot, ardent discussions of the country with reference to these questions of patronage.

Then, sir, keeping it separate, as it has been heretofore, allowing it only when important officers are to be selected by the executive

department to express its opinion, not to go into investigations such as would be necessary in cases of removal, it will perform its appropriate functions and preserve its just influence. Selected as its members are from every State of the Union, they have a general knowledge of character and of competency in men who are to be selected for public stations, and when the President asks their opinion or advice they can give it in a summary manner. This power of advice gives dignity to the proceedings of Government; but the Senate does not select these officers. Ordinarily, it does not reject them. It is a power not odious; it is a power which does not connect the Senate too intimately with questions of money and office, but leaves its dignity intact and its influence unbroken. I desire it to maintain its character, to be what it was intended to be, the great House of the States, where their voice shall be spoken and their will and their opinions upon public affairs maintained; that it shall not be an active instrument in the scrambles for office in the country; that it shall not be tied to the interests of men who hold lucrative positions under the Government; that it shall not attempt to dictate to the President whom he shall select for office, because that will be the effect of giving new power over removals; that men shall not come here and through Senators dictate appointments and removals to the executive department; that you shall not render that department contemptible; and finally, that you shall not extend to this branch of the Legislature a jurisdiction which it cannot exercise without public odium, without a loss of its own dignity, nor without injury to that system of government which we are all bound, so far as our efforts will go, to maintain in its original integrity and in its former lustre.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment moved by the Senator from Wisconsin [Mr. HOWE] to the third section of the amendment of the committee, to insert after the word "Senate," in the ninth line of that section, the words "or if no appointment by and with the advice and consent of the Senate shall be made to any office the term of which shall expire during any session of the Senate, before the expiration of that session."

Mr. EDMUNDS. I hope that amendment will not be adopted, for the reason that it interferes with and is contradictory to the theory of the main body of the amended bill. If that theory is right, this amendment I think ought not to go in. The bill proceeds upon the ground that every officer who is rightfully and regularly appointed, and who has not been suspended for some good cause, shall continue to exercise the functions of that office until he shall be removed by and with the advice and consent of the Senate and his successor appointed, and until his term having expired his successor shall have been agreed upon. Now, then, if the amendment of my friend from Wisconsin is agreed to, the effect of it will be simply this: that in the case of an officer whose term expires, and his successor does not happen to be appointed with the advice and consent of the Senate, the office becomes vacant; the holder of the office goes out with the expiration of the term, and then some subordinate who happens to be present, and upon whom in the case of a vacancy the law would devolve the duty of performing the duty until the office was filled, will exercise the functions of it. It appeared to the committee, and I think it will commend itself to the sense of the Senate, that in a case of that description where there is no charge against the officer and where the only reason why he is to continue at all is the fact that his successor is not yet agreed upon, it would be better to allow the old officer to continue to exercise the functions of the office until his successor shall be appointed by and with the advice and consent of the Senate, instead of declaring that the office shall be vacant at the expiration of the term.

And that is the law in a great many, I was about to say all the States respecting State

appointments, municipal officers—all those persons who discharge the functions of executing the laws of the various States. They are generally appointed for a particular period of time and until their successors shall be duly chosen or appointed and qualified, it being thought more fit that a person against whom no charge is brought and whose term has expired should continue to exercise the functions of the office *ad interim* until his successor is chosen than that the office should be vacant. I should hope, therefore, that the Senate would not declare that at the expiration of the term of an officer who is appointed for four years, and while the question of who is to be his successor is being considered, the office should be vacant and be performed by some subordinate. I fail to see the necessity or the propriety of it. I hope that amendment may not be agreed to.

Mr. HOWE. I am satisfied, after listening to the explanation of the Senator from Vermont, that I was mistaken in offering this amendment. The purpose I was aiming at was precisely the purpose which he says is accomplished, and which I think on reflection is accomplished by the first section of the bill; and therefore I will withdraw the amendment.

Mr. HENDRICKS. That amendment being withdrawn, I will renew the amendment which I proposed a few days ago, to strike out all of the third section after the word "thereafter," in the sixth line. I do not propose further to discuss it.

The words proposed to be stricken out were read as follows:

And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled, as aforesaid, during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto, until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

The amendment to the amendment was rejected.

Mr. SUMNER. I offer the following as a new section:

*And be it further enacted, That all officers or agents, except clerks of Departments, now appointed by the President or by the head of any Department, whose salary or compensation, derived from fees or otherwise, exceeds \$1,000 annually, shall be nominated by the President and appointed by and with the advice and consent of the Senate; and the term of all such officers or agents who have been appointed since the 1st day of July, 1863, either by the President or by the head of a Department, without the advice and consent of the Senate, shall expire on the last day of February, 1867.*

Mr. EDMUNDS. I hope that amendment will not be adopted. It is a very sweeping proposition. We cannot tell, without a careful investigation by some committee, precisely what officers it will operate upon, whether it ought to go so far as it does; and it bears on the face of it as connected with this bill, which is a general one relating to the powers and duties of the Senate, an implication that it is one part of the purpose of this bill to undo something which the President has done. Now, that is an incorrect idea to be entertained respecting the propositions embraced in this bill. It is precisely the idea that the opponents of the bill are most anxious to have the country take up and adopt.

I hope that my friend from Massachusetts will not insist upon loading an important bill of this description, which is to settle a high principle, with a mere matter of detail, which needs investigation, which is certainly open to the implication and the imputation that it is designed to be made the cover for repairing some wrong which the President of the United States has done. It has no fit place as an amendment to this bill. It might just as well be applied to any other bill; and any other proposition respecting the administration of affairs might just as well be loaded on this bill. It is a subject separate and distinct, one that belongs to itself, that ought to be considered by itself, because all that this bill undertakes



to do is to regulate the tenure of office, and not to name the classes of persons who shall be treated as principal officers in the Government, so to speak, and be nominated and appointed by and with the advice and consent of the Senate, as distinguished from those inferior offices suggested in the Constitution, the appointment of which may be vested in the President or the heads of Departments or the courts of law. I trust that my friend from Massachusetts will not encumber this measure, possibly endanger it, by loading it with a variety of questions which grow out of his amendment, which have no proper relation to the bill, and which expose it to animadversion and expose it to criticism which does not justly belong to the measure itself.

Mr. SUMNER. Mr. President, the proposition that I have offered now I moved yesterday on another bill in a slightly different form, but it was substantially the same. I did not understand at that time that there was any objection to it in principle. It was opposed as not being germane to the bill in hand; or if it was germane to the bill in hand, its adoption on that bill was supposed in some way to embarrass its passage. On that ground, as I understand, it was opposed. It was not opposed on its merits. Senators who spoke against it avowed their partiality to it, if I understood them aright, and they said that if they had an opportunity on any proper bill they would vote for it.

Well, sir, I now move it again on another bill, to which I believe all will admit that it is entirely germane. There is no suggestion that it is not germane. It is completely in order. But the objection of the Senator from Vermont, if I understand him, is, that it may interfere somewhat with the symmetry of his bill; it may introduce an element which he, who has that bill in charge and now conducts it so ably, had not intended to introduce. Very well, sir, that may be said; but I do not think it is a very strong objection to the measure.

Then again, if I understood the Senator aright, he said that this amendment if ingrafted on his bill might endanger it. I think he is mistaken in that. I think so far from endangering it, it would give it strength.

Mr. HOWE. Merit.

Mr. SUMNER. My friend says merit. It would give it both strength and merit. Why would it give it both strength and merit? Because it is a proposition which grows out of the exigency of the hour. His bill on a larger scale is just such a proposition: it grows out of the exigency of the hour; and that is the strength and the merit of his original bill. We shall pass that, if we do pass it—and I hope we shall—in order to meet a crisis. We all feel its necessity. But the proposition which I now move grows equally out of the exigencies of the hour. If it is ingrafted on the bill, it will be like the original measure, to meet the demands of the moment. It will be because without it we shall leave something undone which we ought to do.

Now, I ask Senators about me is there any one who doubts that under the circumstances such a provision as this ought to pass? Is there any one who doubts, after what we have seen on a large scale, that the President, for the time being at least, ought to be deprived of the extraordinary function which he has exercised? He has announced openly in a speech that he meant to "kick out of office" present incumbents, and it was in that proceeding, "kicking out of office," that on his return to Washington afterward he undertook to remove incumbents wherever he could. Now, sir, it seems to me that we owe our protection to these incumbents so far as possible. It belongs to the duty of the hour. If the Senator from Vermont will tell me any other way in which this proposition can be promoted successfully I shall gladly follow him; but until then I think that I ought to insist that it shall share the fortunes of the bill which he is now conducting, "enjoy its triumph, and partake its

gale." If his bill succeeds, then let this measure, which is as good as the bill, succeed also.

But the suggestion has been made that the proposition should be matured perhaps in a committee. Why, sir, the proposition is very simple. Any one can mature it who applies his mind to it for a few moments. But, sir, it has already been before the Senate now for several days, discussed once, twice, three times, I think, not elaborately, but still discussed, so that its merits have been brought to the attention of the Senate; and beside its discussion in open Senate I am a witness that it has been canvassed in conversation much. There are many Senators with whom I have had an opportunity of conversing upon it who have applied their minds to it, and I may say that in offering it now I do not merely speak for myself but for others, and the proposition in the form in which it is now proposed is not merely my own, but it is the proposition of many other Senators on this floor to whose careful supervision it has been submitted. Therefore, sir, I say that the proposition is matured, so far as that may be needed, and there is no reason why the Senate now having it before it should not act upon it. Why postpone what is in itself so essentially good? Why put off to some unknown future the chance of applying a remedy to an admitted abuse? Is there any one here who insists that this is not an abuse, that here has not been a tyrannical exercise of power? No one. Then, sir, let us apply the remedy. This is the first chance we can get. Let us take it.

Mr. CRAGIN. The Senator from Massachusetts intimates that all of us who opposed this amendment yesterday and other days substantially admitted that it was right in itself, and merely contended that it ought not to be attached to the bill then under consideration. For one I do not admit that proposition. When he first introduced the amendment I had very strong doubts of its propriety, and reflection has only confirmed me in those doubts.

He says this proposition has been matured. I believe that even if Senators have thought of this proposition there are only a few here who know to what extent it reaches. There are only a few of us who understand it in its details. I undertake to say to the Senate here to-day that this proposition includes thousands upon thousands of officers now appointed by the different heads of Departments. It includes, or may include, all the assistant assessors now appointed by the Secretary of the Treasury on the recommendation of the assessors, numbering at least two thousand in this Union. It also includes all the inspectors and weighers and gaugers and clerks in the various custom-houses in this country, now appointed nominally by the Secretary of the Treasury, but on the recommendation generally of the collectors. Is it desirable that these appointments should be made by the President of the United States and sent here to the Senate to lumber up and incur the business of this body? I think not, sir. I think it better that practically the collectors of the different custom-houses should have these appointments as they now have them. It also includes, as I believe, the employés in the various navy-yards in this country, now appointed by the Secretary of the Navy or heads of bureaus under him. I think this amendment is of very doubtful policy indeed, and I hope it will not be ingrafted on this bill.

Mr. FESSENDEN. When the honorable Senator from Massachusetts first suggested this proposition I had very great doubts about it. My doubts have continued and they are as strong now as they were in the beginning. I cannot tell exactly how far the proposition may extend; but experience has satisfied me that all legislation of this kind which is directed to the overthrow of a practice upon which the Government has proceeded for years, in fact since its foundation, under laws passed by Congress regulating the different Departments and the connections of the different Departments, and particularly such legislation adopted on the

spur of the moment, without having an examination by a committee to see what its operation will be, is very dangerous in itself, and for that reason I was opposed to acting upon the proposition when he first submitted it until it should have had a thorough examination.

The honorable Senator from Massachusetts says its operation is easy to understand, nobody can have a doubt of its propriety, and therefore all we have got to do is to pass it. My friend from Massachusetts is peculiar in that respect. There are others like him, I know; I do not mean to say that he stands alone, but when anything appears clear to his own mind he cannot imagine that it is not perfectly clear to everybody else, both as to its propriety and its correctness, and therefore the man who doubts it either wants honesty or wants intelligence.

Mr. SUMNER. No.

Mr. FESSENDEN. That seems to be the idea of the Senator's speeches at any rate. If he does not think so, he does not talk as he thinks. The obvious inference from my friend's style of argument is, that where he is clear, everybody else ought to be; and if everybody else is not, it is owing to some defect in everybody else and not in him.

Now, sir, the facts stated by my honorable friend from New Hampshire are incontrovertible. There are thousands of officers in this country who from the foundation of the Government and under the operation of existing laws have been appointed by the heads of Departments without being confirmed by the Senate, and they have been increasing; and it is so from the necessity of the case, and no particular evil has been found to follow from it. These persons are employés, if you please to call them so, in the different Departments of the Government that have been specified by my honorable friend from New Hampshire. Take the city of New York; there are connected with the New York custom-house a very large number of inspectors, a very large number of weighers and gaugers, and other officers, appointed by the Secretary of the Treasury generally on the nomination of the collector himself who is at the head of the office. The law so provides, and has provided for it from the beginning of our custom-house system. It results from the necessity of the case. The head of the office is the best judge as to who are the men who may properly be employed to discharge these various duties, and consequently the nomination has been left to him, and the appointment is made by the head of the Department here confirming that nomination, he being responsible for the execution of the laws in his Department for the collection of duties and for the proper conduct of the Department itself.

Sir, contemplate what a state of things would be produced if you brought the nominations of all these minor custom-house officers who receive over \$1,000 a year (and there are very few of them now who do not receive that) to the President, to be sent by him to the Senate for confirmation. It would introduce at the White House "confusion worse confounded," infinitely beyond anything that we see there now. He would not be able to judge of the qualifications of all these various persons. It would bring all these offices into party politics in the most objectionable manner. Every man holding an office or desiring one would be besetting those supposed to have influence; and if I should continue to be a member of Congress I should not want the additional curse (for it is bad enough now) of having these minor officers all coming to me with their letters and petitions and grumbling and growling and swearing if they could not have their own way. I prefer to leave the matter to the officer who is at the head of the proper Department and who is properly responsible.

Again, there must be a proper responsibility about this. No man can take a department like the New York custom-house or Boston custom-house and carry it on if every subordinate under him who receives \$1,000

a year is at liberty to run to the President with reference to his appointment, and from the President to the Senate. It cannot be done. Then look at your internal revenue officers. There are few of those officers, none but the absolute heads of the various offices, the assessors and collectors, whose nominations are submitted to the Senate. The minor officers, assistant assessors, &c., generally receive more than \$1,000 a year. If all these officers are to be sent here for confirmation it will create additional confusion.

I give these as instances; there are undoubtedly others which I cannot think of, and which my friend has not thought of; and here it is proposed at one dash to overturn this whole system, because the President, in an unlucky moment, said, or is said to have said, (and I suppose he did say it,) that he would kick certain men out of office. I am not disposed to overturn a system which has recommended itself to the experience of the Government, recommended itself to the most approved mode of doing the business of the country for years, with which no fault whatever has been found in its practical operation, simply because at this time we are in this "muss" with regard to appointments. The danger is always in such cases that we shall go too far, and that in trying to do good we shall do infinite harm; and that, I think, would be the result if we should adopt the system which my friend from Massachusetts recommends.

Allow me to say to him in all kindness and in all respect that I do not think he has considered this matter, because he has not been aware of the facts upon which the present state of the law is founded; and I believe if you were to put him upon a committee to investigate it, and he should get at the facts as they really stand, and examine the system as it has operated with reference to the collection of our revenues, he himself would be the first man to say that he had come to a mistaken opinion with reference to the subject.

Mr. SUMNER. What facts?

Mr. FESSENDEN. The facts that I have been stating. How could you dispose of the thousands of men employed in the collection of the internal revenue and the customs? Would you have all their names come here for confirmation, every weigher and gauger, every inspector, every revenue agent?

Mr. SUMNER. All that are now appointed by the head of a Department.

Mr. FESSENDEN. Would you have them all go to the President and then come here for confirmation? I do not want them to come here. I think it would be a bad system. I think we cannot carry it into the details of these minor offices. What did the Constitution mean when it gave to Congress the power to vest the appointment of such inferior offices as it saw fit in the heads of the Departments? It meant that there must be from the nature of the case, in a country like this, many instances where you must leave the appointing power to somebody else, where you cannot burden the President with all these little appointments. In a country as large as this is, and growing as it is, increasing every day, and the number of offices increasing continually, the thing would become utterly impracticable. If it were attempted we might resolve ourselves into a Senate in perpetual session to consider mere questions of nominations to office, and we should be obliged to do so. It would be utterly impossible that we could arrive at any correct conclusion with the thousands of other matters we have to attend to. I think, therefore, we had better "let well enough alone," and not because we happen just at this moment to be in the condition we are with reference to questions of appointments to office, travel beyond what the necessity of the case requires.

A word now, sir, upon the general subject. I have not been able to give my attention to the details of the bill, because I have been necessarily out of the Senate while the bill has been under consideration; but with reference to the bill itself I have the impression that we

ought to confine ourselves to what is necessary in order to protect the constitutional rights of the Senate, and not allow ourselves to be carried away by our rightful and proper impressions with regard to that one point, to take action upon collateral issues and collateral matters, which would look as if they were sought out merely for the purpose of embarrassment, would have that appearance at any rate to the country, and would eventuate in embarrassing ourselves and those who are to come after us by going a great deal too far.

As I said before, I do not think I should have been in favor of passing any law upon this subject had it not been that it is manifest to me that the time has come (as I gave notice at the last session it might come) when it is perfectly evident a doctrine prevails which is utterly subversive of the constitutional rights of the Senate. The Senate is bound to protect itself if it can, and if it cannot Congress is bound to protect its coordinate branch and the constitutional rights of its coordinate branch. As I stated the other day, here is a plain, palpable case; and it is said that the present Attorney General has given an opinion that the President had a perfect right to nominate a man to the Senate, and if the Senate rejected him to wait until the Senate adjourned and then appoint him again, and so on from session to session until at last we should be made a mere cipher, a nobody in the Government.

If the present Attorney General has given any such opinion, so much the more necessary is it for us to protect ourselves. If the President in his action—I am sorry he has taken the action—has seen fit to proceed upon such an opinion and to treat the Senate with that which I must call discourtesy, disregard of its constitutional rights, by reappointing men after they had been rejected by the Senate to the same offices, the moment the Senate had adjourned, it is time for us to exert such power as we may have in order to protect ourselves—not ourselves individually, but to protect the body of which we are members in the exercise of its constitutional rights. Inasmuch as this opinion has been given and this action has been taken, I am disposed to test it; and I am ready to go just so far as is necessary to accomplish that end; but I am not willing, because I think it unwise, to go further and to take occasion from that circumstance to put restrictions upon the power of the Executive that we may find it afterward difficult to justify, or to take occasion to overturn the settled practice of the Government under existing laws which has been useful, and of which there has been no complaint, and of which there is no complaint to this day. I should regret very much if anything of the kind should be done; and I am therefore opposed utterly to the amendment proposed by the Senator from Massachusetts.

Mr. SUMNER. Mr. President, the argument of the Senator from Maine, he will pardon me, proceeds upon an exaggeration. It is very easy to answer an argument when you begin by exaggerating the consequences from that argument. Now, sir, the Senator warns us against my proposition, because he says it would impose so much business upon the Senate. Is that true? He reminds us of the number of appointments that we should be obliged to act upon in the internal revenue department. How many? The assistant assessors. What others? Those can be counted.

Mr. CRAGIN. Inspectors under the internal revenue laws.

Mr. SUMNER. Very well; inspectors also; those can all be counted. He then reminds us of the officers in the custom-houses, who would be brought to the Senate. They can all be counted. It would not act on the clerks in the custom-houses; it acts only, if at all, on the officers of the custom-houses, officers in a certain sense superior, some of them with very considerable responsibility. They can all be counted. It is very easy to say that we shall be obliged to deal with many thousands, but I say, nevertheless, they can all be counted.

But, let me ask, are we not obliged to deal

with many thousands of postmasters, and still further are we not obliged to deal with many thousands of officers in the Army? How have we carried this great war along? The Senate has acted always upon all the nominations of the Executive for the Army of the United States, beginning with the general and ending with a second lieutenant. Every one of them comes before the Senate, and what is the consequence? The Executive has a direct responsibility to the Senate with regard to every appointment that it makes in the Army of the United States from a general down to a second lieutenant. And are you disposed to renounce that responsibility because it brings into this Chamber many thousand nominations, if you please, to act upon? These officers that I now wish to bring into the Chamber for you to act upon, some of them you may consider as second lieutenants in the civil service of the country; others as first lieutenants; others as captains, if you please. And now, why should we act upon them?

Having answered the argument which I have called the argument of exaggeration, now why should we act upon these? The Senator says we had better follow the received system. One of the finest sentiments that has fallen from one of the most gifted of our fellow-countrymen was that verse in which he says:

"Now occasions teach new duties."

We have a new occasion now teaching a new duty. That new occasion is the misconduct of the Executive of the United States, and the new duty which this occasion teaches is, that Congress should exercise all its powers in throwing a shield over our fellow-citizens. We see that the Executive is determined to continue this warfare upon the incumbents of office: shall we not if possible protect them? I say that it is our duty growing out of this hour. It may not be our duty next year, or four years from now, as it was not our duty last year or four years back. But because it may not be our duty next year, and was not our duty last year, it does not follow that it is not our duty now. Let us act in the present according to the exigency of this moment; and if there is an abuse, as no one will hesitate I think to admit, let us meet it carefully, considerably, and bravely.

Mr. HOWARD. I move that the Senate adjourn.

Mr. FESSENDEN. I should like to say a word.

Mr. HOWARD. Take to-morrow.

Mr. SAULSBURY. I wish to offer a resolution pertinent to the present inquiry. If its consideration be objected to, of course I shall not call it up until to-morrow.

The PRESIDENT *pro tempore*. Does the Senator from Michigan withdraw the motion?

Mr. HOWARD. No, sir; I must insist on my motion.

Mr. FESSENDEN. I wish to say a word in reply to the Senator from Massachusetts.

Mr. HOWARD. I will withdraw the motion if the Senator from Maine will renew it.

Mr. FESSENDEN. I shall renew it unless the Senator from Massachusetts wishes to reply to me.

Mr. SAULSBURY. Will the Senator withdraw his motion that I may offer a resolution of inquiry?

Mr. HOWARD. There seems to be a great deal of distress. [Laughter.] I think I had better withdraw my motion. I feel kindly to the honorable Senator from Delaware.

Mr. SAULSBURY. I offer the following resolution:

*Resolved*, That the Secretaries of State, of the Treasury, of the Interior, the Attorney General, and the Postmaster General be directed to inform the Senate what number of removals from office and appointments to office were made in their respective Departments from March 4, 1861, to March 4, 1865, and the dates of said removals and appointments, and the names of said appointees and their location.

Several SENATORS objected to the consideration of the resolution.

Mr. FESSENDEN. The Senator from Massachusetts, in remarking that my argument on a particular point was one of exaggeration, did

not choose to take notice of the part of the argument which I consider of very much more importance than that which he did answer. I observed incidentally that I thought it would be very inconvenient for us to have these thousands of minor officers come here to be acted upon. That was the only part of the argument which the Senator thought fit to notice. But, sir, there was something beyond that which I called his attention to, and that is the infinite trouble and confusion it would make even with the President if he was obliged to make all these nominations, and the want of proper information that he would have. The proper information now comes from the head of the office where the officer is to the Secretary of the Treasury, who is at the head of the Department and responsible for what is done in the Department. There is the distinction, and it is a pretty important one; and I put that upon the ground that it was better so, infinitely better so, as a matter of practice, than it would be if these men were to come necessarily to the President and next to the Senate; that the system is not so good a one; that the present system is one which was decided upon after proper consideration, and has been in existence from the foundation of the Government, and has been found to work well in practice.

Because we happen to have a President at the present time who is not doing what we think to be right in reference to this matter, is it worth while for us to change this system which has been found so good and beneficial for so many years? The present President, if the Senator finds fault with him, cannot live forever, cannot be President forever, unless the people choose to reelect him from time to time. A change will come in the natural order of things, and then when we get a President to suit us I suppose the Senator would be for putting things back again and taking away this power. We should look rather small and trifling to do anything of that kind. Therefore I repeat what I said: let us do what is necessary, under the contingency, to protect the position and the constitutional rights of the Senate itself with reference to appointments, and not run the thing into the ground by taking every possible power out of the hands of, not of the President, for it is not in his hands now, but out of the hands of the heads of Departments, and taking everything to ourselves to act upon. Sir, I do not think it would be wise; and the Senator will allow me to say that if he considers my argument one of exaggeration I consider his one of declamation, and exaggeration is certainly as good as declamation for an argument, in the Senate at any rate.

There is a reason which is applicable to officers of the Army which is not applicable to these officers. They take their offices for life. Those appointments exist as long as they behave well. It is a very different thing from these little appointments in the civil service, which are held only for two or three years, more or less. That is a matter that is dependent on something else.

Mr. SUMNER. As I do not wish to revive this discussion to-morrow and the Senator from Maine may not be in his seat—

Several SENATORS. Let us adjourn.

Mr. SUMNER. I have only one word to say. I wish to say that I intended to answer his argument fully and frankly. I thought that I had done it. He thinks that I did not do it because I did not take into consideration the superiority of the present system and the inconvenience that would result to the President and the appointing power generally by having to act upon all these nominations. I think that I did take that into consideration. I intended to, because it seems to me that it is answered by all that I undertook to say when I was up before. I did not undertake to express any opinion on the system as a system for the time past, nor did I on the system as a system for the future. I spoke of what we ought to do at the present moment. And as the Senator from Maine suggests that because we are in embarrassed relations with the Executive, because

there is what he calls a "muss" with regard to executive appointments, therefore we should not undertake to act by legislation for the future, let me say that I propose to act simply for the present. I wish to meet the present exigency; and when to-morrow comes, if happily we see a clearer sky, I shall then hearken gladly to the Senator from Maine and follow him in sustaining the old system; but meanwhile I think the old system has ceased to be applicable. It does not meet the case. It was good enough when we had a President who was in harmony with this Chamber; but it is not good enough now. We owe it therefore to ourselves and to those who look to us for protection to apply the remedy.

Mr. HOWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, January 15, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### IMPROVEMENT OF ST. CLAIR FLATS.

Mr. SPALDING, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be requested to take into consideration, with as little delay as possible, the proposed improvement of the St. Clair Flats, in the State of Michigan, by means of a new channel or a canal; and if the said committee deem the construction of the same expedient, that they make report to this House with a bill or joint resolution containing a specific appropriation of a sufficient sum of money to defray the expense of the work.

### CAPTURE OF JEFFERSON DAVIS.

Mr. COBB. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Committee on Appropriations, to whom was referred the bill to authorize the payment of the reward offered by the President for the capture of Jefferson Davis, be instructed to ascertain and report to this House the facts connected with said capture, and the connection of the fourth Michigan and first Wisconsin cavalry regiments therewith, if any, together with the evidence taken in the case, and that in the prosecution of said investigation the said committee shall have power to send for persons and papers.

Mr. STEVENS. Is this a resolution of instruction or one of inquiry?

Mr. BLAINE. Let it be read again.

The resolution was again read.

Mr. STEVENS. I shall not object to the resolution provided it refers this matter to the Committee of Claims, to whom this subject was originally referred.

Mr. COBB. I have no objection to that, and will modify the resolution in that way.

There being no objection to the resolution as modified, it was received and agreed to.

### MARYLAND ELECTION.

Mr. WARD, of New York. I rise to a question of privilege, which will be explained by the following preamble and resolution which I now offer:

Whereas by the constitution and laws of the State of Maryland persons who were disloyal to the Government of the United States, or gave aid and encouragement to the recent rebellion, are deprived of the elective franchise; and whereas it is alleged that at the last election in the State of Maryland large numbers of the persons disqualified as aforesaid did vote for Representatives in the Fortieth Congress and other officers; and whereas it is further alleged that armed forces of the United States were ordered by Federal authority to, and did, cooperate with the Executive of the State of Maryland and others who were engaged with him in overriding the constitution and laws aforesaid, and in securing the vote of rebels and persons disqualified as aforesaid, and whereby loyal and qualified voters of Maryland were deterred from the free exercise of the elective franchise and from resisting and preventing the violation of the constitution and laws aforesaid: Therefore,

*Resolved*, That the Committee of Elections shall inquire into and report whether the constitution and laws have been violated as aforesaid, and whether the President or any one under his command has in any manner interfered with the said election, or has in any way used or threatened to use the military power of the nation with reference to the said elec-

tion, and if so, whether it was upon the requisition of the Governor of Maryland; and the committee shall have power to send for persons and papers.

Mr. LE BLOND. I rise to a question of order. I submit that this resolution is not of such a nature as entitles the gentleman from New York to offer it as a question of privilege.

The SPEAKER. If the resolution related to the election of members to this Congress it would be a matter of privilege; but as it relates to the election of members of the next Congress it is not a question of privilege.

Mr. WARD, of New York. Then I ask unanimous consent to offer the following resolution.

Mr. LE BLOND. I object.

### TAX ON CIGARS.

Mr. DEMING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved by the House of Representatives*, That the Committee of Ways and Means be requested to inquire into the expediency of repealing the *ad valorem* tax on domestic cigars, and of reducing the specific tax to a uniform rate of five dollars per thousand.

### INDIAN SLAVERY IN NEW MEXICO, ETC.

Mr. ROSS, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is currently reported that "the sum of all villainies" is still being perpetrated by trading in human flesh in the purchase and sale of Indians in the Territories of the United States known as New Mexico and Colorado: Therefore,

*Be it resolved*, That the Committee on Indian Affairs be, and they are hereby, instructed diligently and promptly to inquire into the truth of said representations, and report to this House at an early day what congressional action, if any, is necessary to secure to every person within the national jurisdiction protection, liberty, and equality before the law, without distinction of race, color, or sex.

### DAKOTA AND MONTANA WAGON-ROAD.

Mr. DONNELLY, by unanimous consent, introduced a bill to provide for the construction of a wagon-road for military and postal purposes through the Territories of Dakota and Montana; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

### ST. CLAIR FLATS IMPROVEMENT.

Mr. TROWBRIDGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House the report of Brevet Brigadier General T. J. Craw of survey and estimates for the improvement of the channel over the St. Clair Flats made during the fall of 1866, and all other reports of surveys and estimates for improvement of navigation on the great lakes and their connecting rivers made during that year.

### COLONEL H. J. FACH.

Mr. GARFIELD asked and obtained leave for Colonel H. J. Fach to withdraw from the files of the House the papers in relation to his claim, first making and leaving copies of the same.

### GOVERNMENT OFFICERS IN BRIDGEPORT.

Mr. HUBBARD, of Connecticut, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations be instructed to inquire into the expediency of an appropriation for the purpose of the construction of a suitable building in the city of Bridgeport, in the State of Connecticut, for the better and cheaper convenience of the Government offices required to be executed in that growing and prosperous city.

### DRAWBACK ON DOMESTIC MANUFACTURES.

Mr. HUBBARD, of Connecticut, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to send to this House a full copy of all the rules and regulations that have been adopted under his direction prescribing what acts shall be done and what evidence shall be furnished by exporters of articles of American manufacture to entitle them to the allowance of drawback provided for by the two hundred and ninety-seventh section of the internal revenue act.

### GOLD IN NEW YORK SUB-PREASURY.

Mr. COOK, by unanimous consent, submit-



ted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Joint Select Committee on Retrenchment be directed to inquire why, in the present stringent condition of the New York money market, the currency balance in the sub-Treasury in that city is constantly increasing; whether such increase or any part of it arises or has arisen from the sale of gold; and whether any agent of the Department or any officer of the Government has within the last thirty days loaned gold belonging to the Government to any person or persons or to any institution; and if so, to what institution, upon what consideration, for what purpose, upon what security, and to what amount.

#### MURDER OF CAPTAIN MONTGOMERY.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the special committee to investigate the murder of Union men in South Carolina be instructed to inquire into the facts connected with the murder of Captain Montgomery, an officer of the United States, by Confederate soldiers under the command of George W. Chilton, now seeking admission as a member of this House, said Montgomery, as is reported, having been kidnapped in the city of Matamoras, Mexico, carried over the Rio Grande, hung to a tree until dead, and had his head and right arm cut off and sent to his former home in Texas as a trophy.

#### PAY OF HON. A. H. COFFROTH.

Mr. RANDALL, of Pennsylvania, I ask unanimous consent to submit for consideration at this time the following resolution:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, authorized and directed to pay Alexander H. Coffroth the amount of increased pay as a member of this House provided by law, from the commencement of the Thirty-Ninth Congress to the period when he ceased to be a member.

Mr. KOONTZ. I object.

#### TUCKER'S BEACH INLET.

Mr. NEWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be requested to inquire into the expediency of placing buoys at an inlet lately formed at Tucker's Beach, in the bay of Little Egg Harbor, on the coast of New Jersey, and that they report by bill or otherwise.

#### COLORADO MUTUAL BUILDING ASSOCIATION.

Mr. KOONTZ, by unanimous consent, introduced a bill to incorporate the Colored Mutual Building Association of the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### FOREIGN-BORN CITIZENS IN WASHINGTON.

Mr. KOONTZ, by unanimous consent, reported from the Committee for the District of Columbia adversely upon the petition of citizens of foreign birth residing in the city of Washington, praying for equal rights and privileges with negroes; which was laid upon the table.

#### ADMISSION OF NEBRASKA.

Mr. ALLISON. I call for the regular order of business.

The SPEAKER. The first business in order is the consideration of Senate bill No. 456, for the admission of the State of Nebraska into the Union, which bill was pending at the adjournment yesterday. The previous question has been seconded, and the pending question is upon ordering the main question to be now put.

Mr. BOUTWELL. I move to reconsider the vote by which the demand for the previous question was seconded.

Mr. ASHLEY, of Ohio. I move that the motion to reconsider be laid on the table.

Mr. STEVENS. I want to inquire—

The SPEAKER. No debate is in order.

Mr. STEVENS. I desire to ask a question of the Chair.

The SPEAKER. That is in order.

Mr. STEVENS. The question pending antecedent to the motion just made is, I believe, Shall the main question be ordered?

The SPEAKER. It is.

Mr. STEVENS. If that question be determined in the negative will it not have the same effect as the reconsideration of the vote seconding the demand for the previous question?

The SPEAKER. If the main question be

not ordered the bill will be divested of the operation of the previous question.

Mr. GHANLER. If the motion of the gentleman from Ohio [Mr. ASHLEY] to lay on the table the motion to reconsider should prevail, what would then be the position of the question?

The SPEAKER. The next question would be, Shall the main question be now put?

Mr. THAYER. I call for tellers on the motion to lay on the table the motion to reconsider.

Tellers were ordered; and Mr. THAYER and Mr. WILSON, of Iowa, were appointed.

Mr. ELDRIDGE. Cannot this question be taken by yeas and nays?

The SPEAKER. The vote on this motion to reconsider cannot be taken by yeas and nays, because the vote on seconding the previous question cannot be taken by yeas and nays.

Mr. ELDRIDGE. I understood the Chair to rule differently the other day.

The SPEAKER. The gentleman is mistaken. The Chair stated on that occasion that the question on reconsidering the vote ordering the main question could be taken by yeas and nays, because the vote on ordering the main question could be so taken. The motion now is to reconsider the vote seconding the previous question.

The House divided; and the tellers reported—ayes 61, noes 77.

So the motion to lay on the table the motion to reconsider was not agreed to.

The question recurring on the motion to reconsider the vote by which the previous question was seconded, there were—ayes 70, noes 50.

So the motion to reconsider was agreed to.

The question recurring on seconding the demand for the previous question, there were—ayes 50, noes 66.

So the previous question was not seconded.

Mr. BOUTWELL. I offer the following amendment:

Strike out the third section in the following words: *And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.) And insert in lieu thereof the following:

*And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial government within thirty days after the passage of this act, to act upon the condition submitted herein.

Mr. ROSS. I ask whether we are not entitled to a division of the question on this amendment, so that the vote shall first be taken on striking out the third section?

The SPEAKER *pro tempore*, (Mr. CULLOM.) A motion to strike out and insert is not divisible under the rules of the House.

Mr. BOUTWELL. Mr. Speaker, I have not much to add to what has been already said in this debate. Without being well convinced as to the legal effect of the section which is now proposed to be stricken out, I am confident that that section embodies a proposition which ought not to receive the support of Congress in the present condition of public affairs.

We are engaged in the great work of reconstructing this Government, and I suppose if we are committed to anything it is this: that in the ten States not now represented there shall hereafter be no distinction on account of race or color. Our friends in Tennessee are engaged in a life and death struggle for the establishment of the principle that a man as a man has a right to participate in the Government.

In the State of Iowa the contest is now going on for the amendment of their constitution, by which they purpose to strike from the text a provision corresponding exactly to that which is incorporated in the constitution of the proposed State of Nebraska.

Under these circumstances, and after great deliberation, I am resolved as one member not to give my support to any proposition which shall contravene the great purpose we have in view, which the country seeks as the consummation of the great war through which we have passed, the recognition of the rights of all men to participate in the Government of the country.

As a question of public policy in reference to Nebraska, it is clear if Nebraska will not accept through her Legislature the proposition I now submit to this House it is absolutely inconceivable that we should believe Nebraska will obey the proposition the committee has reported here, and which I move be stricken from the text of this bill. It is plain if Nebraska desires to conform to the settled policy of this country in reference to the right of men to participate in the Government, she will speedily accept the proposition we now offer; and if she will not accept this proposition she ought not to be received into this Government as a State, when we are contending with all the strength which the free people of this country can command to secure this same principle in ten revolted and at present rebellious States.

And therefore I am willing to take the ground in reference to Nebraska, to Colorado, to South Carolina, and every State constituted out of new territory, or reorganized out of the old States, that they shall not come here by their representatives until they accept this fundamental principle of a republican form of government. And without further debate on my part, unless some gentleman desires to be heard, I shall ask for the vote.

Mr. HALE. I ask the gentleman to yield to me.

Mr. BOUTWELL. Certainly.

Mr. HALE. Mr. Speaker, I do not rise for the purpose of undertaking to discuss the very momentous proposition which has been put before the House by the distinguished gentleman from Massachusetts, [Mr. BOUTWELL.] I however wish to say so much as this: that for one I utterly dissent from the whole political doctrine which the gentleman has enunciated. I am not prepared either to take the ground myself or willingly to see this House or the country put themselves upon the ground that no State of this Union, with the exception perhaps of one or two New England States, has ever yet had a republican form of government, for that is the end to which the gentleman's logic leads.

If his doctrine be true, then I am a citizen of a State where no republican form of government exists; and the gentleman from Massachusetts is a citizen of a State which has not a republican form of government.

I do not believe, sir, that the right of suffrage, the right to participate in the Government, is the inalienable right of the individual citizen in any sense whatever. It is a question solely of governmental policy who shall be allowed to take part in the government of the State, in the election of its officers, in making its laws.

Mr. STEVENS. Let me ask the gentleman one question. Suppose a government were formed where every man was excluded from voting and making the laws except twenty named men, what is that?

Mr. HALE. The gentleman will excuse me from answering that question, for the case he puts is not the case the House is considering. What is the character of that government where the powers are lodged in the hands of the few, or of one man, is by no means the question before us. But it seems to me preposterous to claim that a State of this Union, which limits or restricts the right of suffrage in the manner and to the extent which the almost universal and unbroken practice of the States and of the

Federal Government from the adoption of the Constitution has sanctioned, has not a republican form of government within the meaning of the Constitution.

Let me put the question back to the distinguished gentleman from Pennsylvania. Is that a republican form of government, according to his theory, in which one hundred male citizens of full age may vote and one hundred female citizens of equal intelligence and equal qualification in every other respect cannot vote? We have always recognized the doctrine that the right of suffrage might be limited. We recognize it to-day. I trust we shall never fail to do so, and also to recognize the doctrine that under our Constitution this whole question ought to remain where the Constitution puts it, in the control of the States themselves and not of the Federal Government.

I have already gone further than I intended in the discussion of this question. My purpose when I rose was simply to appeal to gentlemen on this side of the House, and who are disposed to support the principle now laid down by the gentleman from Massachusetts, [Mr. BOUTWELL,] or to support any qualification of this kind, not to second the demand for the previous question, but to give an opportunity to gentlemen who wish to discuss it to be heard. And I do it more particularly because the minority in this House has had no opportunity to be heard on this question. I certainly think on a question of such importance as this it would be an act of oppression to deprive them of that opportunity. I beg leave to remind gentlemen that although we are in a great majority here, while it may be excellent—

"To have a giant's strength, yet it is tyrannous  
To use it like a giant."

I certainly hope the previous question will not be seconded until a fair opportunity is afforded for discussion.

Mr. BOUTWELL. I yield eight minutes to the gentleman from Ohio, [Mr. LE BLOND.]

Mr. LE BLOND. Mr. Speaker, as a member of the minority I feel as though I ought to at least tender my sincere thanks to the gentleman who has so kindly extended to me eight minutes of time upon a question that is of great magnitude, one that the Senate of the United States has discussed for days, and one that the American people to-day feel a deeper interest in than perhaps any other one question presented to them, unless it be that of the pretended right to reorganize the Union. Yet, sir, gentlemen having control of this bill are farming out the time chiefly to members upon their own side of the House, occasionally eight minutes to this side. It is refreshing, however, to the minority to find upon the other side some few who still remember that the Constitution of the United States is to be respected even by the majority.

I was no little surprised, however, yesterday, to hear my colleague, [Mr. BINGHAM,] after denouncing the third section of this bill as a usurpation of power on the part of the Federal Government, follow it up by saying that he nevertheless would vote for the bill. It is astounding that men who take an oath to support the Constitution of the United States will boldly assert upon this floor that the very provision they are called to vote upon is a violation of that Constitution, a usurpation on the part of this Congress of the powers of the State, of no more validity than a piece of brown paper, and yet vote for it.

In the limited time that is allotted to me by the kindness of the gentleman from Massachusetts, whose magnanimity and liberality is scarcely paralleled, in the eight minutes that I am permitted to speak upon that great constitutional question, I must proceed simply to state my objection to this proposition, and the reasons why I shall vote against it. It has never been claimed until within the last four years that Congress has any power over the elective franchise in the States, but on the contrary that that power was conferred upon the States by the provisions of the Federal Constitution, and they alone can exercise it. Now,

if it be true that we can prevent this State from coming into the Union by fixing conditions precedent to its admission, and that upon the ground that it is not republican in form, then I say that this Congress has power to say to the State of Ohio, which I have the honor to represent in part, that because she permits none but white male citizens over the age of twenty-one years to vote she shall be turned out of the Union as not having a republican form of government. Yet that is the doctrine that is enunciated here—that those States which do not confer upon their citizens suffrage without respect to race or color are not republican in form, and therefore not entitled to representation here. I repeat, if you carry out this doctrine in the admission of Nebraska, you can do it with reference to the States that are in the Union to-day.

The third section of the bill provides—

This act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgement or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color.

Sir, the constitution of Nebraska was submitted to the proper authority of Nebraska and approved. It is as they wish it, and she now submits this constitution to Congress and asks admission. You say No, unless you conform to our views of republicanism, which is equality before the law; and to accomplish this you seek to force this condition upon them. Sir, I agree with my colleague [Mr. BINGHAM] that it is an attempt to usurp power and of no more force than a piece of brown paper. But why do an unconstitutional act, knowing it to be so? Why enforce unnecessary conditions upon a people about to be admitted in the Union because it is believed to be of no force? Why compel them to litigate the question admitted to be unconstitutional? Our duty is to pass no unconstitutional act.

But, sir, the amendment offered by the gentleman from Massachusetts [Mr. BOUTWELL] is no less objectionable than the section he wishes to amend, but worse if possible. It requires the territorial Legislature to provide by law for suffrage to all people, without regard to race or color, except Indians not taxed, and then provides this enactment shall be a part of the organic act of Nebraska. This is legislating by Congress for not only the people of a Territory, but for the people of the State after its admission.

Sir, it is not the love of the African that so much disturbs the gentleman; it is to put him in a position that he can be used for power and place.

Having said thus much and my time being up, I must content myself with what I have said.

Mr. BOUTWELL. I yield five minutes to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. Mr. Speaker, the power to admit States implies also the duty of examining and deciding whether they ought in our opinion to be admitted; regard being had to the extent of its population, boundaries, the nature of its constitution, and everything else. What the views of the majority of this House are with reference to the main question underlying this discussion I suppose nobody doubts. It is insisted, however, that these views are embodied in the third section of the bill now before us.

Reference has been made in the course of this debate to the joint resolution providing for the admission of Missouri into the Union, in which a condition was referred back to the Legislature of that State, and it was provided that if before a day named in the resolution that condition was accepted by formal legislation of the State it should be admitted under proclamation of the President without any further action by Congress.

My friend from Ohio on my left [Mr. SHELLEBARGER] intimates that the passage of this third section of the bill would be a moral assurance of the adoption of the principle for which we contend. I submit to him that the moral assurance will be all the other way. The people of Nebraska have adopted a constitution, in

which they have restricted the right of suffrage to white men. They have elected a Governor and a Legislature, and have chosen Senators and a Representative who are standing here ready to be admitted the moment that this or any similar bill shall pass. I concede that what are called moral guarantees in political matters are much higher and greater assurances than any forms of legal obligation; but what are the moral obligations of this case? They are that they will adhere to the limitation of the franchise as it stands in their constitution, and nothing else. We may, in passing this bill, intimate to them and to the country what our views and principles are, but we have no assurance that those principles will be regarded or that our views will be adopted by them. On the other hand, all the assurance we have is that they will be disregarded and that our views will not be adopted.

Let us, as we did in the case of West Virginia, submit this proposition to the people of Nebraska, either at the ballot-box or in a convention called for the purpose or by the Legislature now in existence. If they will modify their constitution in this way we shall then have a moral assurance that the principle for which we contend will be incorporated as a fundamental condition into their constitution, an assurance which, to my mind, is of greater validity than any mere provision of law that we may adopt. My friend from Indiana [Mr. HILL] asked yesterday whether if their constitution were now in the form that we desire they might not turn round after their admission and change it. To be sure they might. Undoubtedly, as the gentleman from Ohio [Mr. BINGHAM] intimates, they have full power to do it; but if they came to us with such a constitution we have a moral guarantee that they will not do it; we shall have the highest assurance that any people can give of their future purposes.

I think, therefore, that we ought, in justice to ourselves and to the people we represent, and to what we must regard as their deliberate judgment, to send this question back to the people of Nebraska, and see whether they are willing to give us and the country a guarantee either in the form of a popular vote, a conventional ordinance, or even an act of their Legislature, that in the future they will adhere in good faith to this great principle of suffrage.

Mr. BOUTWELL. I will now yield the floor to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO took the floor.

Mr. HILL. Will the gentleman from Ohio yield to me for a moment? I desire to ask the gentleman from Tennessee [Mr. MAYNARD] a single question.

Mr. DELANO. I will yield to the gentleman if it will not come out of my time.

The SPEAKER *pro tempore*, (Mr. CULLOM in the chair.) It will come out of the gentleman's time.

Mr. DELANO. Then the gentleman must allow me to proceed.

Mr. Speaker, the people of the Territory of Nebraska have organized a State government and adopted a constitution, and have presented it to the Congress of the United States for their approval. I believe nobody asserts that that government is not republican in form. If any gentleman here does I would be glad that he should say so.

Mr. KELLEY. I do.

Mr. DELANO. Well, sir, in the few remarks that I shall make I shall endeavor to discuss that question. I understand that the objection to the government of Nebraska as being anti-republican is, that it does not extend the right of suffrage to the negro race. I know of no other objection to it, and I shall take it for granted that that is the only objection to it.

Now, if the State government of Nebraska is for this reason not republican in form, I ask how many State governments in this Union are republican in form? I live in a State having exactly the same constitution in that respect; and New York has the same form virtually,

there being only qualified negro suffrage in New York. And I venture to assert that there is not over one or two States in the Union that have governments republican in form if the form of government presented to us by the people of Nebraska is not republican in form.

Sir, it is worse than idle for us now to assert that the form of government presented by Nebraska is not republican in form, for that assertion cannot be sustained. The whole history of our nation gives the lie, so to speak, to the assertion that the Nebraska State government is not republican in form. Yet we are asked to refuse the admission of this State, because it has not conformed to the modern idea that we have adopted, that suffrage should be extended to the black race. When the question comes to me in the State of Ohio whether I will vote to reform her constitution or not, I am not prepared to say that I should not vote for its reformation, because I do not wish to be understood as standing behind any gentleman in reference to the question of universal rights and privileges; but I do say that the whole history of our Government shows that we have recognized such governments as this of Nebraska as republican in form, and have admitted the States having them into the Union. And how can we stand back now and deny to this young State the right to come in as a member of the Union upon the same terms? How can we impose upon her conditions which have never been imposed upon the other States now in the Union? Upon what principle can we say to the people who live in Nebraska, "You shall not come into this Union as a State unless you come upon conditions other than those which have been recognized as fit to constitute a State a partner in the great Government of the United States ever since that Government was formed?"

We are called upon to meet this great question, and we may as well meet it here and at once; for I say if we adopt this principle of refusing the admission of a State for this reason and this reason alone, then we condemn ourselves and we condemn a majority of the governments of the States which now constitute portions of the Federal Union. This principle was not admitted or conceded in the constitutional amendment which we proposed at the last session as the basis of the restoration of the ten States yet unrepresented here. On the contrary, as has been already said, a directly different principle was admitted in that amendment. And so in regard to the restoration of the State of Tennessee; we restored her at the last session of Congress with precisely the same principle in her constitution. And we will stultify our action of that time if we deny at this time to the free people of Nebraska the rights which they are demanding at our hands.

Sir, let us see to it that no vain theory or speculative opinions lead us into legislation which will cause us to stand before the world in a position where we cannot defend ourselves. Perhaps I may say that I would rather that the constitution of Nebraska did provide for the exercise of the right of suffrage by the six hundred or less of black people there, giving a voting population of not more than one hundred. But dare we say to the people of Nebraska, "You shall not be admitted into the Union because you have not incorporated such a provision in your constitution of State government?" I put the question to the gentleman from Massachusetts [Mr. BOUTWELL] and others who hold with him: dare we say to this State that it shall not be admitted because it does not subscribe to the new theory which we intend hereafter to adopt? Go to Pennsylvania and take out of its constitution the same objectionable provision. Try to remove the "beam" from your own eye before you seek to impose such a principle as this upon a young Territory seeking admission into this Union as a State; "for with what judgment ye judge, ye shall be judged; and with what measure ye mete, it shall be measured to you again."

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. DELANO. I hardly have time for questions.

Mr. MAYNARD. I would ask the gentleman if he believes that we have the discretion to admit or not admit a new State, according as we may be satisfied or otherwise with her constitution, even though it may be republican in form?

Mr. DELANO. I would inquire of the Chair how much time I have left?

The SPEAKER *pro tempore*, (Mr. CULLOM in the chair.) The gentleman has three minutes of his time remaining.

Mr. DELANO. I do not know what "discretion" this House may have; but if it shall adopt this principle, I shall think it shows very little discretion, [laughter;] that will be my opinion about it. Congress has the power, and it can now exercise it, to say to this young State it shall not be admitted into this Union. It has the power; but I tell you there is the voice of the people behind it, which will hold it accountable for the exercise of that power.

Mr. MAYNARD. I beg to say to my friend from Ohio, [Mr. DELANO]—

Mr. DELANO. As I have too little time left to enable me to say anything of moment, I will leave the discussion with what I have already said.

Mr. BOUTWELL. I wish to say, before submitting a proposition to the House, that in the remarks which I have made I have merely expressed my own opinion as to what is a republican form of government. I think the jurisdiction of Congress over a Territory applying for admission into the Union as a State is clear and exclusive.

Our jurisdiction over such States as Ohio and Pennsylvania with reference to the elective franchise is very clearly limited. I do not purpose to enter into any discussion as to what is the power of Congress over the old States in reference to the elective franchise.

Mr. HALE. Will the gentleman allow me to ask him a question?

Mr. BOUTWELL. Yes, sir.

Mr. HALE. If the gentleman's doctrine is correct—that a State which does not grant impartial suffrage to all men has not a republican form of government—is it not the duty of this Congress to change the constitutions of New York and Pennsylvania, and make them republican in form?

Mr. BOUTWELL. Mr. Speaker, that is entirely aside from the present question. There is no existing exigency calling upon Congress to interfere in reference to the institutions of the old States that have organized governments. What the power of Congress is with reference to that matter is a different question from that we are now called to consider. My own opinion is that when, by an arbitrary rule, a State deprives a particular class of men and their posterity for all time of participation in the government under which they live, just to that extent the government fails to be republican in form. Whether the exclusion of any small number of persons from participation in the government of any State furnishes occasion, under the Constitution, for the intervention of the Congress of the United States is a very grave question, and one which we are not now called upon to consider. But whether we shall admit into the Union a State formed out of a Territory, over which we have exclusive and continuing jurisdiction, is a different question; because, under the Constitution, we can hold the Territory as a Territory until its people frame a government which we are willing to accept as republican in form.

Mr. Speaker, with these observations I desire to make a proposition to the House. There are many gentlemen about me who desire that this discussion shall extend beyond the hour which I hold under the rules of the House. It is not agreeable to me to be giving to other gentlemen my little remaining time in parcels of five and ten minutes. I therefore make this suggestion to the House: that the

debate close at three o'clock this afternoon, and that the question be taken at that time; that I be allowed an opportunity to take the floor at fifteen minutes before three o'clock; that during the intervening time the Chair shall control the assignment of the floor, and that speeches be limited to fifteen minutes.

The SPEAKER *pro tempore*. If there be no objection to the proposition of the gentleman from Massachusetts it will be considered as agreed to.

There was no objection.

Mr. FARNSWORTH. Mr. Speaker, I voted this morning to reconsider the vote seconding the demand for the previous question because I desired that this question should be open to further discussion by the House. I believed that the hour devoted to the discussion yesterday was not sufficient; that it should be discussed longer and more thoroughly, so that the minds of members might become more settled and clear with regard to these several propositions. Had the vote been taken yesterday I should have voted for the admission of Nebraska under the Senate bill. I should vote the same way today, because I am entirely satisfied with the third section of the bill, which the gentleman from Massachusetts now moves to strike out. Indeed, sir, I am better satisfied with a provision of that kind inserted by the Congress of the United States in the act of incorporation of this State than I would be if the provision were contained merely in the constitution of Nebraska. A convention framing a constitution and putting into it a provision of that kind only gives it vitality and force until another convention is called, which may amend the constitution and change such provision. On the other hand, an act of Congress admitting a State and providing in express terms, as this provision does, that the right of suffrage shall be extended impartially forever is, I verily believe, binding upon the State both morally and legally. Why, sir, if I know anything about this subject, Congress possesses sovereign power over the Territories of the United States. I read in the Constitution that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;" that "new States may be admitted by the Congress into this Union;" that "the United States shall guaranty to every State in this Union a republican form of government." I ask why, under these several provisions of the Constitution, Congress has not authority to ordain in the act admitting a State whatever conditions and provisions it deems fit, and why such enactments are not binding upon the people of that State? The courts of Illinois held long ago that the ordinance of 1787, excluding slavery from the territory northwest of the Ohio, was binding upon the Territories to which it applied after they became States; that slavery could not be introduced there under the sanction of State legislation; that the ordinance ran with the territory and was perpetually binding. So, sir, in my opinion is an act of Congress chartering a State; for this is nothing but a charter.

This act of incorporation imposes terms and conditions upon the corporation as binding upon it. Now, I do not see for my part, and I would like some gentleman more able to discuss this question than I am why there is any reason against it.

I do not see why Congress has not power to make a constitution for a Territory. Why not? Congress may admit new States. Congress exercises jurisdiction over them as Territories. We have entire control—entire sovereignty. Why, then, cannot Congress and the President make a constitution for a Territory and admit her as a State upon that constitution? I know the practice of the Government has been different; but because the practice has been one way is no good reason why the practice may not be another way.

True, it is better the people of a Territory should make their own constitution; and the amendment of the gentleman from Massachu-



sets only provides that the Legislature of this Territory shall make this declaration. His section does not provide the people of that Territory shall vote on it. The very next Legislature may repeal it. This same Legislature may repeal it the next week after her members are admitted into Congress. I would ask the gentleman from Massachusetts whether that is not correct? If his amendment is adopted and Nebraska is admitted, I ask the gentleman whether in his opinion that same Legislature next week cannot repeal it? That does not put it into the constitution of the State of Nebraska.

It has been asked here if the Senate bill is adopted, if this declaration is adopted by Congress containing these terms and conditions extending the right of suffrage to all classes without distinction of color, what remedy has a man who is excluded from the right to vote? I answer, the same remedy every other man has who has a legal right to vote and who is excluded from the polls. Precisely. He may apply to the courts; he may bring suit for this wrongful exclusion. He may apply to the courts for a *mandamus* to compel the judges of election to take his vote if he has the legal right to vote. If the act of Congress gives him the right to vote it gives him all the rights which the constitution of the State would give for the purpose and all the remedies.

Mr. DAVIS. I desire to know whether Congress has the right to impose and enforce a constitution upon a people.

Mr. FARNSWORTH. Congress has the right to make such terms and conditions upon the people of a Territory. By the enabling acts Congress has passed from time to time we have imposed conditions upon the Territories. We have declared the principle upon which they shall frame their State governments. We have declared that they shall put into their constitutions such and such provisions. We may declare, and it has been declared over and over again, that the lands of the United States shall not be taxed for five years after their entry.

Mr. DAVIS. Perhaps the gentleman did not understand the point of one portion of my inquiry. It is, whether Congress has the right to impose or enforce these provisions.

Mr. FARNSWORTH. I have no earthly doubt of it, no more than that we may enforce upon the people of a Territory, without their consent, a declaration in the act incorporating the Territory saying who shall vote, who shall be qualified to hold office, and who shall be elected to the territorial Legislature. Until that Territory becomes a State of this Union the power of Congress over it is sovereign. Nebraska is not a State until we have passed an act admitting her and she has assumed the powers and functions of a State. Now, we are talking about passing an act admitting her, and we are talking about imposing conditions upon her. Why, I ask, have we not a right to insert a provision like that?

Gentlemen ask if Congress should pass an act declaring suffrage shall be impartial in the Territory of Nebraska forever, could that people when they become a State deprive any portion of her people of the right of suffrage? No, sir; the act of Congress would govern until Congress repealed it. Neither the Territory nor State of Nebraska could repeal it.

It is sought by the amendment to impose upon the people of Nebraska just exactly what is sought to be imposed upon the people of other States. What is it? Why, sir, the Legislative Assembly of Nebraska has no more authority to bind the people of that State than Congress. The only vitality and power the Legislature gets is from an act of Congress. We give to the State its charter; we give to it all its powers. It can exercise no power except what Congress has given to it.

It seems to me that any other theory robs Congress and the Government of the United States of the sovereignty which it has over the people of a Territory; and therefore I repeat what I said in the outset, that I believe a provision in an act of Congress in regard to negro

suffrage, such as is contained in the third section of this bill, will be more binding upon the people of that State than could a provision inserted in the constitution of that State when admitted. So, sir, I would rather have the bill as it came from the Senate than with the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. HISE. Mr. Speaker, in arguing any great question it is always necessary that certain axiomatic truths, certain manifestly first principles, should be conceded by all reasonable men. One principle or truth of that description, permit me here to state briefly, is that the Constitution of the United States is a compact by which the States as members of the Federal Union agreed with one another to institute a Government, with certain definite powers and for certain specific purposes; that the Constitution of the United States is the supreme, fundamental, irrevocable law, and there is no functionary of Government that exists by virtue of it that has any authority to disregard its provisions. The Congress of the United States, the Executive, and all the officers of the Government are all bound to obey the Constitution; and whenever any of the departments or of the high public functionaries of the Government are guilty of an act of usurpation not authorized by the Constitution, or of an assumption of powers not granted by it, or violate it in any particular, they are guilty of perjury, corrupt and damnable perjury. The Constitution is above all the powers of government created by it, and it is in vain to make an argument upon any great constitutional question to a body who assume to set aside or disregard its provisions and limitations.

But, sir, upon the supposition that the Constitution is to be respected and obeyed, and that its violation entails upon the party violating it the crime of perjury, I appeal to this House upon the question whether it is a Government of limited powers and of State creation, or whether it is a Government of a mere majority, with its powers unlimited, except by the force of numbers, to carry any measure that they may think proper. If it is a limited Government then you are to find the power that you attempt to exercise in some of the grants contained in that instrument. But where is the grant of the power of the Congress of the United States to be found in the Constitution to control in a State or Territory or in this District or anywhere else the right of the inhabitants, who are to be governed by municipal or local laws, to discriminate as a matter of policy as to who shall exercise the elective franchise?

The object of republican government, and especially the great object of our system of governments, State and Federal, is to secure the advancement of civilization and political liberty and promote the progress of arts and sciences. So, then, as a mere question of expediency the States did not think proper to abandon to the Federal Government the great fundamental power of deciding for them the question of the right of suffrage. We know that the object of Government is security of life, liberty, and property, to promote the happiness and civilization of man as a moral and intellectual being, and it is indispensable to that end that property, virtue, and intelligence should be considered as altogether important in settling the question in any State of this Union as to who shall or shall not exercise the right of suffrage. But the majority of the members of this House assume the authority and power for Congress to impose upon all the States, especially those which have lately been in conflict with the northern States, and upon all the Territories that are to be formed into States and admitted into this Union, the obligation to allow a class of people within their limits to take the government into their control, whereby, instead of promoting and securing property, life, liberty, and civilization, they would throw them back into a condition of barbarism; they would Africanize some, if

not all, of the southern States by giving to the preponderant negro population therein the power to control their local governments, thus defeating all the ends that are intended to be secured by the institution of governments, and which alone can justify the cost and burden of their maintenance.

Now, sir, upon what ground is this power claimed for this Congress? Where do they find the authority in the Constitution of the United States? They can nowhere in the Constitution find any provision that, by any, the most latitudinous, construction could authorize the assumption and exercise of this power; none whatever. The Constitution provides that the Representatives in this House shall be elected by that portion of the population of their respective States which is entitled under the State constitution and laws to vote for members of the most numerous branch of the State Legislature, thus conceding to the States the governmental power of controlling this subject and of prescribing who shall and who shall not vote, what classes may and what may not exercise the right of suffrage, and upon what conditions the right shall exist. This Congress now propose to force upon the people of the southern States as a condition precedent to their recognition as members of the Union, and upon the people of the Territories as a condition to their admission as States, a voting population which will impede their march toward civilization and to the attainment of all the great ends and objects of government, the security of life, liberty and property. The power is claimed here that the Congress of the United States have authority to impose upon the southern States a condition that the colored population of those States shall be placed upon terms of social and political equality with the balance of the people as a condition precedent to admission to their right of representation here as States of this Union. They can find no such power anywhere in the Constitution; but they claim it under the provision to the effect that the Federal Government shall guaranty to the States a republican form of government.

Now, sir, is it not astounding that in a House composed of so many intelligent and learned men as I find from the debates that this does, that party feeling and party fanaticism should so jaundice and control the minds of men as to induce them to assume as authority for what they seek to effect this constitutional provision, which, by its true construction, not only does not sanction, but prohibits the exercise of this power of instituting arbitrary governments over the people, and in effect binds and commands the United States to respect and uphold the republican governments of the States, and consequently denies to Congress the right to deprive them of representation or the right of self-government? The intention of that clause of the Constitution was to provide that if any attempt were made by any outside Power to overthrow a republican form of government in the States the Federal Government should guaranty the continued existence of those republican governments as they existed at the time of the adoption of the Constitution of the United States. Sir, I was cut short by the operation of the rules when I last addressed the House, in the argument which I attempted to make upon the question of the right of the southern States to their full representation upon this floor, at the point where I was about to remark upon this provision of the Constitution and state my views of its true meaning and how it could only be applied. Under that clause you now assume the right and claim the authority, whenever a majority of the Congress of the United States may decide that there is some law or some provision of the constitution of a State, or some line of domestic policy which may be adopted by a State, in opposition to your party views, to say that the form of government of that State is not republican; and the majority of this body can, therefore, under this assumption, impose upon the people of a State a despotic government, without regard to the will of the people, and in

which they are refused any representation, which is the very soul of a republic, and this under pretext of performing the constitutional duty of guarantying to the States a republican form of government.

[Here the hammer fell.]  
Mr. HIGBY. Mr. Speaker, a great deal of argument may be saved upon this question by a simple statement of facts. The Territory of Nebraska has come here with a State constitution asking Congress to admit the Territory as one of the States of this Union. The fact cannot be denied that in asking this of Congress they ask it without possessing a population which, under the apportionment of 1860, would entitle them to one member of Congress. I admit, however, that that is not an argument against the proposed action of Congress, for Territories have been admitted as States when their population was much less than that required by the apportionment of Representatives; but they are here asking a concession at the hands of Congress such as has been the case in all other instances where Territories have been admitted with a less population than that required by the apportionment of Representatives in Congress.

Mr. Speaker, it is but a few days since the House voted upon this very question, and that, too, not upon a local bill, but upon a general law for the Territories of the Union, providing that the elective franchise shall not be restricted to the white male citizens of the Territories, but that restriction will be taken away by this bill if the House passes it and the President signs it and it becomes a law. This House stands to-day committed to that principle, from which it cannot go back, and to-day Nebraska is one of those Territories in regard to which this House is committed to that principle as much as it is in regard to any other Territory within the limits of the United States.

Pass this bill, with either the Senate provision or the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL], and, according to the argument of my friend from New York, [Mr. HALE], and also of my friend from Ohio, [Mr. DELANO], we restrict the elective franchise so far as the principle which we have declared by our votes on this floor is concerned.

Now, it is claimed that it is not entirely a stretch of power on our part, but it is such a use of it as is not sanctioned by good judgment and discretion, for us to attempt to dictate to Nebraska who shall vote or who shall not vote within her limits. Sir, let me call the attention of every member of this House to one thing: we have made some advance since the last session of Congress. At that session the Colorado bill came here from the Senate, and it passed this House with the same restrictions that were in the Nebraska bill before the third session was put upon it in the Senate. But we have progressed somewhat since that time. It is very doubtful from the indications given out by the present debate whether Colorado, Nebraska, or any other Territory which comes here with a constitution containing the word "white" can receive for its admission a majority of the votes upon this floor. During one year of time this body has made good progress.

Now, I would call the attention of this House to this point: while gentlemen are talking about the exercise of power here, I ask gentlemen in what direction is that power exercised? It is not exercised for the purpose of restricting the elective franchise, but of extending it. It is on the road to liberty and to right and to equal and impartial justice. And let no man on this side of the House get up here and pretend to argue this question of power, when it is exercised on that road and in that direction. No man can argue that question in sincerity and in integrity who is truly loyal to his country. I say that every step which we, as the national Legislature, take to extend impartial justice, impartial right, and impartial suffrage is a step in the right direction, and is the exercise of a power which we should exercise.

No member upon this floor will rise and tell us that we are obliged to admit one of these Territories as a State. It is within the discretion of this Congress whether it will or not admit any Territory as a State. When a Territory comes here and asks to be admitted as a State let it come here with clean hands and a pure heart, especially when it comes with a less population than is required to elect to this House a member from one of the States of this Union; let it come with impartial justice written upon its constitution, or let it keep away from these Halls. The people of Nebraska, and those here who urge us to vote for their admission as a State, ask us to take a step backward in our course for the sake of their own advancement for the time being. Now let our course be onward; and if the people of any Territory desire anything at our hands, let them fit themselves for the present condition of affairs in our country, and not ask us to go back upon our course.

At the last session of Congress we passed what is popularly known as the "civil rights bill," and it became a law. By that law every native-born person in this country, without regard to distinction of race or color, was declared to be a citizen of the United States. And yet it would seem that my friend from New York [Mr. HALE] is as much an old fogy as he was before the great rebellion through which we have just passed. I think he must have forgotten how many of the noble men of this nation have been buried beneath the sod during the struggle for the preservation of this Government, and how many billions our country is in debt from carrying on the war for the preservation of its existence and the liberties of its citizens.

Sir, it is said that the right to vote is a privilege which we enjoy. I did not know that it was simply a privilege which I enjoyed. If it is a privilege, then I would like to know who extended to me that privilege; I would like to know the origin of the power to extend it. It has been claimed that the people of the United States possess the sovereign power in this country; and if you make any distinction by reason of race or color, it is because might makes right, and on no other ground.

Mr. NIBLACK. Will the gentleman allow me to ask him a question?

Mr. HIGBY. Certainly.

Mr. NIBLACK. I would inquire of the gentleman whether the enabling act for the admission of the Territory of Nebraska does not limit the right of suffrage to white persons, and whether if so we ought now to impose any condition upon that Territory which the enabling act does not impose?

Mr. HIGBY. I will answer the gentleman by saying that I do not so understand the enabling act. If the gentleman will examine that act closely I think he will find that it refers to the principles contained in the Declaration of Independence, which will give a very different phase to that question. I think those principles should be interpreted aright by this time; and if they are, then those who are governed are the persons to speak upon the question.

Mr. NIBLACK. Ought we now to give an interpretation to the principles of the Declaration of Independence, which we did not give to them when we passed that enabling act?

Mr. HIGBY. I understand that the interpretation given then was the same as that given now; I so interpreted it, and I presume others did upon this floor. If we have been giving the lie to the principles of the Declaration of Independence, then we better soon turn from the error of our ways. I think the great difficulty under which the country has been laboring for the last six years grew out of a wrong application of the principles entertained in the Declaration of Independence.

Sir, the simple question here is whether we will, by adopting the amendment which is now under consideration, require Nebraska to give impartial suffrage to all her citizens, or whether, by rejecting that amendment, we will allow her to be admitted into the Union without impar-

tial suffrage. And that is the question to be decided by our vote upon the amendment submitted by the gentleman from Massachusetts, [Mr. BOUTWELL].

[Here the hammer fell.]

Mr. KELLEY. I attempted to get the floor before the gentleman from Kentucky, [Mr. HISS], for the purpose of responding briefly to the remarks of the gentleman from New York [Mr. HALE] and the gentleman from Ohio, [Mr. DELANO], because it seemed to me that they were entirely mistaken in their facts. The gentleman from Ohio asked whether we dare do certain things. Mr. Speaker, I dare do whatever I believe to be right; and I dare do right, though my action may not accord with what I have done in the past, either because I was not then sufficiently enlightened, or because I have struggled for the point would have been to struggle palpably against fate.

The gentleman from Ohio says we voted to admit Tennessee with a constitution disfranchising her colored citizens. I say to him—

"Never shake thy gory locks at me;  
Thou canst not say I did it."

I am, sir, one of twelve who saw that the members of this House were by that act establishing a precedent that must embarrass and might control them for evil in the future. Few though we were, we tried to save the gentleman from Ohio and those who yielded to his persuasive eloquence from the dilemma in which they were placing themselves, and Tennessee made no precedent for us.

We have before us the establishment of governments for an empire grander in extent and national wealth than any on earth save Russia. In legislating for Tennessee we forgot the lawyer's maxim, that "good cases make bad precedents," and did what now comes back to plague us. But I implore gentlemen not to strengthen that precedent by adding the case of Nebraska to that of Tennessee and that of Colorado to Nebraska, so that the southern people when they come with constitutions excluding races from the rights of citizenship may well charge us with acting invidiously if we hold them to the standard we profess to have established.

The gentleman from New York [Mr. HALE] said that if the idea of the gentleman from Massachusetts [Mr. BOUTWELL] of a republican form of government was correct, then there never had been outside of the New England States, and there but one or two States, which had republican forms of government. Sir, he has not read the history of his country or he would not have made that assertion. When the Constitution of the United States was adopted, every State that entered the Union, except South Carolina, was republican in form and was republican in the respect considered by the gentleman from Massachusetts, [Mr. BOUTWELL]. South Carolina was the only State which by its primitive constitution debarred men from their right of suffrage by reason of race or color or previous condition.

And the gentleman from Ohio [Mr. DELANO] turned to me and asked whether, while Pennsylvania denies the right to forty thousand of her citizens, I dare insist upon requiring new States to concede it to men as dark as they. As I have said, I dare insist upon doing whatever seems to me to be right, but dare not do that which is palpably wrong; more than that, sir, I dare not pile wrong upon wrong. Because I cannot persuade the people of my native State to do right, or because we have bound ourselves by constitutional limitations, unchangeable for a series of years, to maintain oppression, I will not consent to establish wrong in Nebraska. No, sir, I dare not plead a great wrong which I cannot repair as my justification for perpetrating an injustice I can avert.

Every free man in the Territory of Nebraska has by act of Congress the right of suffrage; I believe I am right in that. But it is sneeringly said that there are only some eight or nine hundred colored men there. Sir, to-day those

eight or nine hundred colored men are free American citizens, enjoying the right of suffrage in common with their fellow-citizens of the Territory. And I will not consent, and I beg gentlemen on this side of the House to bear in mind the fact that they are asked by their vote to-day to do so, to degrade those eight or nine hundred men and deprive them of the rights secured to them by ourselves by an act of last session. Let the chivalry of the South in their humiliation and madness strive to degrade freemen if they will, but in God's name do not let the Republican majority of the Thirty-Ninth Congress put shackles upon the limbs and souls of nine hundred of the free citizens of Nebraska.

Gentlemen ask of us, Have we the right to regulate the question of suffrage in States? Sir, I will not discuss the question now. I examined it elaborately last session. I will remind gentlemen that I do but request them to stem a downward tide.

When the Constitution was adopted, as I have said, all save one State were republican in this respect. Slowly one after another their constitutions were modified as concessions to the slave power. Connecticut in 1817 and 1818, Maryland at a later day, Tennessee not till 1885, Pennsylvania in 1837, struck down the free voters of African descent in their States. And I again implore the Republican members of this Congress not to follow those base examples, but to stand upon their own position and justify the just expectations of the people by saying that what was republican at the time of the adoption of the Constitution shall be our standard. Let us do right though we thereby keep the less than proper congressional constituency—for the whole people of Nebraska number far less than your constituents, Mr. Speaker, or mine—in a territorial condition, until they shall concede to every American citizen within the limits of their broad, rich, grand, though infant empire the rights which under the Constitution of the United States, as understood by its framers, pertain to every citizen.

[Here the hammer fell.]

Mr. HILL obtained the floor, and yielded five minutes of his time to

Mr. ALLISON, who said: Mr. Speaker, it is not my purpose to make any direct argument bearing upon the particular question now before the House, but only to state briefly why I am for the amendment. The State in which I live lies adjacent to the Territory which is now asking for admission as a State into the Union, separated from it only by the Missouri river, and I shall be glad to cast my vote in favor of its admission here if that Territory or State stands ready to incorporate within its organic law a principle which I believe to be the duty of every State to incorporate, whether now in the Union or hereafter to be admitted, which principle is clearly set forth in the amendment now under consideration.

The State of Iowa, which I in part represent, by the vote of her people and by a majority of more than twenty thousand has declared that the word "white" should be stricken from her constitution; and that question is again to be submitted to the people of my own State next year. And I intend if I am present the day of the election to cast my vote in favor of striking out that word from the constitution of the State, depriving, as it does, a portion of her people of the right to participate in the enactment of laws for their government.

I intend further, sir, to cast my vote only in favor of the admission of such of the ten States which have been declared in rebellion as will adopt an impartial rule of suffrage, without distinction of race or color. I shall not cast my vote for their admission until they are willing to accord to the black man the rights which white men enjoy under similar circumstances. Therefore it is, sir, that unless this proposition now made by the gentleman from Massachusetts is incorporated into this bill as a fundamental condition-precedent to the admission of this State into the Union, much as I desire its admission, I shall be compelled to vote against it.

I believe it is within the power of Congress to impose a condition-precedent upon a Territory, and that condition, when assented to by the Legislature of the State as is here proposed, which Legislature represents for the time being the sovereignty of the people, is binding upon the people of the State; and I join hands with the distinguished member from Pennsylvania [Mr. KELLEY] and say I will not put by my vote gyves upon the wrists of nine hundred freemen in Nebraska, especially when probably more than one half of them imperiled their lives in defense of the liberties which we now enjoy, and which they as citizens have a right to enjoy in common with us. More especially should we insist upon this amendment when by the votes of both Houses we have recently declared by a large majority that in all the Territories, including Nebraska, in the future, there shall be no distinction of rights on account of race or color or previous condition of servitude; and when we insist that similar provisions shall apply to the States recently in rebellion, to consent now to a surrender of these rights virtually acquired, either directly or indirectly, would in my judgment be a disgraceful abandonment of a principle which I believe just, and which meets the approval of a vast majority of the people of this nation. For myself, I cannot by my voice or vote consent to such abandonment. I shall therefore vote for the amendment, and for the admission of the State with the limitations prescribed. I thank the gentleman from Indiana for his courtesy in yielding to me.

Mr. HILL. Mr. Speaker, the gentleman from California referred to the progress which has been made by this House on this subject of legislation. I will allude for a moment to a matter perhaps personal to myself. The gentleman from California remarked that we had recently passed a law through this House that the word "white" should not appear in any law of any Territory, and that no rights and privileges should be given to the whites not extended equally to the blacks; and he spoke of it as a matter of congratulation that we had made that progress. Well, sir, as that appeals perhaps personally to me in regard to certain votes that I have given in this House, I cheerfully embrace the opportunity to say a word on the subject.

When the act regulating suffrage in the District of Columbia was before the House one year ago I voted against it. I did so for reasons that seemed to me amply sufficient at the time, and I have had no reason to doubt the validity and cogency of those reasons since. At that time matters of the weightiest importance were before this Congress. No rupture then existed between the President and Congress; but it was foreseen by many that such a rupture was imminent, and the question was whether it should be precipitated or aggravated, and whether the condition of the country would be more embarrassed by shouldering a question of that character at that time than by avoiding it. It seemed to me the part of wisdom and prudence to settle the questions then before the House regarding reconstruction—questions of the utmost importance not merely to the States unrepresented but to the country at large. For that reason I voted against the extension of the right of suffrage to the colored people of this District. But that reason has now ceased to exist. A policy has been adopted by Congress in regard to reconstruction. We have now time in which to educate the public mind upon this subject, and consequently being more at liberty to exercise and assert the principles more nearly approaching abstract right—for it is never practicable to assert it absolutely—I voted this year directly contrary to what I voted a year ago; because the reasons that operated then to control my vote do not operate now. So much in explanation of my progress upon this subject.

And now, in regard to the measure immediately before this House. The section that is proposed to be stricken out is a condition-subsequent upon the admission of this State. I

am satisfied that a large majority of the House are of opinion that no valid condition can be imposed upon a State seeking admission by act of Congress which would be binding upon the people of the State thereafter. I think that was sufficiently shown yesterday, and I confess to some surprise when I heard gentlemen of high standing as lawyers advance the opinion that conditions might be imposed upon the admission of the State which Congress or the Government would have the power to enforce upon the people of a State after admission. Why, sir, is it to be contended on this floor that when a State is once admitted with its representation here and becomes a part of the family of States it is not to be permitted to regulate its own affairs within its own limits equally with every other State? Is that the equality of States which is recognized upon this floor? Sir, that is not in accordance with our theory of Government; it is in direct violation of all its traditions from its formation down to the present time. The theory which we have always adopted is that when a State is once admitted into the Union it has the same rights as every other State, and no act of Congress in the admission can control the future action of the State.

The Ordinance of 1787 was referred to by the gentleman from Illinois as having been held valid by the Supreme Court, so that no State could ever authorize the existence of slavery after that prohibition. Now, with all deference to the gentleman's opinion, I insist that no case has ever arisen or could arise where that decision could be formed. It is a mere *obiter dictum*. No State formed out of that Territory has ever undertaken to establish slavery; hence any opinion of the Supreme Court would be a mere opinion of good lawyers but no decision, and therefore not entitled to any weight as authority in this House, even if any opinion of the Supreme Court, which I deny, is entitled to weight as binding authority here. The Congress of the United States decides questions for itself; the decisions of the Supreme Court are only binding upon the parties immediately before it and the judiciary as precedents, and in regard to matters immediately involved in the particular decision made.

But the theory of the Government has been that every State in the Union must regulate this matter of suffrage for itself. Massachusetts prohibits those from voting who cannot read. Indiana permits a man to vote who has been a resident of the United States one year and a resident of the State six months preceding the day of election, and who has declared his intention of becoming a citizen of the United States. Other States attach other conditions. Now, sir, I insist that in the light of all these facts, of all the practice of the Government from its foundation down to the present time, it is impracticable to impose any conditions which shall be valid after the State shall be admitted into the Union.

Now, it is proposed to change this condition-subsequent to a condition-precedent by sending the whole question back to the Legislature of Nebraska for future action, which is in fact, in all probability, throwing it beyond the present Congress.

It has been desired to have immediate action; it is desirable that this State shall be admitted, and for that reason this House has disregarded its own enabling act, an act passed by the House and by the Senate after solemn consideration, and has passed an act admitting this State notwithstanding it had a provision in its Constitution which the most strenuous advocates of negro suffrage insist is not in accordance with the principles of the Declaration of Independence, while the enabling act required that its constitution should be in accordance with those principles, yet the House passed that act and it went to the Senate and from that body now comes this bill upon which we are called upon to act. By adopting the amendment of the gentleman from Massachusetts [Mr. BOUTWELL] we accomplish nothing. We



only require an action of the State Legislature which may be repealed the day after it is enacted, and for that single object it proposes to send the whole matter back to the territorial Legislature and thus postpone it indefinitely, because if it goes over beyond this session of Congress the whole subject drops and must be taken up *de novo*; if by delay this Congress fails to act the whole matter must be originated anew in the next Congress.

Now, I am unwilling to incur the delay that would necessarily result from action of the character proposed by the gentleman from Massachusetts, when I can discover no practical good that would be accomplished. I prefer the bill in the shape in which it originally came from the Senate, not because I think the provision contained in the third section more effective than the amendment proposed, for I have already attempted to show that it has no binding validity whatever, but because by all the proposed action and delay still nothing would be accomplished.

[Here the hammer fell.]

Mr. STEVENS. Mr. Speaker, several gentlemen have asked exultingly if anybody denies that this is a Republic, and that the States are republics. Sir, anything is a republic which you choose to call a republic. Rome was a republic under her worst consuls and emperors. They called it so. There have been republics everywhere in the midst of despotism. You may call what you choose a republic. What I am to speak to now is the Republic intended by the Declaration of Independence, and I deny that this Government has ever been such a republic; I deny that the State of Pennsylvania, to which reference was made, is a republic; and that is an answer to the gentleman; I wish this Congress would take it in hand and make it a republic.

Now, what was the Republic contemplated by the Declaration of Independence? "All men are created free and equal" and "all rightful government is founded on the consent of the governed." Nothing short of that is the Republic intended by the Declaration. But we are now attempting to build a perfect Republic. We are now attempting to finish a structure whose foundations were laid nearly a century ago. That structure is the temple of liberty, where all nations may worship. Men who, if ever there were demi-gods deserved that name, suddenly appeared on the scene of political action—the Adamases, Thomas Jefferson, and their compeers, and created an epoch in the science of government. Rejecting the old doctrine of hereditary succession and the divine right of kings, they boldly proclaimed the equality of the human race, and asserted that the right of all government was founded on the consent of the governed. Upon this Declaration alone stood the American Revolution. The people then had no actual grievance which would justify the shedding of one drop of human blood.

But they fought and bled for this sublime idea. In this sign they conquered. But when peace and security had come, and the several sovereignties attempted to "form a more perfect Union," they found themselves obstructed by a pernicious and unyielding institution in direct hostility to their avowed principles, and they were obliged to trust to time to eradicate it. They left the foundation firm, beautiful, and imperishable, and waited for the arrival of this propitious period to complete the superstructure. What a glorious sight it were to look in upon this Hall and see those great men revived, rejuvenated—occupying their seats and finishing their imperfect work, proclaiming universal liberty and equality to the human race! But that may not be. They have left this scene of action, as we soon shall, never to return. They enjoined upon their posterity to complete their labor. Are we that posterity or are we bastards? Are we the legitimate descendants of the men of the Revolution, or did some untutored horde of the dark ages break in and corrupt the progeny? If we fail to complete this superstructure in harmony

with the foundation, we must be dwarfs in intellect or in moral courage.

Gentlemen loudly ask is not this a Republic? I measure it by the Declaration of Independence, as I did twenty years ago in this Hall when I denounced it as a despotism. Call you that a free Republic where there are twenty million rulers and four million slaves—human beings without one human right?

South Carolina has two hundred thousand whites and four hundred thousand men of color. Both are men; both have immortal souls. The two hundred thousand absolutely rule the four hundred thousand. They have no voice in anything connected with the government which rules them. Is this a Government deriving its force from the consent of the governed? Shame upon American statesmen, who in this day of their power hold such vile doctrine! Do not delay, give us now the Republic of the Declaration of Independence, and let the world behold and admire.

I would like to add a few things more, but am not well enough.

Mr. RAYMOND. I believe the question immediately before the House is upon the amendment submitted by the gentleman from Massachusetts [Mr. BOUTWELL] to the third section of the bill as it came to us from the Senate. I am inclined to vote for that amendment for this simple reason, that it makes clear and explicit the purpose which the third section of the bill leaves very vague and uncertain.

The third section professes to make provision for extending all civil and political rights to all races and conditions of men in Nebraska as the fundamental and imperative condition of the admission of the State of Nebraska into the Union. But gentlemen on this floor do not agree whether the section accomplishes that object or not; the gentleman from Ohio [Mr. BINGHAM] says he will vote for this bill, because he regards that third section as utterly null and void; the gentleman from Illinois [Mr. FARNSWORTH] says he will vote for the bill because he regards that third section as full and effective; and the gentleman from Iowa [Mr. ALLISON] says he shall feel constrained to vote against the bill, because that third section as it stands can have no binding effect whatever.

Now, when I vote I would like to know for what I am voting. The amendment offered by the gentleman from Massachusetts [Mr. BOUTWELL] is clear, distinct, precise, and effective. It provides that this act shall take effect when, and only when, the Legislature of Nebraska shall have fulfilled the conditions imposed upon the State by the amendment; then by proclamation of the President, and without any further action by Congress, Nebraska is to be admitted as a State into this Union.

And I will take occasion to say that I am moreover in favor of the main provision under debate here, the extension, whenever it can be done by competent authority, of equal rights to all races and conditions of men. I do not believe there is any shadow of reason why the right of suffrage, as well as all civil rights, all personal rights, all rights pertaining to or enjoyable under a republican Government, should be extended to one class of men and denied to another because of a difference in their color, their condition, or their race. The only pretense of a reason that ever existed for any such discrimination grew out of the institution of slavery, out of the fact that one race as a race was held in abject submission, and was not civilly, personally, socially, or in any other way the equal of the race that ruled the land. But with slavery perished the last shadow of reason for any such discrimination. I have, therefore, never neglected any opportunity to vote to make, wherever this Government had the power so to do, the civil and political rights of the colored man equal to the rights of all other men. And the question whether suffrage be or be not a natural and inalienable right or the gift of the Government has not

ing to do with my opinion on this point. If suffrage be a natural right, then the colored man, equally with the white man, should be allowed to enjoy it. If it be only a privilege resting upon considerations of policy, then good policy requires its extension to him as well as to men of other races. I hold that whether it be an inalienable right or simply a matter of policy, it nevertheless is true, as a general principle in every republican Government, that all who are required to obey the laws should have a voice, directly or indirectly, in making those laws.

I shall therefore vote for the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL], though not for the reasons nor on the grounds assigned by him; nor do I mean to say that I shall vote for the bill whether it shall or shall not have been thus amended. That question I shall reserve for further consideration. There are many other questions entering into its decision beside the question of suffrage. There is a great question, a question of paramount interest to me and to the State which I in part represent, which I cannot help considering: the question whether it is just and wise and politic to allow the great States of the Union, such as New York, Pennsylvania, and Ohio, the old, populous, and powerful States, to be overborne, year after year, in one branch of the Legislature of the nation by States whose population is not sufficient to entitle them to a single member upon this floor. I do not think it good policy; I think it unwise, unjust, and if pushed to the extreme to which it seems likely to be pushed, calculated to work fundamental and most important changes in the whole structure of the Government. Why, sir, we all know that sometimes in England when the ministry finds it necessary to have additional votes to pass some favorite measure they add to the peerage by creating peers for the purpose, so that the vote under their control in the House of Lords may be made sufficient for the purpose. Sir, this creation of new States is liable to the same abuse, if it has not already been subjected to it.

Then again, as to the power of Congress over the constitutions of new States that are coming in, that is a very grave question which I think has not been at all settled by the discussions which have been had upon it. Gentlemen on this floor maintain the right of Congress not only to prescribe conditions of admission, but actually to create constitutions for the States to be admitted; and yet they claim this power under the pretense—for it can be nothing more—that it rests on that clause of the Constitution which declares that the United States shall guaranty to those States a republican form of government. Now, I shall not enter into the discussion of what is or is not a republican form of government; but certainly it seems to me clear that the assent of the people, the action of the people, the will of the people to be governed, should enter, in a more or less restricted form, into the creation of the fundamental law by which that people are to be governed if it is to be a republican form of government. Now, if we here in Congress dictate a constitution for the State of Nebraska and force it upon the people of that State; can we call that a republican form of government? We prescribe a constitution, a fundamental law, to the people of Nebraska, and then because they accept the terms which we impose we say they have a republican form of government.

Now, sir, I cannot quite assent to what have been stated as historical facts by the gentleman from Pennsylvania, [Mr. STEVENS.] I did not know that Rome was called a republic under Nero or under Trajan. It may be that any government which we call a republic is a republic; but on no other ground certainly can we consider the government of Nebraska a republican form of government, if she comes in under a constitution which we dictate to and impose upon her. I, however, honor the gentleman from Pennsylvania to-day, as I have had occasion to do many times before, for the courage with which he follows his principles

to their legitimate conclusion, however startling and extraordinary that conclusion may be. He has declared here that the government of Pennsylvania is not a republican form of government, and he has expressed the hope that Congress will make it such. I do not know, sir, whether he would go quite as far as the distinguished gentleman from Massachusetts [Mr. BANKS] did yesterday, and claim that Congress has the power to prescribe conditions of admission, to prescribe terms which shall make proposed State governments republican in form, and then, if the States concerned do not assent to those terms, or afterward violate them, that we have power to march armies into their midst and compel them to submit to and adopt the government which we impose. That seems to me to be extending the principle asserted on this floor to a somewhat dangerous extent, though I confess it seems to me a logical inference from the principles which are asserted in this bill and by gentlemen upon this floor.

I have sometimes feared that gentlemen of this House, in their anxiety to secure republican forms of government to the States, might entirely forget the necessity, or even the propriety, of maintaining a republican form of government for the United States. Certainly a Government which is to march armies into the States to compel assent to its will can scarcely be called a republican form of government. It may be a democratic despotism, a centralized despotism under democratic forms, as the Government of France is; but it is not, and no ingenuity, no sophistry, can make it even seem to be, the Republic which our fathers founded and handed down to their posterity to be preserved forever. Nor do I think that the clause of the Constitution which imposes on the Government of the United States the duty of guarantying to each State a republican form of government obliges or authorizes the Federal Government to make for each State what at any time its shifting parties may be pleased to call a republican form of government. We "guaranty" to a man or a State or community that which that man or State or community has already in possession. If we guaranty to a man possession of his house, we do not oblige ourselves to put him into a house, to erect and provide a house for him, and keep him there against his will. If we guaranty the payment of a note, we presume that note to be already in existence. The Government of the United States guaranties to each State what that State adopts and accepts, acting under the Constitution of the United States and in obedience to its restrictions, as a republican form of government. And it is rather startling to hear, as we have heard upon this floor to-day, that, with one or two exceptions, there are no States in this Union having republican forms of government, such as the United States are bound by the Constitution to guaranty to every State in the Union; and it is still more startling to hear the power of the Government invoked to make all those States—old and new, Pennsylvania and Ohio as well as Nebraska and South Carolina—republican in form by an arbitrary exercise of its will, backed by its armed power.

I think it desirable that new States should come into this Union as soon as they are properly organized, as soon as their population is sufficient to entitle them to representation upon this floor. They are guarantied full representation at the other end of the Capitol the moment they come in. I do not think there is any reason, either in right or good policy, why we should have States here simply because they have some population and desire to come in. There are many advantages in being a State undoubtedly, advantages to the State itself and advantages to the Government of which they form a part; but I think we should not act with undue haste in these matters. If these States have elements of growth in them they can afford to wait a few years until their population is sufficient at least to entitle them to one member here. Until they have at least population enough

for that I do not think we are bound by any consideration of duty or of sound public policy to admit them on equal terms with New York, Pennsylvania, and Ohio as States into the Union.

[Here the hammer fell.]

Mr. WILSON, of Iowa. I will vote for this amendment, and if it should be adopted by the House I will vote for the passage of this bill; but without this amendment I will not vote for the passage of the bill. For, sir, I have firmly resolved never to vote for the admission of any State into this Union which embodies within its constitution the objectionable proposition to be found in the one presented by the people of Nebraska. The time has gone by for us to recognize that distinction of rights because of the question of the color of the skin or of race or of birth. And I hope, sir, it may never receive any recognition at the hands of the Congress of the United States.

Mr. Speaker, I will not enter upon the discussion of the question which has been propounded by several gentlemen as to whether the State of Pennsylvania, Ohio, or Iowa possesses a republican form of government. The limitation which is found in the constitution of Nebraska is found in the constitution of Iowa to-day; but, sir, I hope before many months have passed we will have stricken that limitation out of our constitution. I have full confidence that the people mean to do it.

Now, as to the effect of this amendment; will it be binding? Will it effect anything? Can the people of Nebraska after its admission as a State remove this obligation resting upon them and reincorporate into their constitution this limitation. If my time will allow me I will endeavor to answer this question. Gentlemen in this discussion seem to forget that the Legislature of a State may do that which it is not restricted from doing; that the Legislature of a State is not bound by the same rules of constitutional law as the Congress of the United States; that unless an act is prohibited by the Constitution a State Legislature can do it. The Congress of the United States may do such acts as its delegated powers authorize, and such as are necessary to the enjoyment of the powers thus delegated; that is, exercise implied powers incidental and necessary to those delegated. The Legislature of a State is not bound by the constitutional law applicable to this body. Can, then, the Legislature of Nebraska assent to the proposition embraced in this amendment? Gentlemen will say no. Why? Because it is not the Legislature of the State. Admit it. We send this proposition to a body of men known to the constitution which has been sent to us here as the constitution of Nebraska, as the Legislature of the State of Nebraska. They are bound by the authority of the amendment it is proposed to be incorporated into this bill. They pass upon this proposition, and in the name and in behalf of the people of Nebraska they accept this proposition. It may be said their power is not sufficiently extensive to warrant this.

They are the agents chosen by the people of the Territory asking for admission as a State. After the acceptance of the condition by this body of men thus authorized to act for the people within the bounds of their Constitution, the people of the new State act upon the condition themselves and accept and ratify the action of the Legislature. Now, sir, if they consent to act in their capacity of a State organization upon the condition thus accepted by their legislative body, I insist that they ratify that action of their Legislature, and it becomes binding upon the people. If they do not accept it, then they do not appear here in the person of Representatives as a State of the Union; they remain just where they are; they acquire no status in the Union as a member of it. If, on the other hand, as I have remarked, they by accepting the position of a State in the Union ratify the action of the body called the State Legislature, it becomes binding upon them.

Now, if this be true, then this proposition will be effective and will reach and accomplish the object we so much desire.

But it is said, even if this should be binding upon the people of Nebraska after admission, that after they have been clothed with the power of a State they may at once amend the constitution and reinsert this limited right of suffrage. I deny it. The idea that a people of a Territory may apply to Congress for admission as a State, promising all that the Government of the United States and the people of the United States ask them to perform, promising for the purpose of deceiving the Government of the United States after their promise has been accepted by the Congress of the United States, and the State is admitted into the family of States, the doctrine that they can the next day repudiate all and reverse the principles of this constitution, I deny. Why, sir, to establish a doctrine of that kind is but to place within the power of the people of any Territory the means to contravene a most solemn act of the Government of the United States in the admission of a State.

Now, sir, I have a theory of my own—I know not how many may be willing to indorse it—in regard to these changes of State constitutions. The Government of the United States is required by the Constitution to guaranty a republican form of government to the several States of the Union. The people of a Territory present a constitution which Congress declares to be republican in form, and to conform to the requirements exacted by Congress. Now, my doctrine in regard to these constitutions is that changes which the people may subsequently seek to make in them should be submitted to Congress the same as the original constitution is submitted.

[Here the hammer fell.]

Mr. BOUTWELL. I yield five minutes to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. Mr. Speaker, I mean to stand by the bill as it came from the Senate for the reasons which I assigned yesterday, and I mean to vote against the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.] I shall do so for the reason that the proposition is without precedent in the history of the Government. I am not to be alarmed by gentlemen assuming on this floor to be the sole champions and defenders of liberty, and I scout all pretension of gentlemen who profess to be such champions and come into this House to trample the charter of liberty and the oath which they have taken under their feet.

What is proposed by this amendment? It is this: that the Legislature of a State shall change its organic law in direct contravention of the express authority of the people of that State, and only by authority of Congress. Who ever before heard such a proposition? It has no parallel in the Missouri case; and to test the vitality of this, I will agree to vote for the proposition in the case of Missouri word for word, letter for letter, as a substitute for this clause. It does not approach the Missouri proposition, which was that the State of Missouri should be admitted into the Union upon the fundamental condition that her constitution should never be construed to authorize the passage of any law, and no law should ever be passed by the State of Missouri in conformity thereto, by which any citizen of either of the States of the Union should be excluded from the enjoyment of any privileges or immunities to which such citizen was entitled under the Constitution of the United States.

But what is this proposition? Why, that the Legislature of the State of Nebraska shall change its organic law so that that clause shall be what it was not made by that people but the very contrary thereof. What right has Congress to make a constitution for a State? The people make the constitutions of States, and the people made the Constitution of the United States. The first line of that great instrument is, "We, the people of the United

States, do ordain and establish this Constitution." The first article in that Constitution is, that the people of a State shall control its organic power and define the qualifications of its electors. What is this proposition? That Congress by the legislative enactment of the State shall change its organic law so as to fix for all time to come the qualifications of electors.

Sir, I will gladly hail the day when every State in this Union shall strike the word "white" from its constitution, but I will not stultify myself by pretending that we can guaranty to Nebraska a republican government in violation of the very letter of the constitution which that people have ordained, and at the same time refuse to guaranty a like republican government to Pennsylvania or Ohio in defiance of the will of the people of those States. Our power to do the one is equal to our power to do the other.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. BOUTWELL. I now yield for two minutes to the gentleman from Ohio, [Mr. ASHLEY.]

Mr. ASHLEY, of Ohio. Mr. Speaker, the bill which came to us from the Senate was not such a one as I could approve, and therefore I made no speech in its favor, intending simply to vote for it and trust, as my friend said yesterday, that the moral power which the third section carried with it would give us a majority in the two new States.

I now rise to say that I shall vote for the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL,] and to advise all the members of the House who are in favor of the passage of the bill to sustain that amendment, in order that we may stand as a unit in favor of the admission of these new States. I am satisfied that the adoption of this amendment will secure the early admission of Nebraska, and with that I am content.

Mr. BOUTWELL. In reply to the gentleman from Ohio, [Mr. BINGHAM,] I desire to say that I think he is in error as to the proceedings of Congress in reference to the admission of Missouri. As I understand the matter, the constitution of Missouri contained a provision that the State might pass a law by which free negroes should be excluded from the State, and Congress declared that that provision in their constitution should never be so interpreted as to authorize the exclusion of free negroes from that State, requiring the Legislature of the State of Missouri to accept that as a fundamental condition upon which Missouri was to be admitted into the Union. That is my recollection.

Mr. BINGHAM. I have the statute here, and there is no such thing in it.

Mr. BOUTWELL. I cannot now yield to the gentleman. That is my recollection.

But, sir, to come to the practical question before the House, I may say, without going into any explanation of what must be apparent to every gentleman upon the floor, that the proposition which I submit offers the only practicable way by which Nebraska can be admitted into the Union at the present time.

In the first place, that proposition secures all that is secured by the bill as it came from the Senate—the judgment of Congress as to what should be the law of Nebraska in reference to the elective franchise. It further secures this, which is of paramount importance, and which I submit is all that can ever be secured by the Congress of the United States in reference to any State: the moral consent and judgment of the people of Nebraska that the provision of their constitution to which we object shall never be enforced in that State. It is to be presumed that the Legislature of Nebraska, the last Assembly elected by the people there, understand the wishes and opinions of the people in reference to this matter. We submit this proposition to that Legislature. They are presumed to represent the will and opinions of the people of the State. If they assent to this proposition

we have then, in behalf of the position we maintain here, the political force of the political opinion of the representatives of the people of Nebraska and the moral power of the people of that State, they, through their representatives, having assented to this proposition as a fundamental condition under which they take their place in the Government of this country; and we may safely rely upon the people of Nebraska for all time to come to make good the obligation which they will have assumed through their Legislature to the people and the Government of this country. Moreover we inaugurate that State upon a right principle. If a change be made hereafter the moving party will be a party in the wrong, and the right will be in possession of the fortress, of the stronghold of republican principles in that State.

I do not desire to say anything further myself, but the gentleman from New York from the Troy district, [Mr. GRISWOLD,] appealed to me a few moments since for two or three minutes of my time, and I now yield to him.

Mr. GRISWOLD. Mr. Speaker, I am much obliged to the gentleman from Massachusetts, who has charge of this bill, for the very brief opportunity he has afforded me for explaining the vote I propose to give.

I have always contended, Mr. Speaker, that the true theory of our Government demanded that the whole people should have the right of participating in that Government; that all who are to be the subjects of our laws should have a voice in the making of those laws. To this must the question of suffrage ultimately come. I have always been opposed to the modern distinction which has been made on account of color, and have voted whenever the opportunity has presented in accordance with this opposition. In my own State and in the District of Columbia my vote has been given to abrogate this color-distinction. Especially now that the chief cause of this distinction has been eradicated in the abolition of the institution of slavery, it is in my judgment quite time that our legislation should conform to the changed condition of things.

In the present case, Mr. Speaker, my great embarrassment has been that it seems to be breaking down the barriers which I believe in observing and respecting, that of leaving the control of the question of suffrage with the States themselves. But, sir, I justify myself on this point in the fact that we are now legislating for a Territory over which no State government exists; and I can see no impropriety or inconsistency, especially in the changed condition of our national affairs, in the Congress of the United States prescribing conditions under which new States shall be admitted to a participation in the legislation of the country. I do not forget in this connection that the State government when organized will have the power to repudiate these conditions and make such as they may see fit; but the moral force of a congressional expression cannot but have more or less effect, and the greater when that expression is on the side of humanity, right, and justice.

Influenced thus, Mr. Speaker, by the varied and somewhat conflicting considerations that have weight in deciding on the question under consideration, I have come to the conclusion to record my vote first for the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL,] and then for the bill as amended.

Mr. BOUTWELL. I now yield for a few moments to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I take it for granted, Mr. Speaker, that no intelligent, liberal-minded man, who has watched the remarkable progress of events, and the still more remarkable progress of ideas in this country during the last few years, can fail to see that the sentiment and purpose of the American people are rapidly and inevitably centering upon this great truth, to be applied to every citizen of lawful age unconvicted of crime, namely: suffrage and safety,

like liberty and union, "are one and inseparable." For myself, I was long ago committed to this truth; and to-day more firmly than ever before I believe that by this alone can we deserve or enjoy perfect or lasting peace. This truth I will not sacrifice for consideration of expediency or political advantage. Hence, when I am called upon to give my consent to the admission of any new State into this Union I demand that this shall be one of the fundamental conditions.

Whether the amendment now pending before the House does legally affix that condition may be a question of doubt; but that it calls out from the highest legislative authority of Nebraska a declaration to that effect and morally commits the new State to the proposition, binding its people in a covenant with the nation which they will not break, is to my mind clear beyond question. The bill as it came from the Senate was only a declaration of the will of Congress: that the new State should give equal rights to all its citizens. The pending amendment allows the State to come in only when she shall give her solemn pledge that such rights shall be guaranteed. Believing that Nebraska will keep her faith, I shall vote for this bill if the amendment prevails.

One word more. I cannot agree with my colleague, [Mr. DELANO.] He says that we stultify ourselves if we declare that a State shall not come into the Union with a constitution which gives the suffrage only to white men, because we have never made that condition before, and the word "white" is in many of our State constitutions. I answer him that if we adopt that doctrine we can never make any reform; and I answer him further that I hope and believe—and I think he will agree with me in the opinion—that before the next twelve months shall have passed the State of Ohio will strike the word "white" from her constitution.

Mr. BOUTWELL. I now yield for a moment to the gentleman from New York, [Mr. DAVIS.]

Mr. DAVIS. Mr. Speaker, the single minute remaining before the debate on this bill must be closed will permit me to say only that, independently of any other considerations which might incline me to oppose its passage, I am constrained to vote against the admission of Nebraska as I shall vote against the admission of Colorado, because neither has a population sufficient to entitle it to a single Representative in Congress.

Mr. BOUTWELL. I now call for the previous question.

The previous question was seconded and the main question ordered; which was upon the amendment of Mr. BOUTWELL.

The amendment was read, as follows:

Strike out the third section in the following words: And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.) And insert in lieu thereof the following:

And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial government within thirty days after the passage of this act, to act upon the condition submitted herein.

Mr. HISE. Is not the question on this amendment divisible, so that we can have a separate vote on striking out the third section?

The SPEAKER *pro tempore*. One of the rules of the House expressly declares that a



motion to strike out and insert shall not be divisible.

Mr. THAYER. I call for the yeas and nays on the adoption of the amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 87, nays 70, not voting 34; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baldwin, Banks, Baxter, Blaine, Boutwell, Brandegee, Broomall, Cobb, Cook, Cullom, Culver, Dawes, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Ferry, Garfield, Grinnell, Griswold, Hart, Higby, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Williams, and Windom—87.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Benjamin, Bergen, Bingham, Boyer, Bromwell, Buckland, Bundy, Campbell, Chanler, Reader W. Clarke, Cooper, Davis, Dawson, Deffrees, Delano, Denison, Eldridge, Farnsworth, Farquhar, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Abner C. Harding, Hawkins, Henderson, Hill, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Johnson, Kerr, Latham, George V. Lawrence, Le Blond, Leftwich, Marshall, McKee, Miller, Niblack, Nicholson, Plants, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Shanklin, Shellabarger, Sitgreaves, Stilwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, Andrew H. Ward, Henry D. Washburn, and Whaley—70.

NOT VOTING—Messrs. Arnell, Barker, Beaman, Bidwell, Blow, Sidney Clarke, Conkling, Darling, Dumont, Eggleston, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburd, Jones, Kasson, Laffin, William Lawrence, Marston, McCullough, Myers, Noell, Phelps, Pomeroy, Ross, Rousseau, Sloan, Starr, Trimble, Robert T. Van Horn, Winfield, Woodbridge, and Wright—34.

So the amendment was adopted.

During the call of the roll the following announcements were made:

Mr. MORRILL. My colleague, Mr. Woodbridge, is confined to his room by illness.

Mr. GRINNELL. My colleague, Mr. Hubbard, of Iowa, is detained from the House by sickness.

Mr. HOGAN. My colleague, Mr. Noell, is confined to his room by illness.

Mr. O'NEILL. My colleague, Mr. Myers, is absent attending to business of a committee. If he were present he would vote for this amendment.

Mr. VAN HORN, of New York. I desire to announce that Mr. Clarke, of Kansas, is necessarily absent. If he were present he would vote for this amendment.

The result of the vote was announced as above stated.

The bill as amended was ordered to a third reading, and was read the third time.

Mr. BOUTWELL. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ASHLEY, of Ohio. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 55, not voting 33; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Baxter, Benjamin, Blaine, Boutwell, Brandegee, Broomall, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Dawes, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hart, Henderson, Higby, Hill, Holmes, Hooper, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Ketcham, Koontz, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—103.

NAYS—Messrs. Ancona, Baker, Bergen, Bingham, Boyer, Buckland, Campbell, Chanler, Cooper, Davis, Dawson, Deffrees, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Abner C.

Harding, Hawkins, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Hunter, Johnson, Kelso, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Marshall, McKee, Niblack, Nicholson, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Andrew H. Ward, and Whaley—55.

NOT VOTING—Messrs. Arnell, Barker, Beaman, Bidwell, Blow, Sidney Clarke, Conkling, Darling, Dumont, Eggleston, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburd, Jones, Kasson, Laffin, William Lawrence, McCullough, Myers, Noell, Phelps, Pike, Pomeroy, Rousseau, Sloan, Starr, Trimble, Robert T. Van Horn, Winfield, Woodbridge, and Wright—33.

So the bill was passed.

During the call of the roll the following announcements were made:

Mr. ALLISON. My colleague, Mr. Kasson, has been necessarily called away this morning. If he were here he would have voted in the affirmative on the amendment and on the passage of the bill.

Mr. FERRY. I desire to announce that my colleague, Mr. Beaman, is absent by leave of the House.

Mr. STOKES. I am authorized to state that my colleague, Mr. Arnell, if present, would vote for the passage of this bill.

The result of the vote was announced as above stated.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ADMISSION OF COLORADO.

Mr. ASHLEY, of Ohio. I now move, by unanimous consent, to take up and consider Senate bill No. 462, to admit the State of Colorado.

There was no objection.

The bill was read. The preamble recites that on the 21st day of March, 1864, Congress passed an act to enable the people of Colorado to form a constitution and State government, and offered to admit the State, when so formed, into the Union upon compliance with certain conditions therein specified; that it appears by a message of the President of the United States that the people have adopted a constitution, which upon due examination is found to conform to the provisions and comply with the conditions of the enabling act, and to be republican in its form of government, and that they now ask for admission into the Union.

The first section provides that the constitution and State government which the people of Colorado have formed for themselves be accepted, ratified, and confirmed, and that the State of Colorado be declared to be one of the United States of America, and admitted into the Union upon an equal footing with the original States in all respects whatsoever.

Section two declares the State of Colorado entitled to all the rights, privileges, grants, and immunities, and subject to all the conditions and restrictions of an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved March 21, 1864.

Section three provides that this act shall take effect with the fundamental and perpetual condition that within the State of Colorado there shall be no abridgement or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.)

Mr. ASHLEY, of Ohio. I move to strike out the third section, and in lieu thereof to insert the following, which is substantially the same provision as that which the House has already incorporated into the Nebraska bill:

And be it further enacted, That this act shall not take effect except upon the fundamental condition that within the State of Colorado there shall be no denial of the elective franchise or any other rights to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature elected under said State constitution, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United

States an authentic copy of said act, upon the receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the governor-elect of said State within sixty days after the passage of this act to act upon the condition submitted herein.

Mr. BINGHAM. I ask my colleague to let me offer the following amendment:

That if the people of said State of Colorado shall so amend their constitution as that no discrimination shall be made on account of race or color in the right of the citizens therein to the elective franchise, the same shall be admitted by proclamation of the President on an equal footing with the other States.

Mr. ASHLEY, of Ohio. I cannot yield for that purpose. I demand the previous question.

The House divided; and there were—yeas 70, noes 40.

So the previous question was seconded.

The main question was then ordered.

Mr. FINCK demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 63, not voting 44; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baldwin, Banks, Baxter, Blaine, Boutwell, Brandegee, Broomall, Cobb, Cook, Cullom, Culver, Dawes, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Ferry, Garfield, Grinnell, Griswold, Hart, Higby, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Koontz, Kuykendall, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McRuer, Mercer, Moorhead, Morrill, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—84.

NAYS—Messrs. Ancona, Baker, Benjamin, Bergen, Bingham, Boyer, Buckland, Bundy, Campbell, Reader W. Clarke, Cooper, Davis, Deffrees, Delano, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Abner C. Harding, Hawkins, Henderson, Hill, Hise, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Johnson, Kerr, Latham, George V. Lawrence, Le Blond, Leftwich, Marshall, McKee, Miller, Niblack, Nicholson, Plants, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Shanklin, Shellabarger, Sitgreaves, Stilwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Thornton, Andrew H. Ward, Henry D. Washburn, and Whaley—63.

NOT VOTING—Messrs. Arnell, Delos R. Ashley, Barker, Beaman, Bidwell, Blow, Bromwell, Chanler, Sidney Clarke, Conkling, Darling, Dawson, Denison, Dumont, Eggleston, Farnsworth, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Hulburd, Humphrey, Jones, Kasson, Ketcham, Laffin, William Lawrence, Loan, Marston, McCullough, Myers, Noell, Phelps, Pomeroy, Rousseau, Sloan, Spalding, Starr, Nelson Taylor, Trimble, Robert T. Van Horn, Winfield, Woodbridge, and Wright—44.

So the amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time.

Mr. ASHLEY, of Ohio, demanded the previous question on the passage of the bill.

Mr. DAVIS moved that the House adjourn.

The motion was disagreed to.

The previous question was seconded and the main question ordered; which was upon the passage of the bill.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 60, not voting 41; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Baxter, Benjamin, Boutwell, Brandegee, Broomall, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Culver, Dawes, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Henderson, Higby, Hill, Holmes, Hooper, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Koontz, George V. Lawrence, Longyear, Marston, Marvin, McClurg, McIndoe, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Spalding, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth,

Williams, James F. Wilson, Stephen F. Wilson, and Windom—90.

**NAYS**—Messrs. Ancona, Baker, Bergen, Bingham, Blaine, Boyer, Buckland, Campbell, Cooper, Davis, Defrees, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Abner C. Harding, Hart, Hawkins, Hise, Hoggan, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Hunter, Johnson, Kelso, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Lynch, Marshall, Maynard, McKee, Morrill, Niblack, Nicholson, Pike, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, and Whaley—60.

**NOT VOTING**—Messrs. Arnell, Barker, Beaman, Bidwell, Blow, Chanler, Sidney Clarke, Conkling, Darling, Dawson, Dumont, Eggleston, Farnsworth, Harris, Hayes, Hotchkiss, Asahel W. Hubbard, Hubbard, Jones, Kasson, Ketcham, Laffin, William Lawrence, Loan, McCullough, Myers, Noell, Patterson, Phelps, Pomeroy, William H. Randall, Rousseau, Scofield, Sloan, Starr, Stevens, Trimble, Robert T. Van Horn, Winfield, Woodbridge, and Wright—41.

So the bill was passed.

During the roll-call,

Mr. STOKES stated that his colleague, Mr. ARNELL, was absent; if present he would vote "ay."

Mr. ALLISON. My colleague, Mr. KASSON, would have voted "ay" if he were present.

Mr. O'NEILL. My colleague, Mr. MYERS, who is absent on business of a committee, would have voted for the bill had he been present.

Mr. VAN HORN, of New York. I wish to make the same statement in regard to the gentleman from Kansas, Mr. CLARKE, that I made upon the passage of the Nebraska bill. He is necessarily absent, and if present would have voted for the bill.

The result having been announced as above recorded,

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCHENCK. I move that the House adjourn.

#### WAR DEBTS OF THE LOYAL STATES.

Mr. BLAINE, by unanimous consent, from the Committee on War Debts of the Loyal States, reported a bill to reimburse the States that furnished troops to the Union Army for advances made and expenses incurred in raising the same; which was read a first and second time, ordered to be printed, and recommitted to the committee.

The motion of Mr. SCHENCK to adjourn was agreed to; and thereupon (at four o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. CULVER: Three petitions from citizens of Venango and Crawford counties, Pennsylvania, against the reduction of the currency.

Also, a petition from refiners and citizens of various States, asking a reduction of the internal revenue tax on refined petroleum, and a change in the mode of assessing the same to conform to general manufactures, by fixing a percentage *ad valorem* on refined petroleum and naphtha sold for consumption in the United States.

By Mr. DAWES: The petition of H. Harrison, and 227 others, citizens of Westfield, Massachusetts, praying for a specific internal duty on cigars.

By Mr. DONNELLY: The petition of Stephen Hewson, and others, citizens of Isanti county, Minnesota, asking for the impeachment and removal from office of Andrew Johnson, President of the United States.

By Mr. HART: The petition of 79 citizens of Rush, Monroe county, New York, asking that the duties upon wool as fixed by the tariff bill passed by the House of Representatives in its last session may be adopted by Congress this session.

By Mr. INGERSOLL: The memorial of Edwin R. Hoag, of Cambridge, Illinois, praying for relief.

By Mr. KELLEY: The petition of 2,471 citizens of Richmond, Virginia, asking that a provisional government be established for Virginia, and the so-called restored State government be abolished.

By Mr. LONGYEAR: The petition of Edmund S. Tracy, and others, citizens of Eaton county, Michigan, asking for certain amendments to the bounty law of July 28, 1866.

By Mr. O'NEILL: The petition of journeymen cigar-makers and manufacturers of cigars, numerous signed, asking that the present tax law may be so modified as to prevent irregularity and injustice; that the inspections of cigars in the different districts may be made by a uniform system; that the

tax be made specific at five dollars per thousand on all domestic cigars; that the tariff on imported cigars may remain unchanged; that stamps may be sold to manufacturers at five dollars per thousand; and that the penalty for violating the internal revenue laws may be increased.

By Mr. PAINE: A memorial of the Chamber of Commerce of the city of Milwaukee, Wisconsin, for an appropriation for the improvement of the harbor of Ontonagon, in the State of Michigan.

By Mr. PERHAM: The petition of 132 pensioners of the United States and employes in the civil service of the Government, for arrears of pension withheld by act of March 3, 1865.

By Mr. PIKE: The petition of Lord & Eveleth, of Winterport, Maine, for damages for breach of contract.

Also, the petition of Asa Thurlough and 63 others, of Monroe, Maine, for amendment of Constitution providing that there shall be no inequality among citizens on account of birth, race, color, or previous inequality.

By Mr. RICE, of Massachusetts: The petition of the Boston Board of Trade, for the removal of obstructions to navigation in Boston harbor.

By Mr. RITTER: The petition of S. M. Wing, C. R. Tyler, William Allen, and others, of the county of Daviess, and State of Kentucky, asking Congress to refrain from the passage of any act authorizing the curtailment of the national currency.

By Mr. SCHENCK: A memorial of Joshua Hill, of Alabama, praying compensation for property taken for or destroyed by the armies of the United States during the rebellion, and when as a loyal citizen he had been granted protection for himself and his property.

#### IN SENATE.

WEDNESDAY, January 16, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. YATES presented two petitions of citizens of Illinois, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

Mr. WILSON presented three petitions of officers of the United States Army, and seven petitions of officers of the Army and Marine corps of the United States, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. WILSON. I also present the petition of John H. Cunningham and a large number of other persons employed in the Government Printing Office, one hundred and nineteen of whom have been in the public service in the Army, praying that the benefits of the joint resolution now pending before Congress giving twenty per cent. additional pay to clerks, messengers, &c., may be extended to them. I move the reference of this petition to the Committee on Finance, which I believe has the subject under consideration.

The motion was agreed to.

Mr. CHANDLER presented two memorials of citizens of Michigan, remonstrating against the passage of any act authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling national banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances; which were referred to the Committee on Finance.

He also presented a memorial of Charles J. Gallagher, late a private soldier in company G, first Michigan Veteran volunteer cavalry regiment, praying that he may be allowed the amount paid by him for transportation from the place of his discharge to the place of his enlistment; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Michigan, praying for an appropriation for the construction of certain piers and a light-house at the entrance of Thunder Bay river into Thunder bay; which was referred to the Committee on Commerce.

He also presented resolutions of the Chamber of Commerce of Milwaukee, in favor of a ship-canal across the St. Clair flats; which were referred to the Committee on Commerce.

Mr. RAMSEY. I present a communication in the nature of a petition from some ladies who represent themselves as folders in the Post

Office Department, claiming that they have been omitted in the joint resolution which has been passed by the House of Representatives providing for increased compensation to the civil employes of the Government, and asking to be embraced in that resolution. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Pennsylvania, remonstrating against the passage of any act authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling national banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. SUMNER. I also present the petition of the Pennsylvania Anti-Slavery Society, signed by their president, James Mott, by their corresponding secretary, Benjamin C. Bacon, and by their recording secretary, E. M. Davis, in which they earnestly pray Congress to prepare such an amendment to the United States Constitution, to be presented to the several States for ratification, as will forever prevent any distinction in the right of suffrage on account of race or color. I ask the reference of this petition to the joint Committee on Reconstruction.

It was so referred.

Mr. SUMNER. I also present eleven petitions from citizens of North Carolina, who call themselves "loyal colored citizens of North Carolina," in which they ask Congress to pass into a law the bill introduced into the House of Representatives on the 18th of December, 1866, by Hon. THADDEUS STEVENS, of Pennsylvania, to establish civil government in North Carolina, or to pass some bill similar in character, so that civil government may be speedily established on a thoroughly loyal basis, and North Carolina restored to her former relations in the Union. I ask the reference of these petitions to the joint Committee on Reconstruction.

They were so referred.

Mr. JOHNSON presented a petition of Joseph Humphries, representing that he was a gunner's mate on board the United States schooner Shark when she was wrecked at the mouth of the Columbia river on the 10th of September, 1846, and praying for compensation for the losses suffered by him in consequence of that disaster; which was referred to the Committee on Claims.

Mr. HARRIS presented six petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

He also presented the petition of Thomas Little and others, pensioners, praying for a modification of the pension act of June 16, 1866; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was ordered to lie upon the table.

Mr. WILLIAMS presented resolutions of the Legislative Assembly of Oregon, instructing the Senators in Congress from that State to use their influence to prevent the repeal of the act of July 4, 1864, and the substitution of an assay office in Oregon for the branch mint provided for in that act; which were ordered to lie upon the table.

Mr. MORGAN presented a petition of citizens of Lancaster, Erie county, New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was ordered to lie upon the table.

#### REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Naval Affairs, to whom was referred the petition of George L. Elder, lieutenant of company D,

ninety-ninth regiment New York volunteers, praying for relief for the officers of said company who were on board of the United States frigate Congress when that vessel was attacked and destroyed by the rebel ram Merrimac, submitted a report, accompanied by a bill, (S. No. 508,) for the relief of the officers of company D of the ninety-ninth regiment New York volunteers. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 492) to protect the rights of married women, and for other purposes, in the District of Columbia, reported it with an amendment.

#### COOLIE TRADE.

Mr. SUMNER. The Committee on Foreign Relations have directed me to report a resolution in reference to the coolie trade; and in making this report I desire to say that the committee considered the question whether the resolution should be a joint resolution, which of course would require the action of both bodies and the signature of the President, or a concurrent resolution, which of course would require the action of the two bodies in harmony, or whether it would be enough to be simply a resolution of this body. While the subject was under consideration a similar resolution was introduced into the other House and there passed. It seemed, therefore, that the committee would do their duty if they reported the resolution simply as a Senate resolution, and ask the immediate action of this body upon it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks the present consideration of the resolution now reported by him from the Committee on Foreign Relations. It requires the unanimous consent of the Senate to consider the report on the day it is made. No objection being made, the resolution is before the Senate, and will be read.

The Secretary read it, as follows:

Whereas the traffic in laborers transported from China and other eastern countries, known as the coolie trade, is odious to the people of the United States as inhuman and immoral; and whereas it is abhorrent to the spirit of modern international law and policy, which have substantially extirpated the African slave trade, to permit the establishment in its place of a mode of enslaving men different from the former in little else than the employment of fraud instead of force to make its victims captive: Therefore,

Be it resolved, That it is the duty of this Government to give effect to the moral sentiment of the nation through all its agencies for the purpose of preventing the further introduction of coolies into this hemisphere or the adjacent islands.

Mr. SUMNER. I will read a very brief letter which has been put into my hands, dated "Hong Kong, November 14, 1866." It will be seen that it is a very late letter for one coming so far. It is as follows:

"Hard times are upon the Chinese and the coolie trade flourishes. Twenty-two vessels were loading at one time at Macao. The negro slave trade was never half as bad as this traffic, which will ruin regular migration of the Chinese. It is time a stop had been put to this business. So much reascality is done in it that the Chinese suspect every offer of going abroad."

The resolution was adopted.

#### SAFE DEPOSIT COMPANY.

Mr. MORRILL. The Committee on the District of Columbia, to whom were referred the amendments of the House of Representatives to the bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington, have instructed me to report them back to the Senate with a recommendation that the Senate concur in the amendments of the House; and I ask for their present consideration.

There being no objection, the Senate proceeded to consider the amendments of the House to the bill. The amendments were read, as follows:

In section five, line three, page 2, after the word "on" insert the word "special."

In section five, page 2, line fifteen, strike out the words "such deposit and" and insert in lieu thereof the word "the."

In section five, page 2, line eighteen, strike out the

words "funds of" and insert in lieu thereof the words "funds belonging to."

In section five, page 3, lines nineteen and twenty, strike out the words "or such money or funds as may be deposited with said company for that purpose."

At the end of the bill add the following:

"Nor be deemed to authorize the said corporation to pay interest on deposit of money, securities, or any other property deposited with it; and the operations of this corporation shall be confined to the District of Columbia."

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in these amendments made by the House of Representatives to the bill? The Chair will take the question on the amendments collectively, unless some Senator asks for a separate vote on each amendment.

The amendments were concurred in.

#### BALTIMORE AND OHIO RAILROAD.

Mr. MORRILL. The same committee, to whom was referred a resolution of the Senate instructing them to inquire into the transactions of the city council in granting certain rights and privileges to the Baltimore and Ohio Railroad Company in introducing its road into this District, have instructed me to report in part a bill which I have the honor now to present; and I ask for its present consideration.

The bill (S. No. 507) to amend an act entitled "An act to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from and between Knoxville and the Monocacy Junction into and within the District of Columbia," approved July 25, 1866, was read a first time by its title, and passed to a second reading.

Mr. JOHNSON. I ask that the bill may be read at large.

The PRESIDENT *pro tempore*. The Senator from Maine in reporting this bill from the Committee on the District of Columbia asks for its present consideration. It requires the unanimous consent of the Senate to consider the bill the day it is reported. Is there any objection?

Mr. GRIMES. We can hear it read before we decide that question, I suppose. I should like to hear it read at length.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the bill, as follows:

Be it enacted, &c., That instead of the right granted to said Baltimore and Ohio Railroad Company by the act approved July 25, 1866, to extend their said road "into and within the District of Columbia to such point or points, terminus or termini, as may be agreed upon between said company and the corporation of Washington, in respect to a road within the limits of Washington, and between the said company and the corporation of Georgetown, as respects a road within the limits of Georgetown," said Baltimore and Ohio Railroad Company are hereby authorized to extend their said road into and within the limits of the District of Columbia on such line and to such place or places as upon actual survey and plan of the same may be authorized by Congress, and not otherwise.

SEC. 2. And be it further enacted, That all acts and parts of acts inconsistent with this act are hereby repealed.

The PRESIDENT *pro tempore*. Is the present consideration of this bill objected to? No objection being made, the bill is before the Senate for consideration.

Mr. JOHNSON. I suppose the effect of the bill is to take from the corporate authorities of Washington the right to control the road in the manner in which it is to come into the city, or whether it is to come in or not. I do not object to that. I think it perfectly right. The whole country is interested in the road which the company propose to make and are now, I believe, engaged in making. They are making a road from the Point of Rocks, the point of intersection with the main stem of their road that runs to Wheeling, and they propose to strike the District out here to the west somewhere. But I do not know how long Congress may sit. If Congress adjourns about the 1st of March, or the 1st of April, or the 1st of May, there will be nobody to pass upon the plans which the company may have for coming into the city, and it may obstruct the completion of the road for some six or seven months. I suggest therefore to my friend from Maine that perhaps it would be as well to

amend the bill so as to leave the location of the road to the approval of the Secretary of War, or the President and Secretary of War, instead of Congress. Congress is rather an unwieldy body to pass upon a question of that description. I think perhaps the bill had better lie on the table for the present; and if my friend from Maine has no objection, I will move that it be laid upon the table and printed.

Mr. MORRILL. I want to make a statement.

Mr. JOHNSON. I will not make the motion now as the Senator from Maine wishes to say something.

Mr. MORRILL. Mr. President, the Senate sent to the Committee on the District of Columbia the other day a resolution instructing us to inquire into an arrangement supposed to be in the process of execution between this company and the corporation of Washington by which the corporation of Washington were to secure certain interests or rights, and were also to give to this company certain rights not contemplated by the act which authorized the extension of their road into this city. Upon an examination in part, the committee came to the conclusion that there is an attempt to couple other transactions with the powers they were authorized to exercise in regard to the extension of this road, which are not perhaps quite justified by the former act on this subject. We find that a committee of the council of this city have an act before them authorizing this company to extend its road into this city and to a point on First street, in connection with the depot of the Baltimore and Ohio Railroad Company, as now established; but this is to be done upon the condition that that road shall maintain its present location until 1910, a matter certainly over which it is difficult to conceive that the city of Washington would have any right or ought to have any desire to control, and which I can hardly conceive that the Congress of the United States would be willing they should exercise.

By the act of 1866 it was enacted that the Baltimore and Ohio Railroad Company might extend their road into the city in such manner, and to such place as should be agreed on with the corporate authorities of Washington and Georgetown. We are not aware that anything has been done on the subject, and so believe the whole matter is within the power of Congress at the present moment. I say for myself, it is a matter entirely inadvertent, so far as I am concerned, that this company was authorized to exercise any such power as this, because we have not given it to any other company. The bill that was reported the other day authorizing the proposed Baltimore and Potomac Railroad Company to extend their road into this District was upon the precise terms and conditions contemplated by this bill; and the simple question is, whether it is a proper thing for the Congress of the United States, in whom is exclusive legislative jurisdiction of this District, to part with that jurisdiction to a corporation; whether we shall allow a railroad coming from the West to enter this District at such place and in such manner and to make its depot in such place or places as shall be indicated by the city corporation, or whether we shall keep this power within ourselves? To the mind of the committee it is most obvious that the propriety of the thing is that the Congress of the United States should allow railroads to come into this city, and so near as within three squares of this Capitol, only in such manner and to such place as should be authorized by Congress itself, having before it the maps and surveys upon which the company contemplate action.

Now, in reply to the suggestion of my honorable friend from Maryland, that Congress is a clumsy body, I can hardly see the force of that, because Congress acts by its committees, and it is an every-day occurrence that upon the smallest matters, even the location of a street, we are consulted. No street in this city can be changed even without the consent of Congress. We do not propose to waive that



right. Upon a matter of so grave consideration as the location of a railway into this District, crossing streets and avenues, and necessarily affecting the use of those streets and avenues, I suggest whether it is not vastly important that Congress should retain its power and should not delegate it to any parties whatever?

It will be seen that it is quite necessary that this action should be taken early, because the bill must go to the House of Representatives, and in the mean time I hardly know what may be done. I should hope, therefore, if the bill is not to receive the present action of the Senate, which I very much hope it will, it will receive its attention at an early day.

Mr. JOHNSON. I withdrew the motion to enable my friend from Maine to make the explanation which he has made in relation to the bill. I renew the motion that it lie on the table.

Mr. GRIMES. And be printed.

The PRESIDENT *pro tempore*. It will be printed under the rule, being reported from a committee.

The motion to lay on the table was agreed to.

#### INTRODUCTION OF BILLS.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 509) to amend certain acts in relation to the Navy; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. NESMITH, it was

Ordered, That the memorial of Susan Coody and others, Cherokees, praying indemnity for property destroyed by some of the United States soldiers near Fort Gibson, in the year 1845, be withdrawn from the files of the Senate and referred to the Committee on Indian Affairs.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 462) to admit the State of Colorado into the Union, with an amendment, in which the concurrence of the Senate was requested.

#### ADMISSION OF NEBRASKA.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 456) for the admission of the State of Nebraska into the Union; which was to strike out the third section of the bill, in these words:

And be it further enacted, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.)

And in lieu thereof to insert:

And be it further enacted, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial Governor within thirty days after the passage of this act, to act upon the condition submitted herein.

Mr. WADE. I move that the Senate concur in the amendment of the House.

Mr. EDMUNDS. I hope the Senate will not concur in the amendment of the House. It is quite evident to my mind, and of course

that is as far as is necessary for my action, either that Congress have the power in setting up this Territory into a State to declare what shall be the practical exercise of equal rights there, or else it must be left to the people of the Territory in their original capacity as a people in the act of forming their constitution to decide. There is no middle ground. We might just as well, it appears to me, leave it to the common council of the city of Washington to decide how that shall be in the Territory of Nebraska as to the Legislature, I mean just as well upon legal grounds; and therefore it is that, without going into a fresh debate on the subject, but merely stating my reason for my position, I hope the Senate will not concur in the amendment.

Mr. JOHNSON. I agree with my friend from Vermont, that one of two propositions must be true; and if either is true this amendment ought not to be adopted, in the form in which it is. Either Congress has the authority to impose of itself without the consent of the people of Nebraska such a condition as is now in the bill, and which does not differ at all from the one contained in the amendment proposed by my friend from Vermont, or the power is in the people of the State. The amendment made by the House leaves it to the Legislature of Nebraska to decide whether the constitution which the people of the State have adopted shall be changed in a very important particular. If that is a proper mode of legislation, Congress can change the constitution of the State in any other particular without consulting the people of Nebraska. For that reason, therefore, which is the same as that suggested by my friend from Vermont, I shall be unable to vote for a concurrence with the amendment of the House.

Mr. EDMUNDS. I ask for the yeas and nays on the question of concurrence.

The yeas and nays were ordered.

Mr. HENDRICKS. I did not expect that this bill would be called up this morning. I intended to propose the amendment which was submitted before by the Senator from Missouri, [Mr. BROWN,] not that I believe Congress ought to impose any conditions upon the admission of the State, but I do believe that if Congress undertakes to change the constitution that the people of a State have adopted, that proposed change ought to be submitted to some authority in the State that has control of the subject. It is very clear to my mind that Congress cannot change the constitution of a State; and I think it is equally clear that the Legislature of a State cannot change the constitution of the State, whether in the act of admission or afterward. It is not a legislative act. In the absence of authority in the constitution itself for the Legislature to change it, how is it possible for the Legislature now to provide that negroes may vote in the State of Nebraska when the constitution of what State as adopted by the people expressly prohibits it? But I have not the amendment prepared and therefore cannot offer it. I think that the measure ought to be amended so as to refer the subject to the people.

Mr. MORRILL. Will the Senator allow me to ask him how this differs from the case of the admission of Missouri?

Mr. HENDRICKS. Yes, sir; I will state how I understand it to differ, and it is but repeating what I had occasion to say before the holidays. The provision in the constitution of Missouri was that the Legislature should have authority to pass laws prohibiting the immigration of persons of color. The act of Congress was simply undertaking to declare by Congress that a construction should not be given to that provision of the State constitution which should be in violation of the Constitution of the United States. It was not affirmative legislation on the part of Congress. It was not an attempt on the part of Congress to change the constitution of Missouri, but in advance to declare by Congress that a construction should not be given to that article, or any other article, in violation of the Constitu-

tion of the United States. Here is a question over which the people of the State under the Constitution of the United States have exclusive control—the question of suffrage expressly given to the people of the State by the Constitution of the United States. They have exclusive control of it, and in this constitution the people of Nebraska have said that persons of color shall not vote in that State. The Senate said that by an act of Congress we could amend that constitution so as to give the right of suffrage to everybody. The House of Representatives disagrees with the Senate. The House says that the Legislature of the State must concur in that action. But what force and validity does that give to the action of the Senate? None; because it is not a legislative act to change the constitution of the State when the constitution does not provide for a mode of amendment. Who can change the constitution of Nebraska? Can Congress do it? This amendment admits that Congress cannot do it. Then can Congress and the Legislature of the Territory or the Legislature of the proposed State, change the constitution of the State? I think no Senator will say so.

The distinguished Senator from Vermont, who claims the power for Congress on the admission of a State to model its constitution according to the pleasure of Congress, himself says that the Legislature of the State has no control over it; that that is nothing. This constitution, if it has any force at all as a constitution for a proposed State, has force because it has received the sanction of the people. Now, can any authority in Nebraska short of the people change that constitution? I am free to say that if the people of Nebraska change this constitution so as to allow negroes to vote I have no objection to it. I think it is a question exclusively within their control. If they let them vote I have no objection. If this amendment of the House of Representatives be so amended as to submit the question to the people, and they decide in favor of it, let it go; but if they decide against it, what Senator wants to change the constitution of Nebraska against the will of the people of the State? I shall not offer the amendment, because I have it not prepared. I make these suggestions on the question. I cannot myself vote for any of the conditions that are imposed upon the State.

Mr. MORRILL. It is difficult for me to see the distinction which appears so plain to the Senator from Indiana. In the case of Missouri the constitution provided, as has been stated by the Senator from Indiana, that the Legislature should have power to exclude a certain class of persons. That is substantially the provision here. It is with the question of exclusion in the constitution of Nebraska that we are dealing. The cases were, both of them, equally questions of exclusion. Now, how should they be dealt with? Congress undertook in the Missouri case to provide by act of Congress, which should be regarded as fundamental, that if Missouri came in as a State that act of Congress should be binding upon her, and being binding upon her should overrule her constitutional provision. That was the point.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. MORRILL. Certainly.

Mr. HENDRICKS. The Constitution of the United States provides that the citizens of each State shall have all the rights, privileges, and immunities of citizens of the several States. I believe that is the language very nearly. Now, I ask the Senator from Maine whether the provision of the constitution of Missouri prohibiting persons of color from coming into that State who might be citizens of other States, in his judgment, was in conflict with this provision of the Constitution of the United States? If in conflict, was not that provision of the constitution of Missouri void? And in that view was it not proper for Congress expressly to disclaim an approval of that proposition, it being deemed by Congress unconstitutional? Is that case at all analogous to the one before

us, which is the case of a State regulating the right of suffrage, the right to do which is exclusively given to the State by the Constitution of the United States?

Mr. MORRILL. I did not misunderstand the point taken by the honorable Senator from Indiana before. I understood him before to say as he now repeats himself. But it was not the subject-matter of the Constitution with which I was dealing; it was the method of reaching it by Congress, and in both instances it is the same. The Senate must remember that, in the case of Missouri, Congress did not undertake to nullify that provision of the constitution of Missouri; but it proceeded apparently upon the ground that it was at least doubtful whether she might not do that thing, and provided in the very terms of the act that the act of Congress should be regarded as a fundamental condition upon which she should be admitted, and being fundamental should overrule her constitution. In that case it was the validity of the act of Congress which was relied upon to correct the irregularity in the constitution of Missouri. So here precisely: we are to admit Nebraska; but there being a feature in her constitution which is regarded as objectionable, the House of Representatives have proceeded, in the very language of the act in the case of Missouri, as I recollect it, to say that it shall be done upon the fundamental condition that the objectionable provision in her constitution shall never be construed to have the effect that is provided for in that constitution.

I submit to my friend from Indiana, waiving the question of the subject-matter in the two cases, that the method of proceeding is precisely parallel.

Mr. HENDERSON. We discussed the question of the admission of Nebraska and Colorado as States for I think three weeks in the Senate, and I really believe there is but little of a practical character in the entire discussion. I presume, whether this amendment be effective or not, we shall not enfranchise more than four or five negroes in each of these proposed States by virtue of this doctrine. I believe there are very few negroes in Nebraska, and perhaps the amendment, if effective for the purpose, will not enfranchise more than four or five. But really, if we admit the State upon any terms whatever, I believe that, in the course of a very short time at least, the right to vote will be conceded to the colored population there. I have very little doubt that that will be the result, whatever action we take here.

After the former discussion the Senate adopted the amendment offered by the Senator from Vermont; which I really thought would avail nothing to secure the object intended, and yet I did not see fit to vote against the proposition to admit the State, because that amendment had been adopted. I saw that it could at any rate do no harm; and if the courts should decide that it was a valid condition, and effectuated the object, the result would be to accomplish an object I desired; and therefore I voted for the bill with that amendment attached to it. It went to the House of Representatives; and the House, in order to make it effective, propose to require that the condition shall be submitted to the State Legislature and approved by them. Now, I feel as I did originally in regard to the amendment offered here. If the Legislature adopt it it amounts to nothing. I do not feel that it will be obligatory upon the State: but at the same time I am willing to vote for the admission of Nebraska without any such amendment at all; because, in the first place, as I have said, it does not in my honest opinion affect five voters in Nebraska, and it will never affect more than a few, and in the second place I honestly believe that with whatever provisions we pass a bill admitting the State the colored population there will be secured in the franchise as early the one way as the other. I have no question on that point, and therefore I have no hesitancy in voting for the proposition to admit these two States without any amendment whatever. I do not believe

the amendment will be effectual to accomplish anything.

In regard to the Missouri case I was inclined to agree with the Senator from Indiana at first; but on referring to the constitution of the State of Missouri at that time I find that the provision which Congress required the State to give a different construction to was a provision clearly pointing to free negroes. The provision was:

"It shall be the duty of the Legislature, as soon as may be, to pass such laws as may be necessary to prevent free negroes and mulattoes from coming into and settling in this State under any pretext whatsoever."

It refers directly to free negroes and mulattoes. When the constitution came to Congress, Congress was unwilling to admit the State under that provision, fearing that the passage of such laws would violate the provision of the Constitution of the United States guarantying the privileges and immunities of citizens of all the States to citizens of the several States, and they passed this resolution:

"Resolved, &c., That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress"—

The intention was of course to strike at the section I have read, but Congress did not name it properly and missed the clause intended to be described; but the provision was that the clause—

"shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: Provided, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act, upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."

The Senate will see that in the first place it is exceedingly doubtful whether, according to the public opinion then entertained, anything was accomplished at all by this declaration. It is true Congress said that a certain construction should not be given to a clause in the constitution of Missouri, but it is well known to the Senator from Indiana and other Senators that at that period of time it was very generally understood by American statesmen that the negro was not a citizen of the United States, and it was so held until very recently, until even the beginning of the late rebellion. I believe the rights of citizenship were not then extended to negroes. It is very questionable, indeed, whether the Legislature of Missouri, under the construction then given, would not have had authority still to exclude free negroes and mulattoes from the State, and the truth of the matter is that the State exercised the authority and laws were passed by the State, notwithstanding this "fundamental condition," to exclude free negroes from her borders. Up to the beginning of the rebellion there were laws upon the statute-book of the State of Missouri excluding free negroes, notwithstanding this fundamental condition, and it is a notorious fact that the best lawyers of the State, among them Mr. Geyer, who was in the convention and afterward in the Legislature, and subsequently a Senator in this body, always held to the doctrine that this provision was not binding upon the State; and there never was any attempt on the part of Congress to interfere with the legislation of the State prohibiting free negroes from settling in it. My own impression is that that construction was correct. I do not pretend to say what would have been the construction of Mr. Geyer if it had been held that negroes were citizens. He always held that they were not citizens of the United States. Perhaps if it had been then settled that they were citizens he might have held the contrary opinion as to the power of the State; but I do not know what, in that

case, would have been the opinion of himself or of others.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 453.

Mr. WADE. I move that that be laid aside so that we may dispose of the Nebraska and Colorado bills. I believe they will not cause any further lengthy debate. The subject has been debated so long that it seems to me nothing new can be said on it.

The PRESIDENT *pro tempore*. It is moved that the present and all prior orders be postponed for the purpose of continuing the consideration of the amendment of the House of Representatives to Senate bill No. 456.

Mr. EDMUNDS. I hope the Senate will not do that. It is quite evident that this measure with the new complication which is now attached to it—a proposition which received the disapproval of a very large majority of the Senate on a vote the other day—will not be disposed of without considerable debate; and I think, inasmuch as the regular order of business is now reached, and that is a matter of very considerable importance also, and one which I hope we shall finish to-day, this other measure will take its usual course, so that we shall be able to-morrow to consider it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The question being put, there were, on a division—ayes 15, noes 15.

Mr. RAMSEY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 17; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cragin, Fogg, Foster, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Kirkwood, Lane, Morgan, Morrill, Ramsey, Sherman, Sprague, Stewart, Sumner, Wade, Wiley, Wilson, and Yates—24.

NAYS—Messrs. Anthony, Buckalew, Cowan, Dixon, Doolittle, Edmunds, Harris, Hendricks, Howe, Johnson, Nesmith, Norton, Patterson, Poland, Riddle, Saulsbury, and Williams—17.

ABSENT—Messrs. Brown, Creswell, Davis, Fessenden, Guthrie, McDougall, Nye, Pomeroy, Ross, Trumbull, and Van Winkle—11.

So the motion of Mr. WADE was agreed to.

The PRESIDENT *pro tempore*. The Senator from Missouri is entitled to the floor on the question before the Senate.

Mr. HENDERSON. I had about concluded what I intended to say. My only object in rising was to express the hope that we might get rid of this question, and I do not know of any better way than to accept the amendment of the House of Representatives. The Senate, I presume, in the adoption of the amendment of the Senator from Vermont originally, desired to use simply a constraining influence upon the people of Nebraska and Colorado to enfranchise the colored population. There are, perhaps, from five to ten negroes in each of those Territories, and their enfranchisement will be the only effect the amendment will have, even if it be effective, to accomplish the object designed. The House of Representatives seem to think that the amendment adopted by the Senate will not be effective, and they think that if it shall be consented to by the Legislatures of these two States it will have the effect. Now I have no objection to that amendment if it shall be so thought; and my impression being that, even though it shall not be effective to accomplish the object, these States will enfranchise the blacks, I shall vote for the proposition and hope that in that way we shall dispose of this question. The dispute really amounts to but little; and as I believe a majority of the Senate are inclined to admit these States now, and inasmuch as they think they ought to be admitted aside from the question which is now pending and which is not a practical question and is not one of very great importance anyhow, in my judgment we had better admit them.

Mr. HENDRICKS. If it be practicable for the Secretary to put his hand upon the amendment which was proposed to this bill originally by the Senator from Missouri, [Mr. Brown,] I

will move to substitute that for the House amendment.

The Secretary read the proposed amendment to the House amendment; which was to strike out all after the word "that" and insert the following:

This act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, and upon the further condition that this fundamental condition shall be submitted to the voters of the Territory of Nebraska at an election to be held on the first Tuesday of — next. And at such election said voters shall declare their assent to or dissent from the condition aforesaid in such form as shall be prescribed by the Governor of said Territory. And all votes given at such election shall be returned to such Governor within — days from the day of the election, who shall forthwith canvass the same. And if a majority of such votes shall be for this condition the Governor shall certify that fact to the President of the United States, who shall by proclamation announce the fact; whereupon, without further proceedings on the part of Congress, this act shall take effect.

Mr. HENDRICKS. It is suggested to me that the words "excepting Indians not taxed" ought to be inserted.

The PRESIDENT *pro tempore*. It is in the power of the Senator to modify his own amendment, and it will be modified at his suggestion by inserting those words.

Mr. HENDRICKS. Before a vote is had on this amendment, it is due to myself to say that I am not in favor of annexing conditions to States upon their admission when those States come here properly; but now we have to select between what I esteem two evils, between this proposition and the proposition that comes from the House of Representatives. There is truth in what the Senator from Missouri [Mr. HENDERSON] has said in one respect, that is there are not many persons perhaps in Nebraska who would be enfranchised under this proposition; but practically it is a very important question when we consider that we are fixing a precedent that may be extended to other and very important matters when other States ask to be admitted. This precedent will establish that the Congress of the United States and the territorial Legislature have the power to change a constitution that the people have deliberately made.

This same question is to come up on the Colorado bill. There it was submitted expressly to the people whether they would have negro suffrage, and upon a popular vote they voted it down by a much larger majority than was given in favor of the constitution. Now, we propose to override that popular vote of the people, the people who make States, who make State constitutions; we propose to override that by submitting it to a territorial Legislature that, in my judgment, is not competent, under the Constitution and the laws, to decide a question of this sort.

I think it is important to avoid a precedent so dangerous in the future. A constitution may come up from one of our future western States with a provision not agreeable to Congress upon some other question not touching the negro at all, touching their material interests, touching their mineral interests perhaps, some great interest; and Congress may interpose to change that constitution without allowing the people the opportunity to express their wish upon it.

I wish to avoid that precedent; and although I am not in favor of a general proposition of annexing conditions of this sort to the admission of States, yet I think it is better to submit the question here proposed to the people than to submit it to the Legislature; and my amendment raises simply this point: shall we submit this proposition to the people who are sovereign upon the question of making a constitution and State government, or shall we submit it to the Legislature that has no jurisdiction over it?

If the people of the Territory of Nebraska are not in favor of this proposition, what Senator wants to force it upon them? Does not the Constitution of the United States leave to the people of each State the exclusive control

of this question of suffrage; and do we want to take away from them that which the Constitution leaves with them? But my principal purpose is to avoid a precedent which I think will become dangerous in the future, and therefore I offer this amendment. The only effect of my amendment, I desire most distinctly to say, is that this question shall be submitted to the people, instead of the territorial Legislature.

Mr. WADE. I wish to ask the Senator a question. Does he propose to vote for the bill if his amendment is attached to it?

Mr. HENDRICKS. That is a question which it was hardly necessary to ask, because the bill is not again to be voted upon. But, sir, I will act in good faith upon this question: you adopt this amendment and I will vote for the amendment.

Mr. WADE. Oh, yes, "for the amendment!" I presume so.

Mr. HENDRICKS. I ask the Senator how I can vote for or against the bill now? He asks me a question that I cannot answer, for I cannot vote for the bill or against it: the bill is not before the Senate. But I answer the question in its force and meaning by saying that if he will adopt this and let the question go to the people I will vote for it and let the people decide; and if they decide that they want negro suffrage in Nebraska, let it be so; I am content.

Mr. FESSENDEN. I do not rise for the purpose of taking any part in this debate, but simply to notify the Senate that it was my design to call up the tariff bill to-morrow; but, under the circumstances, with so many questions pending, I have concluded to defer it a little longer, and I now give notice that I shall ask the Senate to take up that bill on Monday next. It is very pressing; we have but a short time left; and we have as yet hardly done any of the absolutely necessary business of the session. No one of the appropriation bills has yet come from the House. I shall on Monday move to take up the tariff bill, and shall insist upon it so far as it is in my power to insist, asking the Senate to postpone any other business that may be in the way of it at that time.

Mr. WADE. I do not propose to go into any argument on this question. It was heretofore argued so much in this body that I believe every Senator who saw fit to participate in the debate had ample opportunity to do so and to define his position upon every point connected with it that could be thought of. And I abstain because I know that if we do not forbear somewhat from debate on these questions the business of the Senate will be very much obstructed. I ask the friends of the bill to vote down all these amendments and take the amendment of the House of Representatives, in order to get rid of the subject in some way or other as soon as we can. I will not debate it; I will not be provoked into any further discussion on the subject; and I wish the friends of the bill would stand by the House amendment if they can, and let us end the matter one way or the other with as little delay as possible.

Mr. JOHNSON. I am not about to continue the debate, but merely to state why I think the precedent in the case of Missouri has no application to the one before us. That question had not been before the Senate at any antecedent period.

It is true, as is stated by my friend from Missouri, that at that time there were differences of opinion in the country whether negroes who had been born free in any of the States of the Union, either because their ancestors were free, or because slavery had been abolished in the State where they were born, were citizens or not of the United States. Massachusetts entertained a very decided opinion that they were citizens. Some of the very best men of the country entertained the same opinion, and that opinion was entertained by I suppose a large majority of the members who constituted the Congress at the time the Missouri act was passed. If they were citizens, then clearly the

provision of the State constitution which gave to the Legislature or proposed to give to the Legislature of Missouri the right by law to exclude them from coming into the State was in violation of the clause of the Constitution of the United States to which my friend from Missouri has referred. Since then, to be sure, the Supreme Court of the United States by a majority decided that they were not citizens within the meaning of the judicial clause of the Constitution of the United States, and that they were therefore not competent to sue in the United States courts. But, as the Senate are not now to be told, there were very grave doubts whether that decision in that particular was a sound one or not. Two of the ablest men who have ever been in that tribunal held that it was not sound—the late Mr. Justice McLean and Mr. Justice Curtis. Mr. Justice Nelson expressed no opinion at all upon that point. At the time the constitution of Missouri was before Congress on the question as to the admission of that State into the Union under that constitution, that was a very litigated question; but the result has been that the public judgment has pronounced, independent of our civil rights bill or the subsequent constitutional amendment, that black men are citizens.

Acting upon that assumption, Congress claimed the right—and I think they had it if the assumption was well taken—to annex to their act admitting the State of Missouri into the Union a condition that that provision in the constitution of the State, which they believed to be repugnant to the Constitution of the United States, should be considered thereafter as a nullity. My friend [Mr. HENDERSON] tells me it would have been a nullity upon that assumption if Congress had admitted them without condition; but from abundant caution Congress thought proper to attach the condition. I think the caution was well taken. It is the duty of Congress, when they are called upon to act at all in their legislative capacity, to provide that no article in the Constitution of the United States upon which depend the rights of the citizens shall be violated at all; not to leave it as a matter of doubt to have the question hereafter decided by the Supreme Court, because so to leave it is to encourage litigation and to continue an angry state of feeling throughout the country upon a very vital question. The members of Congress at that time, I have no doubt, really thought (and as the result has since proved they were correct in thinking) that free black men were just as much citizens as free white men; and in order to guard against an interference with the rights which attached to them as citizens, Congress said to Missouri: "The provision which you have in your constitution shall not by you be used for the purpose of interfering with any of those rights."

That is not this case. In this case I suppose it can hardly be doubted that without attaching this condition the State of Nebraska and the State of Colorado, when they come to be admitted, will have the right to regulate the question of suffrage. They will have a right to say whether white men alone shall vote, what qualifications the white men who are to vote shall have, or whether the black men and not the white men shall vote; and so in relation to the qualifications of the blacks. What we are about to do, therefore, is to interfere with that right which has heretofore been considered as sacred—the right of a State to regulate the question of suffrage. I agree with my friend from Indiana, that as that is a question which belongs to the States exclusively to decide, when they are asked to give that right away, to surrender it, the question should be submitted to them.

For these reasons I think the precedent of the Missouri case has no application at all to the measures which are now before us.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment of the House of Representatives.



Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Buckalew, Dixon, Doolittle, Edmunds, Fessenden, Foster, Grimes, Harris, Hendricks, Johnson, Morgan, Nesmith, Norton, Patterson, Poland, Riddle, Sumner, and Williams—18.

NAYS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Fogg, Fowler, Frelinghuysen, Henderson, Howard, Kirkwood, Lane, Morrill, Ramsey, Sherman, Sprague, Stewart, Wade, Willey, Wilson, and Yates—21.

ABSENT—Messrs. Brown, Cowan, Creswell, Davis, Guthrie, Howe, McDougall, Nye, Pomeroy, Ross, Saulsbury, Trumbull, and Van Winkle—13.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on concurring in the amendment made by the House of Representatives, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 28, nays 14; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Fessenden, Fogg, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Kirkwood, Lane, Morgan, Morrill, Poland, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—28.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Edmunds, Foster, Harris, Hendricks, Johnson, Nesmith, Norton, Patterson, Riddle, and Saulsbury—14.

ABSENT—Messrs. Brown, Creswell, Davis, Guthrie, Howe, McDougall, Nye, Pomeroy, Ross, and Trumbull—10.

So the amendment was concurred in.

#### ADMISSION OF COLORADO.

Mr. WADE. I move now to take up the Colorado bill.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 462) to admit the State of Colorado into the Union, the House amendment being to strike out all of the third section of the bill after the enacting clause and in lieu of it to insert:

That this act shall not take effect except upon the fundamental condition that within the State of Colorado there shall be no denial of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature, elected under said State constitution, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the Governor-elect of said State within thirty days after the passage of this act to act upon the condition submitted herein.

Mr. BUCKALEW. I ask for the yeas and nays on the question of concurring in that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 12; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Fessenden, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howard, Kirkwood, Lane, Morrill, Poland, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—27.

NAYS—Messrs. Buckalew, Dixon, Doolittle, Edmunds, Foster, Hendricks, Johnson, Nesmith, Norton, Patterson, Riddle, and Saulsbury—12.

ABSENT—Messrs. Brown, Cowan, Creswell, Davis, Fogg, Guthrie, Howe, McDougall, Morgan, Nye, Pomeroy, Ross, and Trumbull—13.

So the amendment was concurred in.

#### FRENCH INTERVENTION IN MEXICO.

Mr. HOWARD. I move to take up the resolution submitted by me some time since, which was under consideration yesterday morning.

Mr. WILLIAMS. I do not intend to indicate any opinion as to the merits of the resolution, but I hope the pending business will not be put aside for the purpose of taking up that resolution. I do not see that there is any immediate necessity for its consideration, and it opens an unbounded field of debate, and there is a necessity that the question regularly before the Senate should be disposed of as soon as practicable so that it can be understood what is to be the policy of Congress in

reference to appointments to and removals from office.

Mr. HOWARD. I do not think this resolution will lead to any debate.

Mr. HENDRICKS. If the Senator from Michigan desires particularly the consideration of this resolution now, I shall not oppose it. I did design to submit some remarks on the Mexican question to the Senate and would have liked to submit them on this resolution; but of course I will not ask him to postpone calling it up if he desires its immediate consideration.

Mr. HOWARD. I am anxious that the resolution should pass; but still if any gentleman desires to address the Senate upon it I will not insist upon occupying the time of the body with it to-day. I am not apprehensive, however, that much time will be occupied in its discussion.

Mr. CONNESS. I believe the chairman of the Committee on Foreign Relations intends to address the Senate on this subject. I expect that that is the case to some extent. I hope it will not be taken up now, but that we shall go on and finish the other subject alluded to by the Senator from Oregon, for even if that be not of pressing importance it is certainly clear that we shall not get to other business until it is disposed of.

Mr. SUMNER. I desire to say that I certainly have no purpose of addressing the Senate at any length on this subject. I do not think at this moment, just at this juncture, debate on the question is expedient. I am sure there is no occasion for it; and it is not a little curious that while my excellent friend [Mr. HOWARD] yesterday in his elaborate speech was declaring his disbelief that the French troops were about to leave Mexico, or that they ever would leave Mexico, the morning paper contained a distinct announcement that troops were going *en masse*, as it was expressed, to Vera Cruz to embark for France. All official and private information is to the same effect. I had yesterday in my hands a dispatch which had been communicated to me from the State Department, from our consul at Vera Cruz, announcing the arrival in that harbor of an Austrian frigate to receive Maximilian. That I had on my desk while the Senator was speaking asking for information on the subject and declaring his entire disbelief that the French troops would ever leave Mexico in any reasonable time.

I beg to inform that Senator that while we are now speaking the French troops are getting on board their transports for France. Does not the Senator hear the sound of their embarkation and the whistle of their steam engines?

Mr. HOWARD. No.

Mr. SUMNER. Very well; let him apply his ears and he will hear it. It comes in every wind from the South, and also from Europe itself. There is no doubt about it. The French troops are at this moment, while we are making this inquiry, on their way to Europe. The whole inquiry therefore is entirely unnecessary. But as I said yesterday I have no objection to the passage of the resolution and calling the attention of the committee to the subject, provided the resolution is in the received language of this body; that is, that the subject is committed to the discretion of the committee, charging them with the inquiry if in their judgment it shall be expedient. I proposed an amendment to the resolution like that yesterday. With that amendment I shall have no objection to the passage of the resolution. I have made these remarks as one reason why we should not proceed with it now.

Mr. WILLIAMS. I call for the regular order.

The PRESIDENT *pro tempore*. The motion is that the present and all prior orders be postponed; that motion is in order.

Mr. HOWARD. I hope the resolution will be taken up and passed by the Senate. It is one of importance because the information which it requires at the hands of the Committee on Foreign Relations is itself very impor-

tant to the country. I do not propose to go into the merits of the resolution, as the Senator from Massachusetts seems to have done. I said upon that subject almost all that I desired to say yesterday. I must at the same time, however, repeat that I regard these rumors to which he has given currency here in the Senate as of no more value than the thousand and one rumors with which the country has been amused during the last sixteen or eighteen months in regard to the withdrawal of the French troops from Mexico. I yesterday showed from the convention between the French Emperor and Maximilian the improbability of any such withdrawal. But that is not all that is covered by the resolution; it embraces a great number of other matters equally important to the country; and I hope the Senate will pass the resolution as it is presented and not adopt the amendment suggested by the Senator from Massachusetts giving to the Committee on Foreign Relations entire discretion whether to report upon these grave subjects or not. That discretion the committee have always possessed, and they might have exercised that discretion at any time heretofore. It is not for the chairman of the Committee on Foreign Relations or any other chairman of a committee here to claim the right of deciding what is expedient for the Senate to do in regard to these inquiries; it is for the Senate to decide whether or not it is expedient to call for the information, and not for the Committee on Foreign Relations, however wise and learned and industrious it may be.

The motion to take up the resolution was not agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 356) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were signed by the President *pro tempore*:

A bill (S. No. 456) for the admission of the State of Nebraska into the Union; and

A bill (S. No. 462) to admit the State of Colorado into the Union.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 356) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia was read twice by its title, and referred to the Committee on the Judiciary.

#### TENURE OF OFFICE.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of the bill regulating the tenure of offices.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 453) to regulate the tenure of offices, the pending question being on the motion of Mr. SUMNER to amend the amendment agreed to as in Committee of the Whole by adding to it the following additional section:

And be it further enacted, That all officers or agents, except clerks of Departments, now appointed by the President or by the head of any Department, whose salary or compensation, derived from fees or otherwise, exceeds \$1,000 annually, shall be nominated by the President and appointed by and with the advice and consent of the Senate; and the term of all such officers or agents who have been appointed since the 1st day of July, 1866, either by the President or by the head of a Department, without the advice and consent of the Senate, shall expire on the last day of February, 1867.

Mr. HOWE. I have been very much in favor of the pending bill and am still; and yet I shall feel profoundly sorry to see the Senate reject the pending amendment; and in spite of all I have heard I cannot imagine for my life what answer the Senate can give if it shall pass the bill and reject this amendment. The Senator from Vermont [Mr. EDMUNDS] says he does not want to incur the bill; he

does not want to embarrass the bill. What does he want to pass the bill for unless he means to accomplish something by it? And if he means to accomplish anything by the passage of the bill I think he will have to put the amendment into the bill or he will not achieve anything much by the bill. Now, what is it that he aims to accomplish by the passage of the bill? What is the evil we are trying to redress?

The Senator from Maine [Mr. FESSENDEN] said last night that he was in favor of the passage of this bill, because he had given notice at the last session that if the President persisted in reappointing to office persons who had been nominated to the Senate and rejected, then he would be in favor of some law to restrict this power of the President. And so the Senator from Maine seemed to be under the impression that by the passage of this bill we were aiming simply to prevent the President from reappointing to office men who had been nominated by him and had been rejected by the Senate.

If that be the main purpose of this bill, I have misapprehended it; and if that be the main purpose at which this bill aims, it is a very awkward attempt to achieve it. If my purpose were to prevent the President from appointing to office men who had been rejected by the Senate, I think I could find a more direct and a more certain way to accomplish that end than this bill. I think it would be sufficient for that purpose to say that if he did appoint to office one who had been rejected by the Senate it should be a crime, and that he should be punished for it in some mild way.

Mr. COWAN. By impeachment?

Mr. HOWE. By impeachment or by imprisonment during his natural life, and then to be hung until he was dead, [laughter,] or by fine, or by all. I think some such measure as that would be sufficient to put an end to that particular evil. But I do not understand that to be the purpose of this bill. I understand it to be the purpose of this bill to put the control of the offices of the country under the laws of the country. I understand it to be the purpose of this bill to say, first, that the President shall no longer exercise the power which has been heretofore exercised under the authority of a statute of the United States to dismiss men from office whenever he pleased, and men who had been appointed by the President with the advice and consent of the Senate. It is the purpose of the bill to deprive the President of the right to do these things. Now, is it right to do that?

On the other side we are told that it is essential that we should leave this power in the hands of the President; that the public business must suffer if you do not give him this control over these offices. I do not share at all in the apprehensions of those who reason that the public will be less faithfully served the moment we make a public officer understand that he is independent of the pleasure, the power, or the will of the Executive. On the contrary I am among those who believe that the country will only then begin to be faithfully served when public officers are made to feel that the tenure of their office is in the main limited to and dependent upon the continuance of this faithful service.

I do not propose to argue that question; but on this side of the House it seems to be very generally conceded that we ought to make these offices independent of the Executive pleasure. Well, what offices? If one, why not all? I said the other day that I thought the heads of Departments ought to be independent of the power of the President. No, Senators said all around me, not those; those are too important; those are confidential advisers of the President; those are the heads of the Executive Departments of the Government; you ought to leave in the hands of the President the control over those offices. Now, the honorable Senator from Massachusetts proposes to wrest from this absolute control of the President, this irresponsible authority of the President, some of the minor offices of the country; and we are told

now they are too low, they are too humble, they are too insignificant; so that the head and the tail of this official corps we are to leave in the hands of the President. The Senator from Vermont seems to be distressed for fear the body of the corps will be in some way injured while we are trying to rescue the two extremities, or one or other of the extremities.

Mr. President, what is the objection urged against this amendment? It proposes to say in effect that all officers now appointed, either by the President without the advice and consent of the Senate, or by the head of a Department, who has a salary or a compensation of \$1,000 per annum shall hereafter be appointed only by the President by and with the advice and consent of the Senate; and when we have said that the terms of those offices will be put under the same protection and the same security that you now propose to put other officers who are appointed by and with the advice and consent of the Senate. What is the objection to this? The Senator from New Hampshire [Mr. CRAGIN] says; and the Senator from Maine [Mr. FESSENDEN] echoes the Senator, that there are myriads of them, and it would introduce all sorts of confusion, and the business of legislation be stopped; that we should be overloaded. In the first place, Mr. President, instead of there being myriads, I believe the number to be very few. We are told that there is a countless host of inspectors in your custom-houses, of weighers and gaugers, of inspectors of spirits under your internal revenue laws, of assistant assessors, that would fall under this provision. There are a great many inspectors I believe in the New York custom-house—perhaps two or three hundred—the precise number I do not know. I believe in point of law they are not required to be appointed by the Secretary of the Treasury. I do not know of any such law.

Mr. EDMUNDS. They are appointed by the Secretary of the Treasury, according to law, on the nomination of the collector of the port.

Mr. HOWE. I am told by my friend from Vermont, and he is very likely to be correct, that they are by law to be appointed by the Secretary of the Treasury upon the nomination of the collector. Well, then, practically they are appointed by the collector. There is no sort of sense in requiring this approval by the Secretary of the Treasury. It amounts to nothing; it is a mere form; but there are only two or three hundred of them any way in the city of New York, and that is probably three or four or five times the number there are in all the rest of the country. I do not think the Senate would be swamped if it had to confirm that number of inspectors. The number of weighers and of gaugers is much fewer. It is said there are a great many inspectors of whisky. There is but just one inspector to a distillery. There are but about thirty million people in the United States. I do not suppose they average more than one distillery to a man of them; you cannot have more than about thirty million of these inspectors. [Laughter.]

So it is undoubtedly true, as the Senator from Massachusetts said yesterday, that they can be counted, and I should not be at all surprised if upon the actual count it fell somewhat short of a distillery to a man. The number of distilleries in point of fact is limited, and I trust I shall live to see the day when you will not think it wise or sensible to put a confederate of a distiller to watch a distillery. I trust I shall live to see the day when that corps of officers will be dismissed from the public service. If I do not live to see that day, I trust I shall live to see another day when some one or two men or three are appointed to watch the inspector. One or the other of those measures, I am satisfied, is going to be absolutely essential.

But, Mr. President, there is no reason why an inspector, there is no reason why an assistant assessor should be appointed by the Secretary of the Treasury. Until within a year the Secretary of the Treasury did not appoint assistant assessors. A special act was passed

I believe during the last session of Congress, and very early in the session, giving the appointment of assistant assessors to the Secretary of the Treasury. Up to that time they had been selected in fact and in law by the assessors themselves. I thought at the time, and I think now, with all deference to the action of Congress on that subject, they should still be selected by the assessors. I think practically they are selected by the assessors. There is no purpose in the world, unless I am grievously mistaken, in giving the Secretary of the Treasury anything to do with the ratification of those selections but the mere purpose of making them political machines, making them responsible to some man in the Government who is directly responsible to the President of the United States. That is the only purpose it subserves. The assessor really selects them, nominates them, dictates them to the Secretary of the Treasury.

I hope to see the selection of those officers once more restored to the assessors, as it was before. When that is done you will have but a few hundred officers provided for by this amendment. When that is done there will be but one officer in the State of Wisconsin that would come within the provisions of this amendment offered by the Senator from Massachusetts. There will be but a very few in the United States unless I am mistaken. But if I am mistaken, and if the Senator from Maine and the Senator from New Hampshire are right in saying there are millions, I reply that the more there are of them the more the necessity for this provision. It is the very purpose, the life, the whole spirit of the bill to take this power and this patronage away from the Executive and put it nearer to the people themselves and to those who represent the people; and the more there is of this patronage the greater the necessity for taking it away from the President. And, sir, is it worth while to tell us that we cannot pass upon these nominations, be they more or less, in view of the large, the almost countless thousands—I guess I am exaggerating now in intimating that the thousands are countless—but the very many thousands of military officers that we have been passing upon every year during this late struggle? I think we are not to be deterred, having gone through with that labor, from attempting to pass upon even all the whisky inspectors and all the assistant assessors that may ever come to us.

But, Mr. President, if it were our business here in legislation to protect ourselves from labor, if that is the object and the purpose to animate us, we can save ourselves from a great deal more: just leave the work of making laws in the hands of the President, let him continue to make the laws as well as to appoint all the officers, and we should have a very easy time of it. Then we could devote ourselves exclusively to the work of drawing our salaries and spending them. I do not learn that the President is overburdened; I dare say he could attend to the work of making laws as well as appointing the officers; but I do not think we were sent here for the purpose of shirking those labors or any labors that properly attach to us. Nay, I think it is our business to seek labor and to perform it, whatever labor the service and the welfare of the country requires at our hands.

But the Senator from Maine urged yesterday that the President could not know all about these officers, he could not understand their character. Well, sir, I suppose he does not know much about most of them; I charitably hope he knows a very little. If he understood as much about them as I do, I think he would want somebody to help him different from what he has had to help him for a year or two past in the selection. But I must inquire very earnestly what there is in the constitution of the Secretary of the Treasury or the head of any Department which enables him to know more about these officers than the President does. The head of a Department is but a single man. The President is that.

Mr. CRAGIN. Allow me to make a suggestion to the Senator.

Mr. HOWE. Certainly.

Mr. CRAGIN. The Senator has just been arguing that these appointments practically are made by the collectors and assessors. I ask him if they do not know these men?

Mr. HOWE. Well, yes, I guess they do, Mr. President; but I do not think they know them any more when the Secretary of the Treasury or the Secretary of the Navy appoints them than they would if the appointment was given to the President; no more in the one case than in the other. Undoubtedly they know something about them. I am inclined to think they know a little too much about them. The trouble is that those who represent the people of these States, and who by the Constitution are charged with the work of supervising the selection of these servitors, are not consulted, have no voice in the matter, have no control over it, because we have relinquished it, given it up. We who stand nearer than either the President or the head of any Department to the people shirk this duty and throw it upon somebody else.

Mr. President, I did not mean to belabor the Senate a great while upon this matter, and yet I am extremely anxious to see the amendment adopted or anxious to hear some reason assigned why the amendment should not be adopted. As I intimated at the outset, if it is a proper thing to be done at any time, why not do it on this bill as well as on another? This bill is working toward the same end. The Senator from Vermont certainly does not mean to urge that he has a copyright to this bill and that any amendment would be an infringement of his right in it. No one seems to assert anything of that kind. Why not put it in here? This paper on which he has drawn the bill is not too good to carry this proposition if it is a good proposition. If it is not a good proposition, tell us why it is not. But when you tell us that it is not wise, not judicious to take from the President the power over these other officers whose salaries are over a thousand dollars, I think you will have instructed me that it is not best for you to interfere at all; put your hands in your pockets where they have been for the last year; let the President go on; and if I was not in the Senate I should say run the machine, but I believe the expression would not be becoming in this place. I think it is best, at all events, for us to do our duty and our whole duty, or let it alone entirely and let somebody else do it.

Mr. EDMUNDS. Mr. President, I think it is best for us to do our whole duty, or else to let it alone, and I do not think it best to let it alone; but I think one of our duties is, when we are passing measures, not to let the enthusiasm or the fanaticism of a little feeling of resentment and revenge, just resentment if you please, and just revenge as far as revenge can be just at all, run away with our common sense. The Constitution provided, and provided with a foreseeing eye to the future, that the appointment of inferior officers might be submitted by law to certain tribunals, not the Senate; and the obvious reason for that—it need not be enlarged upon—is the necessary convenience of the merely mechanical administrative operations of the Government. The larger the country grows and the more diversified become the necessary administrative functions that it is obliged to carry on, the more necessary it is, from mere reasons of convenience and good policy in the administration of the Government, that those minor offices should not be a burden and a curse to us as the advisers of the President in the selection of the general agents of the Government to carry on its operations through their subordinates, but that these subordinates ought to be selected in some other way. And the committee, of which the Senator has spoken, have reported to the other House a bill which provides how these subordinates shall be selected and how they shall be continued in office. That bill, however, seemed fit to us in quite a different way

from this one; and it relates entirely to the inferior offices, merely mechanical, so to speak, most of them, which only require a certain degree of intelligence, and which, when that intelligence is sufficient and the party is appointed, ought to entitle him to make a life business of it if you please, and to continue to serve the country in that capacity as he would in any other calling until there shall be some fit and sufficient reason for changing him; and we propose to allow him to have promotion in the regular and proper and fair way, and all that.

We have submitted our views, as I have said, in a bill on that subject. They may be right or they may be wrong. In reporting this bill, however, we have not undertaken in any manner to decide the question what officers ought to be appointed by the concurrence of the Senate, and what not. This bill has nothing whatever to do with that question. It merely undertakes to readjust, according to what we conceive to be the true construction of the Constitution, the respective functions of two great departments of the Government. That is what we propose to do; and it is entirely immaterial to the consideration of that question whether A B or C D ought to be appointed by the concurrence of the Senate, or whether he ought to be appointed by the head of a Department. This bill goes upon the supposition that, given that the appointment of certain officers is by law to be by the concurrence of the Senate, the question then is how are they to hold their office and how are they to be removed. That is the point which this bill makes, and that is all.

I say, therefore, that the proposition which is now introduced, and introduced obviously without a particle of knowledge on the part of my friend from Wisconsin, as to the extensiveness of its operation, taking his own words and the Blue Book together for the proof of what I say, has no relation at all to the subject under consideration; and in my judgment it is improper in itself for the reasons which I gave yesterday, and which were given more at large by my friend, the Senator from Maine.

I am not going to spend a great deal of time on this topic; but I will call attention to the state of things in the Post Office Department alone. I find in running over the Blue Book that the list of clerks in the post offices all over this country whose salaries and emoluments amount to more than one thousand dollars a year is over three hundred and thirty, and my friend can count them up as I have—nearly three hundred and fifty.

Mr. HOWE. Do they come under the amendment?

Mr. EDMUNDS. Certainly they do, because they are not departmental clerks, and they are in the service of the Government.

Mr. SUMNER. They are not appointed by the head of a Department.

Mr. EDMUNDS. The exception in the amendment is simply of clerks in the Departments.

Mr. SUMNER. They are not appointed by the head of a Department, but appointed by the various postmasters.

Mr. FESSENDEN. Oh, no; the nominations are sent by the postmasters to the Postmaster General.

Mr. EDMUNDS. They are appointed in exactly the same way that the clerks all over the country administering the functions of every one of the other Departments are appointed; that is, the head of the Department here has a controlling voice as to who those clerks shall be. Then, take the custom-houses, if you please; there are hundreds of night-watchmen, whose only necessary quality is that of simple fidelity as a sentinel, whose compensation is more than one thousand dollars a year.

Mr. SUMNER. Are they appointed by the head of a Department?

Mr. EDMUNDS. They are appointed by the Secretary of the Treasury.

Mr. SUMNER. The night watchmen?

Mr. EDMUNDS. A night watchman and every other employé, except a day laborer, in the custom-house is appointed in that way, provided he is appointed in the way the law requires that he should be. I want to repeat again, for the information of my friends who are plunging this amendment into this bill, that every one of the appointees in the custom-house department of the United States, excepting day laborers—and they have to be authorized by the Secretary of the Treasury in advance—is appointed by the Secretary of the Treasury upon the nomination of the chief officer of the customs at the particular port, wherever it may be. That is what the law says. I do not say that persons are not sometimes appointed in some other way; but we must take it in general that they are appointed in that way. Their name is not legion, to be sure; but they are a very numerous and a very necessary body of public servants.

The great branch of the Government called the Senate would engage in a most dignified and useful occupation, indeed, if it spent its time in endeavoring to settle between the collector of customs at Burlington, Vermont, or at Madison, Wisconsin, if there is a port of entry there, and the Secretary of the Treasury as to who was the best man for a sentinel over a ship that had just come in. The business of the Department would get on famously in that way.

No, Mr. President, it will not bear the test of investigation, and it is put forward, I venture to say with all respect to my friends, as a measure of feeling instead of as a measure of judgment which is founded upon any investigation into the grounds upon which it is to be carried out, or the circumstances which enter into the extent and scope of the amendment itself.

I do not claim, as my friend from Wisconsin very properly states, any patent for this bill which has been reported, or any copyright in it. It is not my bill; it is the bill of my honorable friend from Oregon, [Mr. WILLIAMS,] somewhat amended, and he does not claim any copyright. But we claim, as Senators having charge of a measure, and being in some degree responsible for the propriety of its details, that gentlemen who have not investigated another branch of the subject which is under consideration elsewhere should not, without a fair statement of reasons in opposition to it, cover it by an amendment which, in the first place, has nothing whatever to do with the bill, and which, in the next place, cannot be under the kind of investigation we are making of it, properly understood, and to which, if it were properly understood, in my judgment, three fourths of the Senate would be opposed.

Mr. HOWE. I rise more to repudiate an imputation thrown out by the Senator from Vermont in the outset of his remarks than for any other purpose. I must protest now and always against the imputation that what I say on this bill or any other is dictated or animated at all by my personal or my political resentments. I have had occasion to disclaim that once or twice before. I know, sir, that I am engaged here in debating a proposed amendment to the law of the land; and I want that law when it is agreed upon, if I like it—I shall like it a little if you pass it as it is; I shall like it better if you put this amendment upon it—I want it to remain on the statute-book, not merely to the end of President Johnson's Administration, but to the end of the Administration that shall succeed his, and all succeeding Administrations. I am legislating for no particular Administration. And I want to say further right here that if I am animated by any resentment at all, which I do not think is the case, it is directed as little toward the President as it is toward myself and those who surround me here. He has done things in the exercise of this prerogative which I think ought not to have been done; but the things he has done we left here at the end of the last session knowing that the authority was in his hands to do; and he had, not our explicit consent to do the particular things, but he had knowledge



that we adjourned the law-making power of the Government without taking from him the power to do these things, and we are as much responsible as he is for what he has done. So, then, I am not one who is trying to gratify any resentment I have against the President of the United States.

Mr. President, the Senator from Vermont says it is not the purpose of this bill to say who shall or who shall not be appointed by and with the advice and consent of the Senate; it is the purpose of this particular bill to say how those officers who happen to be appointed by and with the advice and consent of the Senate shall be treated after they are appointed, or how they shall be disposed of. Now, if it be the purpose of this bill merely to assert a constitutional principle and not to give it any practical effect whatever, the Senator from Vermont is entirely right; but I do not suppose he would really call upon the Congress of the United States to discuss and deliberate upon a measure which was not intended to have a practical effect. So that when he is trying to assert the right of the Senate to be consulted in the removal of a man who has been appointed with its consent, I suppose he means to throw protection over some actual existing officer; and he would not try to do that if he did not know that there were some officers thus appointed who were liable thus to be removed. Then that is the practical effect that his bill is to have. If that is a beneficial effect, its beneficence will be precisely in proportion to the number of officers who are included within its protection; and if you adopt this amendment the number of officers under its protection will be greater than it is now. They say it will be too great because it will include too many officers. Is that so?

But, Mr. President, the Senator from Vermont undertook to be facetious over the idea—

Mr. EDMUNDS. Oh, no.

Mr. HOWE. Yes, sir, unless I mistook him, he really undertook to be facetious over the idea that the Senate might be caught hereafter in secret session deliberating upon the fitness of a night watchman in some of the custom-houses of the United States. That might be a ludicrous spectacle; but then I wish to console my friend with the reflection that it will be in secret session and nobody will see us but ourselves, and we can stand that. But the point I wished to make was, that whatever officer, be he employed in New York, Burlington, Madison, or elsewhere, is held to be of sufficient importance to the service to pass in review before any tribunal here in the capital of the nation, whether it be the President or the head of a Department, is, in my judgment, of sufficient importance to have the indorsement of the Senate. Let your collectors select all the unimportant officers and be responsible for them; but when you want to dignify an officer so far as to send his name to Washington to pass in review before the Secretary of the Treasury, I object to his being reviewed by him at all. Let him come here.

Mr. EDMUNDS. Will my friend allow me to ask him how can we, by the Constitution, vest the appointment of these inferior officers in the collectors of customs? The Constitution only gives us authority to vest the appointment of inferior officers in the President, the heads of Departments, or the courts of law. That is the limit of our authority. We cannot therefore authorize a collector of customs, or a local postmaster, or anybody else to appoint an officer who is to execute the laws of the United States.

Mr. HOWE. And yet, Mr. President, practically they do do that; and I heard it asserted by the Senator from Maryland, [Mr. JOHNSON] the other day that we could locate the appointment of these officers just where we pleased.

Mr. EDMUNDS. You do not think so.

Mr. HOWE. No, I cannot say that I do think we can locate them where we please; but if the law is defective in that respect we can prevent that effect of it by an amendment to it,

if that be your purpose. What we are aiming at is to bring the body of those officers who are made political machines of now before the Senate for their indorsement. That is the purpose at which we are aiming; and I am not to be deterred by being told that the number is very great. If it is very great, as I believe it is not, I say, as I said before, that the necessity for the law is so much greater.

Mr. GRIMES. Mr. President, I have abandoned nearly all the political theories of the party into which I was born; but there is some lingering of that sentiment yet remaining in my breast which was the war cry of that party when I first became a voter, and that was, the curtailment of executive patronage and power. I am in favor of this proposition in accordance with that sentiment which I have always entertained, and entertain as strongly to-day as at any past period of my life; but not because of any feeling that I may have against, or any hostility toward, the President of the United States. Personally he has treated me well enough, and I have no complaint to make about it. But here is an opportunity for me to record my vote upon a question which has a tendency in that particular direction, and I propose to record it in favor of the amendment proposed by the Senator from Massachusetts. He proposes that every officer of the United States who receives a salary from the Government exceeding the sum of \$1,000 shall be sent to the Senate for confirmation. We now have that law applying to the different postmasters throughout the United States. Why should it not apply to other officers? The answer made to us is that they are too numerous, that we cannot attend to it, and that as the country expands and the population increases the necessity of investing this power exclusively in the President of the United States will be increased. That argument, as has been well said by the Senator from Wisconsin, instead of being in favor of the abandonment of this power on the part of the Senate to pass upon these confirmations, is, in my conviction, a reason why we should insist upon exercising it. I do not care if the nominations sent to us will fill a volume as large as a family Bible; I do not care if you do not pass upon the nominations critically or individually at all; the very fact that you have the right to do it will exercise a restraining influence on the appointing power.

It is said that this will bring before us for confirmation appraisers and deputy collectors. Why should they not be brought before us? Why, sir, the office of appraiser in some of your cities is of vastly more importance than three fourths of the officers we are called upon to pass on. It is important that those appraisers should be men of integrity and character and worth; and who should know that better than the Representatives and Senators from the particular locality whence they are appointed?

It is said, too, that we shall have the assistant assessors and the deputy collectors and the inspectors sent here in this way. Very well; I want them sent here in this way. Do you suppose that if the power of confirmation or rejection had been lodged in the Senate in regard to these inspectors a man would have been appointed from my State as an inspector who only last year was guilty of smuggling cigars, and who condoned his offense by the payment of several thousand dollars? I want the opportunity to put my seal of condemnation upon such men as that; and if there be only one man rejected in a whole State or in the whole United States for having violated your laws, that will have a moral influence and a political influence upon the President and upon others who make appointments.

I know that if this measure passes it will throw great burdens upon your committees. That is no reason why we should not pass the law. Make new committees; organize your committees in a different manner; send some of these nominations that are now all thrust upon a single committee to other committees,

and thus you will be able to transact the business.

But the great point with me, and the great advantage in establishing this rule and passing this law is the effect that it will have upon the appointing power in the future and upon the appointees, when they know that they have got to pass the ordeal of the Senate. As I said before, confirm them in gross if you please; but leave to every Senator who knows anything about bad men being appointed an opportunity to select from that list those whom he knows to be unworthy of filling the places to which they have been appointed.

Mr. FESSENDEN. I should like to ask a question of the honorable Senator from Iowa and also of the honorable Senator from Wisconsin. Why do they confine this provision to those officers who receive more than one thousand dollars? Why not extend it to every one who receives as much as \$100?

Mr. GRIMES. Does the Senator desire an answer?

Mr. FESSENDEN. Certainly.

Mr. GRIMES. I did not draw the amendment proposed by the Senator from Massachusetts; but if I had the power to do it I would not limit it to those receiving \$1,000. I insist that the appointing power is lodged in the President, with the advice and consent of the Senate, of every officer, and that we abandon our duty when we confer it entirely upon him.

Mr. FESSENDEN. The Senator is mistaken in supposing that the Constitution says any such thing. The Constitution takes it for granted that this power will not all be lodged in the President. The Constitution says that the President shall appoint all officers except those the appointment of whom may be vested in the heads of Departments or the courts of law; and I would ask the honorable Senator from Massachusetts why he does not include the appointees of the Supreme Court; why he confines it to the Departments? I should like an answer if he chooses to give one.

Mr. SUMNER. I did take that case into consideration, and I was governed by the thought that the appointments by the courts, whether the Supreme Court or the circuit courts, were a class by themselves, and I thought that that might be treated of in a separate bill if there should be occasion for it. I was not sure that there was occasion for it, because I was early taught that a court ought to have the appointment of its own officers; and there seemed to be some reasons peculiar to a court why they should have that power. I have not yet abandoned that original teaching with regard to courts, and therefore on this occasion I did not propose to interfere with that; and yet I can see that there may be strong arguments why this provision should extend even to the clerks of courts.

Mr. FESSENDEN. Well, Mr. President, it seems it comes to the same thing. The framers of the Constitution were so unwise and so feeble that they forgot to provide that the President should appoint every officer, and the Senator from Iowa, by way of curtailing his power, gravely argues that the way to do it is to make him appoint every officer. That is the way to curtail his power. And that is the argument of the honorable Senator from Wisconsin. The President has not the appointment now of the ten thousand minor officers in the country; give it to him in order to curtail the power that he exercises; frighten him with it.

Mr. GRIMES. He has it indirectly through others.

Mr. FESSENDEN. I do not know that he has. If he has it indirectly, he has not got it directly. It is to be put directly in his hands now by this amendment; the President is the man to make these appointments. I wish, says the honorable Senator, to curtail his power; give him, therefore, in order to curtail it, the appointment of from ten to twenty thousand more, and then cut it off. That is a queer way of curtailment. If he has it now indirectly through others, if he chooses to exercise it, or

can find time to exercise it, he has not got it directly coming home to himself when every man must make or may make a particular and specific approach to the President for an appointment. I confess that I do not see the efficacy of the remedy.

As to the Supreme Court, I am surprised that my honorable friend from Massachusetts has stuck to any of his original ideas, for since the dissatisfaction that has been expressed in the country at a recent decision or two of the Supreme Court I supposed of course that he would say it would be better to cut them from the appointment of their own clerks and their own minor officers and their own doorkeepers, and all that.

Now, sir, my objection to this legislation, in the first place, is that it is running everything into the ground. But the amendment proposed by the honorable Senator from Massachusetts has this further difficulty about it, in my judgment. The last clause provides that all officers who have been appointed since July 1, 1866, shall go out of office. Now, why is that? There is no feeling with regard to the exercise of the President's power, not the slightest. There is no feeling on the part of the honorable Senator from Wisconsin with regard to the exercise of the President's power, not a particle. All is calm as a summer's morning. His heart is perfectly free from guile. He is legislating for the great interests of the country for all future time; and so is my honorable friend from Massachusetts. But there is a little clause there that everybody that has been appointed since July 1, 1866, shall go out of office in order that we may have new appointments made, and that they may be sent to the Senate. Although I do not say that this would be improper, it does strike me that it looks a little as if there was something in this amendment beyond merely legislating for future time and setting all things right. I may be mistaken about it, but it has that look at any rate, as if there was some object to be accomplished, some particular thing to be done that has reference not so much to the future as to the past. Sir, in legislating for the country for the future and upon great principles there is danger sometimes that we may let the present animosities and present feeling enter somewhat into our consideration. I will say frankly that while I wish to defend my friends in office and will do everything that an honorable man and a Senator can do to keep them in office, so far as they are worthy, I do not think that the great object for which the Constitution was framed was to parcel out offices to our friends and keep them there; and in my judgment any legislation which looks as if we were directing our attention to that particular thing with reference to individuals in office at the present time, or who may be in the future, appears as if we were thinking not so much of the country as of particular purposes of our own.

Now, sir, I do not approve, I utterly and entirely disapprove, without reservation, of the action of the President in removing so many men from office from among those who helped to elect him, simply because they did not choose to support his policy as against Congress in a matter which belonged to Congress and not to him. I say it here openly, so that my position may not be misunderstood. I do not approve, and I disapprove the whole thing. It meets my condemnation. That the President has had occasion to remove some men from office and appoint others for good reasons I have no doubt. That in many cases when a term of office expires it may be proper (and this President has as much right to do it as any other) to appoint somebody else in the place of the previous incumbent is well enough. All that may be. It is an exercise of power that belongs to him. Nobody has a right to an office to keep it forever. But the avowal of the principle by the President or the head of a Department (and it has been done I think somewhat rashly, to say the least of it,) that men were to be removed from office and others appointed because they supported the Presi-

dent with regard to a policy upon a question which did not belong to him but belonged to the Congress of the United States, is, in my judgment, utterly unjustifiable.

But, sir, while I say this, I do not think it necessary on account of this temporary emergency, this particular position in which we happen to be placed at the present time, to direct our legislation and spend our time so much with reference to curtailing executive power in the direction in which it always has been exercised. That we have this difficulty with the President is unfortunate. We must take the consequences of it to a certain extent. We shall not better it by legislation such as is proposed in the last clause of the Senator's amendment, that everybody whom the President has happened to appoint since last July shall be turned out of office in order to have a new appointment made to be sent to the Senate. Why not go back to a period anterior to that and apply it to all who have been appointed since the present Executive assumed power or became the President of the United States? I think it is unwise; I think it has not a good effect upon the country; I think it has not a good effect upon public opinion; I do not believe it tends to elevate us if we spend so much time upon a matter which is comparatively so unimportant.

I say, as I said before, so far as this subject of appointments to office is concerned, I should be perfectly willing to leave it where it was and take the consequences, had not the President interfered, as he did interfere, under the advice perhaps—I should say the bad advice—as I am told (I have never seen the opinion) of the Attorney General as to what he might do with regard to men rejected by the Senate. There comes a point where we are obliged to stand upon our rights and upon our constitutional duty. But what do gentlemen propose? In addition to that which I admit to be necessary, and which I am disposed to stand by, as I avowed in advance I would be if the contingency occurred, what do gentlemen propose? They propose to take up the Blue Book and go through it, and say that the appointment of every officer they find there, and if there are any outside of that whose names are not in the Blue Book all others whose salaries amount to \$1,000 shall go, for the sake of curtailing the President's power, directly into the hands of the President himself, and out of the hands of the Secretaries who now make them. I asked one Senator the question—the other was not in the Chamber at the moment—to answer me, why stop at \$1,000? There is no limit on the principle upon which this is advocated, a principle not recognized by the Constitution, because the Constitution expressly provides for these inferior officers in another way. Senators must go further. They must go down to the very bottom. Why not? Every man who is in office has his degree of influence. Why should we not scrutinize him? Every tide-waiter can exercise political influence. It is put upon that ground. We now, says the Senator, confirm all postmasters whose salary exceeds \$1,000 a year. What is the reason of the limitation? Not that they exercised political power, but that they were important officers, for the reason that they received that amount of salary. Why did it not go lower? On account of the inconvenience of the thing. Let me tell you your important postmasters in important places do not exercise one twentieth part of the political influence as a general rule that your petty postmasters in country villages do, and are not so important men, comparatively, compared with the population that there is about them. They are a different class of men altogether as a general rule. Why not go to the bottom, then, and take the whole upon the same ground? The answer would be evident. You cannot do it; the thing is too inconvenient; it is too burdensome. All the petty postmasters cannot be appointed by the President. The Senator from Massachusetts says they may be counted. The hairs upon his head may be

counted; but I reckon it would take him some considerable time to do it; it would be something of a job, because his head happens to be well covered.

Well, sir, the same argument precisely applies to these other offices. I was looking over the Blue Book, and the list of offices in the customs and other branches of the Treasury Department alone occupies seventy pages of the Blue Book, and perhaps one out of fifty of them, certainly not more than one out of twenty, is a man who is now nominated to the Senate and confirmed; the rest are not. Senators say this is a great power. Unquestionably it is; but power must be exercised by somebody; confidence must be placed in somebody. The heads of Departments are selected by the Constitution as the proper persons with whom to deposit this power of appointment. Why? Not simply because the men themselves may be understood to know, but because it is necessary that they should have the control of their own Departments, and because they are supposed from their communication with those under them and their agents to know more of the proper men to be placed in such offices than the President can know, and better able to exercise that power. That is the logic of the thing.

The appointment of men to minor offices has gone on precisely in that way from the very necessity of the case ever since the foundation of the Government. What evil has followed? None that has been complained of. Nobody has complained to this day that by depriving the President of the direct power of appointment of so many men his power has been increased, and that the way to diminish it is to say to him, "You shall appoint all of them." Well, you might diminish it by that means, but it would be in this way: you would impose upon him a duty that he could not possibly perform; he would not be able to decide upon the hundredth part of the cases that came before him, and certainly he would not be able to do anything else if he considered them at all. Therefore, sir, I object to this proposition again because I consider it utterly unwise. I see no occasion, from the temporary evils under which we are laboring to change a system which has been so long established, to utterly ignore all the experience of the past, and to take from the places where the founders of the Government deposited it a power of this description, and where it has continued through so many Administrations and been exercised without complaint from anybody, simply for the purpose of taking it here in order that finally we may have a negative, if we choose to exercise it, upon these petty appointments, which are well enough made as they are now.

There is another thing. Adopt this amendment here, and what is the consequence? The provisions of the bill of the honorable Senator from Vermont apply to it, and not one man in all the custom-house offices in this country; not one man of all the men connected with the internal revenue; not one man in any department, whatever and wherever he may be, in the transaction of ordinary business, can be removed during the recess of Congress. If an inspector is unfit for his place you cannot remove him. If a weigher or gauger is unfit you cannot remove him. If an assistant assessor is unfit you cannot remove him. He may be suspended by the President, and at the next session of Congress we are to have the reasons given and the name sent in to us for the removal of a tide-waiter or something of that sort. Why, sir, you could not, without increasing the force of your Printing Office, print the number of cases that would happen under such a regulation as that. These officers are continually being changed. Some die; some are found dishonest; some are found unfit for their duty. One reason or another may render it necessary to turn them out and put somebody else in their places. It is every day's experience in the Treasury Department. A day does not pass there, from the beginning to the end of the year hardly, in which the Secretary of the

Treasury does not have occasion to appoint some new officer and to remove some old one. Is all that to be suspended and hung up during the recess of Congress and until Congress comes together again, and then are we to have the reasons for it given to us? Sir, in my judgment the whole idea is an absurdity. I beg pardon of gentlemen for so characterizing it, but it looks to me like an absurdity and nothing else to try to ingraft this amendment upon a bill of this description, or upon any bill.

Mr. COWAN. I rise, sir, merely to correct what seems to be a misapprehension of honorable Senators as to the number of persons removed by the President during the past year. In the debate the day before yesterday the honorable Senator from Ohio, [Mr. SHERMAN,] and I am sorry he is not in his seat, made this statement:

"Mr. SHERMAN said the bill contemplated nothing that was unconstitutional. It simply asserted the right of the Senate to a share in the appointing power, as provided in the Constitution. The opponents of the bill had characterized it as revolutionary. He could see nothing revolutionary in it. He agreed that it was important to guard against the contingency of a vacancy in office, but he believed this bill did so. If Mr. HENDRICKS' amendment was adopted, he feared the President would continue to reappoint men who had been rejected by the Senate. Of the two thousand removals made by the President since last summer not one hundred had yet been reported to the Senate. If the amendment of Mr. HENDRICKS were adopted, the President would continue to withhold these names, and reappoint them after the adjournment. In several cases the President had reappointed men rejected by the Senate. This was the case with the postmaster at St. Louis, and with the collector at Philadelphia and internal revenue officers elsewhere. If he [Mr. SHERMAN] believed the President would try to harmonize with the Senate, and send in other names after his nominees had been rejected, he would be willing to let him fill vacancies during the recess; but the President had manifested no such disposition."

Now, sir, it appears upon an examination that the whole number of offices within the gift of the President amounts to two thousand four hundred and thirty-four. He has that number of appointments; and the whole number of removals amount to four hundred forty-six. I mean civil offices. I suppose it will not be contended here that there is any especial virtue in a simple majority which entitles it to the offices. No man can give any reason why three hundred thousand voters in a State should have all the offices in the State while two hundred and ninety-five thousand voters in that State have no offices at all. Not even those who assail the President most sternly and unrelentingly I think will argue that there is any justice and any propriety in that. If these offices belong to anybody and for any other purpose than the public service itself, and if there is to be any rule adopted for the guidance of the appointing power, perhaps that practice is just as good as any other; but the minority would be entitled to its share as well. Now, I suppose it is fair enough to assume that at the commencement of last year these two thousand four hundred and thirty-four officers were all members of the dominant party.

Mr. GRIMES. The Senator has stated the number of civil offices in the gift of the President. Perhaps he may be able to inform the Senate of the number in the gift of the Secretary of the Treasury. If so, I would be happy if he would inform us.

Mr. COWAN. I think I can. I will come to that directly. I have that, too.

Then assuming, I say, that the incumbents of the offices at the beginning of the last year were members of the dominant party, the question is whether it was not an abuse of power previously exercised to confer upon them all the offices of the country to the exclusion of the entire rights of the minority. I think it is more than likely that in that quarter the abuse will be likely to be found, not in the rectification of that error which has been occasioned by the removals made recently by the President, because he has not as yet given to the minority anything like their fair share of this "spoil" and "plunder," as it is sometimes called. But of the four hundred and forty-six persons removed, I will venture to state that four hundred of those put in their places, four

hundred of the incoming officers, are also members of this dominant party, men who voted for the President, who voted along with the majority of the Senate, but who happened to differ afterward upon a question of policy, of expediency, or, if you please, of constitutional law.

I think I may say I know something about how these removals were made, some of them, and why they were made. I have no difficulty in standing here in my place and saying that all the removals that I know to have been made by the President were of men who had no respect not only for the Chief Magistrate of the nation, not only for the nation itself, but, I thought, for themselves. Senators are certainly aware that within the last year a great deal of exceedingly offensive, gross, unwarranted language has been made use of toward the President of the United States. I am satisfied that there is not an honorable Senator here who would not say that where an officeholder, for whose conduct the President was responsible, was guilty of that kind of improper language and want of respect to his superior officer, he should be removed. I do not know a single case where an officer was removed who conducted himself with a reasonable degree of propriety and decency toward the President. I know some who have been removed who came to the President and professed a great deal of friendship for him and a great deal of enmity and hostility against those who opposed him, and I know that afterward, when they found the current was running the other way, they proved false to their promises and treacherous—first treacherous to you; next, treacherous to the President. I suppose a man who will tell a lie, who will be guilty of even a political fraud, ought not to be endowed with an office and kept in it perpetually.

One word now with regard to the postmaster at St. Louis. It will be understood that the postmaster at St. Louis had been the postmaster there for four years before his nomination was sent again to the Senate, and if he was sent in again after having been rejected it was because it was thought that the Senate acted under a misapprehension of the case. With regard to the collector in Philadelphia, we all know how that was. In that case the appointee, I believe, was twice confirmed and twice rejected.

Mr. FESSENDEN. Who was that?

Mr. COWAN. Sloanaker. He was twice confirmed and twice rejected, and I know that a very considerable number of Senators belonging to the dominant party were exceedingly anxious that he should be reappointed again, notwithstanding the rejection. I agree with the honorable Senator from Maine, as I have stated on the floor, that, in my judgment, it is against the spirit of the Constitution to reappoint the same person to the same office after he has been once rejected by the Senate; yet I do not look upon that as imperatively the rule. I should never do it unless I was satisfied that a wrong had been done to the appointee by the Senate without being properly informed. But, sir, it is equally clear that the effect of this rejection does not last forever. If a man should be appointed collector for the port of New York at this session and rejected by the Senate and nominated ten years afterward, nobody would pretend that that rejection would disqualify him.

Mr. FESSENDEN. He may be nominated at the very next session; but he should not be appointed during the recess after having been rejected.

Mr. COWAN. Well, if the effect of the rejection is simply to continue during the recess, then it is divested of its difficulties.

Mr. FESSENDEN. He ought not to be put in again without the assent of the Senate.

Mr. COWAN. I am not prepared to say that I would agree to a distinction of that kind, to so define the power and limit it, because I have had my mind made up on that subject for twenty years. I had occasion twenty years

ago to look that question directly in the face; and although I could not say it was bad law, I did think it was a discourtesy to the coördinate body and an improper exercise of the appointing power.

As I see my honorable friend from Ohio [Mr. SHERMAN] in his seat now, I beg to call his attention to another thing. It was stated by him that "of the two thousand removals made, not one hundred had been sent in to the Senate." The number that has been sent in is three hundred and fifty-seven, and I believe the Senate have acted upon but five. I do not think that my honorable friend desired to exaggerate about this matter and I have no idea that he was desirous still further to disturb the state of feeling now existing in the country by putting things in a worse light than they really are; but that is the fact. Four hundred and forty-six removals out of twenty-four hundred have been made; three hundred and fifty-seven of those have been sent to the Senate, and five of them have been disposed of by the Senate. Now, sir, it is unquestionably unjust to complain of the President, that he has not sent all these names into the Senate, when he is ahead this session three hundred and fifty-two appointments now, and they are not yet acted upon.

Mr. WILLIAMS. I ask the Senator if that includes military appointments?

Mr. COWAN. Oh, no, civil appointments; and I will state the number of removals that have been made in the different Departments, as I have taken the trouble to get the information on that subject. In the Department of State there are three hundred and forty appointments, and there have been ten new ones made. In the Treasury Department there are nine hundred and seventy-three appointments, and there have been one hundred and ninety-nine changes. In the Department of the Interior there are two hundred and ten appointments, and there have been twenty-one changes. In the Post Office Department there are seven hundred and nine appointments, and there have been one hundred and ninety-seven changes. In the office of the Attorney General there are two hundred and two appointments, and there have been nineteen changes.

Mr. GRIMES. What do you mean by "appointments?"

Mr. COWAN. Presidential appointments. Now, sir, there is the sum and substance of all this matter, and what does it amount to? What is there alarming in it? Nothing alarming to anybody except to somebody who is afraid of being turned out of office; that is all.

Then the question rises, how long are these people to remain in office? Is any dominant party in this country willing to put itself upon the ground that they once in, shall remain and continue in? I am very free to say that if I understand the feeling of the American people, it is directly against that system of perpetuating one man in office. It has been said here that the ballot educates; we ought to give the ballot to men and women to educate them. It is clear that offices educate, too, and hence the old doctrine of rotation in office. One of the merits of this Government is, that the offices are within the reach of every man; but if when a party gets in and gets control of the offices, gets a dominant majority, they determine that the President shall not remove unless with their consent, what is that but saying, "We have the key in our hands and will lock the door and keep ourselves in and every one else out."

Again, sir, a large number of officers were appointed in 1861, when the Administration of Mr. Lincoln came in. I believe the outgoing party did not grumble a great deal about it. It was what they expected and what everybody expected. It was only carrying out the doctrine of rotation on a great scale. So they went out with a good grace and others came in. In the meanwhile, however, a new state of affairs took place in the country. We have had a terrible war. Thousands and hundreds of thousands of men abandoned their



business, their homes, and their means of livelihood, and they went out in defense of the Government and its Constitution and laws. They have come home. Are they not entitled to some consideration at the hands of the Executive? Take a civilian who during the war sat at home in his office; a good officer—I have nothing to say about that; I suppose that to be true—doing his duties well, receiving from one to ten thousand dollars a year for it, who has had his office for five years. Is there any very great hardship in saying to him, "Sir, you have had your turn; offices here are not to be hereditary; they do not belong to anybody by divine or especial right; you must go out, and here is a soldier with one leg well qualified to do the duty, and he has a right to have his turn." In a great many instances such men have been rewarded. I think that wherever they could be found well qualified they were appointed, not altogether because civilians were not entitled to their share and soldiers were the whole people; but they were entitled to their share, and it was the only way they could receive that recognition at the hands of the President.

Mr. FESSENDEN. Were not soldiers dismissed to make room for civilians?

Mr. COWAN. I have heard that statement, but I do not know of a single case where a good soldier who was qualified to perform the duties of the office and could give the proper securities was displaced. I knew of one case where a very worthy man was in an office, but unfortunately his securities were not such as to recommend him to the appointing power, and I think they would not have recommended him to the Senate, and a civilian was put in his place; but as a general rule wherever a soldier could be found who was qualified to perform the duties of the office and fill its functions he was favored.

Mr. President, I cannot hope to say so well as the honorable Senator from Maine has just said, what are the reasons against this proposition. I would not dare to attempt the task of gilding his gold and painting his lily; but I must be allowed to say that I think his words were wise, eminently wise, eminently good, eminently adapted to pour oil upon the surface of these troubled waters, and I should be glad if willing ears were lent to them.

Mr. SHERMAN. Mr. President, I certainly did not wish to do any injustice to the President of the United States or to those who control the appointment of civil officers. I am somewhat surprised at the statement of the Senator from Pennsylvania, that but four hundred and sixty changes have been made. If that be so I can only state that the rule which seems to have been observed elsewhere has not been observed in Ohio. My impression is that, every leading office-holder in the State of Ohio received a polite notice that if he did not attend the Philadelphia convention, or did not approve of the call of the Philadelphia convention, he should promptly communicate that fact to a self-constituted committee in this city, composed of men very high in official position. Circulars of that kind were sent all over the United States I am informed. They certainly were sent to the office-holders in the State of Ohio. They were called upon to contribute money to support a new party in antagonism to the party that brought the President into power and to which they were attached. If I am not mistaken, the name of at least one member of this body was used in that circular, and some of those circulars were issued in the name of a Cabinet officer and were distributed all over the country. I know very well that those who did not reply satisfactorily to this peculiar mode of interrogation were soon after removed from office.

The Senator says that but a small portion out of the great number of officers have been removed. I can only speak for my own State. Nearly every prominent office-holder in the State of Ohio was removed, and in nearly every case for political reasons. The attorneys and marshals of both the northern and

southern districts were removed, although in one case the attorney resigned in anticipation of removal. A majority of the collectors and assessors of internal revenue were removed, and I know in some cases they were not removed either because they were guilty of using uncivil language in regard to the President, or because they were guilty of misconduct. In the northern district the removals were made of men who had just been confirmed by the Senate; who were entirely unexceptionable to the whole people among whom they lived; who had faithfully discharged the duties of their offices. In some cases the incumbents had only held their offices for one year. They were removed for political reasons, and partisans of the new party were appointed in their place. There can be no doubt of this. I know also that in many of the congressional districts self-constituted committees were organized to supervise the distribution of the Federal patronage in portions of the State, and that appointments and removals were made upon those political recommendations; that Democratic candidates for Congress running against the organization that elected the President controlled all the patronage within their districts; and that postmasters were appointed and removed upon their recommendation.

The Senator from Pennsylvania says that but four hundred and sixty removals were made out of about twenty-six hundred presidential appointments, if I understand him correctly. Then, sir, Ohio has been very unfortunate, because I can scarcely recall a single prominent officer in that State who was not removed. It is true that many of the postmasters were allowed to remain, but not all of them. In one case I know of, and about which I have received so many remonstrances, a Democratic editor, who had been a violent Copperhead during the war, and who did all he could to encourage the rebels, although living safely in the State of Ohio, and who weekly was publishing articles intended to excite insurrection and controversy in the State, was appointed to a post office of great importance in that State.

Under these circumstances I think we had a right to complain. In regard to the delay in sending these appointments to the Senate I have been overwhelmed, as most Senators have been, with remonstrances and papers in relation to them. I say that these nominations ought to have been communicated to the Senate within ten days after we met, or at least within a reasonable time. Up to this hour scarcely a nomination made in the State of Ohio during the recess has been communicated to this body. Perhaps I ought not to state more than this, because these communications are made to the Senate in executive session; but as the nominations when made are matters of public notoriety—

Mr. JOHNSON. You can state what has not been done.

Mr. SHERMAN. I can state then, in a single word, that but one of all these nominations, about which there is so much feeling and controversy in the State of Ohio, has been sent to the Senate. My colleague will know whether I am correct or not.

Mr. WADE. I know of none.

Mr. SHERMAN. On the very day on which I made the remark in regard to the sending these nominations to the Senate the great body of the nominations to which the Senator alludes were sent to the Senate. The assessors and collectors for Pennsylvania and some of the eastern States were sent us; but up to this hour none of the nominations for the State which I in part represent have been sent to the Senate. Under these circumstances I think I was justified in making the criticism upon the conduct of the President that I did.

I certainly have no unkind feelings to the President; but I do think, as he was elected by a political party to the office under which he became President of the United States, that he had no right to regard the political divisions that might arise in the course of his

administration to operate upon him as a reason for turning men out of office. They merely differed with him on questions as they arose; and yet in many cases in the State of Ohio there could be no other reason assigned for these removals except political reasons. It was not pretended in that State that they were removed for any other cause. On the contrary, I know of cases where officers have been removed who now hold in their hands letters from the heads of Departments, who must have concurred in their removal, certifying that they were not removed for any cause except for political reasons; that they had discharged the duties of their offices ably and well; and entirely disproving the allegation now made that these removals were made merely because the incumbents had held the office for four or five years, and there ought to be a rotation in office, or that they had abused the President or the like of that. I do not wish to go into particular cases, because this is not the proper place to discuss them; but I can say without fear of contradiction that I could name many of these officers who were removed without the least pretense that they were guilty of any incivility to the President or of any want of care in their offices. Some of them were removed although they had held their offices but for one year, having been appointed by President Lincoln and confirmed by the Senate; and in some cases men who were appointed by President Johnson himself, and whose nominations were confirmed by the Senate, were after the adjournment of Congress removed for political reasons.

Under these circumstances I think it is the duty of the Government to guard against these removals for mere political reasons. As I said the other day in the few remarks that I made on the subject, I see nothing in the bill now before us that is not justified by the counsels of the fathers and of all who preceded us in our office of Senators. If I understand the bill, all it provides for is that a person duly appointed to office, by the appointment of the President and the sanction of the Senate, shall hold his office until his successor shall be appointed, and that no person who is thus appointed with the sanction of the Senate shall be removed from his office until the Senate and the President concur in his successor. That is the whole scope and purpose of the bill, and if it is confined to that I certainly shall support it with great pleasure.

When my friend from Massachusetts offered his amendment the other day to the bill in regard to pension agents I voted against it, and when it is now renewed on this bill I shall vote against it. The reason is, that it extends to a multitude of officers, the appointment of whom ought to be left with the heads of Departments. But there are classes of officers that he does include in his amendment whose nominations ought to be sent to the Senate. For instance, there is a class of revenue agents, whose pay amounts in some cases to from twenty-five hundred to three thousand dollars, and who are among the most responsible officers in the Treasury Department. Under the law when they were appointed they were not deemed very important, and they were therefore not directed to be sent to the Senate. I think they ought to be. So in the case of post office agents, men who receive from two to five thousand dollars per annum, and who are the right hand, you may say, of the Post Office Department. Their nominations are not now sent to the Senate, but they ought to be.

While I am speaking of removals, I will mention one that was made in the Post Office Department. The post office agent for the northwestern States, holding the most important agency under the Post Office Department, a man conceded by all, conceded by Postmasters General Blair and Dennison, and even by the present incumbent, to be a man in every respect fitted for the office, was turned out of office during the last vacation for political reasons, because he would not participate in the Philadelphia convention and join his fate

and his fortunes to the new party; and a man was appointed in his place who had been previously in a subordinate position in the Post Office Department and turned out. This is a prominent case. I merely speak of these cases to show that these removals have been made for political reasons. In the case I have mentioned the nomination has not been and need not be sent to us at all, although the office is one of the most important in the Post Office Department.

If the Senator from Massachusetts will confine his amendment to offices of sufficient importance to excite the attention of the Senate I shall vote for it with great pleasure. As it now stands, it extends to all the assistant assessors, about whom we can have no information; it extends to all the custom-house officers in the city of New York; it extends to the weighers there. There is not one of them whose compensation is not \$1,000. It extends to the inspectors of distilleries. At the last session their compensation was increased to four dollars a day. So that every inspector of customs will have to be sent to us under the amendment of the Senator from Massachusetts. The pay of the weighers and gaugers was raised, I think, to \$2,000 a year, and they will have to be sent here for confirmation. A multitude of small officers, who are the mere agents of their principals, who have no power except simply as deputies to a principal who is sent to us, would be required by his amendment to be sent to the Senate.

Mr. SUMNER. Are those persons appointed by the head of a Department?

Mr. SHERMAN. Yes, sir.

Mr. SUMNER. I think not according to law.

Mr. SHERMAN. Yes, according to law. The Senator was probably not aware of the fact. When the revenue law was first passed all these subordinates were left to be appointed by the assessor or collector of the district; but it was thought that it would be better to have the whole of them sent to the head of a Department. Under the Constitution we could not invest the head of a bureau with the power to appoint assistant collectors and assistant assessors. It would have been a better practice to leave all these minor appointments to the head of the Internal Revenue Bureau; but as by the Constitution the appointing power must be invested in the President of the United States, or in the heads of Departments, or in the courts of law, it was found necessary either to leave these subordinate officers to be named by the collector and assessor without any reference to the Departments here at Washington, or to invest their appointment in the Secretary of the Treasury, who was the head of the Department. So the law of 1864, under which all these appointments were made, expressly requires them to be appointed by the Secretary of the Treasury. By the common habit, the assessor designates his own assistant assessors, and they are sent to the Secretary of the Treasury to be approved by him, and usually it is a mere matter of form.

I see no object in having our files cumbered with the names of all these small, subordinate officers who hold their office at the pleasure, substantially, of an officer who is submitted to us. If the amendment were confined to officers of sufficient importance to be aimed at as holding political positions, or whose offices are sought for political purposes, then I think it ought to be adopted. There are a number of post office agents who ought to be sent here for confirmation; there are a large number of revenue agents who ought to be sent here; and quite a number in other Departments who are not now sent here ought to be; but that can be accomplished very easily by a change of the law regulating their appointment. If the Senator desires the post office agents to be sent here, he can very readily move an amendment covering them on the post office appropriation bill or any proper bill that is pending in the Senate; but it seems to me it would be a public inconvenience and

a matter of no practical utility to require the multitude of minor officers I have named to be sent to the Senate. By overwhelming our table with a multitude of appointments it would probably only make us disregard those more important ones that ought to demand our attention.

Mr. JOHNSON. Mr. President, the question of the President's power to remove is not perhaps involved in the particular amendment. I rise, therefore, not for the purpose of discussing that question nor to say anything upon the propriety of the particular amendment, but merely to make good what I stated to be a fact, as I thought very accurately within my recollection that the opinion which Mr. Hamilton expressed in a number of the *Federalist*, to which the Senator from Oregon [Mr. WILLIAMS] referred the other day, that the power to remove could only be exerted in conjunction with the Senate, was afterward changed by him. At the moment I did not recollect where I had seen it; but that I had seen it I was perfectly satisfied. I find, as evidence of that, a letter from Mr. Madison, dated the 10th of January, 1832, to Mr. W. C. Rives, in the concluding portion of which he says:

"The authority of Colonel Hamilton, I observe, is cited against the power in question."

He is speaking of the power of removal.

"If his language in the *Federalist* was so intended, which is not probable, he must have changed his opinion at a very early day, as is proved by his official reports, which go into the opposite extreme. Such a change, if real, would not, indeed, be without his own example. In the *Federalist* he had so explained the removal from office as to deny the power to the President. In an edition of the work at New York there was a marginal note to the passage that 'Mr. H. had changed his view of the Constitution on that point.'"

That is the authority to which I referred as proving that the alleged opinion which he entertained on the subject was subsequently altered.

Mr. HENDERSON. I am not prepared to vote for the amendment offered by the Senator from Massachusetts at the present moment, and would not like to vote for it without having it thoroughly considered; but while this subject is under consideration, I desire to call the attention of the Senate to a letter from the Secretary of the Navy, in answer to a resolution of inquiry which I had the honor to present in the early part of the session in reference to removals that had been made in the Norfolk navy-yard. I need only read it in order to condemn it, and in order to insure its condemnation by every Senator.

I do not know to what extent these removals have been made by the Secretaries, because I have not inquired into the subject. I presume that the figures presented by the Senator from Pennsylvania, [Mr. COWAN,] who seems to have devoted considerable attention to the subject, are perhaps correct.

I do not know to what extent the President himself has exercised this power of removal; but notwithstanding a contrary practice has existed from the foundation of the Government to the present time, I have my opinion clear upon the subject that the President has no power in the vacation of the Senate to remove an officer and to substitute another in his stead. Others, however, believe that he has the power. If it be true that he possesses that power, then of course the Senate may not have any control over appointments at all. If the President can remove an officer after we adjourn, and the officer appointed by him under the Constitution may, as he no doubt can, retain his commission until the last day of the next session of the Senate, immediately when we adjourn then the President can reappoint that party or somebody else, and that commission will last until the last day of the next session, and immediately thereupon the President may make another appointment, and so on to the end, and in that way the Senate is deprived of any advising power at all. Sir, that never was the intention of the Constitution; it never was the intention of those who framed it. If by some casualty, the President having nothing to do

with it, a vacancy occurs in an office during the recess of the Senate, the President can fill it, and that commission will extend until the last day of the next session; but beyond that the President has no power of removing officers and filling the vacancies that he himself makes. I undertake to say that he has no authority—

Mr. McDUGALL. Will the Senator from Missouri allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. McDUGALL. Suppose that a postmaster should be guilty of a felony by abstracting \$5,000 from the post office during the recess of Congress, where then would be the authority to displace him and appoint some competent man?

Mr. HENDERSON. I have not any question about the authority of the legislative power to confer upon the President the power of suspending or removing officers; but the difficulty presented in the question of the Senator from California is, that according to the previous practice of the Government, we have left the power of removal to the President, and never thought it necessary to regulate it at all. We have always claimed it, but we have never claimed it by an act of Congress. I undertake to say that if gentlemen will refer back to the history of the Senate in its contests with the President, they will find that the Senate has always differed with the President; but we never could get legislation on the subject.

During the whole time of the controversy with General Jackson the Senate was opposed to him, and passed a resolution condemning his act in removing the deposits from the United States Bank. The Senate at that time took direct issue with General Jackson upon his power of removing Mr. Duane and appointing Mr. Taney, who was afterward Chief Justice. The original resolutions introduced by Mr. Clay condemned it upon the ground that no such power existed in the President. It was condemned by the Senate in 1813, when Mr. Madison undertook to appoint commissioners to negotiate a peace with Great Britain. It will be recollected that the Senate took issue with him on that subject, and said he had no authority whatever to make those appointments without consulting the Senate. It has been at all times contested on the part of the Senate, and when the majority in the Senate has been adverse to the political policy pursued by the President they have never failed to protest against the exercise of this power by the President alone; but generally, as was the case when the Senate was protesting against the conduct of General Jackson, the House of Representatives was with him, and it was an utter impossibility to get any legislation on the subject. I do not suppose that any gentleman who has argued the question—I do not suppose that the Senator from Maryland or any other lawyer—will take the ground that under the Constitution the President has the right to make these appointments without consulting the Senate at all, or that he can make removals in the vacation and Congress have no power to regulate them.

Mr. JOHNSON. I do not take that ground.

Mr. HENDERSON. Certainly not. I apprehend nobody denies the power of Congress to regulate it. The difficulty, I will suggest to the Senator from California, is that we have always left this question to the President; we have never regulated it by law. We have always supposed that when an officer commits a wrong, a crime, the President may remove him. We have conceded that power to him. But now, as I understand, the Senate and House of Representatives have gone to work to regulate this power of appointment, and instead of removing absolutely we give to the President the power merely of suspending an officer.

Mr. McDUGALL. If the Senator will allow me, not designing to interrupt the course of his argument, I desire to say a word, as I do not purpose to enter into the discussion myself. The reason why that doctrine was held was, that it was necessary that Government should be capable for all its immediate exigencies.

cies; that executive and legislative and judicial powers should exist for all proper purposes; that the business of taking charge of offices rested with the Executive, and in the absence of Congress, when Congress could not act, there was no other power except the executive power, and *ex necessitate* it fell to the executive branch of the Government. It was so held because it was a necessary fundamental law for the purpose of an established Government, and belongs to the foundation of law. It was necessary that there should be power somewhere to rectify an evil which might exist in the Government. It was necessary, when an officer acting on the part of the Government should commit a crime, that some power should exist to put him out of authority and substitute some other person in his place who would endeavor to maintain the rights of the Government. That necessary rule of law, fundamental law, necessary law, obtained and became the rule, because its necessity was found in the early days of the Republic; and it is a necessity now, and it is that necessity that has made the rule.

Mr. HENDERSON. When I rose I arose merely for the purpose of reading an extract from a letter of the Secretary of the Navy and to condemn the doctrine that the Secretary lays down in it. The Senator from Pennsylvania [Mr. COWAN] will find that it is not altogether the merit of the office-holder that controls these appointments. It may be that the President is too well served; and I apprehend that that is so in this case. I have no ill-feeling against the President. My impression is that his Secretaries undertake to serve him better than he desires; and I think that the President himself in his appointments has not carried political persecution to the extent that some of those holding office under him have done.

Some complaints were made some time since at the Norfolk navy-yard about removals, and I knew myself that some of the most worthy men there had been removed for no other cause than that their political sentiments did not agree with those of the Secretary of the Navy. I offered a resolution in the early part of the session, which was adopted, making some inquiry into the matter and asking for the correspondence on the subject. The Secretary sends in this correspondence, and he sends with it a letter dated October 20, 1866, addressed by himself to Rear Admiral S. C. Rowan, commandant of the navy-yard at Norfolk; and I will read to the Senate the qualifications that he lays down to his officer in charge of the various departments of the Norfolk navy-yard for office. He says, speaking of the persons to be appointed:

"Whatever their merits in other respects, disloyalists are not to be employed. It has not been the policy of this Department to give countenance or encouragement to disunionists of any description. Those who oppose the Government in its efforts to establish national amity, whether claiming that States have the right to voluntarily withdraw from the Union by secession, or striving by arbitrary and undelegated power to exclude States from the Union, and deprive them of their guaranteed constitutional rights, are not deemed worthy of service in the Union which they oppose and by the Government which they would subvert."

Mr. SUMNER. Who signs that letter?

Mr. HENDERSON. It is signed "G. Welles, Secretary of the Navy." Now, sir, when you come to the Norfolk navy-yard, who can be appointed under this letter? Those parties who agree with Congress, who believe that the rebellious States ought not immediately to be admitted, are termed by the Secretary of the Navy "disunionists;" they are "disloyalists." He goes on to explain what he means by "disunionists."

He says that any person who is opposed to the immediate admission of these States and the admission of their representatives into both branches of Congress is a disunionist, and those men it is not the policy of the President to appoint. Now, when he comes to talk about disunionists on the other side, how does he define them? Not those parties who fought in the ~~confederate~~ armies; not those men who were

the faithful adherents of General Lee and Jefferson Davis. They may be appointed. See how it is qualified:

"Those who oppose the Government in its efforts to establish national amity, whether claiming that States have the right to voluntarily withdraw from the Union by secession"—

Why, sir, I suppose that not more than one third of the southern people at the time of the rebellion in 1861 advocated secession as a constitutional right. They only resorted to rebellion as a revolutionary right. They did not claim it as a constitutional right. The Secretary of the Navy only excludes on the southern side of the question those men who claimed that secession was a constitutional remedy; all others can be appointed at Norfolk. An individual offers himself there for employment. The question is not "Did you serve in the confederate armies?" not "Were you a soldier in Lee's army or Johnston's army?" because such a man may be perfectly competent under this instruction; but the question is, "Do you believe in secession as a constitutional right?" "I do not," says the applicant. "You, sir, can be employed; I will receive you in the Norfolk navy-yard." Another individual offers himself, and he is asked, "Are you in favor of the immediate admission of members of Congress from the seceded States?" He answers, "I am not." Then he is told "You are a disloyalist; you are a disunionist; you must leave; you cannot get employment here."

I do not like this sort of dealing with Union men, men who have stood by the Government during the late difficulty. It may possibly be that the Senator from Pennsylvania is correct in his view that the President has not carried the matter to this extreme; but I show you that the Secretary of the Navy has done it, and he sends us his letter of instruction written in October last. I do not know whether other Secretaries have carried it to this extent or not. I suppose they would frankly send in the instructions they have issued to the heads of bureaus upon this subject. I have no personal knowledge of the matter except that in this case a friend of mine was unjustifiably removed at the Norfolk navy-yard; and not only that, he was supplanted by a person who was not qualified and who was, as I understand, disloyal heretofore. I know him to have been a loyal man. I know him to have been and to be now an upright and honest man, devoted to the best interests of the Government and as capable in his position as any man that could have been employed; but he was discharged under these instructions and another person put in his stead. That fact is unquestionable.

I have no ill feeling; I have no revengeful feeling or spite to gratify against the southern people. I desire to see these difficulties healed up as soon as possible. I do not persecute them; I never have done so; I do not intend to do so. I have no ill feeling against the heads of Departments or the President; but I do think that the Senate has been treated in an improper manner in regard to its share of the appointing power. While I am up, I will say that at the last session of Congress I was exceedingly anxious to get a bill of this sort passed. I not only wanted to curb the power of Mr. Johnson, but the power of all succeeding Presidents. It is no more important in Mr. Johnson's case than it will be in the case of the President who succeeds him. The present system is demoralizing and corrupting. Do we not know it? Do we not feel it? Do not men go to the President to get appointments, pledging the President that they are with him, and then come before us and leave us to infer, either by direct expressions to that effect or by innuendo, that they are sustaining and upholding the policy of Congress. Therefore I say that it is demoralizing; it will ever be; and there are now too many offices in this country to be entirely controlled by one man.

One good reason in favor of the amendment of the Senator from Massachusetts is, that we propose in this measure to leave the heads of Departments entirely under the control of the

President, and not to require the sanction of the Senate for their removal. Under this bill the President may remove the Secretary of War, the Secretary of the Treasury, or any head of a Department, and we should have no control over it, and through them he could do as General Jackson did in order to effect the removal of the deposits; it is a very easy matter. Mr. Duane refused to remove them; Judge Taney was willing to do it; the first was removed and the latter put in his place. General Jackson said expressly in his protest to the Senate that he did not order Mr. Taney to do it, but he knew he would do it when he removed Mr. Duane and put Mr. Taney in his place. Suppose Mr. Stanton should refuse to make removals that the President may desire. I do not know that the President will ask him to make any; but suppose that such a thing should occur; that an ambitious President should desire removals of subordinates to be made. His Secretary, Mr. Stanton, declines to make those removals. He may remove Mr. Stanton without consulting the Senate as to the propriety of that removal, and put in his place a man who will make the removals he desires.

If the President can remove the Cabinet ministers, he can effect the removal of all the subordinate officers. But I am not disposed to vote for the proposition of the Senator from Massachusetts as an amendment to this bill; and I regret that it has been offered. I think, however, it is a proposition that deserves a great deal of consideration, and ought to have more consideration than we can possibly give to it now and here. It ought to go before a committee and there be carefully examined. I undertook at the last session to prepare a bill, and I believe it is the first bill that was prepared on this subject, and I found that innumerable difficulties beset me on every side, and the Senator from Massachusetts will find, unless he is very careful in his legislation, that many difficulties may ensue. Some difficulties have been presented that ought to be remedied in this bill. For instance, it has been urged by the opposition to the measure, and urged with a great deal of force, that a foreign minister may die on the day of the adjournment of the Senate, and it may be very important to have the place filled, but under this bill it cannot be. A very simple amendment might be framed which in my judgment would remedy that difficulty and which the President could not abuse. The amendment I would make to meet that case would be a provision that a vacancy should be presumed to exist at the time when actual notice of the existence of the vacancy came to the knowledge of the President. In drafting the bill to which I have alluded I inserted a provision of that sort. I think it ought to be in this measure, and if it be inserted, the only objection I have heard urged against the bill will have been removed. I have said, Mr. President, all that I desired to say.

Mr. McDUGALL. It seems to me, Mr. President, that there is a disposition to abandon altogether the principles of our system of government and the ideas which were thought by its framers to be incorporated into the Constitution of the United States and the organization upon which they undertook to establish a republic of States. It seems to me that gentlemen have forgotten that the most important lesson which was studied in that day was this: that there should be three distinct powers in the Government, and that these three powers should be carefully, honestly, and loyally maintained intact—a pure judiciary, not to be maligning by the press and not to be assailed by Congress, either in this or in the other Hall or from the presidential chair; a President, clothed with his high office to discharge all the functions belonging to him properly as administering, as the Chief Executive, the Government of the Republic; and the law-making power, to which Congress belongs, and we are not to be interfered with either by the judiciary or by the Executive; and each branch of the Government independent in itself.



Among the early fears of the founders of the republic was the fear of usurpation by one class of officers over the other. And where did they locate their apprehension? Was it with the Executive? No; he was a single man; he had no immediate relation to the popular voice. Was it with the judiciary, sitting silently to hear causes and adjudge them? No, it was in the law-making power, consisting of the House of Representatives, coming directly from the people, a stormy, noisy, quarrelsome, beligerent crowd, and the Senate of the United States, supposed to be an assemblage of the fathers for consultation. The different functions of Government were thus arranged, according to the best lights of the oldest antiquity, and all the lessons drawn from the example of the intermediate States down to our own time, and the lessons of the French Revolution as well.

The absolute necessity of holding each one of these three departments in its appropriate place was deemed to be one of the most necessary considerations in the discussions that led to the organization of our Government. You will find it through the debates, you will find it through the Federalist. It was illustrated by reference to the history of all the republican States that had existed in the world, where the necessity of these three powers coordinate being maintained in their respective spheres was manifested. It was then held that the danger of usurpation was on the part of the legislative power—the body of Representatives elected by the people and Senators seeking office. The Constitution provided for the judges as a great conservative power holding their terms during good behavior; the Senators next conservative; the Representatives not at all conservative. The discussion that related to that question was continued through many debates; and the necessity of a division of power between the three branches, and the independence of each branch, led to those provisions in the Constitution which were meant to secure that division and that independence.

But, sir, we have now fallen upon evil times, and we are meeting the evil that has been prophesied for us by men who have thought on these great questions and thought since this Republic was founded. Comte is probably the most learned philosopher there is now living, and his work on sociology or positive science, if you please to call it so, is the most accepted; and what does he say about us, discussing our institutions and discussing republican institutions generally? He takes up the societies of the world from the family up, away back from the days of the theocracy through all the various forms of government to monarchies, to republics, and to despotisms; and what is the evil? The evil is in the multitude of offices. For every office there are always ten aspirants, and the nine who are necessarily unsuccessful are demoralized in seeking office, and the one who gets it is demoralized after he gets out of office.

There is an evil that is patent in our institutions and has been, and it is an argument against the policy of creating offices, which seems to have been the popular notion of the day. What have we been doing here for six years past? because I will speak only of the short period I have been here. Making offices. The whole country is swarming with officers; the Treasury Department, the Post Office Department, the Land Office Department, all the various Departments are swarming with officers; and what is the result? When you walk along the principal avenue of the capital city of the United States you may safely assume that out of every ten men you meet nine men are hunters for some place in the patronage of the Government. This is an evil which is patent, and can only be corrected by stopping this practice of multiplying offices. There is the radical evil; that is the root of the thing.

But, sir, who has the power of appointment to office? A judge under our system of government has no business to appoint an officer

except he be an officer of the court or subordinate to the court. We have no business to appoint an officer, unless he belongs to the Senate or the House, or is subordinate to some of the officers of Congress. To the Executive, the other department of the Government, belongs this power. We must have rules, for there is no government without rules. There must be sway even in a republic. There must be power; and it must be exercised by him who can exercise it by the right of the authority with which he is clothed, and not be challenged by every loud-mouthed talker who may get up and speak on the hustings, and threaten the Chief Executive of the United States by word of mouth or by pen and ink and paper with impeachment in our high court when it shall be organized.

These very patent evils must be corrected, and they can only be corrected by a higher moral political sense than has been brought here, either into this or the other Chamber, except it be by the chance of an accident. The President of the United States has charge of the executive business of the Government. It is his function to superintend its general business, to see that the offices are filled and well filled. Upon him rests the responsibility. By whom is he created? By the people of the United States; by their votes in a popular election. He is not an accident, although the present incumbent has been called an accidental President. It may be so in this sense that he was the Vice President and acceded to the office of President.

I did not design embarking in this discussion; but I think it well once in awhile to look back and see where our anchors were cast in 1787, and whether we are still holding ground. It has seemed to me that we are dragging our anchors, and have been for a long time past. I think it is about time to take up the anchors and take the wind by the sky-sail. I have not heard a reference to fundamental, elementary, constitutional law here for some days, and particularly not in this discussion. I have not heard a discussion of how the three coordinate branches of the Government stand according to the sense in which they were established. I say "established," but established only for a short time, only from 1787 to 1861, because establishing means both building and founding. The very foundations and the superstructure of the great edifice built by our fathers have been trembling since then. And by whose advice or authority? Wise and informed men? Men who have studied the science of government? Men who have read history? Men who have read those authors from whom the men that organized our Constitution took their lessons? No, but men who considered merely whether they could be elected to the House of Representatives or to the Senate of the United States; men who did not live above the condition of to-day; men who had not courage enough to rise above the moment; men who did not understand that a man should live as if he would live forever, and did not know what it was to die, calling himself one portion of the Infinite.

Sir, those who produced this measure and concomitant measures here may rejoice in their strength for a day. The sun may warm about them and they may grow with rapidity, and there may be moisture about their soil; but if they grow, they grow like Jonah's gourd, and they will wither in a day. I say "a day," but I will take a decade for a day.

It is thought by some that by pursuing this policy they will acquire such potential power as will establish particular local interests. Sir, we are one country. I live in the extreme West; my friend from Massachusetts lives in the extreme East; but we have got to be one always. These things have to arrange themselves and settle down into the right. There cannot long be enmity between Maine and Texas or between California and Florida. There is a strong disposition to maintain an extreme enmity, and for what purpose? For no good purpose, I think, as I stand in the

presence of my Maker—no good purpose on the part of those persons who are disposed to urge that kind of controversy. I have found in a reasonable experience in this life that there are good men in all parts of the world—East, West, North and South; and in the middle region—good men everywhere. There are as good men in Boston as there are in San Francisco; but among the good men I do not rank party politicians, of which, thank God, I never was one.

I say here we should avoid all these ugly controversies, and take a lesson from a man who wrote a long time since, though it is not everybody that approves him, but what he said in this particular respect I think is orthodox: The truth lies in the mean between extremes. A man who is forty-five degrees on one side to-day and swings around to-morrow to forty-five degrees on the other side is not right; he must settle himself in place; and among the old philosophers it was said that until a man found his place where he could rest he was never right. A piece of advice was given, consequent upon that old Greek instruction, by the person who was commander of the Sun, and was called the Sun himself. He said to Phaeton, who was an intimate friend of his, "Take my car: drive it up and around the heavens; but be careful: drive it not too high or you will burn the heavenly mansion; drive it not too low or you will put the earth in ashes; not too far to the right or you will meet the constellation of the Serpent; not too far to the left or you will come in contact with the constellation Althæa: maintain the middle course; go right on. *In medio tutissimus ibis.*" Therefore neither the mansions of heaven nor the earth were burned or destroyed. And it is in maintaining the truth between extremes that the right is justified.

I say that is perfectly applicable to this very question here pending, this undertaking to overturn the careful equipoise made by the gravest men who ever sat in council when our Constitution was formed, and who designed to leave the executive branch of power, the judiciary its own vocation, and the legislative halls their proper place, all to be respectful of each other. I have seen the time when if a gentleman of the other House was spoken of rudely in this House he was called to order by the Chair, and the same in the other House; and in the Supreme Court, if a rough word was said about a gentleman of either body of Congress the person offending was called to order immediately. This was a manifestation of the respect deemed to be due by the several branches of the Government to each other. It would be well for us to get back to those times and to think that there is something like dignity which belongs to Government. When we forget that, when that ceases to be a consideration bearing upon our minds as public officers, we may as well give up this whole scheme of a Republic, for it will be then very rotten, and very apt to drop to pieces.

Mr. SPRAGUE. Before submitting the motion that I deem it wise to submit at this time, I desire to say that in listening to the debates which have attended the deliberations of the Senate on this subject I am perhaps more impressed with its importance than that of any other question now before this body. I listened with great interest to the remarks of the Senator from Michigan, [Mr. Howe,] when he suggested that the Cabinet officers now excluded from the operations of this bill should be included. I desire that in the Senate, when the bill comes properly there, he should enforce the arguments that he then used and renew his motion upon that point. That, too, would answer the argument of the Senator from Maine, who finds difficulties in regard to requiring the appointments of minor officers to come before the Senate. He stated difficulties that he thought it almost impossible to surmount; but they will be surmounted I think by applying the provisions of the bill to the appointment and removal of Cabinet officers like other officers. If the Senator from Wis-

consin insists upon his amendment being ingrafted, it will I think answer the difficulties which the Senator from Maine has suggested.

I believe, as I said before, that this question is more important than any other before the Senate. I believe that the question is really between a republic as existing and founded in ancient times, and as defined in the Declaration of Independence, and a system of government by rulers, whether emperors or kings or a privileged class—it is a question affecting the preservation of a republic, of liberty, of independence, of the rights of men. Questions of finance and of tariffs are of little consideration with me in comparison with a question which is to determine the perpetuity of republican institutions founded upon the principles of the Declaration of Independence.

I see before me many seats vacant. I think that the importance of the question has not been properly considered or that would hardly be so. It is important even as affecting the dignity of this body alone; and it is proper that when the Senate sends to the other House a bill affecting its own dignity, its own rights, its own privileges, it should send to that body a measure which it can stand upon, and not send an imperfect measure which I think will be the result if the bill be passed as it now stands. As it stands, it separates the heads of Departments from the general operation of the bill. Those heads of Departments have, under laws passed, for a long course of years been clothed almost with executive power in matters of appointment and removal, and therein lies the essence of this whole question. When you have established a rule that the Cabinet officers of this Government must recognize the power of the Senate, subordinate officers will be relieved from the pressure that now unman them and makes them slaves.

In consideration of these views, sir, I move, in order that the question may be further considered to-morrow, that the Senate do now adjourn.

Mr. EDMUNDS. I shall yield with pleasure to that motion, but I hope it will be understood that we shall be ready to stay here to-morrow till we finish this bill.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 16, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### ORDER OF BUSINESS.

The SPEAKER *pro tempore* [Mr. WASHBURN, of Illinois,] stated as the first business in order the consideration of House bill No. 548, pending at adjournment last evening, in regard to reconstruction.

Mr. STEVENS. I understand there are several gentlemen who desire to have a morning hour. I have no desire to interfere with it if this bill shall come up immediately after the morning hour, and if the morning hour shall commence immediately. I can only consent to that arrangement with the understanding that the morning hour commences now.

No objection was made.

The SPEAKER *pro tempore*. The morning hour has now commenced, and the first business in order is the call of the committees for reports, resuming the call where it was last suspended, with the Committee for the District of Columbia.

### DISTRICT COURT OF NORTH CAROLINA.

Mr. COOK, by unanimous consent, submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be instructed to report to the House whether any rooms are provided for the clerk of the circuit and district courts of North Carolina, and whether any legislation

is necessary to secure the records of that office, and what has been the entire compensation of the marshal and clerks of that district during the last year.

### CONSTITUTIONAL AMENDMENT.

Mr. SPALDING. I ask leave to submit the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to prepare and report to this House an opinion in writing respecting the necessity of obtaining any further sanction to the constitutional amendment than three fourths of the States actually represented in the Congress of the United States.

Mr. FINCK. I object.

### CONVERSION OF BONDS AND TREASURY NOTES.

Mr. ALLISON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be hereby directed to furnish this House with the information required by the provisions of section two of chapter thirty-nine of the act of the first session of the Thirty-Ninth Congress, approved April 12, 1866.

### COMMANDER AARON K. HUGHES.

Mr. WARD, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Naval Affairs be authorized and directed to inquire into the expediency of authorizing the President to nominate, and by and with the advice and consent of the Senate, to appoint, Commander Aaron K. Hughes to the active list of the Navy.

### NATIONAL LIFE AND ACCIDENT INSURANCE.

The SPEAKER *pro tempore*. The House now resumes the call of committees for reports, and reports are in order from the Committee for the District of Columbia.

Mr. MERCUR. There was a bill pending, reported from the Committee for the District of Columbia on Friday, when the House passed from the consideration of District business for the incorporation of the National Life and Accident Insurance Company.

The SPEAKER *pro tempore*. That bill was upon the Private Calendar and will not come up again until next Friday.

Mr. INGERSOLL. By unanimous consent it was taken from the Private Calendar and considered during the morning hour.

The SPEAKER *pro tempore*. It was taken up by unanimous consent on private bill day, but if there be no objection its consideration can be resumed to-day.

No objection being made, the House resumed the consideration of bill of the Senate No. 290, to incorporate the National Life and Accident Insurance Company of the District of Columbia.

The SPEAKER *pro tempore*. When this bill was last under consideration the gentleman from Iowa [Mr. ALLISON] moved to add, as an amendment to this bill, the following proviso:

*Provided*, That the operation of this company shall be confined to the District of Columbia.

The gentleman from Illinois [Mr. INGERSOLL] offered the following as an amendment to the amendment:

*Provided*, That the operations of this company may be extended to all the States of the Union, subject to the laws of the respective States.

The pending question is upon the amendment to the amendment.

The question was put, and no quorum voted.

Mr. INGERSOLL. Is it in order for me to say a word in support of my amendment?

The SPEAKER *pro tempore*. It is not in order as the House is dividing.

Tellers were ordered; and Messrs. ALLISON and INGERSOLL were appointed.

The House divided; and the tellers reported—ayes 51, noes 50.

So the amendment to the amendment was agreed to.

The question recurred upon agreeing to Mr. ALLISON's amendment as amended.

Mr. INGERSOLL. I think there is some misapprehension in regard to this amendment. I offered my amendment as a substitute for the amendment of the gentleman from Iowa [Mr. ALLISON] and not as an addition to it.

The SPEAKER *pro tempore*. The Chair is advised by the Clerk that it was offered as an amendment to the amendment.

Mr. INGERSOLL. I intended to move to strike out the gentleman's amendment and substitute mine for it.

The SPEAKER *pro tempore*. That was not the understanding.

The question was put upon agreeing to the amendment as amended; on which no quorum voted.

Mr. UPSON. I move that the bill and amendments lie upon the table.

The question was put; and there were—ayes 31, noes 38; no quorum voting.

Tellers were ordered; and Messrs. INGERSOLL and ALLISON were appointed.

The House divided; and the tellers reported—ayes 53, noes 44.

So the bill was laid upon the table.

Mr. ALLISON moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

### PAY OF BAILIFFS AND CRIERS.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the House No. 356, fixing the compensation for bailiffs and criers of the courts of the District of Columbia.

Mr. WARD, of New York. Does this bill increase the compensation of these officers?

Mr. INGERSOLL. It proposes to do so.

Mr. WARD, of New York. Then I am against it.

The bill was read at length. The first section provides that the bailiff and criers who are required by the marshal or the courts of the District of Columbia to attend upon the district, circuit, or criminal court of said District shall be paid by said marshal \$3 50 per day for each day's attendance, instead of two dollars as now provided by law, commencing the 1st day of January, 1866. The second section provides that so much of the act of Congress as limits the number of notaries public to thirty-five is hereby repealed, and the superior court of the District of Columbia may appoint as many as they may deem necessary for the public convenience.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. ROSS. Is not this an appropriation bill? If it is it should go to the Committee of the Whole.

The SPEAKER *pro tempore*. It is not an appropriation bill; it is a bill to increase salaries, but the appropriation to pay that increase is not contained in this bill.

Mr. INGERSOLL. And if it was, I cannot see the wit of raising the point on this bill.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. INGERSOLL. I now call the previous question on the engrossment of the bill.

The question was taken upon seconding the call for the previous question; and upon a division, there were—ayes 38, noes 23; no quorum voting.

The SPEAKER *pro tempore* appointed Messrs. INGERSOLL and ECKLEY to act as tellers.

The House again divided; and the tellers reported that there were—ayes 71, noes 26.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. INGERSOLL. I now call the previous question upon the passage of the bill.

The question was taken upon seconding the call for the previous question; and upon a division, there were—ayes 28, noes 29; no quorum voting.

The SPEAKER *pro tempore* appointed

Messrs. INGERSOLL and DEFREES to act as tellers.

The House again divided; and the tellers reported that there were—ayes fifty-six; noes not counted.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of the House to the bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia.

#### JUDICIAL PROCEEDINGS IN THE DISTRICT.

Mr. MAYNARD, from the Committee for the District of Columbia, reported back, with sundry amendments, House bill No. 907, to amend the law of the District of Columbia, with a recommendation that the same do pass.

The bill was read at length. The first section provides that no appeal shall be allowed from the judgment of a justice of the peace unless the appellant, with sufficient surety or sureties, approved by the justice, enter into an undertaking to satisfy and pay the final judgment of the appellate court.

The second section provides that when such undertaking has been entered into the justice shall immediately file the original papers, including a copy of his docket entries, in the office of the clerk of the supreme court of the District of Columbia; and thereupon, as soon as the appellant shall have made the deposit for costs required by law or obtained leave from one of the justices or from the court to prosecute his appeal without a deposit, the clerk shall docket the cause and shall issue a summons for the appellee to appear at the next trial term of the court, and thereafter the cause shall be proceeded with in the manner prescribed by the act of March 1, 1823, to extend the jurisdiction of justices of the peace in the recovery of debts in the District of Columbia, except that the appellant need not file a petition as directed by said act.

The third section provides that if the appellant fails to prosecute his appeal the appellee may, upon making the aforesaid deposit for costs, have the cause docketed and move for affirmance of the justice's judgment, or he may have a trial of the case upon its merits.

The fourth section provides that there shall be no supersedeas or stay of execution of the judgments of the supreme court of the District of Columbia otherwise than by injunction.

The fifth section provides that mutual debts between the parties to an action, or between the testator or intestate of both parties, or either party, may be set off against each other by plea in bar, whether the said debts be of the same or a different nature; and if either debt arose by reason of a penalty, the exact sum to be set off shall be stated in the plea.

The sixth section provides that the plea of set-off may be: "That the plaintiff, at the commencement of the suit, was, and still is indebted to the defendant in the sum of ——— dollars, for ———, as appears by the particulars of the said debt, hereunto annexed; and he is willing that the same may be set off against the plaintiff's demand." And upon the trial of an issue upon said plea, judgment shall be for the balance found due, whether to the plaintiff or defendant, with costs. Mutual judgments recovered in said court may be set off against each other, on motion of either party; and the court shall award execution for the balance found due against the party chargeable therewith.

The seventh section provides that publication may be substituted for personal service of process upon any defendant who cannot be

found, in suits for partition, divorce, by attachment, for the foreclosure of mortgages and deeds of trust, and for the enforcement of mechanics' liens and all other liens against real or personal property, and in all actions at law or in equity which have for their immediate object the enforcement or establishment of any lawful right, claim, or demand to or against any real or personal property within the jurisdiction of the court.

The eighth section provides that no order for the substitution of publication for personal service shall be made till a summons for the defendant shall have been issued and returned "not to be found." And when an order for publication shall be made, it shall be in the following or equivalent form:

In the supreme court of the District of Columbia, the ——— day of ———, 18— A B, plaintiff, vs. C D, defendant. (At law.) (In equity.) No. ——— On motion of the plaintiff, by Mr. ——— his attorney, it is ordered that the defendant cause his appearance to be entered herein on or before the first rule day occurring forty days after this day; otherwise the cause will be proceeded with as in case of default.

The ninth section provides that all sales duly made in cases in which publication is substituted for personal service of process, shall be good and valid, and shall vest any purchaser with a perfect title.

The tenth section provides that the proceeding to enforce any lien shall be by bill or petition in equity, and the decree, besides subjecting the thing upon which the lien has attached to the satisfaction of the plaintiff's demand against the defendant, shall adjudge that the plaintiff recover his demand against the defendant, and that he may have execution thereof as at law.

The eleventh section provides that in actions against foreign corporations doing business in the District of Columbia all process may be served on the agent of such corporation or person conducting its business aforesaid, and such service shall be effectual to bring the corporation before the court.

The twelfth section provides that all laws and parts of laws in conflict with these provisions are repealed.

The first amendment reported from the committee was to add to section four "or upon proceedings in error to the Supreme Court of the United States." So that the section as amended, would read as follows:

SEC. 4. And be it further enacted, That there shall be no supersedeas or stay of execution of the judgments of the supreme court of the District of Columbia, otherwise than by injunction, or upon proceedings in error to the Supreme Court of the United States.

The amendment was agreed to.

The next amendment was to insert in section eleven, after the words "corporation or person conducting its business aforesaid," the words "or, in case he is absent or cannot be found, by leaving a copy thereof at the principal place of business in the District;" so that the section as amended will read as follows:

SEC. 11. And be it further enacted, That in actions against foreign corporations doing business in the District of Columbia, all process may be served on the agent of such corporation or person conducting its business aforesaid, or, in case he is absent or cannot be found, by leaving a copy thereof at the principal place of business in the District, and such service shall be effectual to bring the corporation before the court.

The amendment was agreed to.

The next amendment was to insert after section eleven the following as additional sections:

SEC. 12. And be it further enacted, That the power claimed and exercised, as of common right, by every landlord, of seizing by his own authority the personal chattels of his tenant for rent arrears, is hereby abolished; and, instead of it, the landlord shall have a tacit lien upon such of the tenant's personal chattels, upon the premises, as are subject to execution for debt, to commence with the tenancy and continue for three months after the rent is due and until the termination of any action for such rent, brought within said three months, and this lien may be enforced, first, by attachment, to be issued upon affidavit that the rent is due and unpaid, or, if not due, that the defendant is about to remove the same or some of said chattels; or, second, by attachment against the tenant and execution, to be levied on said

chattels, or any of them, in whosever hands they may be found; or, third, by action against any purchaser of any of said chattels, with notice of the lien; in which action the plaintiff may have judgment for the value of the chattels purchased by the defendant, but not exceeding the rent arrear and damages.

SEC. 13. And be it further enacted, That the declaration in replevin shall be in the following or equivalent form: the plaintiff sues the defendant for wrongfully and unjustly taking and detaining the said plaintiff's goods and chattels, to wit, of the value of ——— dollars; and the plaintiff claims that the same be taken from the defendant and delivered to him, or that he may have judgment of their value, and all mesne profits and damages, which he estimates at ——— dollars, besides costs; and at the time of filing the declaration the plaintiff, his agent, or attorney shall file an affidavit, sworn to before the clerk, stating, first, that according to the affiant's information and belief the plaintiff is entitled to recover possession of the chattels proposed to be replevied, being the same described in the declaration; second, that the defendant has seized and detained or detains the same; third, that said chattels were not subject to such seizure or detention, and were not taken upon any writ of replevin; and he shall at the same time enter into an undertaking with surety, approved by the clerk, to abide and perform the judgment of the court in the premises.

SEC. 14. And be it further enacted, That if the officer's return of the writ of replevin be that he has served the defendant with copies of the declaration, notice to plead, and summons, but that he could not get possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the same and damages for detention; or he may renew the writ in order to get possession of the goods and chattels themselves. If the officer's return be that he has taken possession of the goods and chattels sued for, but that the defendant is not to be found, the court may order that the defendant appear to the action by some fixed day, and of this order the plaintiff shall cause notice to be given by publication in some newspaper of the District at least three times, the first of which shall be at least twenty days before the day fixed for the defendant's appearance; and if the defendant fail to appear the court may proceed as in case of default after personal service.

SEC. 15. And be it further enacted, That if the defendant appear he may plead not guilty, in which case all special matters of defense may be given in evidence, or he may plead specially.

SEC. 16. And be it further enacted, That whether the defendant plead, and the issue thereon joined is found against him; or his plea is held bad on demurrer; or he makes default after personal service or after publication, the plaintiff's damages shall be ascertained by the jury trying the issue where one is joined, or by a jury of inquest where there is no issue of fact; and those damages shall be the full value of the goods if elcigned by the defendant, including in every case the loss sustained by the plaintiff by reason of the detention; and judgment shall pass for the plaintiff accordingly.

SEC. 17. And be it further enacted, That if the issue be found for the defendant, or the plaintiff dismisses or fails to prosecute his suit, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant, with damages, or, on failure, that the defendant recover against the plaintiff and his surety the damages by him sustained, to be assessed by the jury trying the issue, or, where the plaintiff dismisses or fails to prosecute his suit, by the jury of inquest.

SEC. 18. And be it further enacted, That if the defendant has elcigned the things sued for, the court may instruct the jury, if they find for the plaintiff, to assess such damages as may compel the defendant to return the things; and the judgment shall be that the plaintiff recover against the defendant the value of the goods as found to be discharged by the return of the things with damages for detention, which the jury shall also assess.

SEC. 19. And be it further enacted, That where a suit is brought upon an open account, verified by the plaintiff's or his agent's affidavit, that the amount claimed by the plaintiff is justly payable by the defendant to the plaintiff, and the defendant fails to defend the suit, the plaintiff may have judgment final by default for said amount, with interest from the day specified in the declaration, without an inquiry of damages. If the affidavit be made before an officer of whose authority to administer oaths the court cannot take notice, his authority must be verified by the certificate under official seal, if he have one, of the officer having authority to give such certificate.

SEC. 20. And be it further enacted, That where money is payable by two or more persons jointly or severally, as by joint obligors, covenantors, makers, drawers, or indorsers, one action may be sustained and judgment recovered against all or any of said parties by whom the money is payable at the option of the plaintiff. But an action against one or some of the parties by whom the money is payable may, while the litigation therein continues, be pleaded in bar of another action against another or others of said parties.

SEC. 21. And be it further enacted, That in case of the sale of things, real or personal, under a decree in equity, the decree confirming the sale shall divest the right, title, or interest sold out of the former owner, partly to the suit, and vest it in the purchaser without any conveyance by the officer or agent of the court conducting the sale. And of this transfer of title the decree shall be notice to all the world when a copy thereof shall be registered among the land records of the District. Nevertheless, the court may order its officer or agent aforesaid to make a conveyance, if that mode be deemed preferable in particular cases.



SEC. 22. *And be it further enacted, That if the declaration state a cause of action of which the court has jurisdiction, but the verdict finds the money payable by the defendant to the plaintiff to be less than the lowest sum of which the court has jurisdiction, the plaintiff shall have judgment for the amount found due to him from the defendant, but without costs.*

SEC. 23. *And be it further enacted, That all laws and parts of laws in conflict with these provisions are repealed.*

The amendment was agreed to.

Mr. MAYNARD. Mr. Speaker, I will not detain the House with the details of this bill. I will simply say that it is, as the House has observed from the reading, a bill regulating or defining questions of practice in the courts. It has been prepared with a great deal of care, upon consultation with legal gentlemen of this District. When the District was organized and the courts first went into operation the old Maryland practice was adopted. Maryland, by subsequent legislation, has advanced her practice; while the practice in the District has remained in many respects stationary. The design of this bill is by legislation to make the practice in this District correspond with the advanced system of practice prevailing in the several States. The bill with the amendments is the result of the joint labors of members of the committee coming from different States and familiar with the respective systems of practice; and the experience and legal knowledge of the committee have been aided by information derived from members of the bar of this District. The bill has been prepared with as much care as the committee could bestow upon it. Now, unless some gentleman desires to ask me a question, I will call for the previous question.

Mr. BROOMALL. Mr. Speaker, I desire to ask the gentleman from Tennessee whether I rightly understand the bill to provide for the service of original process by publication so as to bring non-residents within the jurisdiction of the court without actual notice?

Mr. MAYNARD. In cases of attachment, divorce, and when the cause of action is local, as in case of foreclosure of mortgages, enforcing of specific liens, and the like.

Mr. STEVENS. Is this confined to local action?

Mr. MAYNARD. It is, except attachment cases for the collection of debts and divorce.

Mr. BROMALL. I ask whether the judgment in those cases operates *in personam* or *in rem*?

Mr. MAYNARD. In cases by attachment for the collection of debts and of divorce the judgment would be *in personam*; in other cases in the nature of judgments *in rem*. Not strictly and technically so, perhaps, for proceedings *in rem*, properly so denominated, bind everybody whether parties or not. The object of this bill is not to originate, but to regulate, the substitution of publication for the service of process. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DAWES. I move to amend the title of the bill by adding the words "in relation to judicial proceedings therein," so it will then read, "An act to amend the law of the District of Columbia in relation to judicial proceedings therein."

The amendment was agreed to; and then the title, as amended, was adopted.

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### GRANT OF THE RIGHT OF WAY.

Mr. JULIAN, by unanimous consent, introduced a bill to extend the provisions of the act of August 4, 1852, to all rail and plank roads for the term of five years; which was read a

first and second time, and referred to the Committee on Public Lands.

#### WASHINGTON COUNTY HORSE RAILROAD.

Mr. MAYNARD, from the Committee for the District of Columbia, reported back Senate bill No. 380, to incorporate the Washington County Horse Railroad Company in the District of Columbia, with the recommendation it do pass.

The Clerk proceeded to read the bill; but before it was concluded the morning hour expired, and the bill went over until to-morrow morning.

#### RECONSTRUCTION.

The SPEAKER stated that the first business in order was the House bill, No. 543, to provide for restoring to the States lately in insurrection their full political rights, on which the gentleman from Ohio [Mr. BINGHAM] was entitled to the floor.

Mr. PAINE. The gentleman from Ohio has consented to yield for fifteen minutes to me.

Mr. BINGHAM. I hope the House will not take it out of my time; but I yield to the gentleman whether it does or not.

Mr. SPALDING. I object unless it is taken out of my colleague's time.

Mr. BINGHAM. I am under obligation to yield to the gentleman from Wisconsin, and I am sorry my colleague insists it should be counted out of my time.

Mr. PAINE. I ask the Clerk to read the second section of this bill.

The Clerk read as follows:

SEC. 2. *And be it further enacted, That the State governments now existing *de facto*, though illegally formed in the midst of martial law, and in many instances the constitutions were adopted under duress, and not submitted to the ratification of the people, and therefore are not to be treated as free republics, yet they are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers shall be recognized as such.*

Mr. PAINE. Mr. Speaker, I cannot vote for the second section of this bill. Unless it shall be stricken out I shall be compelled to vote against the bill itself. I am not a little surprised that the gentleman from Pennsylvania [Mr. STEVENS] should be ready voluntarily to assume this burden of responsibility for the anarchy of murder, robbery, and arson which reigns in these so-called *de facto* governments which he proposes to recognize as valid for municipal purposes. He may be able to get this fearful burden upon his back, but if he does I warn him of the danger that the sands of his life will all run out before he will be able to shake it off. In this second section he denies that these governments are free republics, and yet he recognizes them as valid governments for municipal purposes until "duly altered." Mark the words: "valid governments for municipal purposes until duly altered." By whom duly altered? By the rebels themselves, on their own motion, or by virtue of congressional legislation? I take it for granted these governments are to be altered in pursuance of congressional legislation, either by virtue of this bill or some other.

But, sir, is the gentleman sure that this plan of reconstruction proposed by the bill will be realized in all of these lately rebellious States? Is he sure that it will ever be realized in one of them? Why, sir, unfortunately this bill is not so framed that it can run alone in the South. Somebody must vote there. These constitutional conventions must have members if they have any existence. Somebody must frame these constitutions if they are framed at all. Now, suppose nobody votes there; suppose no members appear in these constitutional conventions; suppose no constitutions are framed; suppose, in a word, that this southern horse will not drink, even after the gentleman from Pennsylvania shall have led him to water; what then? Will not the gentleman have found himself in a most unfortunate predicament? He will have these piratical governments on his hands voluntarily rec-

ognized as valid for municipal purposes until duly altered. He will have gratuitously become a copartner in the guilt which hitherto has rested upon the souls of Andrew Johnson and his northern and southern satellites, but which thenceforth will rest on his soul also until he can contrive duly to alter these governments. And so it will happen that the great Union party to which he belongs, and to which I belong, will become implicated, for how long a time God only knows, in this unspeakable iniquity which daily and hourly cries to Heaven from every rood of rebel soil for vengeance on these monsters. Sir, I shrink back appalled at the temerity of this rash young gentleman from Pennsylvania. [Laughter.]

Mr. Speaker, I want to know what occasion there is for any such provision as this in the bill? Not one single function is assigned by this bill to these governments which they are to perform if they are recognized. Why is the gentleman so anxious to share the responsibility and guilt of Andrew Johnson? What occasion have we to recognize these governments at all for any purpose? They play no part in the drama of reconstruction which the gentleman has presented in this bill. Why, then, recognize them? What occasion is there for this gratuitous self-stultification? Why, sir, the diabolical outrages perpetrated under these governments and with their sanction have been daily discussed in this very Chamber. This Hall has been for thirty days fairly blue with the smoke of the righteous wrath and indignation of the gentleman from Pennsylvania, and now he proposes to purify the atmosphere by absorbing all the guilt himself—by taking upon his own shoulders the burden of this guilt. Mr. Speaker, I cannot tell what load of sin long experience may enable the gentleman to stagger under, but I know full well that my own shoulders are neither broad enough nor strong enough to bear up any portion of this guilt. If twelve or eighteen months ago he had proposed to recognize these governments there might now be some excuse for him. If he had done so then, and we should now, in view of the anarchy which runs riot at the South, upbraid him for what he then did, he might very well say to us, "Gentlemen, I did not foresee these horrors." But now he has actually seen them. Why, sir, he has made this Hall ring with his malediction hurled at these pretended governments; and he undertakes to make us, as well as himself, partners in their guilt.

This bill goes into effect in May next, four months hence. He has waited already more than twenty months for reconstruction without recognizing these governments as valid for any purpose. He can wait for four months longer. If he cannot, I can. The gentleman from Pennsylvania often lectures, with or without cause, my distinguished friend from the Cleveland district [Mr. SPALDING] for wandering away from the true faith in search of presidential bread and butter; but, sir, time may disclose what presidential bread and butter the venerable gentleman from Pennsylvania has singly hidden away here under the second section of this bill.

Mr. HUBBARD, of Connecticut. I understand the gentleman from Wisconsin to infer that the venerable gentleman from Pennsylvania [Mr. STEVENS] is expected to be appointed by the President postmaster of some village in Pennsylvania. [Laughter.]

Mr. PAINE. I have no authentic information of that fact, but I think the expectation might be justified by the second section of this bill. [Laughter.] Sir, I was about to say that the gentleman from Ohio [Mr. SPALDING] might well say to the gentleman from Pennsylvania, [Mr. STEVENS:] "First cast out the beam out of thine own eye, and then shalt thou see clearly to cast the mote out of thy brother's eye."

I thank the gentleman from the Cadiz district of Ohio [Mr. BINGHAM] for yielding me a portion of his time.

Mr. BINGHAM. Mr. Speaker, the two bills now pending before the House, and which I have moved to commit to the Committee on Reconstruction, are, first the bill introduced by the gentleman from Pennsylvania [Mr. STEVENS] without the sanction of any committee, and by way of substitute for the bill originally reported by the Committee on Reconstruction; and the other is the bill reported from the Committee on the Territories by my colleague, [Mr. ASHLEY.]

In all that I may say to-day, Mr. Speaker, I do not wish to be understood as seeking to enforce upon the House any plan of my own. I desire merely to call the attention of the House to the attempts made by these two measures to induce the House to depart from what has hitherto been agreed upon by the Committee on Reconstruction; what has hitherto been done and sanctioned by the Thirty-Ninth Congress; what has hitherto been done and sanctioned by the people through the public press, in their primary assemblies, at the ballot-box, and finally what is now being done, and conclusively done, by the people of the organized States through their legislative assemblies. Neither, sir, do I intend to be understood, in anything I may say here to-day, as attempting to limit by any poor words of mine the sovereignty and power of the people of the United States to take such security as, in their judgment, they may deem effectual for the future safety of the Republic and the protection of the rights of all the people of the Republic. It is because I insist upon that right of the people—a right that belongs alone to the people, and which can be exercised effectively only by the people—that I oppose the legislation contemplated by the honorable gentleman from Pennsylvania [Mr. STEVENS] and by my colleague, [Mr. ASHLEY.]

While there are many, and, in my judgment, weighty objections to these bills, that just stated is not the least of them. I challenge these bills to-day, in the presence of the House of Representatives and in the presence of the nation, as a substantial denial of the right of the great people who have saved this Republic by arms to save it by fundamental law—law emanating from the people, law resting upon the sovereign will of the people alone, law beyond the power of this Congress or of any subsequent Congress by mere legislative enactments to repeal or in any manner limit or restrict. Standing upon this proposition of the right and duty of the people to settle for themselves this great question, which involves the future of the nation, the life and stability of American institutions, I ask the House to consider what has been done thus far upon the subject of restoration and the public safety by the Committee on Reconstruction, by the Congress by which that committee was appointed, and after them by the people themselves? First, sir, that committee, reflecting, as I believe, the will of the House and the Senate as well as the judgment of the people of the organized States of this Union, came to the conclusion that there was no future safety for the Republic, no security against a future rebellion similar to that which has recently rocked the continent and filled all good men in this land and in other lands with fears of the failure of this great experiment of republican government, but by incorporating in the Constitution itself such a provision as would protect in all the hereafter the rights of every citizen and every State by the combined power of the whole people.

To that end that committee prepared an article of amendment to the Constitution of the United States, and submitted it to the consideration of this House and of the Senate. That article of amendment is substantially that all persons born in this land, within the jurisdiction of the United States, without regard to complexion or previous condition, are citizens of the Republic; that no State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; that no State shall deprive any person of life or liberty or property without due pro-

cess of law; that no State shall deny to any person within its jurisdiction the equal protection of the laws; that representation hereafter among these States shall be apportioned according to the whole number of representative population in each; that those who have violated official oaths to support the Constitution of the United States shall be ineligible to any office, civil or military, State or national, until such disability shall be removed by act of Congress; that neither the United States nor any State of this Union shall ever assume or pay any debt contracted in aid of the late rebellion or make compensation for slaves; and that the debt contracted in defense of the nation's life shall be forever inviolable; and crowning all with the grand, comprehensive grant of power, that the Congress of the United States shall be authorized by appropriate legislation to enforce this provision.

Mr. Speaker, I stand here to-day filled with the conviction, as strong as knowledge or that light which comes direct from heaven, that the future safety of this people depends in some sort upon the incorporation into their Constitution of that great amendment. If it had been there from the beginning, you never in my judgment would have been troubled with the late rebellion.

Now, it is attempted to be said here, and elsewhere, too, that it was not the conclusion of the joint Committee on Reconstruction of the Senate and the House of Representatives that this amendment was to be made the basis of reconstruction. I beg leave to remind the House and to remind the country that that was the very conclusion to which that committee did come, and which they reported to the House and Senate. As evidence of this, sir, I refer to the bill which was reported by order of that committee, and as a substitute for which the gentleman from Pennsylvania [Mr. STEVENS] has interposed the bill which is now pending before the House. That committee reported at the last session a bill together with the constitutional amendment, and which bill is as follows:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such."*

*"Sec. 2. And be it further enacted, That when any State lately in insurrection shall have ratified the foregoing amendment to the Constitution, any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid in such State, may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State, to be given to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act."*

Mr. STEVENS. Will the gentleman allow me to say that that bill was not reported in connection with the present pending amendment; but it was reported in connection with an amendment which was defeated.

Mr. BINGHAM. I understand the gentleman exactly. That bill was reported in connection with the pending amendment, every word of it substantially, except this: the third section of that amendment as it now stands was reported by the committee as a bill subject to modification by a majority of Congress, which by the amendment may be modified in its effect by Congress, two thirds assenting thereto. There was another section which the Congress rejected, in my judgment wisely rejected; that was the section which disqualified rebels from voting for members of Congress or electors for President and Vice President until 1870.

It will not do for the gentleman to say that that bill ceased to operate as a declaration of the judgment of the joint Committee on Reconstruction, when the fact is on record that every member of that committee in this House and in the Senate voted to strike out the third section of the amendment and incorporate in its stead

what was before reported by the committee, as I have already said, in the form of a bill imposing the disability to hold office, military or civil, State or national, upon those who had broken official oaths to the United States to engage in rebellion. I stand upon the proposition that the Congress by that vote did give out this amendment to the people of the United States as the future basis of reconstruction; and further, that every member representing the Union party upon the joint Committee on Reconstruction, by recording his vote in the Senate and in the House of Representatives in favor of the substitution of the third section of the amendment as it now is for the third section as it was originally reported, thereby, declared the amendment, as it now is, the basis of reconstruction as provided in the bill reported by that committee, and is bound to stand by his record so made if he would be consistent. Mr. Speaker, the people of the United States so understood and accepted it. There are gentlemen here, not a few I undertake to say, who owe their reelection to the Fortieth Congress to the fact that the Union State conventions in the States which they represent upon this floor declared their acceptance of this constitutional amendment, in manner and form as it now stands, as a condition of future restoration.

In saying this I am not saying that either directly or indirectly or by implication this restricts, in any manner or form, the power of the Congress of the United States in the mean time to pass such laws as may be necessary for the protection of life and liberty and property throughout the lately insurgent States. To me nothing can be clearer than that the power so to legislate over those States, until their due reorganization and restoration, is in the Congress of the United States and nowhere else. It is precisely because I believe that the sovereignty of the nation is alone in the organized constitutional States of this Union, maintaining their relations to the Federal Government, and represented in the Congress of the United States, that I claim the existence of the power in this Congress, first, to propose to the several States so organized this amendment to the Constitution for their ratification; and second, to pass and enforce within the lately insurgent States for the time being all laws not inconsistent with the provisions of the Constitution of the United States for the protection, throughout those States, of every person in his rights of life, liberty, and property. This is no new opinion with me, but a conviction uttered in my place here five years since and early in the rebellion. Time and the action of every department of the Government have only confirmed me in it.

Sir, the gentleman's bill, while it conflicts with the constitutional amendment, totally ignores the first duty of the Congress of the United States, to give the protection of law to life and property in disorganized States. I listened, sir, with due attention to the gentleman's carefully prepared remarks. I weighed his words. I know that his heart was right when he said that it was fit and proper that those who are without the protection of law in disorganized States should have the protection of law, and that right speedily. But I challenge the gentleman, and I challenge any advocate of his bill, to the issue that I make to-day; that his bill gives no protection of law or color of protection which those people have not now. It gives no protection to anybody, loyal or disloyal, in any State.

Because of that I may be pardoned for opposing the bill, as also for the reason before stated that it is a clear, palpable departure from the intent and letter of your constitutional amendment. The bill, in my judgment, is framed in the spirit of the utterances of a distinguished man of this country who has been waging war on this amendment and this Congress, denouncing both as a "swindle," and asking the swindling Congress to "fling the swindling amendment out of the window."

I see in the legislation thus attempted to be initiated by the gentleman from Pennsylvania the inauguration of that movement, and I for one stand here to enter my protest against it. Let the future safety of this Republic—I ask it in the name of my afflicted country—rest upon guarantees embedded in the Constitution by the sovereign act of the people, and not upon repealable acts of Congress or parchment contracts entered into by Congress with insurgent and disorganized States. I submit with all confidence that what is contemplated by the gentleman's bill is to patch up a restoration by the usurpation of powers which do not belong to the Congress of the United States, induce the people to fling aside the constitutional amendment, and thereby subject the future of this Republic to all those dread calamities which have darkened its recent past.

Mr. Speaker, I may be pardoned, before I proceed further with the consideration of these bills, if I attempt in a few short words to fortify what I have said of the power of Congress to present the pending amendment, the power of the loyal organized States here represented to ratify it and make it part of the Constitution of the United States, and the power of Congress in the mean time to protect person and property in these insurgent States. May it not be safely affirmed that the American nationality as a political organization never existed an hour but by means of organized State governments? Your Constitution began to be through that instrumentality, and it has continued to be through that instrumentality. I do not lose sight of that other fact, that, notwithstanding the division of this people into States under the Constitution, they are nevertheless one people, with one Constitution, one country, and one destiny. But still, sir, their political power as one people is primarily exercisable under the Constitution of the United States only through and by organized constitutional State governments. There can be no representative body of the people of the United States in Congress save through organized State governments and elections therein held. There can be no senatorial body of the legislative power of this nation save by the direct act of legislative assemblies in organized States. There can be no election of a Chief Magistrate of the United States save through electors appointed in such manner as the Legislature of the respective States may direct, and in default of an election by the State electors the election can only be had by the Representatives of States of the United States in the House of Representatives voting by States, the Representatives from each State having but one vote.

This being so, it necessarily results, notwithstanding the strange utterances that have been heard in another place from a distinguished Senator, that the people of organized States of the Union who maintain their constitutional relations to the Government of the United States, and only the people of such organized States of this Union, are the nation. This proposition has of late been denied, I regret to say, in the interests of those who lately waged war against the Government. I repeat, there is no American nationality without States of the Union duly organized and maintaining constitutional relations to the Government of the United States in conformity with the Constitution of the United States. It therefore must be that when in the late rebellion the people of the insurrectionary States organized conspiracy and took up arms against the Government of the United States, though they failed, thank God, to overturn the fabric of American empire, though they failed to sweep away the supremacy of the American Constitution, though they failed to denationalize the American people, and to blot that people from the map of nations, they did succeed in overturning their own local constitutional State governments; and thenceforward to this moment (except in restored Tennessee) they had and have no power to legislate upon any subject affecting the life, liberty, or property of an American citizen, save by the sufferance of the

American nation represented in the Congress of the United States. The rights of a people to be recognized as such and to act as such can only exist under legal organizations. To use the words of Burke:

"When men, therefore, break up the original compact or agreement which gives its corporate form and capacity to a State, they are no longer a people; they have no longer a corporate existence; they have no longer a legal coercive force to bind within, nor a claim to be recognized abroad. They are a number of vague, loose individuals, and nothing more. With them all is to begin again. Alas! they little know how many a weary step is to be taken before they can form themselves into a mass which has a true political personality."—*Burke's Works*, vol. iii, p. 82.

The conclusion is irresistible that the rebel States by their rebellion ceased to possess the power or legal coercive force for local State government. When a State of this Union becomes thus disorganized the power of government therein is exclusively in the Government of the United States. The jurisdiction of the United States Government within the limits of this Republic is nowhere, either by the letter of the Constitution or by any intendment of the Constitution, limited or restricted for the general purposes of legislation except by the presence of an organized constitutional State government. It therefore is that, from the day treason did its work in South Carolina to this hour, the legislative power of the United States was as exclusive within the State of South Carolina as it is this moment within the District of Columbia. So it must remain, and so it will remain until South Carolina is restored to her constitutional relations with this Government by the reorganization of a constitutional State government acceptable to the American people and made valid by the approval of Congress.

If this be so, Mr. Speaker, it follows that this Congress of the United States had full power, without the consent and against the consent of every insurrectionary State in this land, to propose the pending amendment to the Constitution to all the organized States of this Union for ratification. There is, there can be, in my opinion, no question of this. But it does not follow from this that the people of each of those States may not reorganize their local State governments destroyed by their rebellion, and ratify the pending amendment with the consent of this Government. The gentleman from Pennsylvania [Mr. STEVENS] pronounced this absurd.

Sir, the joint Committee on Reconstruction held otherwise when they reported the bill which I have read, and therein provided that whenever the amendment shall have become part of the Constitution, and any State lately in insurrection shall have ratified the same, &c., such State should be entitled to representation in Congress. The framers of our Government also differed from the gentleman from Pennsylvania in this behalf. When this Government was organized under the Constitution, there were but eleven States in this Union. North Carolina and Rhode Island were not members of it. They were not represented in that First Congress which organized in 1789 in New York. They had no voice in the election of the first Executive of the nation. They were not in the Union or of the Union. Yet, sir, after this Government was organized, after the Congress had enacted laws, and especially the judiciary act, these States not in the Union, or of the Union, did ratify and accept the Constitution of the United States, and thereupon were admitted to representation in Congress. Upon their admission in June, 1790—a year after the first meeting of Congress—by special enactments the judiciary act of the United States was extended to each of those new States, the Congress thereby confessing that organized States not in the Union or of the Union might ratify the Constitution, and, by Congress subsequently assenting thereto, the ratification became valid upon the admission of such States to representation. It is no answer to say they were original States, and might ratify by force of the Constitution itself. The provision of the Constitution conferring power on the original

States to ratify only applied to such of the States, not less than nine, as ratified before the Constitution was established and the Government organized under it. Hence it was that when those two States were admitted after the Government had been organized the previous legislation of Congress was extended over them.

To ratify a constitutional amendment is the exercise of the power of a State of the Union. So also is the election of Representatives and Senators of the United States. Many of the States now in the Union exercised powers of States before admission and preparatory to their admission as States. They formed constitutions of State government, elected Legislatures, chose Senators, which, under your Constitution, can only be done by a Legislature of a State. The moment the Congress of the United States, by admitting into the Union these new States, affirmed what was thus done by them in advance of their admission, and thereby those acts become as valid as any lawful acts done by them as States after their admission. If Congress had rejected the new States of course their acts as States were void and of no effect.

So I submit the people of the insurrectionary States may proceed with the work of reorganizing State governments, the formation of a constitution, the election of a Legislature, and the formal ratification of the constitutional amendment and all that they do in that behalf may by the subsequent act of the national sovereignty by resolution be made valid.

Let those States ratify the amendment, and thereby give some evidence of a fitness and desire to be restored to the equal powers of organized States in the Union.

Instead of discouraging them as the gentleman from Pennsylvania proposes, and denying them the privilege even of petition for admission, let us stand upon the declaration of the joint committee that those disorganized States may ratify the amendment and that they ought to ratify it. Yet I reaffirm distinctly here, and do not wish to be misunderstood about it, that those insurrectionary States have no power whatever as States of this Union, and cannot lawfully restrain for a single moment that great body of freemen who cover this continent from ocean to ocean, now organized States of the Union and represented here, in their fixed purpose and undoubted legal right to incorporate the amendment into the Constitution of the United States.

But, say some, there are two departments of the Government against this asserted power of the people of the organized States, the executive and judicial. My answer is, neither of these departments has any voice in the matter—no right to challenge the authority of the people. I have no concern or care for any influence which the President may seek to exert. He is powerless with the people. He can in no way reverse their final judgment. But we are told the Supreme Court of the United States will strike down this amendment, if ratified by three fourths of the organized and represented States and declared duly ratified by authority of an act of this Congress.

I do not share in the fears thus expressed. That supreme tribunal of justice has no power in the premises. It is not a judicial question; it is a political question in the decision of which the Supreme Court can in no wise interfere. Gentlemen might as well claim that the Supreme Court might inquire into the question whether the State of Ohio, for example, is one of the States of this Union. That is a question decided by the sovereignty of the nation in Congress assembled, and when so decided the decision is final and conclusive upon every judicial tribunal in the land, Federal and State.

The Supreme Court of the United States to undertake to adjudge the power of Congress to propose a constitutional amendment and the power of the people to affirm it! A Congress competent to enact laws is competent to propose amendments to the Constitution, and the States competent to elect a lawful Congress



are competent to ratify a constitutional amendment proposed by such Congress.

Whether a State of this Union has levied war against the United States or has a republican constitutional State government, or is entitled to representation in Congress, or to choose electors for President and Vice President of the United States, or can rightfully exercise any of the powers of an organized State of the Union, are political not judicial questions, and can be decided only by the political department, the law-making power of the United States, and from that decision there is no appeal, and there exists no power of reversal save in the people at large. <Even the Supreme Court has always affirmed this. That tribunal so affirmed in *Luther vs. Borden*; it again so affirmed in the prize cases. But, sir, if that tribunal had never so affirmed no intelligent man at all conversant with the Constitution of the United States and the relations of the original States at the time of its adoption, and the mode and manner in which the Government of the United States was organized under it, could for a moment doubt that the action of the people over the political power of States and the relations of States was conclusive upon the judiciary, Federal and State.

Let the amendment be ratified by three fourths of the organized and represented States and it is in vain that conspirators and aiders of rebellion will appeal to the Supreme Court to relieve them from the righteous and just provisions of the great decree of the people. Sir, the power of the people, organized under twenty-six constitutional State governments and represented in Congress, to amend the Constitution of the United States and enact laws for the common defense and general welfare of the United States, and make treaties and declare war, and raise and support armies and navies, cannot be made a question in the Supreme Court or elsewhere, for it has been settled and forever closed both by the sword and the ballot. It is idle to suggest a reversal by the Supreme Court of the judgment of the people of these organized States of the Union, either upon the question of their constitutional power to crush and subjugate armed rebellion by arms, or of their constitutional power to govern insurgent and disorganized States by laws, statute and fundamental.

<The Supreme Court, therefore, cannot very well at this time of day raise the question whether the Thirty-Ninth Congress of the United States is a competent body to enact laws or propose amendments, as was done by the Thirty-Eighth Congress, representing the same States. If the court should be of that mind, it had better upon *quo warranto* proceed to determine whether we have a right to legislate upon any question whatever, for a Congress that can lawfully legislate can lawfully propose amendments, and States that can lawfully elect the Congress can lawfully ratify amendments to the Constitution of the United States.

The original jurisdiction of that court is very restricted, as gentlemen well know, by the terms of the Constitution. Their appellate jurisdiction, both by the text of the Constitution and by every decision which that court ever made, depends exclusively upon the will of Congress. If, therefore, gentlemen are at all apprehensive of any wrongful intervention of the Supreme Court in this behalf, sweep away at once their appellate jurisdiction in all cases, and leave the tribunal without even color or appearance of authority for their wrongful intervention. Do this, and let that court hereafter sit to try only questions affecting ambassadors, other public ministers and consuls, and questions in which a State shall be a party, as that is the beginning and end of its original jurisdiction. By the ruling of that court thus restricted we may safely conclude that they will decide as heretofore, that the clause giving original jurisdiction in cases in which a State shall be a party only applies to those States that are members of the Union. <If, however, the court usurps power to decide political ques-

tions and defy a free people's will it will only remain for a people thus insulted and defied to demonstrate that the servant is not above his lord by procuring a further constitutional amendment and ratifying the same, which will defy judicial usurpation by annihilating the usurpers in the abolition of the tribunal itself.

Sir, I beg pardon for exhausting so much of the time and patience of the House as I have already done in trying to make clear this proposition of the power of Congress to propose amendments to the Constitution and to decide finally the question of the ratification thereof, as well as to legislate for the nation. It needs no argument. The legislative power of the nation is in the representatives of the organized constitutional States of this Union; and what are organized constitutional States of this Union is clearly defined in your Constitution, namely: first, those that originally assented to that instrument, having been previously States, and thereby organized the Government under it; and which still sustain their constitutional relations to it and have not forfeited or broken the same; second, those new States that were afterward admitted by acts of Congress and have not since disorganized and revolted. > All such States, thus once in the Union and continuing to be organized constitutional States of the Union, and only such, are entitled to representation in Congress or to exercise any of the powers reserved to the States of the Union by the Constitution. By the express terms of the Constitution there is, there can be no constitutional States in this Union save States duly admitted, obedient to the Constitution and laws of the United States, whose governments are republican, and all of the legislative, executive, and judicial officers of which are bound by an oath to support the Constitution of the United States. Thus, sir, it is written. <A State without executive, legislative, or judicial officers bound by an oath to support the Constitution of the United States is not a State in this Union or of this Union for local or municipal purposes. It simply remains a State in the Union and of the Union, despite its treason and rebellion, for Federal purposes—that is, for Federal Government; and it is because the late insurgent States sustain this relation that your joint Committee on Reconstruction recognizes the fitness and propriety of the people of those States reorganizing constitutional governments in conformity with the provisions of the proposed amendment, now that their illegal Governments *de facto*, established in rebellion, have been stricken down by the sword.

And here, sir, is the point at which I take my departure from the honorable gentleman from Pennsylvania. His bill is framed upon the idea, which he has expressed more than once in this body, that the people of these insurrectionary States are a foreign nationality, that they are alien enemies. This position the gentleman has attempted more than once here to fortify by reference to the utterances of the Supreme Court of the United States in what are known as the prize cases. I beg leave to say, notwithstanding the gentleman's reiteration of that statement, that the court never made any such decision. The language of the court was most carefully worded. They decided that during the war, the great public, solemn war waged by the Government of the United States against this armed insurrection, the Government of the United States had a right, upon its own election, to treat the insurgent States as though they were a foreign nationality—not that they were so; not that the Government declared that they were so; not that the Government ever intimated by recognizing in them the rights of belligerents that they were foreign nationalities, but that, in the assertion of the nation's rights and to crush rebellion by arms, the Government of the United States might of its own election for the time being recognize them as entitled to the rights of belligerents, and treat them as though they were foreign nationalities. The words of the court are, "they were enemies,

though not foreigners." Sir, I will not with my present convictions, under whatever pressure, here or elsewhere, assent to any legislation which on its face recognizes the gentleman's dogma as that at any time from the hour when treason fired its first gun on Fort Sumter to the present moment any rood of the Republic was discovered from the rest and made foreign territory.

The States lately in rebellion were and still are within the jurisdiction of the United States; and therefore it results, notwithstanding their treason, that the moment the Government of the United States by force of arms was able to establish within the lines of South Carolina its courts of justice, it might hold any rebel or other criminal against its laws to answer at the bar of its own courts without being charged with any departure from the Constitution, which expressly requires that all persons tried for crime against the laws of the United States must be held to answer in the State and district, previously prescribed by law, in which his crime was committed.

Why, sir, the gentleman's bill and the gentleman's hypothesis would operate as a general jail delivery. All the murderers, all the assassins, all the poisoners of our captured prisoners anywhere within the rebel States, are to go unwhipped of justice at the bar of our tribunals, because, forsooth, their crimes were not committed within a State of the Union and a judicial district in such State previously prescribed by law. The gentleman so understands it himself; and therefore I may be pardoned for reminding him and the country that in his carefully-prepared remarks he scouted the idea of holding anybody to answer for treason who participated in the late rebellion within the rebel States. He said that it was utterly impossible. Well, if it is impossible it is because the nation, by its own action, chose to estop itself in that behalf by granting them the rights of belligerents. The impossibility does not arise from anything that treason did or attempted to do within the limits of those States and the jurisdiction of the United States.

Having said this, I will now proceed, as briefly as I may be able, to consider more in detail the provisions of the gentleman's bill. And the first remark that I have to make is that this bill is very offensive to me in this: that it is an attempt to restrict the right of petition in the people of the several late insurrectionary States. Why, sir, in the government of our common Father the poorest worm that crawls is given the right of petition, and under the Government of our fathers it has been wisely ordained that the Congress of the United States shall pass no law abridging the right of the people peaceably to assemble and petition Congress for the redress of grievances. This bill, from first to last, as though it were the utterance of an unlimited and crowned dictator, says that a million men in this land shall not peaceably assemble and petition this Government.

I know it is very easy for men to say that traitors have no rights which we are entitled to respect. If I were to concede that, it does not result that the Constitution of the United States has authorized the Congress of the United States to decitizenize a single man in the Republic by act of Congress; and yet, lest gentlemen may think that I am forcing by implication something that is not contained in the text, I will quote from the bill:

That all persons who, on the 4th day of March, 1861, were of full age, who held office, either civil or military, under the government called the "confederate States of America," or who swore allegiance to said government, are hereby declared to have forfeited their citizenship and to have renounced allegiance to the United States, and shall not be entitled to exercise the elective franchise or hold office until five years after they shall have filed their intention or desire to be reinvested with the right of citizenship, and shall swear allegiance to the United States and renounce allegiance to all other governments or pretended governments.

What is the organization of government by the people within any of the Territories of the United States where there exists no accepted

constitutional State governments and a presentation thereof to the Congress of the United States asking its approval but the simple exercise of the right of petition? And yet the gentleman puts into this bill a provision "that the eleven States lately in rebellion, except Tennessee, may form valid State governments in the following manner," and subject to the foregoing forfeiture and denial of right. Sir, the people of those States have the right to form State governments and to submit them to the Congress of the United States without any enabling act. Congress has the right, I admit, to aid them in the exercise of this privilege by an enabling act.

But I submit to this House, and I submit to that great body of freemen represented by this House, that the Congress of the United States has no color of authority for providing by law, first, that a million persons, natural-born male citizens of this Republic and resident therein, are no longer citizens of the United States; and next, that the people of the ten States lately in insurrection may not form a constitution of State government otherwise than as provided in and through this bill; and yet this bill so declares, and then proceeds as follows:

SEC. 2. *And be it further enacted*, That the State governments now existing *de facto*, though illegally formed in the midst of martial law, and in many instances the constitutions were adopted under duress, and not submitted to the ratification of the people, and therefore are not to be treated as free republics, yet they are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers shall be recognized as such.

I thank my venerable friend from Pennsylvania [Mr. STEVENS] for granting even this much of law to that people. For, excepting this section, which my excellent friend from Wisconsin [Mr. PAINÉ] assailed, both the bill of the gentleman from Pennsylvania [Mr. STEVENS] and the bill of my colleague, [Mr. J. M. ASHLEY,] reported from the Committee on Territories, give those people no protection of law at all; none whatever. In saying this, I am not unmindful, sir, of the fact that this bill does provide for conventions to assemble in June next. But in the mean time it gives nobody, loyal or disloyal, any protection of law whatever, except such as they may have by and through these illegally organized State governments.

Mr. ASHLEY, of Ohio. What remedy do you propose in place of that?

Mr. BINGHAM. I stated in the outset of my remarks that it was not my purpose to attempt to enforce upon this House any particular plan of my own in regard to this subject, but only to ask the House to refer these bills to the joint Committee on Reconstruction for consideration. But as my friend has asked me what remedy I would propose, I will state that it is simply this: I would give remedy by law in United States courts in all cases if these State governments are not sufficient for the efficient protection of life and property therein. I have no doubt there is something of good in those governments, and that good may come from such a provision as that which the gentleman from Pennsylvania [Mr. STEVENS] has incorporated in his bill, declaring those organized State governments to be valid for municipal purposes, and declaring that all persons shall recognize the official officers thereof; still I am not prepared to say that there is not much in those State governments which is in conflict with the Constitution of the United States, and which ought to be corrected; and, therefore, in answer to the question of my colleague, I will say that while I would accept legislation of that sort for the time being, if I may be allowed to make a suggestion, I would, instead of that, provide complete and efficient protection for all without respect to persons or previous condition in such tribunals of justice as Congress may see fit to establish there, either directly or by recognizing the tribunals now there. That is my answer to the gentleman; and if that is not deemed advisable I would adopt any other

method which this House, after due consideration, may determine to be more effectual to protect all the interests of all the people of that section.

Now, I beg leave to return to the bill. The sixth section, as I have already said, declares something like a million men no longer citizens of the Republic on the grounds which I have stated. That in my opinion is a very clear departure from the provision of the constitutional amendment, which imposed no disability upon persons by reason of their participation in the rebellion, save their disability to hold office until such disability shall be removed by act of Congress. But what does the gentleman propose to do by this section of the bill? He proposes to disfranchise as well as to decitizenize them for the period of five years. That is precisely what every Senator declared should not be done when at the last session the third section of the amendment as reported to this House against my protest was struck out by the unanimous vote of the Senate; and it is precisely what this House declared should not be done, the gentleman himself assenting when at the last session the House concurred with the Senate in striking out that provision.

Mr. MAYNARD. I would ask the gentleman if he recognizes the right of citizens of this Government to throw off their allegiance?

Mr. BINGHAM. Not at all, while they remain within its jurisdiction.

Mr. MAYNARD. I am not asking that question. I would like an answer to the question in the exact terms in which I put it.

Mr. BINGHAM. Well, if the gentleman is asking me whether I recognize the right of self-expatriation, I answer that I think the Government of the United States settled that right upon the seas about fifty years ago by battle.

Mr. MAYNARD. Will the gentleman allow me then to ask him whether, in his judgment, the men who went into the rebellion did not, by connecting themselves with a foreign government, by every act of which they were capable, denude themselves of their citizenship—whether they are not to be held and taken by this Government now as men denuded of their citizenship, having no rights as citizens except such as the legislative power of this Government may choose to confer upon them? In other words: is not the question on our part one of enfranchisement, not of disfranchisement?

Mr. BINGHAM. I thought that what I had already said would have been deemed a sufficient answer to the gentleman's inquiry.

Mr. MAYNARD. I ask the gentleman's pardon. I had not the opportunity of hearing his whole speech.

Mr. BINGHAM. But, Mr. Speaker, if the House will pardon me for touching again upon that of which I have already spoken, I have no objection to answering still more fully for the gentleman's satisfaction. I say, as I said before in the progress of this argument, that the people of a State who engage in armed revolt against the Government of the United States, within the jurisdiction of the United States, can no longer, except by the consent of the sovereign authority of this nation, exercise the powers of an organized State within the Government, and are therefore subject, until they are restored to the powers of a State organization, to the exclusive legislation of the Congress of the United States. But their treason and revolt does not make them a foreign nationality, nor put them or the States in which they reside beyond the jurisdiction of the United States, nor absolve them from their allegiance to this Government, nor make the faithful, law-abiding citizens of their States alien enemies and traitors.

But, sir, when the gentleman interrupted me, I was remarking that the Congress of the United States has already indicated to the people of the United States the disabilities it proposes to impose upon the persons who were engaged in the rebellion; and that disability is a disqualification to hold any office, civil or

military, State or national, until such time as the disability may be removed by act of Congress. I propose, sir, to stand upon that, and abide by it.

[Here the hammer fell.]

Mr. DAWSON obtained the floor.

Mr. MAYNARD. I hope the gentleman from Ohio [Mr. BINGHAM] will be allowed to proceed.

Mr. DAWSON. If it be the pleasure of the House to give the gentleman additional time I will yield with pleasure, provided that the time he may occupy shall not be deducted from the hour to which I am entitled.

Mr. BINGHAM. I would like the indulgence of the House for a short time longer.

Mr. STEVENS. I understand there are some twenty gentlemen who desire to speak. I shall not object to extending the time of the gentleman from Ohio; but this is the last extension of time to which I will consent in the discussion of this bill.

Mr. ELDRIDGE. I will not object to an extension of fifteen minutes; I must object to an indefinite extension.

Mr. BANKS. I hope there will be no objection to letting the gentleman speak for an hour longer, if he desires that much time. Let him conclude his speech.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] objects to that. Is there any objection to an extension of fifteen minutes?

No objection was made.

Mr. BINGHAM. Mr. Speaker, my objection to this sixth section imposing these additional disabilities rests upon the grounds I have already intimated. I hold that it is an interference in the first place with the right of petition in that people. Although they were traitors, they have "the right peaceably to assemble and petition the Government for a redress of grievances." In addition to that, it is a clear departure from the letter and spirit of that great amendment which we have submitted to the people of this country for their approval and ratification, and which has already received the final ratification of the Legislatures representing not less than twelve millions of the people of this nation. That amendment clearly imports that they may vote. Sir, it imposes no legal disability upon any person lately engaged in the rebellion South other than the disability to which I referred before, ineligibility to office, military or civil, until such disability be removed by act of Congress. The amendment places all those persons in every other respect on an equal footing with their fellow-citizens, and by express intent, having placed this sole disability upon them, proclaims to them and to the world that by their acceptance and ratification of the amendment under a constitutional State government they may be restored as States to the Union, in which event they shall not be denied the elective franchise within their States respectively. I propose to stand by that amendment.

The gentleman's answer would be to the effect if the amendment is adopted and made part of the Constitution, his bill if passed simply falls. That is a strong reason with me why his bill should not be enacted into law in advance. The probability of the speedy ratification of the amendment by the requisite number of States is a reason for the reference of the bill to the joint Committee on Reconstruction for consideration until the American people decide the great question whether they will place this limitation upon our power.

But, sir, there is a further provision in this bill to which I ask the attention of the House, and that is the provision of the fourth section. I think a more monstrous atrocity never was presented in the form of legislation to the American Congress for its consideration. It is that—

No person shall be deprived of the right to vote, or otherwise disfranchised, by reason of conviction and punishment for any crime other than for insurrection or treason or misprision of treason.

In order to understand the effect of this let me read from the eighth section. It is there provided—

That whenever the foregoing conditions shall be complied with the citizens of said State may present said constitution to Congress; and if the same shall be approved by Congress said State shall be declared entitled to the rights, privileges, and immunities, and be subject to all the obligations and liabilities of a State within the Union.

What conditions, sir? Why the foregoing conditions in the provisions of the bill: a constitution of State government which upon its face shall declare that no person for crime shall be denied the elective franchise or be otherwise disfranchised within the State, save persons convicted of insurrection, treason, or misprision of treason. What is this but asking this Congress to say in advance, if the insurgent States shall so frame their constitutions of State government, that thieves, robbers, and assassins shall never be deprived of the right of the elective franchise it will be approved; otherwise their constitutions will be rejected. The bill will bear no other construction than this.

It is no objection with me that the bill secures, in the election of delegates to frame a constitution of government, to all male citizens over twenty-one years of age, without regard to race or color, the right to vote. But it is an insuperable objection to this bill that it is decreed of perpetual obligation upon the State and nation never to be altered or abrogated; and that only in pursuance of its conditions can a State be admitted to representation or be permitted to retain representatives in Congress after admission.

Mr. Speaker, while I am willing to exert all the essential powers of this Government as it now stands in protection of life, liberty, and property in the insurgent States, to govern them, if need be, as they now are for years, I will never, with my present conviction of duty, incorporate by law upon the statute-book of this Union a provision which knocks out the corner-stone of the fabric of American Government.

I do not forget, sir, the words of Washington, transmitted to us. When about to surrender his public trusts he declared "the basis of our political systems is the 'right of the people to make and alter their constitutions of government.'"

The gentleman, doubtless for humane purposes, puts into this bill, in the seventh section, a provision that—

All laws shall be impartial without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void and said State lose its right to be represented in Congress.

I do not propose myself to support any such legislation, for the reason that with my present convictions the Congress of the United States has neither the power nor color of power to do this. It is in vain that gentlemen say it is only to protect the freedmen in their rights. God knows I am ready to go as far as he who goes the farthest under your exclusive legislative power in those disorganized States, and of which I have already spoken, to protect every one of them in all their rights: the right to enjoy the fruits of their toil; the right peaceably to assemble and petition this Government for a redress of grievances; the right to participate in the reorganization of the governments of the insurgent States; but I am not going, under the pretense of a mawkish humanity, under the pretense of throwing guards about the sacred right of liberty, to take away the right of a free people to amend and alter their constitutional government at their pleasure, subject only to the limitations of the Constitution of my country.

What does the seventh section say? "All laws shall be impartial, without regard to language, race, or former condition." Why, sir, in its fullness and extent it is a declaration by statute in advance that these States shall not exclude from the right of suffrage or from office aliens in their midst, and not merely aliens,

but men who come in their midst as paid spies or hirelings of foreign Governments; because, forsooth, they are come of another race or speak another language. Let the laws for the protection of personal freedom be the same for the alien as for the citizen; but let the laws regulating political rights restrict their exercise to the citizen.

Sir, I am not to be thus driven into a violation of the letter and spirit of the Constitution of the country. Under it the rights of the States are as sacred as those of the nation; its express provision is that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In strange conflict with this is the proposition of this bill, that if the State organized and admitted under it exercise the essential powers of local State government thus reserved to the people, contrary to the provisions of this act, the State shall lose its right to be represented in Congress.

The equality of the States and the equality of men in the rights of person before the law is what the Constitution enjoins and the people demand.

Sir, this bill not only assumes to fetter the power of the State, but it assumes in like manner to fetter the power of the nation, by declaring as it does that—

If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void and said State lose its right to be represented in Congress.

Suppose a future Congress should repeal it, would it not be repealed? Suppose it should alter or abrogate it, would it not be altered or abrogated? Is a State to be denied representation because Congress exercises the power that rightfully belongs to it to repeal the legislation of a prior Congress? I think instead of being a bill of reconstruction it is a bill of destruction; instead of being a bill of restoration it is a bill of disunion and perpetual dismemberment; instead of a bill to restore the disorganized States as equal States of the Union it is a bill to convert them into vassal provinces.

And as for the bill introduced by my colleague, I beg leave to say, with all respect for the chairman of the Committee on Territories, [Mr. ASHLEY, of Ohio,] that it needs a great deal of consideration before it can be passed upon safely by this House or accepted as a rule for its action. I do not intend to delay the House with any extended remarks about it further than to say this: that it recognizes in its provisions that those disorganized communities are States of the Union for Federal purposes, as they undoubtedly are, and will continue to be until Congress in the exercise of that general power to which I have referred chooses to degrade them to the condition of Territories, to partition them or to dismember them, which I hope Congress will not be in haste to do. Until Congress exercises that power and so legislates, the insurgent States remain States for Federal purposes. Congress from the beginning of the war to this hour has always so recognized them. It so recognized them in 1861, in the first year of the war, when it apportioned direct taxes among them as States and upon the basis of their representative population.

The Congress recognized the insurgent States as States of the Union for Federal purposes in 1862 when it apportioned representation among every one of them as States of the Union, which bill stands unrepealed at this hour. The Congress recognized them when it made an appropriation to pay the salaries of the United States district judges in the States of Florida, Mississippi, and Alabama. There is no escape from the conclusion. I recognize our authority to reduce those States to Territories; but you have not so reduced them, neither is it made to appear that it is necessary so to partition and dismember them.

By my colleague's bill those States are legislated over both as States and Territories. The

Federal courts are there; and by one section of this bill men are held to answer in the district courts of the United States in the several insurgent States, and under another provision of the bill conventions, composed of delegates authorized to be chosen for the purpose of organizing constitutional State governments, are authorized to appoint judges for county and district courts in all those great States, to which courts so created are to be committed the issues of life and death. I want to know by what authority the Congress of the United States can invest a convention of delegates with power to authorize courts that are to sit in judgment upon the lives, liberties, and property of the citizens of the United States anywhere within the States of this Union? A gentleman inquires what right the President has to do it. No more right than the Czar of Russia; but that does not excuse the Congress of the United States for undertaking any such acts of usurpation. The judicial power of the United States can only be exercised in the States. Who ever heard of a district court of the United States in any Territory of this Union? You hear of territorial courts, but there is no district court of the United States in Nebraska, nor in Utah, nor in Washington, nor in Dakota; but there is a district court of the United States in session to-day in the States of Alabama and Mississippi and two of them in Florida, as there are in New-York and Massachusetts. Notwithstanding the fact that the courts of the United States are established and open in the late insurrectionary States, this bill provides for the organization of courts with general jurisdiction over the lives, liberties, and property of men, and the judges of those courts to be appointed by a convention and controlled by a committee of public safety.

[Here the hammer fell, Mr. BINGHAM's hour having expired.]

Mr. ASHLEY, of Ohio. I ask unanimous consent of the House that the time of my colleague be extended fifteen minutes.

No objection was made, and Mr. BINGHAM's time was extended accordingly.

Mr. BINGHAM. I have but a few more words to say. I shall not trespass much longer upon the time of the House. The question I have been discussing is, sir, a grave and delicate question. It is because the bills concern the nation's peace and the reorganization and restoration of States that I ask that the bills be referred to the committee appointed for the very purpose of considering the reconstruction of those States. Let the bills be so referred and see if that committee will depart to the extent proposed from that measure as a basis of reconstruction which the people themselves are now considering.

I cannot, Mr. Speaker, for the reasons which I have stated, pronounce the bill presented by my colleague [Mr. ASHLEY] anything else than a bill of anarchy. It sweeps away all the laws in those States; it declares the laws and all acts done under them void, and subjects the people thereof to such laws as may hereafter be enacted. In the mean time, until that hereafter comes, by what laws are the twelve million citizens therein to be governed? Why, sir, a people without law, either to restrain the lawless or to shelter the just, are as a people without hope and without God in the world; most miserable. I repeat it, therefore, the bill is a bill of anarchy, and not a bill of restoration. I look upon it as a bill to place hinderances in the way of restoration, and therefore I ask that it may be referred to the Committee on Reconstruction. I look upon both these bills as a manifest departure from the spirit and intent of our constitutional amendment. I look upon it as an attempt to take away from the people of the States lately in rebellion that protection which you have attempted to secure to them by your constitutional amendment. I do not say that all of those people are entitled to mercy or consideration at the hands of the American people and of their representatives in Congress assembled, yet I do say that there is something grander in magnanimity and mercy than there



is in stern, relentless, even-handed justice. A great people's power shows likest God's when mercy seasons justice. Vengeance is not duty, nor forgiveness crime. The amendment before the loyal people and about to be approved I trust by them and made part of the Constitution, secures to all, even to those who organized conspiracy against the nation's life and offended by their crimes as men never offended before since nations began to be, "the equal protection of the laws." In what is soon to be the nation's measure for restoration and unity there is neither confiscation nor banishment into returnless exile, but forgiveness, by which that great body of guilty criminals are restored to the privileges of citizenship and guaranteed the equal protection of the laws. I know those conspirators have ridged your land all over with graves; I know that four hundred thousand of the bravest and noblest of the Republic have fallen by traitor hands, martyrs in defense of your country and mine, of your Constitution and mine. In the presence of this great crime and the wrongs thus inflicted, this proposed act of general forgiveness and amnesty, securing to each, however guilty, the equal protection of the laws by the combined power of the nation, is a sublime humanity which challenges a parallel since man was upon the earth. There stands the covenant: no State in this land shall deny to any person the equal protection of the laws. It was a needful provision. It is intended to hush the cry for blood against the guilty by the power of a sovereign decree, as that was done by the Supreme Power in the case of the first murderer. All the guilty with the innocent, the just and the unjust alike, "shall all have the equal protection of the laws," and be held to answer only to the laws, and be condemned only by the laws. Stand by that great amendment for equal rights and equal protection. There is strength in it; the strength that abides in an inviolable justice. There is peace in it; that peace which comes of laws which are just to all and oppressive of none.

The gentleman would stay the people in their wise purpose by enacting a law to take from a million men the immunities and privileges of citizens. Let the question be decided by the people. Whatever that decision may be I will bow to it; if they accept the amendment I will stand by it; if they reject it I will then do whatever it seems to me my duty, under the powers committed to me as a Representative of the people, authorizes and requires me to do. But until that question is passed upon I protest against this proposed legislation, so utterly foreign to the spirit of the pending constitutional amendment and to the manifest will of the nation.

Mr. STEVENS. I would ask the gentleman how many of these States have already rejected the amendment?

Mr. BINGHAM. I had closed what I had to say; but as the gentleman from Pennsylvania [Mr. STEVENS] has asked the question, I can only answer him that as far as I am advised all of the States lately in rebellion which have considered it in their Legislatures, with the exception perhaps of Arkansas, have rejected it.

Mr. STEVENS. Arkansas has rejected it. Mr. BINGHAM. I do not so understand it, but I am not going to dispute with the gentleman. If they have all rejected it it does not follow that they will not all yet accept it.

Mr. STEVENS. The most votes they got for it were four.

Mr. BINGHAM. I will repeat what I have said already: that if three fourths of the organized and represented States put this amendment into the Constitution of the United States, it will bind the insurgent States and give them the benefits of it as well, whenever in good faith those States choose to accept it, while, in the mean time, it will also bind us and empower us by law to secure full and equal protection to all. For that reason I ask that the bills be referred to the joint Committee on Reconstruction.

Mr. DAWSON resumed the floor.

Mr. MILLER. Will my colleague [Mr. DAWSON] yield to me for a moment?

Mr. DAWSON. For a moment; yes, sir.

Mr. MILLER. I move to amend the ninth section of the substitute of my colleague [Mr. STEVENS] by adding to it the following:

And such State ratify the amendment to the Constitution of the United States proposed by two thirds of both Houses of the Thirty-Ninth Congress, and submitted to the respective States for ratification.

I hope the gentleman will not object to that.

Mr. STEVENS. I cannot agree to that.

The SPEAKER. It is not in order to amend either one of the substitutes now pending, as the power of amendment in that respect is exhausted. And the original bill cannot be perfected by amendment, because the motion to refer is now pending, which cuts off all amendment.

Mr. STEVENS. As this bill is already out of print, I ask unanimous consent to have it ordered to be printed between now and tomorrow morning.

No objection was made, and the order to print was made accordingly.

Mr. DAWSON again resumed the floor, and addressed the House as follows:

Mr. Speaker, I have watched the proceedings of this body with deep interest. No one has been a more attentive listener or more carefully reflected upon the subjects which have engaged its attention. Feeling as I have done from the first the magnitude and imminence of the danger which rested and continues to rest upon the future of the country, and oppressed as I still am with anxiety for her fate, it is but an obvious suggestion of duty to contribute whatever of ability and influence I may possess toward a solution of the difficulties which yet, with much obstinacy, obstruct a return of this great land to the quiet, the harmony, and progressive prosperity which only a decade ago rendered her the pride and envy of the civilized world.

The war from which we have emerged was waged for the restoration of the Union. It has been successful in the suppression of the rebellion, but the result has not been the restoration of the Union. There is conquest, but there is no Union. I desire, sir, to inquire in all sincerity why this lamentable duality of conditions still obtains in reference to a great people, which nature and the wisdom of revered legislators intended to be one. My wish and purpose are to do this in a spirit wholly apart from and above that of the partisan. It must be the impulse of every heart not unworthy a citizen of America to let party and platform sink together in the dust in the presence of great questions affecting vitally the safety of his country. I shall exercise the privilege, which I have always done upon this floor, of criticising with freedom and decision where I feel compelled to dissent, and with equal boldness shall indicate what I think is to be done in the trying exigency of our political and social relations to bring back that internal harmony without which durable peace and union are but fond aspirations or deceitful illusions.

The course of duty is not, I apprehend, so difficult to discover if we do not willfully shut our eyes to the principles and facts which heretofore all have acknowledged as fundamental and governing; and if we do not elevate and magnify into primary importance those which in their nature are secondary and of comparative insignificance. We have emerged from a great civil war; the greatest, indeed, of any age, and we have in consequence a somewhat anomalous state of facts to deal with.

The Federal Union, which was the common Government of all the States and their respective populations, was disturbed by an attempt at disruption by a portion of the parties to it. The project of secession failed; but the relations which the seceding States since the war sustain to those adhering to the Union have been the subject of very conflicting theories. On the one hand, it is maintained that by the act of rebellion the States which engaged in it have

forfeited all their rights, State and individual; they are without any valid governments save such as the legislative branch of the Government may choose to extend to them, and they exist only by the mercy of the conquerors. This is the theory of the Republican party, and has given rise to the measures upon this subject of the last and present Congress. On the other hand, it is claimed that the attempt at secession having been suppressed by the physical power of the Government, the States, whose authority was usurped by the parties to the movement, have never at any time been out of the Union; and that having once expressed their acquiescence in the result of the contest and renewed their allegiance to the Union they are at the same time restored to all the rights and duties of the adhering States. This is the doctrine which is held by the Executive, and has given shape to the presidential policy.

Recognizing, as I do, in the presidential theory the true solution of our difficulties, I will state briefly the reasons which move me to this conclusion. It is a fact that the close of the Revolution found the people of these States in the condition of distinct sovereignties. The Articles of Confederation were but a league of these. The Constitution of 1789 differed from the old in this: that it invested the common Government with certain attributes of sovereignty which had before belonged exclusively to the States in their separate capacities. As to these powers, distinctly specified in the common charter, allegiance was due to the Federal Government. As to all other powers not specified, sovereignty was still reserved to the States. The Federal Government was as supreme as to the granted powers as the States were as to the reserved, both governments proceeding directly from the people—the true source of power in a democratic government. The General Government was Federal, (as its name implies,) inasmuch as it was formed by the accession of the several populations as separate and independent States; but it was not Federal in the sense of a league, as the Government of the old Confederation had been. That was formed by the States in their corporate capacities, and affected the States only as corporations. The new Government was created by the act of the people as individuals, ratifying by their representatives in conventions; and its powers were to be exercised directly upon individuals. The new government was "national" within the range of its powers, since it was the union of the sovereign powers of the States for the specified objects. State sovereignty no longer existed; but State rights—the exercise of the portion of sovereignty reserved—remained in full force. The difference between the two constitutions was, that by the one the States retained their full sovereignty; by the other they did not.

In cases of Federal or State encroachment the constituted arbiter was the Supreme Court; and whenever popular passion should become too strong to wait for its decrees or regard them when promulgated the contest would necessarily become one of physical force. If, in the opinion of the populations of the States, the right of local self-government were not duly protected or were infringed upon by the common Government of limited powers, duty to the local governments might counsel resistance, and if the Federal authority were equally tenacious it is obvious that an issue would be raised which could only be decided by an appeal to arms. Now, this is precisely what has happened in our recent history. The southern populations, apprehending that by the election of Mr. Lincoln upon a platform which they regarded as aggressive to their local rights, and which purposed the exclusion of southern communities from the equal benefits contemplated by the common Government, felt called upon to assume their own protection by a new confederacy. This necessarily brought on with the common Government, already established, which yet disclaimed any intention of exceeding its defined powers, and which felt impelled to every effort for self-preservation, since it

was a Government deliberately adopted by all the people, whose consent was not to be withdrawn upon the mere apprehension of injury—this brought on, I say, with the common Government an issue of force. How this has been decided; with what a prodigious exhibition of energy by the respective parties; with what prodigal waste of blood and of life, what darkened homes, what an accumulation of the burdens of the people, what disruption of kindred ties, and what engendered bitterness; we are all, alas! but too painfully familiar. I have more than once, from my place here, as well as elsewhere, declared my conviction that the South grievously erred in its choice of a remedy for the evils of which it complained. I of course acknowledge the right of revolution for adequate cause, but that cause I was unable to find in the facts immediately antecedent to the rebellion. The doctrines and policy of the Republican party I did think aggressive upon southern rights, but I regarded them but as *brutum fulmen*, while the South held an all-sufficient curb in a constitutional majority in both Houses of Congress and in the shield of the Constitution always resting over them.

I do not overlook the fact that, contemporaneously with the origin of the Government, there were great differences of opinion among wise and good statesmen as to the relative extent, and in certain contingencies the relative supremacy, of the State and Federal Governments. These differences obtained extensively without reference to section. The Virginia and Kentucky resolutions of 1798 gave prominence to State rights, though doubtless not intended by their authors to authorize and not legitimately authorizing the conclusions which a peculiar school of politicians subsequently drew from them. Those resolutions were believed to announce the true theory of State relations, and as such became fundamental points of Democratic faith as maintained by Jefferson and Madison, and have been constantly upheld since by that party which has shaped the policy of the Government for three fourths of its existence. The practical application of those doctrines to authorize secession was, indeed, first made in New England during the late war with Great Britain. The purpose of seceding was seriously agitated in her State Legislatures, and in all probability would have resulted in open rebellion but for the timely treaty which terminated the war. Secession, the illegitimate offspring of sound principles, was thus for the time baffled in her mistaken aspirations. She was, however, again evoked from her obscurity, a fresh competitor for public favor, by the nullification politicians of South Carolina. A wise policy of compromise on the part of the Government at that time averted a crisis. Increased plausibility was subsequently given to her pretensions by the genius of Calhoun and other leading statesmen of the South; and unquestionably they had become so extensively received as to lend much support to the recent rebellion. I believe, however, that the claims of this spurious issue of Democratic doctrine have always been rejected, North and South, by the soundest and wisest of our political teachers.

Thirty-seven years ago, in 1830, the Senate became the theater of a memorable contest as to the true construction of the Constitution upon the relative powers of the Federal and State Governments. It was memorable from the character of the contestants—Webster, of vast intellect and resources, without a superior in powers of debate; and Hayne, who lacked no element of skill, ingenuity, or spirit, for the maintenance of a peculiar theory. Webster was the advocate of consolidation because he supported the protective interest, and that theory was deemed necessary to procure its establishment. Hayne was, on the contrary, the champion of a free market, in which the products of his own locality would find a return of their full value. Thus this debate was an exhibition of the best efforts of their greatest advocates in defense of their sectional interests. But a surpassing interest attaches to the con-

test from the subject of dispute. This was of the utmost practical importance, the great New Englander maintaining that the Federal Constitution is a government formed by the people of the United States in their aggregate capacity, as one mass; and that the only remedies for a State resisting Federal legislation as unconstitutional are those pointed out by the instrument itself, the decision of the Supreme Court, an amendment of the Constitution itself, or lastly, in cases not provided for by the instrument, the remedy of revolution. And the eminent Carolinian defending the opposite thesis, that the Constitution is a compact to which the States in their sovereign capacities are the parties; and that in virtue of the still subsisting State sovereignty, a State may nullify a law deemed by her unconstitutional, and thus check Federal action within her territory until Congress shall have obtained the necessary power by an amendment of the compact by three fourths of the States.

It will be remembered that the Democratic administration of General Jackson was then in power, and how the threat of the State of South Carolina to carry into act the doctrines supported by Mr. Hayne was met by the Executive, speaking by the voice and pen of Edward Livingston, his Secretary of State. That learned and able jurist and patriotic statesman, in his speech in the Senate on Mr. Foot's resolutions, and afterward in President Jackson's proclamation in 1833, drew the line of distinction between the Federal and State authority in a manner which, till the recent outbreak, had commanded the general approbation of the country. In those great efforts, the force of whose logic has never been broken, it was demonstrated that the sovereignty of the people was divided; one portion of it being vested in the General Government for the purposes specified in the instrument of compact, the other retained for local self-government. No State possessed under the Constitution the right of nullifying by veto or withdrawal the action of the General Government; and this, whether the Constitution were the result of the action of the people as one body, or as separate communities. Mr. Livingston, however, rejected the doctrine of Webster, that the people of the United States had in their aggregate capacity established the General Government; for, to use his own language—

"It would lead to the most disastrous results; it would place three fourths of the States at the mercy of one fourth, and lead inevitably to a consolidated Government, and finally to monarchy, if the doctrine were generally admitted; and if partially so and opposed, to civil dissensions."

He argued that if both governments were created by the people as one people it would matter little in the estimation of those who received the doctrine whether any particular power was exerted by the Federal Government or the State. Upon various pleas it would be imagined for the benefit of the people that the General Government should exercise this power or that until the whole aggregate of the reserved powers should be taken possession of by the General Government and absorbed. It would be but a step from this to centralizing it in a single man. I refer to this debate to show that the positions I have assumed were those recognized, not by the Democratic party in the person of President Jackson, but generally by men of all parties at the time.

The Jackson proclamation fixed the true interpretation of the Constitution; and, as thus interpreted, it subsists to us at this day after the country has passed the greatest struggle of which history bears record. The cardinal points of the Jackson construction I regard as of the highest importance for the welfare of this people, and I think should be held up for public recognition upon every fitting occasion. They fix in perpetuity upon the chart of our national policy the position of those dangerous rocks, the Scylla of consolidation on the one hand, and on the other the Charybdis of secession—between which alone are found free and safe soundings. But, whether deriving its origin

from erroneous theory or from the just right of revolution misapplied, the result of the late contest has been adverse to those who rested it upon either. The rebellion has been suppressed; the oneness of the United States as a nation, and the extension of its Government over all the territory which formerly acknowledged its authority, have been effectually maintained.

It was upon the theory of this continued oneness that the war for the suppression of the rebellion was initiated and conducted to a successful issue. If secession was an accomplished fact, establishing the independence of the seceding States, then where was any legitimate cause of war, as arising from the act of secession? Obviously there was none. On the principles of the Declaration of Independence every nation has the right, unobstructed by any other, "to life, liberty, and the pursuit of happiness" in its own way; and the South should therefore have been permitted to "depart in peace." But the subsistence of the Union having been successfully asserted, how is it that the seceding States can be said, in any sense, to be out of the Union? Surely they cannot be so by reason, of an ineffectual attempted revolution. That they are not out of the Union is the great fact which the issue of the contest has decided. The southern States are, therefore, still integral parts of the Union, with the same rights as States, no more, no less, as they had before the rebellion.

It must be admitted, indeed, that whatever was put in issue in this contest has been decided adversely to the unsuccessful party. The issue at the outset was the existence or non-existence of the Union. As the war progressed the institution of slavery was also made an issue as a war measure as one of the means allowed, it was maintained by the laws of war, to harass an enemy. When the rebel power was broken and their armies surrendered, they accepted the result; they abandoned the scheme of independence, separate and confederate; they consented to the extinction of slavery. They have done more. The States have resumed, as far as in them lies, their normal relations to the Federal Government by renewing their allegiance and electing Representatives to the national Legislature.

Now, while such is the condition of things as regards the rebel States, what is the course of the Government toward them? I shall speak first of the course pursued by Congress, and afterward of that adopted by the President, for unhappily the two are in conflict.

The course of Congress in regard to the rebel States is based upon the assumption that a reconstruction of the Government as to those States is what they are called upon to achieve. This assumes again that the old Government, the Constitution of 1789, has as to those States been destroyed. But if so, wherein or how? Not surely by the decisive success of the Union arms in establishing the existence and supremacy of the Federal charter; not by the surrender of the rebel armies—their implied abandonment of the issues for which they resorted to force, and their prompt return to obedience to the paramount law. The Government was not broken up by an attempted withdrawal and a claim to a State sovereignty and independence, which on an appeal to the sword the seceding States failed to establish. The congressional idea of reconstruction, therefore, proceeds upon an assumption not sustained by fact.

As growing out of this assumption, however, and consequent upon it, resort is had to another doctrine, that of an assumed forfeiture by the rebel States of their rights in the Union, which is held an all-sufficient justification of the policy proposed. To any unsophisticated apprehension I need hardly urge that the application of any such doctrine is as utterly without constitutional warrant and as baseless as the idea of a dissolution of the Government for some purposes and not for all. Forfeiture as to States is not a constitutional penalty, and in a Government of defined powers like ours has no place. Forfeiture may

be pretended and enforced where one of the contending parties is the superior of the other; but in our Government the members are all equal. It may consistently be applied by a monarch to a rebellious portion of his subjects; it may have place between independent powers in favor of the victor. It is unregulated by law, and is whatever the conqueror chooses to make it. It is the reckless assertion of the right of the strongest.

The Constitution does indeed provide for its alteration by submitting propositions for this purpose to the States, which shall be valid as amendments when ratified by three fourths of their number. But this means their voluntary ratification by three fourths of all the States, and not the exclusion of ten States from the enjoyment of their constitutional rights as such until, with their own consent or without, they shall have submitted to this forced ratification as a condition-precedent.

The imposition by the adhering States of conditions upon the seceding, while it implies a superiority in the former and is opposed to our system of government, is at the same time in gross and flagrant violation of the principles on which the war was professed to be waged. Attention has been too often called to those principles in this body and elsewhere for us to forget that the proclamation of President Lincoln at the beginning of the war demanded only the cessation of the rebellion; and that Congress, directly after the first battle of Bull Run, made by joint resolution that memorable declaration contained in the Crittenden resolution.

This purpose, thus distinctly announced at the beginning, was frequently repeated during its progress, both by the President and Congress and by our generals in the field. It was further declared in the Republican platform of 1864, and the unity of the nation was also recognized by the passage of the bill apportioning Representatives in 1862. Now, with this record, how shall we acquit ourselves to the Army and Navy, to the world, and to our posterity, of the charge of deliberate unfairness, if we now, at the close of the war, assume it to have been waged for the purpose of spoliation and oppression? Would those gallant soldiers who gave victory to our arms have flocked to your standard with such alacrity of patriotic devotion, such recklessness of personal sacrifice and suffering, had you frankly told them at the outset that they were to fight for so unhalloved an object as this? I will not wrong them so much as for an instant to suppose them capable of such complicity in the national dishonor.

The cessation of resistance to the execution of the Federal laws and the abolition of slavery being the only terms, at any time during the war, required to be complied with by the rebels in order to their restoration to the Union, on the return of peace should we vary these terms? Is it consistent with our honor to set up new and exacting conditions after we have gotten the rebels in our power? Sir, I will yet trust the intelligence and virtue of this people to save the nation from such a humiliating situation as this.

I wish to look a moment at the principal of those conditions upon which Congress insists. They have passed over the President's veto certain laws and propositions of amendment to the Constitution, the terms of which they require to be complied with before the States of the South shall be again received into fellowship.

By the Freedmen's Bureau bill that institution was made a permanent establishment, with a field for its operations coextensive with the existence of freedmen. It would thus be as operative in Pennsylvania as in Virginia. The powers vested in this new tribunal are such as may well excite our most earnest solicitude. In all cases affecting a negro "military jurisdiction and protection" are required to be extended to him. This in criminal cases sets martial law and the officers of the bureau above the laws and officers of the States, and is a

violation of the constitutional guarantees of security from arrest without warrant and of jury trial.

The system which is thus attempted to be legalized imposes an enormous addition to the burdens of the people, while the report of the commissioners appointed to examine into the condition of the freedmen shows the terrible abuses of which the bureau is the instrument, even toward those whom it proposed especially to benefit. While thus unjust to white and black race alike, it is founded upon a false principle, that of placing in the condition of dependents upon the Government four millions of thriftless population.

The first section of the amendment proposes to make citizens of all persons, regardless of race or color, born or naturalized, in this country; and it proposes penalties upon all who in any way attempt to abridge the privileges and immunities of citizens. How many and what are the privileges essentially belonging to citizens is a thing very undefined. If Congress has the right to declare who shall be citizens, it has the right at the same time to declare what shall be their privileges. The Constitution framed by our fathers left this matter with the States, only declaring that those qualified under the State laws to vote for the most numerous branch of the State Legislatures should be qualified to elect representatives to Congress. But Congress, now usurping the power from the States, while it makes citizens of whom it pleases, may also define their privileges. Thus under this amendment the elective franchise may at any time be declared one of those privileges when negro suffrage becomes unalterably fastened upon the country.

In framing our Federal system the States reserved to themselves the control of this matter of suffrage, as essential to the preservation of their freedom. In the exercise of the mass of powers retained by the States for their local government it was essential that they should determine who should be qualified participants; for if this could be done by any power outside of the States, their self-government, and consequently their freedom, would be no longer secure. That "republican form of government" guaranteed to the States by the Constitution would become an impracticable thing.

Self-government is the essence of republicanism, and to this effect was the language of Mr. Madison in the Convention. So long as a State can determine who or what classes of its citizens shall have a voice in the selection of the State officers—of those who shall make and administer the laws—just so long its government is republican. But if this power be taken from it and lodged elsewhere, the republican character, and therefore the liberties of the States, have received a fatal blow. The annihilation of the State governments is by this privation effectually consummated. The local governments are thenceforward not even republican in "form," and in this matter not to be republican in form is not to be so in substance. By thus forcing upon the southern States negro suffrage, it is proposed to raise the negro to an equality with the southern whites, who belong to that race which has thus far in all that elevates and dignifies humanity—in arts and arms and institutions of government—proved itself the foremost in this world. The incapacity of man for self-government has often been commented upon by the philosophic historian; and the republics of Greece and Rome, of modern Italy, and of attempts in that direction in England and France, have been pointed to as melancholy proofs of the fact. It has hitherto been supposed, even among ourselves, that free institutions could only live while supported by the intelligence and virtue of the people; but in the reckless rapidity of our republican progress we seem to have discovered that a democracy may well subsist where the people who composes it have neither of those principles to rest upon. It must not be forgotten that the whole number of votes of the States which it is meant to punish in this way is only fifty-three, while that of the other States is one

hundred and ninety-two. The disparity alone should disarm fear and moderate exaction.

The Constitution, in section five of article first, provides that "each House shall be the judge of the elections, returns, and qualifications of its own members;" that is, whether they have been properly elected, and whether there is any constitutional or legal objection to them personally; this power only applies to the individual Representatives, which is a very different thing from Congress excluding whole States from representation upon condition of adopting a constitutional amendment which changes the basis of representation. There is no warrant in the Constitution for such an exercise of tyranny. Had such a condition been insisted upon at the adoption of the Constitution, it must be admitted there would have been no Government. But if it could be supposed that the excluded States would accept the amendment, how dangerous is the principle which underlies it! If a party majority now can change the Constitution by forced amendments, what is to prevent another majority at a future day from changing it again? If a majority can now in this way force universal suffrage upon ten States in the absence of representation, why should not a majority hereafter require an equalization of State representation in the Senate and exclude New England, taxing her in the mean time until she shall give her consent?

New England, under the application of her own rule, might thus find herself suddenly stripped of five sixths of her representation in the higher branch of the national Legislature. While there is much in the New England character which no intelligent mind can fail to admire—while all bear willing tribute to her energy and thrift, to her indomitable will, her learning and large culture—yet there are few outside of her limits who do not feel compelled to abate largely their estimations of these qualities from their proneness to misdirection and disturbance of the public peace. Her characteristic activity of mind acknowledges nothing as settled, whether in religion, in science, in politics, or law, and exposes her in a special degree to these storms of fanaticism and party zeal which are apt to carry infinite mischief in their train. We cannot shut our eyes to the fact that, having heretofore profited so largely by shaping the legislation of the country to her own advantage, she is now, with concentrated energy, struggling to maintain that advantage even at the sacrifice of the union of the States. She dreads a full representation of the great agricultural South, acting in conjunction with the great agricultural Northwest and the commercial interests of New York and the States of the Pacific coast. These sections, representing in the main a community of interest, it is not only feared, but known, can give the law to the country; and thus will follow a readjustment of our internal revenue and the policy of our foreign commerce.

The conditions proposed by Congress, exhibiting such strong indications of their purpose and origin, such shameless outrage upon justice and every conservative principle, such usurpation of Federal powers, and such violation of State rights, could not be expected to be received without question, even by the Republican majority, if submitted in the regular way to the deliberation of each House separately. It was necessary to resort to revolutionary France for an instrument for the production of the monstrous scheme. In the "committee of safety" of the constituent assembly they were presented with a precedent for that of "reconstruction." Their designs not being of a nature to endure the open light of day, had to be matured in the mysterious secrecy of an extraordinary committee. Refractory members were to be crushed, and all who in any way opposed themselves to the purposes of the committee were to be relentlessly sacrificed. It cannot be denied that, if alien to our institutions, the machinery was at least admirably adapted to



securing the unity and strength requisite for the success of such a policy of destruction.

So perfectly, indeed, is the policy of Congress adapted to break up the Union—to prevent the return of the country in all its parts under one government—that it is hard to avoid believing this to have been the object of it. The authors of this policy know well, by consulting their own breasts, that their southern brethren will never consent to accept such terms as these. They know it is requiring what they would themselves never consent to in like circumstances. While it is irreconcilable with the hypothesis of a still subsisting Union, and in violation of the rights guaranteed by the Constitution, which is its bond, to every State, it is admissible only on the supposition that the war was waged for subjugation, which yet Congress and the Executive during its progress most carefully disclaimed. It assumes that subjugation has been in fact effected, and that, with the insolent triumph of conquerors, we are now at perfect liberty to trample upon and oppress a fallen foe. Feeling that they have no support for their course in the Federal compact, in common justice or reason, some of the leaders of this policy do not hesitate to avow their hatred of the Union and their determination that it shall never be restored. In this point of view their course is intelligible and consistent. But in assuming this ground they place themselves as much in the attitude of rebellion as the most arrant rebels whom they seek to humble. Others seek to justify their vindictive policy by resting its defense upon the rights of successful belligerents under the law of nations. It is true that, after much delay and great reluctance, the *de facto* secession was acknowledged, and belligerent rights and their consequences were conceded to the rebels. But this was only from the necessity of the case, and in so far as the public law was applicable to our situation. We had to maintain at the same time the integrity of the national Government, so that the belligerent rights conceded had relation only to the conduct of the war. It was, in our case, but *lex sub superiori lege*; and at the termination of the war the Constitution, the municipal law in all its vigor, resumed its sway, and the States, on again placing themselves in the constitutional relation to the Federal Government, were in the same instant reinstated in the rights reserved to them and their people by the common charter.

Under the municipal law the penalty was to be meted out, not to States, but to individuals. The extent of punishment thus to be inflicted was a matter for the consideration of courts and for the executioner of the law. It is idle, sir, to talk of punishing the rebels for their treason. The spirit of the age is against it. This vindictive spirit and purpose which characterizes the congressional measures has about it too much of that uncompromising intolerance of Cato the Censor, who, it will be remembered, concluded every speech which he made in the Senate—no matter how irrelevant the subject—with the savage declaration, "Carthage must be destroyed." As between foreign and rival States, and in a heathen age of the world, such an inexorable sentiment might receive some degree of toleration; but in a Christian age and country, and between different portions of the same people, between countrymen and brethren, surely the ill-disguised design expressed here for the total annihilation of the South can be received only with abhorrence.

It is agreed by writers on public law that where great masses of people, actuated by a common impulse which they believe to be right, however erroneously, proceed to use force for the assertion of their principles, that these masses are not guilty of treason, morally or legally. No one is guilty of treason for obeying the Government *de facto*. The existence of a common sentiment so extensive, of a resistance so unanimous, supposes a cause. If the cause were just and good, its success relieved it of the character of treason; and whether good or bad its failure was a sufficient

penalty. Without a recognition of the laws of war to govern the contest, our civil war on both sides would have been one of extermination. No prisoners would have been taken, no exchanges made. But the law of nations, the slow growth of civilization, interposes between belligerents, whether independent Powers or divided portions of the same Power, in favor of humanity, and to prevent the barbarous and useless effusion of blood. These laws have been constantly ameliorated under the progressive spirit of Christianity; and we find Montesquieu advocating their especial applicability in a republic, and writers like Hallam and Macaulay maintaining that these laws should have strictly governed in the war of the great rebellion in England. Charles the First, says Macaulay, should not have been executed; and as little would he have been justified, in case of his success, in putting his adversaries to death. In the suppression of the Irish rebellion in 1848 by England we have an example of a wise clemency, aiming to heal the deep-seated discontents of a people, rather than standing upon the strict ground of legal right, to keep alive the fires of irritation by the exercise of a cruel and vindictive policy.

Far different from the revolutionary, unjust, vindictive, and unwise policy with which the Congress would deal with the rebel States is that which our firm and enlightened Executive has inaugurated. Peace having been restored by the submission of the rebels and such action in the seceding States as recognized the authority of the paramount law, his patriotic glance at once apprehended the situation and the line of duty. The President no longer of a divided but a united country, he saw that it was not for him to "give up to party what was meant for mankind," but that the position called him to merge the partisan in the Chief Magistrate and the statesman. He might naturally desire to carry with him in his views the legislative coördinate department of the Government; but if they differed his duty was not the less clear. He was to obey the oath, which he had sworn, to maintain the Constitution of his country. He must be true to his bright record of consistent patriotism, exhibited throughout a long life passed in the service of the Government and in every official grade. He had private griefs enough to incline him to the measures of the most extreme radical. For the love of his country and her institutions he retained his position in the Senate when every other Senator of his section had withdrawn. He endured with stoical firmness the ruin of his private fortune and the unwearied persecution of open and secret foes.

Members of his own household had fallen upon the battle-field in defense of the cause which he had most at heart. Yet he swerved not. It was not that he hated secession less, but that he loved his country more. The moral grandeur which he has exhibited in such circumstances of peculiar trial is such as has been shown by few in the whole extent of history. "The just man, tenacious of his purpose," so handsomely eulogized by the Roman poet, the storm of partisan fury may beat upon him in vain. He may break beneath it, but he will never bend. Whether successful or unsuccessful in his object of giving once more peace and happiness to a distracted land, his merit is the same. He has met his own responsibilities with a clear perception, a determined will, and an unflinching breast. On the suppression by Cicero of the conspiracy of Cataline, it will be remembered that at the suggestion of Cato he was honored by the people with the title of the "father of his country." With signal propriety this title was bestowed upon that great and good man whose military success gave us existence as a nation. I submit, sir, that it belongs equally to him who saves his country from destruction.

Filled with a just apprehension of his position, its importance and duties, whatever obstacles may oppose their performance, the President, like Gustavus Vasa and William of

Orange in like circumstances, I trust will "stem the current and march through the thick array." His fidelity and success in the past is an assurance of a glorious triumph in the future. But if in the night of our distress it should prove true that "republics are ungrateful," (since Cicero was banished after his deliverance of Rome from the grasp of Cataline, and Aristides driven from Greece because his exalted worth brought down upon him the vengeance of rivals and desperate men,) the historian must yet record that this man, whose whole life has been devoted to the elevation of the masses and the maintenance of the cause of industrial occupation, was chiefly instrumental in placing upon the statute-book an act of great public beneficence. Already under its practical workings one hundred thousand homes have been secured and settled on the public domain, and in the not far distant future the number will rise to a million homesteads, the smoke of whose cabins on the Mississippi, the Missouri, the Yellowstone, the Columbia, and the Arkansas, rising from firesides made happy by this kindly provision, will be so many enduring monuments to his memory and to his fame.

When the forces of the resisting States laid down their arms he recognized all their reserved rights and their equal rights in the federation. It was contended that the President, in this action toward the southern States, had exceeded the executive functions; that he had exercised power which belonged exclusively to the Legislature. He had, however, without incurring censure on that account, under laws already established, restored the mails and reopened the channels of commerce, and reestablished the courts. It was particularly objected that the President had no power "to make peace." But if the executive has not, what branch of the Government has? It is clear that the power is not vested in Congress; for a proposition offered in the Convention which framed the Constitution for "a concurrence of two thirds of the Senate to make treaties of peace without the concurrence of the President" was voted down by a vote of eight States to three. (See Madison Papers, volume five of Elliott's Debates, pp. 524, 525.) Treaties of peace were therefore left as any other treaties, requiring in all cases the concurrence of the President. Making peace is therefore, under the Constitution, as much a presidential as a legislative function. It is, indeed, much more so, as the act is executive in its nature, and one for which a deliberative body, from its number and lack of unity, is unfit.

But the objection proceeds upon a mistake of the question; for it is not a case of making peace with a foreign Power. It is wholly one of internal administration, in which the municipal law alone governs, and in which the Constitution makes it the duty of the President to see that the laws are faithfully executed. The rebellion having been suppressed, the laws resumed their sway.

Chief among the rights to which the people of the seceding States were entitled upon their return to the Union were those of representation in both bodies of Congress. These were accordingly conceded by the President. An omission to concede them would have involved a plain violation of express provisions of the Constitution and of his official oath. By section four of article four—

"The United States shall guaranty to every State in this Union a republican form of government."

By section two of article one—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States."

And by section three of the same article—

"The Senate of the United States shall be composed of two Senators from each State," &c.

Here was authority enough for one who had no ends to serve but those of country. Had he needed more it might have been found in the Farewell Address of the President who was first in the hearts of his countrymen. From

that he would have received the lofty teaching that—

"The basis of our political system is the right of the people to make and to alter their constitutions of government; but the Constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

He might also, in the same rich legacy of patriotism and political wisdom, have read a lesson not less worthy of attention to another department of the Government, which seeks, by consolidation of unauthorized power, to deprive whole States and communities of their guaranteed rights. The lesson is:

"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation, for though this, in one instance, may be the instrument of good, it is the customary weapon by which free Governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

Sir, if there be any principle of democratic government more firmly established than any other in our history it is that of the inseparability of the rights of taxation and representation. We established by the success of our revolution that the home Government had no right to tax us without our consent, or in other words, without being heard by our representatives, and without having through them a voice in deciding the question of taxation. So great and fundamental was this right deemed that our fathers found in it sufficient justification for overturning their Government. It has been recognized as the basis of every Government, State and Federal, which they have framed since. From the reverence with which this right has been regarded in this country, and the immense struggles and sacrifices made here to maintain it, it may properly be called the American principle. Yet how strange is the spectacle we behold! A dominant majority in the Legislature, while admitting the rebel States to be in the Union for the purpose of taxation, yet maintain that they are out of it for the purpose of representation.

You will remember, sir, that the Roman republic granted the full rights of citizenship even to the aliens of conquered provinces, and this regardless of the bitterness and obstinacy of their resistance to the standard of the republic. When once subdued and their defeat acknowledged, they were received into the enjoyment of equal rights with the inhabitants of the city itself. "I am a Roman citizen," was the talismanic formula which secured the inhabitant of distant Sicily protection against the extortions of a Verres as much as it did from any other injury the dweller upon the Seven Hills. And this was done, sir, in a Government which was without a written constitution, from a sense of justice and policy only, and was the great secret why Rome retained her compacted strength while constantly extending her boundaries. Here, on the other hand, in a Government of defined powers, in a polity which is professedly one of self-government, the party which happens at a critical juncture to be possessed of the power denies self-government to the other, though by the common charter the rights of all are equal. It matters not, after peace is restored, that one of these parties has been in rebellion against the common Government, for the *status ante bellum* instantly revives.

Sir, it is impossible to apply the principles assumed by the majority here in a Government like ours without adopting the theory of the consolidation and centralization of the entire sovereignty of the people in the General Government. I have already occupied the attention of the House upon this subject, yet its importance at this juncture seems to demand some further remark. I fear, sir, that the difference is too little known or considered, the danger too little perceived or heeded; yet no question is of such vital importance. No reader of our history can forget how jealous, at the formation of the Government, were the

States of parting with any portion of their sovereignty. This jealousy was natural; for so long as the States retained their full powers every individual possessed, in the authority of his State, the most ample protection for his private rights and for the correction of abuses, while he felt that his interests would receive the most careful attention in the local legislation. He did not feel that his welfare would be quite so well consulted if any of the functions of sovereignty were yielded by the State and deposited in the hands of agents not amenable to State authority, and, it might prove, regardless of individual rights and not sympathizing with individual interests. It was, therefore, only after a long struggle that the States consented to conferring upon a common Government such functions of sovereignty as could be best exercised by it for the general benefit of the whole. While they did so they were equally careful to secure themselves in the possession of the remainder by inserting in the Federal Constitution the provision that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."—Article 10, Amendments.

Now, it is of the utmost importance that these boundaries should be preserved; that they should neither be intrenched upon by State action nor by an enlargement of the Federal authority a little beyond what is absolutely required to secure the objects set forth in the preamble to the Constitution. State sovereignty, except in so far as granted away by express stipulation, subsists in its full vigor, and should be guarded with the utmost vigilance. If State rights are absorbed and curtailed in the manner assumed by the amendment which confers upon the General Government the control of the right of suffrage, the individual is placed at a great distance from the guardianship of the sovereign authority, and his State becomes of no more importance in the Government than is a county as respects the government of the State.

The great future which spreads before the country demands for the fulfillment of our mission the preservation of our liberties in the purity in which they were established. The vastness of territory for which coming generations will have to legislate will appear from the consideration of a single fact in our history. It is the facility with which the Government, for reasons deemed expedient at the time, renounced by treaty with Great Britain a very tenable claim to the country lying between 49° and 54° 40', a territory sufficient for the formation of sixteen States as large as Pennsylvania. From the readiness with which so extensive a region, for reasons not imperative, was granted away may be understood the vast extent of that which still remains the property of the nation and is open for the reception of our institutions. America, comprising the States which now are and those yet to be, is the great theater of modern enterprise and political experiment. She must be either republican or despotic. If we yield our theory of State rights and union of limited powers, we surrender the great principle of free government, and may prepare, first for a limited monarchy in the shape of a consolidated government, and eventually for a despotism. Our safety and prosperity as a nation depend entirely upon the inflexible fidelity with which we adhere to and maintain the great boundaries of power, as I have endeavored to point them out. The Union is not a union of force. It cannot be preserved by force. It rests upon interest and the mutual attachment of the members.

When we look, sir, at the unexampled progress of our country in the past, in the limited portion of it brought under settlement, and consider the vast area still open for occupation and development, what powerful inducements do we not see for the preservation of the Union? Our territory, embracing an area of nearly three million square miles, is equal to that of Europe. In natural wealth and in the distribution of the great highways of intercourse afforded by

water communication it surpasses any quarter of the globe. In its abundance of the precious metals and minerals, in coal, iron, lead, copper, and petroleum, the material of labor, it is the marvel of the world. Its agricultural capabilities, extending through every variety of climate and production which belong to the temperate zone, are equally unrivaled. It has been calculated that in ten years our product of the cereals will exceed those of England and France together; while a European population greater than that of either of those countries is supported by our cotton. Under the influence of our free institutions the development of our industry has kept pace with our natural advantages. We vie with the oldest and most civilized of existing nations in the products of the useful and ornamental arts, in valuable inventions, and in works of intellect and taste. To united America the world owes the steamboat, the electric telegraph, and the monitor. By the genius of an American the cable binds by electric ties the Eastern and Western hemispheres; and in another lustrum an iron band will connect the great oceans which wash the shores of our continent, and the patriot in the full exultation of his heart may stand upon the golden shores of the Pacific and there witness the new direction which will then be given to the great commercial current of the world.

We have upward of thirty thousand miles of railroad, more than four times as much as England, and more than any other country. The Government has still a thousand million acres of unoccupied land, and our area is capable of supporting a population as great in number. Sir, it is in our power to realize all this, and more than our wildest dreams have pictured. It can be done, but only by preserving in their purity the institutions transmitted us by our fathers and now in our responsible keeping.

A war with foreign Powers sooner or later is inevitable. We have high authority for saying that nation will rise against nation. The struggle for empire, for commercial advantages, for the propagation of systems, religious and political, will forever go on. The evil passions and ambitions of men exist now as in the days of Cataline and the Cæsars. The very attempt to establish on this continent a purely popular Government is so revolutionary and dangerous as an example to the regal Governments across the water that they will sooner or later make a combined effort for its overthrow. This in itself should produce a unity of sentiment in the North for the restoration of fraternal relations.

In such a conflict the South would become a necessity. From the Capes of the Delaware to the Rio Grande are embraced the mouths of the great rivers. The revolution could never have been successful without her hearty coöperation, and without her gallant aid in 1812 we should have lost our country and her independence. We must not only secure to her equality in representation, but equal justice in every department of the administration of the Government. Without this there can be no fraternal relations, and we thus wickedly and blindly cast away that popular affection which is the great basis of our institutions and the bulwark of our defense and security. The English Government is the work of a thousand years, and although great and powerful, and in one sense eminently successful, yet it is maintained by the concentrated power of the House of Lords and by the army and navy. Our Government is still an experiment. Our population is sparse compared with the extent of our territory and the magnitude of our resources. While Belgium has a population of four hundred and thirty-two to the square mile, and England three hundred and seventy-one, the United States have but ten. It requires no reach of vision to see in the not far distant future a change of this condition. From almost every country of Europe streams of emigration are directed to our shores. Our capacity to support a population equal to the most densely inhabited district of England or Germany must be admitted by all. To live

and prosper, then, as a great Power in the future, and to avoid a repetition of the bloody and devastating conflict through which we have passed, equal and exact justice in maintaining this republican system are just as necessary as the two well-adjusted forces in maintaining the movements of the planetary world.

In the gloom which pervades the land, and the uncertainty which hangs like a pall over the future of our country, I feel deeply solicitous for the welfare of the State which I have the honor in part to represent. The preservation of the Union is as indispensable to the maintenance of her liberty and her future growth and development, as from her geographical position and the sturdy and virtuous character of her people she is indispensable to the maintenance of the Union itself. For I have no hesitation in saying there is not a district of country in the world of equal area in which nature has been so liberal in scattering her treasure. Her commerce finds an outlet to the ocean through the Capes of the Delaware; the great interior is filled with mountains of mineral, intersected with beautiful rivers and valleys; while her western slopes embrace the heads of the Ohio, and hold as it were in her grasp the keys of the great valley.

England may boast her Birmingham and her Sheffield. Already in the city of Pittsburg a successful rival is to be found to either. This great State alone is capable of sustaining a population of twenty million souls. There is really no limit to her capacity to produce. The value of her western coal-fields alone is beyond computation. The material for driving machinery is to be found at the base of every hill. All this is inseparably connected with the Union and a stable Government. We know the story of our colonial history and our struggle for independence and for the establishment of our present system of constitutional government. Let it be remembered that revolution is a word popular in every language; and that decay is stamped on all the works of man. That the greatest of American writers, as a check to human ambition, has pointed to Westminster Abbey, which contains the tombs of so many illustrious Britons, as the "empire of death," where the greatest name perishes from record and recollection, and its "very monument becomes a ruin." Such is the fate of nations as well as of individuals. Greece, the early home of the arts and the sciences, owed her distinction to her republican institutions as well as to the republic of letters; but with civil dissension came corruption, and civil war wreaked its vengeance upon her fair fields and beautiful cities. The Turk has reveled amid her broken statuary and fallen columns. The clang of the saber in defense of her ancient liberties has long since ceased to be heard on the field of Marathon or at the base of the Acropolis. Her sun went down in the night of barbarism and savage debasement. Rome, a nation that laid broad and deep the foundation of a lofty civilization, whose poets, orators, statesmen, and historians shone like the milky-path in the heavens, and whose works are models at the present day, yielded to a similar spirit, and her power and glory have long since departed.

"Time, war, flood, and fire  
Have dealt upon the seven-hilled city's pride.  
She saw her glories, star by star, expire."

Shall this noble experiment of free Government, this model Republic, in the morning of its existence be doomed to share a similar fate, and liberty find a grave in the land that has been crimsoned with the blood of her martyrs, and that contains within her bosom the ashes of her Washington? No! Let the young America rise superior to the shackles of party and sectional interest, and with renewed energy and patriotic devotion cling to the Constitution of our fathers as our only hope, and as Mr. Webster has so beautifully expressed it, as the mariner clings to the last plank when night and the tempest close around him. Before the conclusion of the remarks of Mr. Dawson his hour expired, whereupon Mr. BAKER obtained the floor, but yielded to

Mr. SPALDING, who moved that the time of Mr. Dawson be extended so as to allow him to conclude his remarks.

The SPEAKER. That will require unanimous consent.

Mr. STEVENS. I must object to that. When a gentleman of my own party [Mr. BINGHAM] was speaking, and an extension of his time was asked, I gave notice that so far as I was concerned I should object to the extension of time in any other case. I cannot depart from that notice, although I am sorry to apply the rule to my friend from Pennsylvania, [Mr. Dawson.]

Mr. WASHBURN, of Illinois. Let the gentleman have leave to print the remainder of his remarks.

Mr. HILL. I desire very much that the gentleman [Mr. STEVENS] shall yield his objection, so that I may have an opportunity of putting a question to his colleague, [Mr. Dawson.]

The SPEAKER. The gentleman from Pennsylvania insists on his objection.

Mr. Dawson. Then I give notice that with my consent there shall never be another extension of time so long as I am a member of the House.

Mr. STEVENS. If the gentleman from Illinois [Mr. BAKER] is not desirous of going on to-night, I will move that the House resolve itself into the Committee of the Whole on the state of the Union, so that we may pass an appropriation bill which it is very necessary to pass to-day.

Mr. BAKER. That is entirely satisfactory to me.

The SPEAKER. The gentleman from Illinois will be entitled to the floor when the House resumes the consideration of this subject.

Mr. STEVENS. I yield for a moment to the gentleman from Maine, [Mr. BLAINE.]

#### WAR DEBTS OF LOYAL STATES.

Mr. BLAINE. I move to reconsider the vote by which the House recommitted to the Committee on War Debts of the Loyal States the bill (H. R. No. 998) to reimburse the States that furnished troops to the Union Army for advances made and expenses incurred in raising the same.

The SPEAKER. The motion to reconsider will be entered.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Pennsylvania, in the chair,) and resumed the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The CHAIRMAN stated the pending question to be upon the following amendment, offered by Mr. BENJAMIN:

In lines eight hundred and ninety-eight and eight hundred and ninety-nine strike out the words "and additional compensation of officers and clerks;" so that the clause will read as follows:

For salaries of additional clerks, under act of August 6, 1846, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, \$60,000.

Mr. Dawson moved to amend the amendment by striking out the last word; and proceeded to deliver the concluding portion of his speech as printed in the foregoing proceedings. Before closing he was interrupted by

Mr. STEVENS, who said: Mr. Chairman, are we not in Committee of the Whole on the state of the Union on the special order, the legislative appropriation bill?

The CHAIRMAN. Yes, sir; and the gentleman from Pennsylvania [Mr. Dawson] has moved an amendment, on which he has the right to speak for five minutes.

Mr. STEVENS. I do not see the perti-

nency of the gentleman's remarks. The pending amendment relates to additional clerks.

Mr. Dawson. The gentleman will doubtless see the applicability of my remarks before I conclude.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. Dawson] will proceed.

Mr. Dawson resumed and concluded his speech.

Mr. HILL. I rise to oppose the amendment of the gentleman from Pennsylvania, [Mr. Dawson.] I listened with a great deal of pleasure to the high eulogy pronounced by the gentleman upon the present occupant of the White House for acts done by him prior to the time when he became either President or Vice President. I desire to ask the gentleman whether those eminent qualities which he has so highly eulogized were sufficient to induce him to vote for Mr. Johnson for Vice President in 1864. I will yield the gentleman enough of my time to allow him to answer.

Mr. Dawson. The gentleman asks me whether I voted for the nominee of his party in 1864. I will only say that the question has nothing to do with principle.

Mr. HILL. I am not sure whether I understood correctly the gentleman's answer. I understood him to say—

Mr. WASHBURN, of Illinois. I rise to a question of order. I submit that both the gentleman from Pennsylvania [Mr. Dawson] and the gentleman from Indiana [Mr. Hill] are out of order, as the legislative appropriation bill is the special order, and the remarks of the gentlemen have no relation to that subject.

The CHAIRMAN. The Chair sustains the point of order.

Mr. Dawson. I withdraw my amendment to the amendment.

The CHAIRMAN. The question is now upon the amendment of the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. STEVENS. I hope that amendment will not prevail. This is the estimate for the officers now employed in the sub-Treasury department of the Government. It is precisely the same heretofore provided for by law and in the words of the law. It is for carrying on the sub-Treasury according to the law passed in 1846.

Mr. RANDALL, of Pennsylvania. For the purpose of finding out whether there is a quorum I call for a division on the amendment. This is an important appropriation bill, and I have no idea of its being considered without a quorum.

The committee divided; and there were—ayes 19, noes 20.

The Chairman ordered tellers; and appointed Mr. RANDALL, of Pennsylvania, and Mr. FARNSWORTH.

The committee again divided; and the tellers reported—ayes 35, noes 62.

So the amendment was disagreed to.

The Clerk read as follows:

For salaries of additional clerks and additional compensation of officers and clerks, under the act of August 6, 1846, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, \$60,000.

Mr. WASHBURN, of Illinois. I move to strike out in line nine hundred and one "at such rates as the Secretary may deem just and reasonable."

It was agreed by the gentleman from Iowa, [Mr. KASSON,] who had charge of the bill, that these words should be stricken out and that "at existing rates" should be inserted in their stead, which I also make a part of my amendment.

The amendment was agreed to.

The Clerk read as follows:

For salaries of ten supervising and fifty-nine local inspectors, appointed under act of the 30th August, 1852, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred by them, including the expenses of their annual meeting, \$100,000.

Mr. WASHBURN, of Illinois. I move to insert after the word "meeting" the words "and for a more thorough investigation of the



cause of disaster to vessels propelled in whole or in part by steam."

Mr. Chairman, one word in regard to that matter. I shall move a further amendment after this is adopted. I introduce the amendment for the purpose of giving additional authority to these supervising inspectors to investigate into the cause of these disasters. As chairman of the Committee on Commerce, I have had several conferences with the Secretary of the Treasury on this subject. There was the *Evening Star*, where there was a great loss of life. There was the *Fashion*, at Mobile, where three or four hundred lives were lost. There was the more recent disaster of the steamer *Commodore* of the Sound line.

There are a great many vessels which during the war were under charter by the Government, but which since the Government has dispensed with them have gone into the service of private corporations. These vessels are put again in use, although in many cases they have been proved to be unseaworthy. There is the case of the *Commodore*, and it is one of the most flagrant of which I have any information. It was a steamer plying on Long Island sound, on one of the great lines of travel between Boston and New York. It was deemed so unseaworthy that the supervising and local inspectors had refused to give a license, yet the owners of that line, in utter defiance of law, ran that steamer, exposing the lives of hundreds of passengers every night. And, sir, it was a miracle that every life on board was not lost.

I desire the Treasury Department may be invested with authority to make most stringent investigations. And I hope in the case of the *Commodore* there will be a criminal prosecution entered against every man who had anything to do with running her. Under the circumstances I hope the amendment will be adopted, and then I will ask that an additional appropriation be made to carry it out.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. In order to make this effective, if these investigations and prosecutions are to go on, I move to increase the appropriation from \$100,000 to \$110,000. I desire the Government shall be armed with sufficient authority to prosecute all the men who have been arraigned.

The amendment was agreed to.

The Clerk read as follows:

Judiciary—office of the Attorney General:  
For salaries of the Attorney General, assistant attorney general, and the clerks and messenger in his office, \$27,500.

Mr. STEVENS. I move to insert after the words "assistant attorney general" the words, "law clerk and chief clerk."

The amendment was agreed to.

The Clerk read as follows:

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, \$1,000.

Mr. GRINNELL. I move to strike that out.

Mr. HIGBY. I rise to oppose the amendment. I hope it will not prevail.

Mr. GRINNELL. I see no appropriation for the traveling expenses of the judge who resides in my State of Iowa; and if this provision be retained I shall move to appropriate two hundred and fifty or five hundred dollars to him for that purpose. But I am opposed to this altogether. This is nothing more than a gratuity to this gentleman.

Mr. HIGBY. This is established by law.

Mr. HILL. I rise to oppose the amendment. I suppose this appropriation would not be put in the bill if there was no sum provided by law for this purpose for the judge of the tenth circuit. This is carrying out the provisions of an existing law. The amount may be considered large, but the law exists, and we certainly ought not to repeal it in this underhanded way. Let it be done fairly if it is to be done at all, and not by striking out a provision in an appropriation bill to carry out an existing law.

The amendment was disagreed to.

The Clerk read as follows:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. WASHBURN, of Illinois. I move to strike out this clause.

Mr. FARNSWORTH. This item was stricken out of the deficiency bill, and to be consistent the House should strike it out of this bill for the coming year. I understand there has been a very flagrant violation of the contract on the part of the telegraph company, and for that reason the Senate struck out this item.

Mr. STEVENS. We ordered this to be stricken out in the deficiency bill, and it should be stricken out of this, upon the ground that the company have not complied with their part of the contract, as I am informed the Senate on investigation have discovered, and accordingly refused to pay it.

Mr. DODGE. This appropriation of \$40,000 is for the fulfillment of a contract with the telegraph company which was made, as I understand, five or six years ago, when there was no telegraph line between the Atlantic and Pacific States. For the purpose of aiding the telegraph company in constructing a line from the Missouri river to San Francisco the Government entered into a contract to pay them this sum every year for ten years. The money has been paid for a number of years, and the telegraph company have fulfilled the contract on their part. They have constructed the line and transmitted messages for the Government under the terms of the contract from year to year. In addition to the line which they constructed under the contract, which is now the old line, and which has recently been interrupted by Indian depredations, they have a new line, and they are from day to day transmitting messages for the Government over it. They claim that they have fulfilled their contract, and they are ready now to submit the question of fulfillment to any committee of Congress. Indeed, they have been before a committee for that purpose. This appropriation was ordered for the purpose of facilitating communication between the Atlantic States and the Pacific. We are now in daily intercourse by telegraph, and yet gentlemen seem to think it is of no consequence whether this contract should be carried out or not. I trust the appropriation will not be stricken out without full consideration on the part of the House.

Mr. STEVENS. This House has twice inserted this same appropriation, and the Senate has twice stricken it out, and the House acquiesced upon the assurance on the part of the Senate that the company had not fulfilled their contract. Now I propose that we strike it out here, and if the company have fulfilled their contract to the satisfaction of the Senate, which has investigated the matter, and the Senate shall insert it and send it back to us, we will then concur.

Mr. DAWES. I would inquire of the gentleman from Pennsylvania whether he has any knowledge of the fact of the violation of the contract?

Mr. STEVENS. None except what I have received from the chairman of the Committee on Finance in the Senate, who assured me that the company had not complied with their contract.

Mr. DAWES. It seems to me that as this is a contract, unless we have knowledge of our own to justify us in refusing the appropriation, it would be hardly right for us to throw the responsibility upon the other branch of Congress. Let us fulfill this contract on our part unless we can put our fingers upon some specification that will justify us in declining to do so.

[Here the hammer fell.]

The question was taken on the amendment; and there were—ayes 34, noes 18; no quorum voting.

Mr. FARNSWORTH. I suggest to the gentlemen who are opposed to striking out this item that they allow it to be stricken out in committee and have a vote upon it in the House.

Mr. DAWES. I suggest to the gentleman that unless we have some reason given for not doing so we leave it in, in fulfillment of our contract.

Mr. WASHBURN, of Illinois. It is a swindle involving hundreds of thousands of dollars.

Mr. DAWES. My friend from Illinois is in the habit of calling everybody a swindler who has any claim upon the Government.

Tellers were ordered on the amendment; and Messrs. DODGE and FARNSWORTH were appointed.

The committee divided; and the tellers reported—ayes 57, noes 40.

So the amendment was agreed to.

Mr. RADFORD. I rise to a privileged motion. I move that the committee do now rise.

Mr. STEVENS. I hope not. We can easily get through this bill to-night.

Mr. RADFORD. We cannot get through the bill to-night. It is half past four now and I am hungry. [Laughter.]

The question was taken on Mr. RADFORD's motion; and the committee refused to rise.

Mr. STEVENS. I move to strike out the following clause:

For salary of the reporter of the decisions of the Supreme Court of the United States, \$2,500.

And to insert in lieu thereof the following:

For salary of the reporter of the Supreme Court of the United States, \$2,500, if one volume only of the reports is published as heretofore; and in case the Supreme Court should direct him to publish two volumes, then the sum of \$2,500 for each volume so published.

By law this reporter's fee is \$2,500 a volume. It was supposed when this pay was fixed that one volume would contain all that it would be necessary to report. It is thought now that owing to the increase of business the Supreme Court will direct two volumes to be published, and if they do that of course there must be an additional appropriation of the same amount. The contract with the reporter only extends to a single volume. I understand the probability is that the Supreme Court will find it necessary to have another volume published in order to disseminate all their opinions.

Mr. HALE. Do I understand the gentleman to say that under existing law this reporter is paid by the volume and not by the year?

Mr. STEVENS. Yes, sir.

Mr. WASHBURN, of Illinois. No, by the year.

Mr. HALE. I supposed he was paid by the year.

Mr. STEVENS. He was only to furnish one volume a year.

Mr. HALE. I know that has been the practice, and I only wish to say that for one it strikes me, as a lawyer, that the true rule of policy would be the reverse of that proposed by the gentleman from Pennsylvania. Let us pay him \$2,500 if he publishes only one volume, and a less salary if he publishes two volumes.

Mr. RADFORD. I rise to a question of order. There is more than one gentleman upon the floor discussing this question.

The CHAIRMAN. The Chair understands the gentleman from New York [Mr. HALE] to be opposing the amendment offered by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. HALE. I rose to oppose the motion of the gentleman from Pennsylvania; and I believe that I am in order.

The CHAIRMAN. The gentleman is in order, the gentleman from Pennsylvania [Mr. STEVENS] having surrendered the floor.

Mr. HALE. It seems to me that the tendency to increase and multiply these reports by filling up volumes with the arguments and points of counsel, which might be condensed very materially, thus adding to the value of the reports, ought not to be encouraged by Congress by making the salary of the reporter depend upon the number of volumes he shall produce. I therefore hope that this amendment will not prevail, but that we shall leave this reporter at an annual salary.

Mr. WASHBURN, of Illinois. I will ask how much per volume the reporter gets for the copyright independent of his salary? It is something very considerable; and if we should pass the amendment of the gentleman from Pennsylvania, [Mr. STEVENS:] it would make his salary some \$8,000 or \$10,000 a year I reckon.

The question was upon the amendment of Mr. STEVENS; and being taken, it was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For continuing the collection of reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, which information shall be reported to Congress, \$10,000.

Mr. WASHBURN, of Illinois. I move to reduce the amount to be appropriated by this clause from \$10,000 to \$5,000. I was in hopes that this provision never would appear in another appropriation bill. We have made enough appropriations of this character, without continuing them year after year in the appropriation bills. It looks to me very much like jobs to enable parties to get certain amounts for specimens of minerals. I think that private enterprise can give us all the specimens that are necessary without bleeding the public Treasury for that purpose.

I did move to reduce this amount from \$10,000 to \$5,000. I will withdraw that motion, and move instead of that to strike out the entire clause.

Mr. HIGBY. I hope that motion will not prevail. This amount was given last year, I believe, to the gentleman appointed to make this investigation. Mr. J. Ross Browne, the gentleman appointed by the Secretary of the Treasury, has already sent a report to Congress, and has communicated with the delegation from the mining States on that subject. He recommends an appropriation even larger than this, but he does not ask that he be continued in the position. He says in his letter that he knows there are many men who can perform this service better than he can, and he is ready to turn it over to anybody else whom the Department may see proper to appoint in his place. But he says that he thinks it is for the interest of the country that this investigation should be continued; and for that purpose he recommends an appropriation larger than the one in this bill, even as high as \$25,000. He has sent in a report, which is now in the hands of the Public Printer, making some five hundred pages; and he writes me, in a letter upon the subject, as I have no doubt he has written to other members; that he has but just entered upon this investigation, and recommends that it be continued. I therefore hope that this appropriation will not be stricken from the bill.

Mr. FARNSWORTH. The question seems to be whether we shall ingraft upon the Government a department of mineralogy.

Mr. HIGBY. I think it would be well to do so.

Mr. FARNSWORTH. We were told last session, when this appropriation was made, that it was to enable the Government to accomplish a certain purpose, and that the amount then appropriated would be sufficient. And yet more is asked for now for the same purpose. This time \$25,000 was asked for; but the committee have cut it down to \$10,000. Next year they will ask for \$50,000, which may be cut down to \$25,000. I hope this appropriation will not be made.

Mr. HILL. I am not sure but we would lose very much if we were not to make the appropriation asked for in the clause now under consideration. I do not know what we should have done for those interesting articles in Harper's Magazine upon "Washoe mines and mining," and articles of like character, if Mr. Browne had not had this money to travel upon. For that reason it might not be expedient to strike out this appropriation; I can see no other reason for making the appropriation.

Mr. STEVENS. I move to amend the clause proposed to be stricken out by reducing the appropriation from \$10,000 to \$5,000.

Mr. McRUER. I hope that motion will not prevail. As I understand it, an appropriation has only been made for last year. Mr. Browne was sent out by the Secretary of the Treasury to perform this investigation. He has commenced his labors and has already sent in to Congress a very elaborate report in regard to the mineral resources of California. He proposes to continue that investigation, and calls to his aid there all the intelligence upon the subject in the mineral regions. If there is any one subject upon which Congress may well be enlightened it is upon the resources of this vast mineral region, its wants, its necessities, and its capacities; and I do not believe that \$10,000 or even \$20,000 can be more properly or more usefully applied than in supplying not only to Congress but to the country a good degree of intelligence in regard to that vast territory now filling up so rapidly. Therefore I hope the amendment will not prevail.

This sum of \$10,000 is a very small sum upon which to continue this investigation, for Mr. Browne has to employ a corps of laborers upon this work. As to his having traveled around California upon this money while preparing articles for publication, it is no such thing. His articles for Harper's Magazine, which no doubt the gentleman from Indiana [Mr. HILL] has read with much interest, and from which he has doubtless derived a great amount of information, were written long before any such appropriation as this was made; and in my opinion there is no man more honest or more competent to continue this investigation, or with more intelligence upon the subject, than the gentleman who has been designated for the purpose by the Secretary of the Treasury.

Mr. WASHBURN, of Illinois. I trust that the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will not be agreed to, but that we will strike out this entire clause. We appropriated last year \$10,000 for this purpose. Opposition to it was made in the House at the time, and nobody anticipated that we should be asked for more. But \$25,000 more was asked for, which amount has been cut down to \$10,000 by the Committee on Appropriations, for obtaining information which can be got elsewhere without one dollar of expenditure, and for which one dollar ought not to be expended by us.

Everything in relation to these mines and the collection of this statistical information can be had without this appropriation. The gentlemen from California who come from a mining country have urged this appropriation. Sir, I, too, come from a mining country. I, in conjunction with my friend from Wisconsin, represent the richest lead mines that there are in the world; yet we do not come here and ask an appropriation to have spread before the country at the public expense statistical information in regard to those mines.

Mr. ASHLEY, of Nevada. I desire to move an amendment to the amendment.

The CHAIRMAN. No further amendment is now in order.

The question being taken on the amendment of Mr. STEVENS, it was not agreed to.

The question recurred on the motion of Mr. WASHBURN, of Illinois, to strike out the clause.

The motion was agreed to.

The Clerk, resuming the reading of the bill, read the following:

For compensation to the laborer in charge of the water-closets in the Capitol, \$538.

Mr. STEVENS. I move to amend by striking out "five" in the clause just read, and inserting in lieu thereof "four;" so that the clause will read:

For compensation to the laborer in charge of the water-closets in the Capitol, \$438.

The amendment was agreed to.

The Clerk read as follows:

For compensation to the public gardener, \$1,400.

Mr. STEVENS. I move to amend by striking out in the clause just read the words "four hundred" and inserting in lieu thereof "forty."

The amendment was agreed to.

The Clerk read as follows:

For compensation of five watchmen in reservation No. 2, \$4,500.

Mr. PRICE. I move to amend by striking out the clause just read. I understand this reservation is a garden, and I do not see any use in spending \$4,500 upon it in addition to paying for doing the work.

Mr. STEVENS. The law authorizes the employment of these men, and they are employed. The only question is whether we shall pay them according to the contract.

Mr. PRICE. The law does not compel their employment.

Mr. HILL. I would inquire of the gentleman from Pennsylvania [Mr. STEVENS] what information he has in regard to the fact of their being employed. Are they in fact employed, and is their employment necessary at all?

Mr. STEVENS. They were employed last year, and they are now.

Mr. PRICE. This is to pay for services to come.

Mr. HILL. Has the gentleman from Pennsylvania any information whether it is necessary to continue their employment?

Mr. STEVENS. In regard to that I have no information. At the time the law was passed that matter was examined, and the employment of these men was thought necessary.

Mr. HILL. I hope the motion to strike out will be agreed to.

Mr. BERGEN. I move, as an amendment to the amendment, to strike out "five" and insert "three;" and to strike out "\$4,500" and insert "\$2,700;" so that the clause will read as follows:

For compensation of three watchmen in reservation No. 2, \$2,700.

Mr. Chairman, I think that two or three watchmen, probably three, are necessary to take charge of this reservation, especially during the night-time. On this reservation experiments are made in the cultivation of various plants; and the laborers employed there during the day cannot watch the grounds during the night. It is well known that in that vicinity extensive depredations are committed upon gardens and cultivated land. I consider, however, that five watchmen are more than are necessary.

The amendment to the amendment was not agreed to.

The amendment of Mr. PRICE was agreed to.

The Clerk read as follows:

Metropolitan Police:

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, \$208,850. And the compensation of said Metropolitan police force, officers, and clerks, &c, and the same is hereby increased fifty per cent. upon the amount hereby appropriated, commencing on the 1st day of July, 1865, said increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington and Georgetown, and the levy court of said county be, and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one per cent. for the purpose aforesaid.

Mr. RADFORD. I want to know what the originally pay was? I move to reduce it to twenty-five per cent.

Mr. STEVENS. Fifty per cent. was authorized before, and we thought it was right.

Mr. RADFORD. I do not think we ought to make it fifty per cent. without knowing what they get now.

Mr. MORRILL. Why does this section go back to 1865 if a like appropriation was made before? This increase of fifty per cent. goes back a year further than the one increasing the salary twenty per cent.

Mr. STEVENS. We increased the salary of these men a year ago, and provided that these corporations should pay one part and

the Government should pay the remainder, but we did not make an appropriation.

Mr. FARQUHAR. I move to reduce the amount to twenty per cent.

Mr. RADFORD. I accept that.

Mr. HILL. In regard to going back to 1865, I insist that was proper. Our effort was to relieve men serving at an inadequate salary on account of the price of living and the depreciation of the currency. I do not think we go back far enough even when we go back to 1865.

The amendment, as modified, was agreed to.

Mr. BERGEN. I move to insert "1866" instead of "1865," and I do it upon this ground: a few days ago we took occasion to increase the pay of the clerks in the several Departments, commencing with 1866, and I do not see why we should depart from the rule we then adopted. If it was right then to commence in 1866, it is right now.

Mr. FARNSWORTH. I find the following to be the estimate of the Department:

And the compensation of said increased force is hereby increased fifty per cent. upon the amount hereby appropriated, commencing on the 1st day of November, 1866; said increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the proportion equal to the number of privates allotted severally to the cities of Washington and Georgetown and the county beyond the limits of said cities; and the corporate authorities of said cities of Washington and Georgetown, and the levy court of said county, be, and they are hereby, authorized and required to levy a special tax not exceeding one quarter of one per cent. for the purpose aforesaid.

My impression is fifty per cent. is none too much. Their salary was very low before this increase. I do not remember precisely the amount. I remember the committee examined this question, and that we came to the conclusion this was no more than an adequate increase. It seems to me, however, this should be amended so as to commence on the 1st of November, 1866, and to give fifty per cent. I move to substitute the clause I have read for the one now before the House.

Mr. BERGEN. I accept that as a modification of my own amendment.

The amendment as modified was agreed to.

Mr. HARDING, of Illinois. I understand that amendment as accepted, and I now move to add the following proviso:

*Provided*, That no person shall hereafter be employed as police or watchman who has not served one year in the Army of the United States and received an honorable discharge.

Mr. HALE. I wish simply to suggest to the mover of this proviso to modify it so he will say "no person hereafter shall be appointed," &c., for there may be, and probably are, though I know not the facts of the case, very valuable officers who cannot be spared who will have to be removed if the proviso passes as it now is.

Mr. HARDING, of Illinois. What, watchmen?

Mr. HALE. The office of policeman or watchman does require skill and experience if anything does in the world.

I have only to say I am disposed to do everything that ought to be done to reward our soldiers, but I do not think by such an amendment we ought to remove such men from the performance of their functions against whom no allegation is made. I know nothing of these men; but the effect of the amendment of the gentleman from Illinois is simply to remove the entire police force of the District of Columbia. I think the proposition is too sweeping and ought not to be adopted.

Mr. HARDING, of Illinois. The proposed amendment provides that no person shall hereafter be employed, and I am willing to accept the modification of "appointed" for "employed," who has not been wounded or served at least one year in the Army.

Mr. RADFORD. I move to amend the amendment by striking out "one year." If he has been in the service at all that qualifies him as well as if he had been there ten years. If he has been in the service one year and has been honorably discharged he should have the

same right as a soldier who has been in the service four years.

Mr. HARDING, of Illinois. I accept the amendment.

The amendment of Mr. HARDING, of Illinois, as modified, was adopted.

Mr. STEVENS. I move a verbal amendment in the last paragraph of the bill by striking out the words "and Georgetown." It now reads "county of Washington and Georgetown," which is incorrect.

The amendment was agreed to.

Mr. STEVENS. I move to add the following as a new section:

*And be it further enacted*, That the proviso contained in the third section of chapter two hundred and ten of the act of July 2, 1864, shall be construed to embrace all suits to which the United States shall be a party, either plaintiff or defendant.

Mr. RANDALL, of Pennsylvania. I would like some explanation of this.

Mr. STEVENS. A provision was inserted in the appropriation bill in 1864 upon this subject which I supposed then and still suppose was large enough to embrace the Court of Claims; but the Court of Claims decides that it does not apply to them; and they have directed an amendment of this kind with a view of enabling them to conform to that provision of the law.

Mr. RANDALL, of Pennsylvania. This is a judicial question. I think it altogether out of place in an appropriation bill, and shall insist that it be considered by a quorum of the House, and I believe there is no quorum now.

Mr. JENCKES. The gentleman from Pennsylvania [Mr. STEVENS] has overlooked a statute subsequent to the passage of the appropriation bill of 1864, which essentially modifies the provision to which he has alluded. I think with his colleague [Mr. RANDALL] that this matter had better be reserved and introduced as a separate bill.

Mr. STEVENS. I have no objection to that course, and I therefore withdraw the amendment.

Mr. WASHBURN, of Illinois. I ask leave to move an additional amendment in regard to losses of vessels propelled in whole or in part by steam, by adding the words "and for the prosecution for violations of said act."

The amendment was agreed to.

Mr. RANDALL, of Pennsylvania. I move to amend by adding the following section:

*And be it further enacted*, That to enable the Clerk of the House of Representatives to pay the increased compensation voted by the House during the Thirty-Ninth Congress, to its employees, clerks and others, and to pay the increased rate of compensation thereby authorized, a sum sufficient therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STEVENS. It will not do to pass that here now. I move that the committee rise.

Mr. RANDALL, of Pennsylvania. I would like to have the question taken on my amendment.

Mr. FARNSWORTH. Can the committee rise and report the bill as long as there is an amendment pending?

Mr. RANDALL, of Pennsylvania. There can be no objection to the amendment. We have agreed to pay this money, and we may as well appropriate it.

Mr. STEVENS. I am willing it shall come up in the morning.

Mr. RANDALL, of Pennsylvania. We may as well have the vote now.

The question was put; and the chairman announced that the amendment was agreed to.

Mr. STEVENS. I call for a division.

The question was again put; and no quorum voted.

Mr. STEVENS. I think the committee had better rise.

Mr. RANDALL, of Pennsylvania. Well, I have no objection, if it is understood that the amendment is agreed to.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker

having resumed the chair, Mr. LAWRENCE, of Pennsylvania, reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, had directed him to report the same back to the House with sundry amendments.

Mr. FARNSWORTH. I rise to a question of order. When the committee rose I understood there was an amendment pending.

The SPEAKER. The chairman reported it to the House with sundry amendments.

Mr. FARNSWORTH. That is not strictly correct as an amendment was pending and not acted upon.

The SPEAKER. The Chair is informed by the Clerk that the amendment was declared adopted by the chairman of the committee and was reported by him with the other amendments to the House.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles:

An act (S. No. 456) for the admission of the State of Nebraska into the Union;

An act (S. No. 462) to admit the State of Colorado into the Union; and

An act (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia.

#### LEAVE OF ABSENCE.

Mr. VAN HORN, of New York, asked and obtained leave of absence for Mr. CLARKE, of Kansas, for two weeks.

And then, on motion of Mr. WASHBURN, of Illinois, (at five o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of T. Foster, and others, citizens of Newton county, Indiana, praying that there may be no curtailment or withdrawal of the national currency.

Also, the petition of A. S. McCullough, Wm. Ross, C. L. Urnston, S. Bramble, N. West, and others, citizens of Newton county, Indiana, praying that there may be no curtailment or withdrawal of the national currency.

By Mr. ASHLEY, of Ohio: The petition of Charles A. King, and others, citizens of Toledo, Ohio, against a reduction of the national currency, &c., and against compelling national banks to redeem their notes in New York city.

Also, a petition from M. Shoemaker, Esq., and others, citizens of Toledo, on the same subject.

Also, a petition from Samuel Blanchard, and others, citizens of Toledo, on the same subject.

Also, a petition from H. Rudd, Esq., and others, citizens of Wood county, Ohio, praying for the impeachment of Andrew Johnson, President of the United States.

Also, the petition from Hon. W. T. M. Amy, acting Governor and secretary of the Territory of New Mexico, praying for relief, &c.

Also, the petition of B. E. Lehman, and others, citizens of Bethlehem, Pennsylvania, praying the House of Representatives to present articles of impeachment against Andrew Johnson, President of the United States, for certain high crimes and misdemeanors therein named.

Also, the petition of John F. Compton, and a large number of citizens of Dalton, in the State of Georgia, praying for the impeachment of Andrew Johnson, President of the United States.

By Mr. BENJAMIN: The petition of citizens of Schuyler county, Missouri, against any further reduction of the currency.

By Mr. BOYER: The petition of citizens of Cata-sauqua, in the county of Lohigh, Pennsylvania, in opposition to the passage of an act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments; also, in opposition to the passage of a law compelling all national banks to redeem their circulating notes in New York.

Also, the petition of cigar manufacturers, journey-men cigar-makers, dealers in cigars, growers of and dealers in seed-leaf tobacco, for a change of the present to a specific tax of not more than five dollars per thousand on all domestic cigars, and that the stamp be made a revenue stamp, sold by the collector only to licensed manufacturers in his district, with proper guards and checks to prevent frauds and counterfeits.

By Mr. DRIGGS: The memorial of a committee appointed by the citizens of Ontonagon, Lake Superior, Michigan, setting forth the reasons for and praying Congress to make an appropriation for the improvement of the existing harbor at that place.



Also, a petition of the Board of Marine Underwriters, of Cleveland, Ohio, for the same object.

Also, a petition of the Board of Trade of Cleveland, Ohio, for the same.

Also, a petition of the Chamber of Commerce of Milwaukee, for the same.

Also, a petition of 500 citizens of Lake Superior, Michigan, and Ohio, embracing miners, ship-owners and merchants, for the same object.

Also, the petition of citizens of Milwaukee, praying Congress for an appropriation for the improvement of Marquette harbor, Lake Superior.

Also, a memorial of the Board of Trade of Cleveland, Ohio, for the same object.

Also, a memorial of the Board of Trade of Chicago, for same.

Also, a petition from Ambrose Campbell, P. M. Everett, and 50 others, citizens of Marquette, Lake Superior, Michigan, praying Congress not to pass any law to curtail the national currency.

By Mr. HAYES: The petition of the Cincinnati Relief Union, that Congress will adopt measures to secure greater promptness and dispatch in acting on applications for pensions.

By Mr. HOOPER, of Massachusetts: The petition of William Clafin, and others, manufacturers of leather, to remove or reduce the tax on leather.

By Mr. KELLEY: The petition of John Trader, Washington, District of Columbia, praying to be reimbursed for the use of his property by the Government.

Also, the petition of Charles C. O'Neill, for balance due on wood on account of Government violation of contract. Contract dated December 24, 1864.

Also, the petition of H. D. McKinney, for balance due on wood on account of Government violation of contract. Contract dated December 24, 1864.

Also, the petition of the officers of the Anti-Slavery Society of Philadelphia, Pennsylvania, praying Congress to prepare such an amendment to the United States Constitution, to be presented to the several States for ratification, as will forever prevent any distinction in the right of suffrage on account of race or color.

By Mr. MOORHEAD: A petition from 100 citizens of Pittsburgh, Pennsylvania, against any further reduction of the currency, and against requiring national banks to redeem their notes in New York.

By Mr. MORRILL: The petition of N. G. Pierce, president of Westminster, Vermont, Farmers' Club, and 179 others, members of the club and citizens of Westminster, Vermont, praying for a new tariff law.

By Mr. RICE, of Massachusetts: The petition of Wesley P. Bean, of the nineteenth Massachusetts volunteers, for a pension.

By Mr. SCHENCK: The petition of citizens of Warren county, Ohio, praying that a pension may be granted to Henry Woodward, late of the second Ohio volunteers.

By Mr. VAN HORN, of New York: The petition of 101 citizens of Genesee county, New York, asking the passage of the bill for the tariff on wool now pending before Congress.

By Mr. WASHBURN, of Massachusetts: The petition of Thomas J. Dunbar & Co. and Jacob F. Eaton, for compensation for the use of property on Long island, Boston harbor.

By Mr. WENTWORTH: The petition of W. H. McLean, late United States Navy, for relief.

By Mr. WILLIAMS: The petition of William A. Charlton, of Alleghany county, Pennsylvania, praying for a pension.

Also, the petition of citizens of Westmoreland county, Pennsylvania, protesting against the curtailment of the national currency, the early compulsory resumption of specie payments, and the passage of any law to require the national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on balances.

Also, the petition of citizens of Armstrong county, Pennsylvania, praying for the establishment of a mail route from Dayton, in the county aforesaid, to Kerr's Store, in the county of Clarion.

## IN SENATE.

THURSDAY, January 17, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Secretary proceeded to read the Journal of yesterday.

Mr. EDMUNDS. I perceive that the reading of the Journal does not seem to be near a conclusion, and I therefore move that by unanimous consent it be dispensed with.

The PRESIDENT *pro tempore*. It can only be dispensed with by the unanimous consent of the Senate. No objection being made, the further reading of the Journal is dispensed with.

## PETITIONS AND MEMORIALS.

Mr. WILLIAMS presented a petition of Jacob Shavor and Albert C. Corse, praying for compensation for the past use and purchase of an invention for post-marking and cancellation of postage stamps on letters, made by and patented to Marcus P. Norton, of Troy, New York; which was referred to the Committee on Post Offices and Post Roads.

Mr. WADE. I hold in my hand a long memorial drawn up by a committee appointed by the working men, mechanics, and other employes of the Washington navy-yard, in

which they set forth and show very good reasons why their present compensation is not sufficient to support them as they ought to live; that they do not get even as much as the clerks do who are not paid enough, and that their compensation now is no larger than it used to be when money was worth more than it is now, &c. They have argued their case very cogently in this memorial and induced me to believe that their compensation is too low for these times and ought to be enhanced. I move that this memorial of their committee be referred to the Committee on Finance, which I believe has charge of this subject.

The motion was agreed to.

Mr. EDMUNDS presented the memorial of Philip Pond and fifty other citizens of Castleton, Rutland county, Vermont, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. HOWARD. I hold in my hand a communication from the United States district attorney of the western district of Michigan on the subject of trespasses on the public lands, inclosing also a decision of the district court of the United States recently made in that district. As the subject is one of a good deal of importance, I beg to present these papers and ask to have them referred to the Committee on Public Lands.

They were so referred.

Mr. WILLEY presented a petition of the mechanics and laborers employed upon the United States Treasury extension, praying that the provisions of the House joint resolution granting increased compensation to the civil employes of the Government may be so amended as to embrace them; which was referred to the Committee on Finance.

Mr. WILLEY. I also present a memorial of a large number of employes of the glassware manufactories at Wheeling, in West Virginia, praying for an increased duty on glassware produced by the low-priced labor of foreign countries, and also that the internal revenue tax be taken off domestic glass. The matter referred to in the former part of this petition I believe has been reported upon, but that in the other part has not. I move, therefore, that this memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. RAMSEY presented a petition of clerks in the postal service on railway post offices, complaining that they are not included in the joint resolution passed by the House of Representatives increasing the compensation of Government employes, and praying that the joint resolution may be so amended as to include them; which was referred to the Committee on Finance.

Mr. BUCKALEW. I present the petition of Henry Frink, of Lancaster county, Pennsylvania, an honorably discharged seaman, setting forth that he enlisted as a private during the late war in the Army; that he was subsequently, by order, transferred to the Navy, and at the close of his service honorably discharged therefrom. He asks for the passage of a law authorizing the payment to him and others in a like situation of the bounty provided by the act of 1866. I move its reference to the Committee on Naval Affairs.

The motion was agreed to.

Mr. SUMNER. I present a petition of citizens of Texas, who represent that they have been devoted to the Union during the dark and bloody period of the rebellion, but that they now find the Government established over them by the assumed authority of Andrew Johnson as much in the hands of rebels as it was during the rebellion, and they now most earnestly appeal to Congress to set aside that government and treat it as null and void. I ask the reference of this petition to the joint Committee on Reconstruction.

It was so referred.

Mr. MORRILL presented a petition of

Luther Chamberlain and other citizens of the town of Atkinson, Piscataquis county, Maine, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was ordered to lie upon the table.

Mr. MORGAN presented three petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

Mr. ANTHONY presented a petition of citizens of Little Rock, Arkansas, representing that in May, 1865, a large amount of property in that city was sold for the alleged non-payment of the United States direct tax, and remonstrating against any legislation to remedy the defects of any such sale; which was referred to the Committee on the Judiciary.

Mr. SHERMAN. I present a petition of citizens of Cincinnati, Ohio, members of the Cincinnati Relief Union, representing that much distress is occasioned by the delay in acting upon applications for pensions and bounties under the recent law; that many cases of sad distress have been brought to their knowledge where persons have suffered all that it was possible to suffer by the delay in securing to the widows and orphans of soldiers their pensions and bounties. They pray that increased facilities may be granted to the Pension Office to enable them to dispose of the cases as they arise, and for authority to extend temporary relief in certain cases. I suppose this petition should go the Committee on Pensions.

It was so referred.

Mr. SHERMAN. I also offer a petition signed by a number of persons who are either residents or temporary invalids at the Hot Springs in Arkansas. They represent that on account of the difficulty about the title to the lands no improvements can be made to the valuable springs in Arkansas. The title, they think, rests in the United States, but various parties are claiming it, and on account of the dispute about the title the springs are closed and cannot be improved as they ought to be. I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. SHERMAN also presented two petitions of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie on the table.

Mr. WILSON presented five petitions of officers of the Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of journeymen cigar-makers and manufacturers of cigars in Massachusetts, praying for a specific tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged; and that Congress will alter the present system of stamping by selling stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the internal revenue laws; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented a petition of journeymen cigar-makers and cigar manufacturers in Milwaukee, praying for a specific tax of five dollars per thousand on domestic cigars, and that the present tariff on imported cigars may remain unchanged; and that Congress will alter the present system of stamping by selling stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the internal revenue laws; which was referred to the Committee on Finance.

## PAPERS WITHDRAWN.

On motion of Mr. HOWE, it was Ordered, That C. B. Gardner have leave to withdraw from the files of the Senate his memorial praying for compensation for brick used by the United States Army during the siege of Nashville, Tennessee, during the month of December, 1864.

## MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein, in which the concurrence of the Senate was requested.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia; and it was thereupon signed by the President *pro tempore* of the Senate.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein was read twice by its title, and referred to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes, reported it with an amendment.

#### NEW YORK CITY POST OFFICE.

Mr. RAMSEY. I am instructed by the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 229) to procure a site for a building to accommodate the post office and United States courts in New York city, to report it back with an amendment; and I am instructed to ask for the immediate consideration of the joint resolution.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the joint resolution on the day it is reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It appoints the mayor and postmaster of the city of New York, the district attorney of the United States at New York city, the president of the Chamber of Commerce of the State of New York, and Jackson S. Schultz, Charles H. Russell, Charles H. Rogers, and Moses Taylor, of New York city, a commission to purchase the site for a building to accommodate the post office and United States courts in the city of New York, in accordance with their report submitted to the Secretary of the Interior and the Postmaster General, and by them approved, namely: the lower portion of the City Hall park, containing land equal to twenty-six city lots, (or over sixty-six thousand square feet,) and authorizes them to purchase it for the sum of \$500,000, subject to the condition that the Government of the United States shall stipulate that it shall be used for public purposes only; and they are to procure plans and estimates for a suitable building upon the site, to be submitted to the Postmaster General and the Secretary of the Interior; and should such plans and estimates meet their approval they are to communicate them, with such additional suggestions as they may think proper, to Congress; and the Secretary of the Treasury is authorized to pay such sum of money as may be necessary to carry this resolution into effect.

The amendment reported by the Committee on Post Offices and Post Roads was in line sixteen of the resolution, after the word "dollars" to insert:

*Provided, That the title to said property shall be approved by the Attorney General of the United States.*

The amendment was agreed to.

The joint resolution was reported to the Senate, as amended, and the amendment was concurred in and ordered to be engrossed, and the joint resolution to be read a third time. It was read a third time and passed.

Mr. RAMSEY. I am also instructed by the same committee, to whom was referred the

letter of the Secretary of the Interior and the Postmaster General transmitting the report of the commission appointed to select a proper site for a building for a post office, and for the accommodation of the United States courts in the city of New York, to ask to be discharged from its further consideration, the subject having been disposed of.

The motion was agreed to.

#### PAY OF POST OFFICE ROUTE AGENTS.

Mr. RAMSEY. I am also instructed by the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 964) in regard to the compensation of route agents in the Post Office Department, to report it back to the Senate without amendment, and to ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Postmaster General to pay the route agents in the service of the Post Office Department any sum not less than \$900 nor more than \$1,200 per annum.

The bill was reported to the Senate without amendment.

Mr. BUCKALEW. I should like to inquire what the compensation of these persons is under existing laws?

Mr. RAMSEY. The maximum is \$1,000 at present. They are the most poorly compensated officers in connection with the Post Office Department. They travel night and day, and they are in constant peril, for they travel immediately behind the engine, and when a collision occurs or any mischief happens to the train they are always involved in it.

Mr. CONNESS. You do not propose to pay them \$1,200 for that?

Mr. RAMSEY. Partly for that.

Mr. GRIMES. Is there any scarcity of applicants for the places?

Mr. RAMSEY. Yes, sir.

Mr. HENDRICKS. I do not know whether there is any public necessity for the passage of this bill. I think there are quite a number of gentlemen willing to serve the Government at the present rates of compensation. My correspondence does not lead me to believe that there is any special difficulty in obtaining persons to serve the Government at the rate of compensation now allowed. I believe the rate for these officers is now \$800.

Mr. RAMSEY. The maximum compensation is \$1,000. It varies from eight hundred to one thousand dollars, at the discretion of the Postmaster General.

Mr. HENDRICKS. It is proposed to leave it at his discretion not less than \$900 and not more than \$1,200. Why put in the minimum? I shall make no objection to the maximum if the Post Office Department desires it; but I think that part of the bill fixing a minimum had better be stricken out, and I move to strike it out. There are a good many routes where it is important to have agents where but little time is required from them to perform the duty, and I am afraid that this provision will embarrass us in getting the duty performed. I know of one or two instances in my State where the Postmaster General may not be willing to pay a high price, where for a few hundred dollars he could get an agent to attend to the business. I move to amend the bill by striking out the minimum.

Mr. RAMSEY. I think the Senator from Indiana must be mistaken. The service that he wishes to have performed is not of the character described in this bill. Those to whom he refers are not technically route agents. I suppose he has reference to carrying the mail from some locality to some principal office, but the party carrying that mail does not fall under the denomination of a route agent, and hence would not be included in this bill. For some reasons the Post Office Department desires this minimum, and the bill comes in this shape from the House of Representatives. I can see no especial objection to it, and I think it quite as well to retain it.

Mr. HENDRICKS. If this is a House bill I shall not press the amendment. I thought it was a Senate bill. I do not care enough about the matter to insist on the amendment. The PRESIDENT *pro tempore*. The amendment is withdrawn.

The bill was ordered to a third reading; and was read the third time, and passed.

#### NIAGARA SHIP-CANAL.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up House bill No. 344; and before the motion is put I wish to say that I shall not insist upon pressing the bill to-day if there is objection to it, but I should like to have an early day fixed for its consideration.

Several SENATORS. What is it?

Mr. CHANDLER. The Niagara ship-canal bill. I think it will pass without much discussion. A great deal of time was expended on it at the last session, and I wish to take it up now for the purpose of making it the special order at an early day. ["No special orders."] If there is objection to that, I should like to have it considered to-day. I move to take it up at any rate.

The question being put, there were on a division—ayes 10, noes 12; no quorum voting.

Mr. CHANDLER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. PATTERSON. I ask for the reading of the bill; I do not know what it is.

The PRESIDENT *pro tempore*. The reading of the bill is asked for; it will be read. ["Oh, no."]

Mr. PATTERSON. The title I mean.

The SECRETARY. The bill proposed to be taken up is the bill (H. R. No. 344) to incorporate the Niagara Ship-Canal Company.

The question being taken by yeas and nays, resulted—yeas 20, nays 15; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Edmunds, Fogg, Foster, Fowler, Frelinghuysen, Hendricks, Howard, Howe, Morrill, Norton, Patterson, Poland, Ramsey, Sumner, Wade, Williams, and Wilson—20.

NAYS—Messrs. Brown, Buckalew, Dixon, Grimes, Harris, Henderson, Johnson, Kirkwood, Lane, Morgan, Nesmith, Saulsbury, Sherman, Van Winkle, and Willey—15.

ABSENT—Messrs. Cattell, Cowan, Cragin, Cresswell, Davis, Doolittle, Fessenden, Guthrie, McDougall, Nye, Pomeroy, Riddle, Ross, Sprague, Stewart, Trumbull, and Yates—17.

So the motion was agreed to.

Mr. EDMUNDS. I should be glad to have that clause of the bill read which I believe it contains, respecting the assent of the State of New York, I think it is the last section or the last but one.

The Secretary read as follows:

SEC. 28. And be it further enacted, That this act shall not take effect unless the Legislature of the State of New York shall within two years from the date hereof give its assent thereto.

Mr. EDMUNDS. I move to strike out that section.

Mr. SHERMAN. I move that the bill be postponed. The Senator from Michigan stated that his only object was to fix a day for its consideration. It is an important question.

Mr. CHANDLER. I should like to fix an early day for its consideration. I move to make it the special order for to-morrow at one o'clock, if that will suit the Senate.

Mr. SHERMAN. It is scarcely worth while to set it for so early a day as to-morrow, because it is generally understood that on Monday the tariff bill will come up.

Mr. CHANDLER. I think we can get through with this bill in perhaps a single day. Mr. SHERMAN. I do not think you will get through with it in a week.

Mr. CHANDLER. We may as well, perhaps, take a vote now on the amendment proposed by the Senator from Vermont.

The PRESIDENT *pro tempore*. The motion is that the further consideration of the bill be postponed.

Mr. SHERMAN. I will move next Thursday, if that will suit Senators.

Mr. CHANDLER. I should like to name an earlier day. How long will the tariff bill probably occupy?

Mr. SHERMAN. I have not the slightest idea. The Senator can name his own day. This section is a very important feature of the bill, and as a matter of course it ought not to be voted on unless the whole subject is taken up for consideration.

Mr. CHANDLER. Then I will name to-morrow at one o'clock for this bill.

Mr. SHERMAN. You had better let it go over to a later day.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the bill be postponed until to-morrow, and that it be made the special order for one o'clock to-morrow.

Mr. CONNESS. I hope that this will not be done, and that the Senator having charge of this bill will not ask it in view of the many important questions before us. This I conceive to be an important one also, but not of the same character: I allude to national questions, questions concerning the revenue, questions involving the peace of the country, involving the industrial and financial interests of the country. I hope that special orders will not be made at this time in favor of any other class of measures. If the Senator from Michigan will give notice that at an early day he will call up this bill, Senators will then have notice to prepare and be ready for action; and if when the Senator calls it up there shall be opportunity for the Senate to consider it, the Senate will not refuse him when he makes the motion. I hope that course will be taken.

Mr. CHANDLER. I consider this bill one of the most important measures now before Congress.

Mr. CONNESS. I have said that it was important.

Mr. CHANDLER. It is very important indeed. It is a bill in which the people of the West take a deep interest, and in which the people of the East are as much interested as those of the West. I do not wish to antagonize it of course with the tariff bill or with any bill from the Committee on Finance, but I should like to have for it early consideration; and I see no reason why we might not take it up to-morrow and finish it during to-morrow and the next day certainly, if not during to-morrow alone.

Mr. WADE. Give notice that you will call it up to-morrow; that is just as good as a special order.

Mr. CHANDLER. Very well; then I give notice that I will call up this bill to-morrow at one o'clock; and I now move to postpone the further consideration of the bill until that hour to-morrow.

Mr. EDMUNDS. I should like to inquire whether the motion in that form will make the bill a special order for to-morrow?

The PRESIDENT *pro tempore*. The Chair understands that the bill has already been made a special order, and therefore if postponed until to-morrow at one o'clock it will not lose that character, but will still be a special order according to the rules of the Senate.

Mr. EDMUNDS. Is it in order to move to amend the motion by striking out the hour named, so as to leave it merely a motion to postpone until to-morrow?

The PRESIDENT *pro tempore*. Certainly it is in order.

Mr. EDMUNDS. I move to amend the motion by striking out the hour, so as to make it merely a motion to postpone until to-morrow generally.

Mr. MORRILL. I should like to inquire whether that will cut us off from the morning hour?

The PRESIDENT *pro tempore*. It will not.

Mr. MORRILL. Very well.

Mr. CHANDLER. I accept the amendment, and give notice that I shall call up the bill to-morrow at one o'clock.

The PRESIDENT *pro tempore*. The motion of the Senator from Michigan is modified so as

to be a motion to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

#### RIVER AND HARBOR IMPROVEMENTS.

Mr. WADE. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Commerce be instructed to inquire whether any further legislation is necessary to carry more fully into effect the provisions of the act of last session, (House bill No. 492,) making appropriations for the repair, preservation, and completion of certain public works, &c., which has been referred to by the Secretary of War in his recent report, page 455.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. WADE. I wish to call the attention of the Committee on Commerce to this subject. The officers of the Department find great difficulty in executing the law of the last session on account of some matters which they set forth, and this resolution points to the place where those statements are to be found. I need not recapitulate them here. I hope the Committee on Commerce will turn their attention to the subject, and make that amendment to the law which the Department seems to think ought to be made.

The resolution was agreed to.

#### BALTIMORE AND OHIO RAILROAD.

Mr. MORRILL. I move to take up for consideration Senate bill No. 507.

The motion was agreed to; and the bill (S. No. 507) to amend an act entitled "An act to authorize the extension, construction, and use, by the Baltimore and Ohio Railroad Company, of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia," approved July 25, 1866, was read the second time, and considered as in Committee of the Whole.

Mr. HENDRICKS. I should like to know why it is thought necessary to take the control of this matter from the mayors and councils of the two cities and give it to Congress? Is it thought that Congress can better judge of a question of this sort? Why change the law in question?

Mr. MORRILL. Congress has been very tenacious of granting the right to change the streets and avenues of this city, or its public squares, or allowing any interference with them whatever, except on its own judgment. It has been so jealous of this heretofore, the city having been laid out according to a plan adopted by Congress, that it has reserved to itself the exclusive right of opening and altering streets. No street can be opened, altered, or changed without the consent of Congress; that is in order that Congress may preserve the original plan, which was a feature of its own adoption.

In addition to that, the Senate was advised by a memorial, which was referred to the Committee on the District of Columbia, that in connection with the authority granted to the city corporation to permit this road to come into the District, and to agree upon the place where it should terminate, and the manner of its coming into the District, they have undertaken to couple with it another act to locate the depot which is now so near us, the present depot of the Baltimore and Ohio Railroad Company, and keep it there until the year 1910—an act quite unauthorized and so extraordinary as, I think, to justify Congress in keeping in its own hands the power over that question. If we extend the Capitol grounds it might be an annoyance to have the depot so near us.

These two reasons justified calling the attention of the Senate to the matter. Then I ought to say while I am up that the grant of this power to these corporations was entirely unprecedented on the part of Congress. It had never been done before.

Mr. HENDRICKS. Do they not exercise the power under their general authority?

Mr. MORRILL. No, sir; and it is a thing

which the committee are very clear ought not to be permitted to these corporations.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### PENSION AGENTS.

Mr. LANE. I move to take up Senate bill No. 69, to provide for the payment of pensions.

Mr. HENDRICKS. I would suggest to my colleague that as the general question of the tenure of office is now before the Senate in a bill applicable to all offices, so much of this bill as relates to that subject had better be postponed until final action by the Senate on the other bill. I suppose he would not want one rule for the officers generally that are appointed by the President and another rule for the pension agents. If the general law proposed be right it ought to be applicable to these officers; if it be wrong it ought not to be passed. It ought to be general or it ought not to be passed.

Mr. LANE. In answer to that suggestion I will only say that we have passed this bill; we have reached the final vote; it stands simply on a motion to reconsider. I do not know what the fate of the other bill will be. I think I shall vote for that also, but I believe we had better dispose of this now. The House amendment has been agreed to; it stands simply on a motion to reconsider.

The motion of Mr. LANE was agreed to; and the Senate proceeded to consider the motion of Mr. MORRILL to reconsider the vote concurring in the amendment of the House of Representatives, as amended, to the bill (S. No. 69) to provide for the payment of pensions.

Mr. BUCKALEW. There is only one feature of this amendment in which I feel any particular interest, because, as already stated, it involves a question which is involved in the general bill—the question of the power of removal from office. The Senate will remember that one feature in the amendment is that all the existing officers of this description, that is pension agents, are to be removed from office by this law. It is declared that their commissions, which have been issued pursuant to a former statute, shall expire upon a particular day. That feature of the bill applies to a very few officers; it may not be to one dozen. I think we ought to reconsider this vote in order to reach that question and to remove that feature from the present bill and let it be involved in the general measure which has been before the Senate for its consideration, and which will be regularly in order at the expiration of the morning hour.

Under one clause of the Constitution it is provided that the appointment of subordinate officers may be vested in the President alone, in the heads of Departments, or in the courts of law; and in pursuance of that provision a former law provided that one of the Secretaries, being the head of a Department, should appoint these officers. That was a constitutional law, a very proper law. Under it the Secretary has exercised the authority conferred upon him; he has made appointments; he has issued commissions. The constitutional provision has been executed by the legislative department, and by the Secretary. Now, sir, what is proposed? A thing entirely novel in the history of this Government, that the two Houses by a legislative act shall dismiss these officers from office, shall vacate their commissions. Whether this is done instantly upon the passage of the law or done thirty days hence makes no difference. It is an attempt to remove from office by the Legislature alone, by Congress. It is obnoxious to all the reasoning which upon this point was adduced in the discussion of the general bill; and as it applies to so very few officers, and as it applies only to the period of time which has elapsed since the 1st of October last, I think it ought to be removed from this measure, and the bill ought to stand as it stood when it went from the Senate, before it was subjected to amendment by the House. There is no



objection to the passage of the bill originally reported by our Committee on Pensions transferring the appointment of these officers from the Secretary of the Interior to the President by and with the advice and consent of the Senate; but if we pass any measure carrying out this idea it ought to be prospective altogether; it ought not to involve the larger and more important question of the removal of officers by the Congress of the United States by a direct enactment of theirs, assuming to the two Houses this power of removal. We have had a grave argument in the general debate upon conferring this power upon the President and Senate conjointly in most cases.

Mr. FESSENDEN. I understand that this motion for reconsideration, which I believe is now the pending question, was made by my colleague on account of a desire I had expressed to be heard upon this subject before it was finally acted upon, I being out of the Senate engaged upon other matters at the time of its passage. I wish to state simply that so far as the bill stands now it is acceptable to me personally. I did not like any of the dates that were fixed there, because I reasoned precisely as a great many others did: the date might affect somebody perhaps in whom I am interested; and if a date was to be fixed at all, I wanted one to be safe with the rest of them; and therefore if that kind of legislation was to be adopted I thought I should like to share in its benefits.

But, sir, I want to say further that I was opposed entirely to the adoption of the amendment made by the House. The amendment is for the single purpose of just changing the law and saying, substantially, that everybody who has been appointed by the Secretary of the Interior since a given date shall go out of office unless he is reappointed. It was gotten up unquestionably, I argue from the face of it, for that purpose. It is very likely that the Secretary of the Interior did, in certain cases in other States, as he did in the State of Maine, see fit to remove one pension agent and appoint another, and the object of the amendment as adopted by the House to the bill, it seemed to me, was to say that where he had done so those men should be considered still in office until a new nomination and appointment was made by the President under this law which we now propose to pass. As it stands now it is substantially that; because it leaves the power of appointment just precisely where it was before, since the amendment to the amendment has been adopted by the Senate, with the exception of those appointed since October, 1866, a date which does not cover my man, and leaves him safe enough in office. That is so very late a date as not to touch him. So it is well enough in that particular.

But, sir, I object entirely to this kind of legislation; that is my difficulty. I approved of the bill or submitted to the bill as it was first reported from the Committee on Pensions. That committee said, "Here is an important class of officers, now very important; they disburse a great deal of money, and they are obliged to give heavy bonds; the appointment now is by the Secretary of the Interior, and he may appoint any number of them that he sees fit. It is proper that there should be legislation fixing the number to be appointed, and giving the appointment to the President of the United States, and of course the nominees to be confirmed by the Senate of the United States in the ordinary way." With reference to offices of that importance and consequence I think the proposed law is useful and proper. But, sir, I do not approve of beginning the kind of legislation which is proposed by the amendment of the House; that is to say, fixing up something that shall keep in certain persons against the appointments that have been recently made. To be sure I should not like to have one of my friends turned out. I did not like it in the case that was presented. I was sorry it was so. I should be willing to get him back by every method I could adopt

that is consistent with my duty as a Senator; but to legislate that everybody who has been appointed to office since a given date shall be considered as out of office, and everybody who was in before that time shall be considered as in office, is carrying the idea of legislation on the subject of officers further than I am willing to go, further than my judgment approves. Therefore, I shall vote for the reconsideration with a view to see if the Senate will, on reflection, adopt the amendment of the House, or leave the matter just where everything is left of the same description.

Mr. HENDRICKS. I think, as this relates to the subject of the main bill that is before the Senate, the decision upon the motion to reconsider had better be postponed until the vote of the Senate upon the bill which is in the charge of the Senator from Vermont, [Mr. EDMUNDS.] I therefore move the postponement of the motion to reconsider until Tuesday next.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up, without a motion, the unfinished business of yesterday, which is Senate bill No. 453.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYN, its Chief Clerk, announced that the House had passed the bill (S. No. 253) to incorporate the First Congregational Society of Washington, with an amendment, and also the bill (S. No. 280) to incorporate the Washington County Horse Railroad Company in the District of Columbia, with amendments, in which amendments it requested the concurrence of the Senate.

#### TENURE OF OFFICE.

The Senate resumed the consideration of the bill (S. No. 453) to regulate the tenure of offices, the pending question being on the motion of Mr. SUMNER to amend the amendment agreed to as in Committee of the Whole by adding to it the following additional section:

And be it further enacted, That all officers or agents, except clerks of Departments, now appointed by the President or by the head of any Department, whose salary or compensation, derived from fees or otherwise, exceeds \$1,000 annually, shall be nominated by the President and appointed by and with the advice and consent of the Senate; and the term of all such officers or agents who have been appointed since the 1st day of July, 1866, either by the President or by the head of a Department, without the advice and consent of the Senate, shall expire on the last day of February, 1867.

Mr. McDOUGALL. I desire to inquire of the Senator from Massachusetts whether he proposes to discuss the pending amendment, which I understand has been offered by him?

Mr. SUMNER. Before the vote is taken I may have something to say upon it.

Mr. McDOUGALL. Do you propose to withhold your remarks until what you suppose to be the close of the debate?

Mr. SUMNER. I had no purpose on the subject. Should anything occur in the debate which I should think it proper to answer, I shall throw myself upon the indulgence of the Senate to answer it; but I have no purpose on the subject.

Mr. McDOUGALL. Mr. President, that is very much after the fashion of the Senator from Massachusetts. He has no sponsors for his letters. He has correspondents from all parts of the world, but nobody ever heard what were their sign-manuals. And now, undertaking to offer an amendment after the discussion has been engaged in, he declines to make one remark until something has transpired that is worthy of his steel, holding himself to be Brian De Bois Gilbert, I suppose, or else Ivanhoe, who touched his shield, for nobody equal to him in point of arms exists in or about the Federal Senate. The agony of his self-admiration must give him great trouble in the midnight hours.

Sir, this question is a question of office. I undertook to state yesterday—whether I stated it well or not I am not exactly certain; I think

I did state it exactly—there was an eminent French author, from whom the men who established our institutions derived their greatest light, because when Montesquieu wrote his Spirit of Laws, he, in his adaptations, gave reference to everything there was in the old Greek and Latin days. They were familiar with the history of the intermediate States, with the republics of Rome and Venice, and with free institutions as they were developed in Germany, and free institutions as they were developed on the northern shores of the Mediterranean, and as they were developed everywhere. It has seemed to me a singular thing that I cannot find at the present time any going back to the wisdom of our highly-informed fathers. It is true that when I was a lad I thought I knew more than my grandfather did; but as I grew older I found I did not. There is a sort of aspiring spirit that is common to our American people, particularly to those who have got any of the Celtic or Gothic blood about them, and they are disposed to affirm that they know all. My friend from Oregon, [Mr. WILLIAMS,] who is very much of a Celt, is confident he knows it all; and the Erse gentleman from Missouri, [Mr. BROWN,] with his golden locks—he perfectly knows it all. [Laughter.] Now, it was some time said in the days of old antiquity that the high elevation of the soundest philosophy was to know thyself, and I think that was inscribed in the temple at Delphos by one of the wise men of Greece.

In the consideration of these grave questions it is well for us really to consult. How many consultations have there been in this Chamber during the six years that I have had the honor to be here? There have been belligerent controversies. The Senator from Missouri constitutionally affirms what he thinks himself. He does not ask whether any other person thinks differently, and is not prepared to accept any modification upon fair and just consideration. I have seen the time when great men, grave men, wise men sat in this Senate Chamber, and they would ask of each other, what is right about a matter; what should we do; what is for the interest of the State, speaking of the State as the Union, that is the United States, because when we speak of the State here we mean all the States. That has not been done for eight years in this Senate Chamber. This is not *Senatus consultum* while partisan considerations can control this council, which was designed to be the most conservative of the elements of this Government—equal with the supreme judiciary. There is no consultation now, and has not been, except consultation in caucus. We who live in the northwestern part of the world, where the ice freezes very deep, are not in the council at all, for we are only subject to their judgment. They sit down, a portion of the Senate, and hold their councils and determine what they will do, not understanding that it is the common right of every Senator here to be considered and have his opinions canvassed and his best judgment rendered on the Senate floor. This never occurred until the inauguration of a series of proceedings within the last six years. There never was such a thing as a caucus upon political questions in the Federal Senate before that time; there never was such a thing as a caucus upon political questions in the House of Representatives, nor in any House of Representatives or Senate of the United States of which I have heard. It is now determined by the force of an overwhelming majority that the minority shall have no voice.

I have some recollection of its having been said long ago, and well said, that the tyranny of a majority was the most terrible tyranny in the world. What is it? The tyranny of the raging mob; of such men as hung up to lanterns men in Paris during the Hundred Days; such men as have been asserting the power of a majority—the cruellest, most sanguinary, and desperate ruler of a people. The most terrible tyranny in the world is the tyranny of a

majority. So it has been proclaimed from the time when the shells were assigned to the voters of Athens and they sent their great men into banishment.

It is false to say of this Republic that this is a Government of exact majorities and that majorities must rule. That never was the idea of the men who created our foundation. They undertook to balance our institutions. There were both popular and conservative forces; there were the Senate, the lower branch of the Legislature, and the judiciary; and we have much depraved ourselves by falling off from the old lessons and making the judiciary subject to popular influences; for probably above all influences, as it was once thought by the masters whom we have studied, or should have studied, the judiciary was the great anchoring ground of the Government. I never knew the time that I was willing to have a judge hold his term short of good behavior, so that he should be properly tried; and that should be the rule now throughout the country. If he is guilty of any offense he may be accused of the offense; and, by the way, I may say here, and I say it just simply because I am looking at this old, reverend gentleman, [Mr. JOHNSON,]—"Reverdy" means "reverend" I believe—that Lord Bacon, according to our present information, has been long maligned. After he has been dead and rotten now since Queen Elizabeth's time, it has been found out that he was an excellent gentleman, a noble man, and did not steal; but because that red-headed girl who was then Queen of England begged of him to do so he allowed himself to go into ignominy. That is a better piece of subjection than I could submit to. Probably I could have done it if I had been an Englishman.

However, I desire to come back again to the main consideration of the three departments of our Government. I would be pained to have that division forgotten by thoughtful men. It will not be long before I shall part your company, and shall have no opportunity of expressing even a sentiment or an opinion. When we forget the true distinction between the three departments of Government, the executive, the legislative, and the judicial departments, and do not learn how to define them, and do not have the definitions taught in our schools to our boys, we are on the down grade of ruin, and we shall go into a chaotic mass, or chaotic confusion at least. It is not possible to conduct a Government without executive power; it is not possible to conduct a Government without legislative power; it is not possible to conduct Government without judicial power; the three are involved. This is a very old story. It has been taught to us for more than five thousand years. It has been determined by the wisest that they should be entirely separate and distinct. If the executive and the judicial office were combined in one man it would enable him to be a tyrant. If the executive and the legislative were united in one it would enable that power to tyrannize. If the Legislature of the Government should claim, by virtue of its power to pass laws, power to administer laws, power to judge of laws, it would be most tyrannous. All careful, considerate students of the philosophy of republics have said, Let the legislative power be held in check. Senators, who have no particular personal influence, and who are not supposed to be popular politicians, and members of the House of Representatives, have no power to accomplish results except this: they can pass laws.

Now, if the Legislature has a mind to say, regardless of the Constitution of the United States, "This is the law of the United States;" to say, as a Senator once said to me in this Hall, "If it is not constitutional, it is right," and then claim, by virtue of legislative power, executive and judicial power, that would make the most terrible tyranny because they represent an irresponsible majority. I presume there is no Senator who is not conversant with this discussion, as I am myself. Certainly every well-informed man in this Senate should have

read this full discussion of the relations of the three departments of Government. It was well discussed in the organization of our Republic. It is well put in the Federalist. It is well stated in Montesquieu, and better referred to by the text he furnishes from the ancient authors. If we cannot maintain the independency of the three powers in this Government, we must abandon it and seek a new organization; and there comes a grave question, and perhaps it may be the gravest question of the age: if the three elements, each intended to be exactly independent so that they should make an equipoise, cannot be maintained in their integrity, if they cannot balance themselves, if the executive can go to the judiciary or the judiciary to the executive, or the executive to the legislative, and combine power, if the moral sense of the country will not correct any such bad, evil, terrible conclusion, we are in chaos. We shall then have to lie at midnight like a vessel in a stormy sea, without hope of the morning, and he who shall see the first star that rises in the eastern horizon will be a prophet of God; for when we are involved in that chaotic condition there is no rule of philosophy, there is nothing in the differential or the integral calculus that can solve that proposition so far as it has been communicated to mankind.

It is in this aspect of the question that I speak of our solemn duty to maintain the theory of our Government as advised by the men who hunted it up from old antiquity. No Senator has read the Federalist who does not know that Hamilton and Jay and Madison hunted everything from the ancient masters, and then they relied principally upon Montesquieu as an index, but they hunted them all, and they framed the only system of a republic that can last. If this Republic does last, it must last upon the proposition of the division of power in three departments of the Government. If they cannot be maintained intact in their integrity, the Republic cannot be maintained. I am confident the Republic cannot be maintained if we cannot maintain those three elements independent of each other, so that we have no right here to question the power of the Executive, and the courts have no right to question our power. We must, upon consultation, inquire what our power is and exercise it only to the limit of our authority; and so of the other branches of the Government.

I have said enough to communicate my opinions, and I say my advice, if you please. If it is not considered to-day it will be considered at some future time, perhaps by more thoughtful and more careful men. I did while I have the floor propose to pursue a branch that is not germane to this question; but from what I see about me I do not care to pursue the subject. I desire now, as a mere concluding sentence, to say that the safety, the continuance, the maintenance of our institutions as a free Government depend upon the maintenance of the three branches of Government intact.

Mr. WILLEY. Mr. President, I have long entertained the opinion that the appointing power, and especially the power of removal from office by the Executive of the United States, was a very dangerous power, liable to abuse, and that if it could be constitutionally done there should be restrictions placed upon it. My opinion in reference to that subject is not the result of recent events connecting themselves with that question, but it has been one long entertained. I believe that it is contrary to the theory of our Government, dangerous to its integrity and to the proper balances of the coordinate branches; and I was very glad that a proposition was introduced for the purpose of applying, if possible, some proper limitations on the exercise of that power. I think it is demoralizing as it now stands, or rather as it has been exercised in times past, both upon the Executive and upon the people, furnishing motives of corruption on the part of the Executive, tempting him for political or personal purposes to the abuse of the power which the

the Constitution seems to have placed in his hands, and especially in that construction given to it by prescription and by usage. On the other hand, it is very demoralizing upon the people, upon the electors.

I am not going into the question and did not rise to discuss it particularly, but to express my regret that the Senator from Vermont did not adhere to his original bill, and resist attaching to it any of those appendages which Senators are essaying to put upon it. I should like to see the broad proposition carried out by some general provisions; but I apprehend very much that the proper operation of the principle will be embarrassed, if not destroyed, by attempting to place upon it these various minor restrictions and penalties to which Senators have alluded. It does seem to me that it is derogatory to the character and office of the President of the United States to attempt to surround him or those under him with these little pains and disabilities which have been suggested in the amendments offered by Senators; and however much the power may be abused in the hands of the Executive, I think the only punishment commensurate with the dignity of the executive office, when a corrupt abuse of it really exists, is that already provided in the Constitution, impeachment—that and nothing less.

But, sir, I rose principally to notice some of the remarks which the Senator from Pennsylvania [Mr. COWAN] made yesterday while he was discussing the pending amendment. That Senator then said:

"No man can give any reason why three hundred thousand voters in a State should have all the offices in the State, while two hundred and ninety-five thousand voters in that State have no offices at all. Not even those who assail the President most sternly and unrelentingly, I think, will argue that there is any justice and any propriety in that. If these offices belong to anybody and for any other purpose than the public service itself, and if there is to be any rule adopted for the guidance of the appointing power, perhaps that practice is just as good as any other; but the minority would be entitled to its share as well."

I confess to some surprise when that honorable Senator made his statement as to the number of removals from office during the last year. I have no means of knowing the precise number. I take it for granted, however, that the statement of the Senator is correct. He has doubtless informed himself upon that subject. I had formed my opinion in relation to it from what was transpiring around me.

Allow me to say to the Senator to-day that there is but one single civil officer appointed by the President of the United States from West Virginia left in office this day who is in accord with the policy of Congress, or who is not in accord with the policy of the President of the United States, and he is a consul abroad. Every officer in the revenue department in West Virginia has been removed but one, and he has changed his opinion from what we there term loyalty into favor of the policy of the President of the United States. And there are but four men holding civil office to-day, among presidential appointees, in West Virginia, who have not been removed by the President of the United States during the last year. There has been a universal removal; almost all officers have been swept away. If, then, the remarks of the Senator from Pennsylvania be true, that there ought at least to be a fair division, I ask him, upon his own principles, whether there has not been an abuse of the executive power so far as West Virginia is concerned?

The Senator on that occasion further remarked, as follows:

"I think I may say I know something about how these removals were made, some of them, and why they were made. I have no difficulty in standing here in my place and saying that all the removals that I know to have been made by the President were of men who had no respect not only for the Chief Magistrate of the nation, not only for the nation itself, but I thought for themselves. Senators are certainly aware that within the last year a great deal of exceedingly offensive, gross, unwarranted language has been made use of toward the President of the United States. I am satisfied that there is not an honorable Senator here who would not say that where an office-holder, for whose conduct the Presi-

dent was responsible, was guilty of that kind of improper language and want of respect to his superior officer he should be removed."

My experience in West Virginia and my observations there have taught me that the President has been actuated by no such motives. If I am to look to his acts and to the antecedents of his appointees, I must say that he seems to have taken special pains to select from the many respectable gentlemen who have thought it their duty to support his view of the administration of the Government, those very gentlemen who have been loudest and grossest and foulest in their abuse of the President of the United States.

I am not going now to bring into the Senate of the United States matters of a private character, where the parties who have been guilty of uttering this language cannot have an opportunity of defending themselves; but I will select a gentleman who has been appointed to one of the most important and entirely the most lucrative office in the State of West Virginia, who has spread his views at large, who is the editor of a paper, and in his own paper has published to the world his views of the President of the United States, and I will avail myself of this opportunity to show to the Senator from Pennsylvania that the President of the United States in selecting men to office has been actuated by no such motives as those to which he refers. I shall read extracts from the paper of the gentleman to whom I allude, a gentleman appointed to the most lucrative office in the State of West Virginia, and here they are.

Mr. COWAN. What is his name and what is his office?

Mr. WILLEY. His name is Long, and he is postmaster of the city of Wheeling, and he is the editor of a paper published in Wheeling called the Register. He is a gentleman who had, as I have understood, some experience in a certain institution in Wheeling known by the name of the Athenaeum during the war. In his paper of the 13th of March, 1865, he published as follows:

"It is said that Mr. THADDEUS STEVENS, the Republican leader in the House of Representatives, declared that if the House had been in session he would have moved for the impeachment of Johnson. But Johnson is comparatively guiltless. The party leaders who nominated him and who advocated his election, knowing his habits and his character, are the parties who ought to be impeached before the august tribunal of the American people. A gentleman when sober never becomes a thorough ruffian when in his cups. Johnson drunk is but Johnson sober with the mask on; at heart a boastful, low-bred, time-serving braggart; a brutal, tyrannical pimp of power. Those who brought disgrace upon the nation by placing him in the position—not Johnson—must be held responsible before the world."

Again, in the same paper, on the 14th of March, 1865, he said:

"Andy illustrates in the quality of his brain and its brilliancy, as lit up by the alcoholic contents of his stomach, what an uncouth and unadulterated statesman he is, and how strangely the machinery of popular government may be worked when a drunken man is chosen second engineer."

I have a good deal "more of the same sort," but I confess that I have been disgusted in reading thus much.

Mr. JOHNSON. Permit me to ask when that appointment was made.

Mr. WILLEY. The appointment was made sometime in August last, I think.

Mr. JOHNSON. Has it been confirmed yet?

Mr. WILLEY. Not confirmed.

Mr. COWAN. What is the date of the paper from which the honorable Senator has read?

Mr. WILLEY. In giving the extracts I gave the dates.

Mr. COWAN. I beg pardon but I did not hear them.

Mr. WILLEY. I read extracts from the Wheeling Register of March 13, 1865, and March 14, 1865. Rather than read further from it in the Senate, for I confess a loathing and disgust to doing so, I will hand to the honorable Senator, if he desires it, a great deal "more of the same sort" which I have here.

Mr. COWAN. No, that is enough.

Mr. WILLEY. Now, sir, this man uttering this language applies for this position and the President of the United States appoints him to it. I appeal, therefore, to the Senator from Pennsylvania to say whether he is altogether right when he urges that the President has been influenced in making his appointments by a desire to thrust from office men who have been gross in their language of abuse toward the President of the United States.

I do not pretend to say that there is any truth in all these remarks which I have read from this paper. Its editor occasionally pays his respects to an individual much more humble than the President of the United States, and in terms and assertions of alleged facts which I know to be wholly untrue. I am far from wishing to be understood as saying that these vile charges against the President are true. I only mention them in reply to the suggestion of the Senator from Pennsylvania yesterday, that the President ought to turn from office men who indulge in gross abuse of his person or of his administration, and to show him that he has rather exercised his power in appointing men to office who had indulged in such language.

Mr. COWAN. If the Senator will allow me, I say now what I said then: that if gentlemen will make use of this kind of language toward the President and assail him with epithets of this kind, I think it is good cause for the removal from office of any person who does so; and I think furthermore it would be a most excellent cause why such a man should not be appointed to office.

Mr. WILLEY. In both of which opinions I concur with the Senator from Pennsylvania. I believe that men in the discharge of their duty as officers, when appointed by the Executive of the United States, should confine themselves to the duties of their offices; and if there were an amendment proposed to the bill now before the Senate, prohibiting and making it penal (if we are to travel out of the general purpose to go into amendments of that character) for men in office to indulge in partisan warfare or to go beyond the regular discharge of their duties, I should be inclined to vote for it.

But, Mr. President, I am not so much disposed, if disposed at all, to attach blame to the President of the United States for making this appointment. The President of the United States has doubtless been imposed upon. He makes his appointments upon the representations of others. The great fault which the President of the United States committed was in placing the patronage which he had in his power to bestow in the hands of irresponsible men in West Virginia who had an ax of their own to grind. Two of those men who now hold office in West Virginia, that have not been removed, partisans of the President, had much to do in procuring the appointments of these men—one of them a late candidate for Governor of West Virginia and another a candidate for Congress, both overwhelmingly beaten by the people of West Virginia at the late election.

Sir, the people of West Virginia have always had a warm affection and admiration for the present President of the United States. It was West Virginia that first nominated him to the Vice Presidency, that first brought him to the attention of the country for that office. Similarly situated with himself and his compatriots in Tennessee, a border State, suffering the same evils, admiring his indomitable energy and firmness, and relying upon his integrity and loyalty, our people suggested him to the people of the United States as a proper individual to be elevated to the exalted position of the second officer of the United States. But, sir, in an evil hour he has yielded his ear to evil counselors, and has literally carried into fulfillment his threat at St. Louis, that he would "kick" his former friends out of office; and he has left but one single one of those opposed to him in political views of his original friends that elevated him to power in office from West

Virginia, and he holds a consulate at Honolulu.

Mr. McDUGALL. I desire, Mr. President, to make a single remark in this connection. In the State from which I come no changes have been made by the President of which I am advised except in a single instance, where an Army officer who had been promoted and had reached a colonelcy for his services in the field was appointed by the President of the United States in place of a person removed from office there. The President has I think been careful to avoid personal questions, and has not carried out fully the wishes of his friends in this matter. I desired myself to see some persons appointed in my own State; but differing from the majority of the Senate, I have not deemed it proper for me to commend any one to office that I did not think should meet with favor from the majority. Since I have been here in a minority I have made no recommendation for office that I did not think deserved the favor of the majority. I believe, however, there is but one instance in my State where a removal has been made by the President and another person placed in office, and in that case the person who was removed was substituted by an officer who had been in the field and done the Commonwealth good service.

Mr. COWAN. Mr. President, in the remarks I made yesterday my intent was simply to show that the action of the President was represented in this Chamber in an exaggerated form; that is, it was supposed to be much more extensive and to embrace a much wider scope than it really did. In illustration of that I might have referred to the fact shown by the report of the Postmaster General, that in that Department alone there are over twenty-three thousand appointments, and during the past year of all that vast number of appointees only a little over one thousand—about one twenty-third of the whole number—have been removed. It seems to me that almost at any other time, on an occasion of any political change whatever, this number of removals would hardly have created remark.

I have nothing to say as to the language or the libel, as I may call it, of the person whom my honorable friend from West Virginia says has been appointed postmaster at Wheeling. If the case is as he states it I have no doubt the President has been grossly deceived; and perhaps it was the province of my honorable friend to prevent him from being so deceived. But if we take into account the number of these various appointments and the difficulty there is in receiving correct information as regards the applicants, we cannot be surprised that the President, like everybody else, should be deceived, and deceived very often. I confess, for my own part, that I have almost come to the conclusion that I cannot determine anything with regard to the character of an applicant for office, and I have felt very much like declining to have any opinion upon it whatever. You are met by a batch of gentlemen one day, respectable people apparently, who say that such a man is without stain or blemish; and the next day you are encountered by another batch who say that such an appointment would be utterly destructive and fatal.

Mr. CONNESS. That is the misfortune of your position.

Mr. COWAN. Allow me to congratulate my friend on his position; and I hope he will never get out of it. I hope he will never be called upon to judge in a case of this kind.

Mr. CONNESS. I hope not.

Mr. COWAN. I hope so for his own happiness' sake, however ambitious he may be.

Mr. CONNESS. Not at all.

Mr. COWAN. But, Mr. President, we are all sinners, and I suppose that is the first point when a man seeks forgiveness and reconciliation, that he confess himself chief among sinners. I have no doubt that the very pious temperament which I know belongs to my honorable friend from Wisconsin, [Mr. Howe,] and also to my honorable friend from Iowa,



[Mr. GRIMES,] is such that that would be the very first exclamation they would make in a contingency of this kind. But being, as I said, all sinners, and all involved in this general calamity which seems to have involved the inhabitants of the planet universally, even down to the honorable Senator from California, [Mr. CONNESS,] we ought to be lenient to the mistakes of one another; and if we should happen to be deceived as to the character of the elect or the saints, and find ourselves mistaken, that I know, in the opinion of my honorable friend from West Virginia, is not matter for eternal or universal condemnation. That is a thing in itself venial, pardonable, and it ought to be so. The common frailties of our nature enjoin us so to consider it.

But, sir, enough of this. What I meant to say in the statement I made to the Senate yesterday was that we were in the habit of exaggerating the errors of our antagonists, we were in the habit of magnifying the faults of our adversaries; and misled by delusions of this kind, blinded by this sort of glare, we might be unjust at times; and I thought a very unjust spirit was manifested toward the President of the United States.

Men change their opinions. Men may have expressed themselves in the heat of temporary excitement as this postmaster at Wheeling expressed himself. Men on the other hand, fickle, unsteady men, quick men I may say, at the outbreak of this controversy with the President manifested themselves in language pretty strongly in his favor. I think I could point out among my friends here some instances where gentlemen expressed themselves very strongly in favor of the President and his policy as being the policy and the only policy which was calculated to restore harmony to the Union and integrity to our institutions; and yet to-day these are the very persons who denounce most violently and most unscrupulously and in the most unwarranted terms that same policy and that same programme which they started out by indorsing.

I trust we shall be able after awhile to comprehend these things in their true significance, understand them as they really are; and not only for ourselves, but for our several parties make the best of them and make the best of them for the country. That, indeed, is the great question. To-day the great question is not what shall be done which is best for the parties of the country or those who expect to be the recipients of party honors and party emoluments, but what is best to be done for that great mass of our fellow-citizens who are not partisans actually in an interested sense, but who are inhabitants of the country and whose future welfare depends upon our action. I think, and I agree with what was said yesterday by the honorable Senator from Maine, and I am glad to be able to indorse it again to-day, that moderation such as he recommends is the true course of wisdom.

Mr. HENDRICKS. Mr. President, from my youth up I have looked to the Senate of the United States as a body so elevated, so far removed from the prejudices and passions of the times, that no injustice whatever would be done in its action. I have been surprised during the course of this debate to hear what I have regarded as most unjust accusations against the President of the United States; and none perhaps so marked as that of the Senator from Massachusetts, [Mr. SUMNER.] When discussing this bill the other day that Senator felt himself authorized to say after quoting the line—

"New actions teach new duties."

"We have a new occasion now teaching a new duty. That new occasion is the misconduct of the Executive of the United States, and the new duty which this occasion teaches is that Congress should exercise all its powers in throwing a shield over our fellow-citizens. We see that the Executive is determined to continue this warfare upon the incumbents of office: shall we not if possible protect them? I say that it is our duty growing out of this hour."

The misconduct of the Executive throws upon Congress new duties, is the burden of the argument of the Senator from Massachu-

setts; and what is that "misconduct?" Not the disregard of any obligation that the Constitution throws upon him, not the violation of any law, except in two particular instances to which he did not refer, but the violation of duty on the part of the President to which he refers is the exercise on his part of a constitutional power which has been recognized from the very first session of the Congress of the United States—the exercise of his power of removal from office and the appointment of other men.

Mr. President, I have never sympathized with the general removal from office. I have never seen a faithful officer removed that I have not sympathized with him except in cases where according to our doctrine of rotation in office that party had held the office, as we understand, long enough. But what is this doctrine of the Senator from Massachusetts? Is it the English doctrine, a doctrine, however, which has been repudiated in the English courts, that a man shall have a right in his office as against everybody else, to hold it as against the party or power in the Government that confers it? Is it the doctrine that because a man is once in office he shall continue in office? I recognize the full force of the argument in favor of the incumbent where he has done his duty. But if he has done his duty, after he has held the office a reasonable length of time, I think he does not have a claim above everybody else in the country.

But what is this charge that the Senator brings against the President? It has been brought down to an exact statement by the Senator from Pennsylvania: out of all the civil officers of the country under his control he has removed one man out of six; he has called into office of the men that sympathized with him in what he regards to be the proper policy one man out of six, leaving five office-holders out of six against him. And this is charged against him as an outrage and a wrong by a Senator who uniformly supported the policy of Mr. Lincoln.

Is it not known to every Senator that in 1861 there was a proscription because of opinion more sweeping and terrible than had ever been known in the country? Until 1861, when was it ever held that every man must be turned out of office who did not agree with the party in power? Scarcely a man was left in office in 1861 to represent the sentiments of the large minority in the country. I bring this up as no accusation against Mr. Lincoln's administration. I did not claim that the men who voted against him ought to be kept in office, and I conceded his right to call into the executive offices men who sympathized sincerely with him in his political views, that he should have confidence not only in his Secretaries but in every executive officer who was to aid him in the execution of the laws; and I never charged him with a wrong because he left no Democrats in office. When the Democrats were beaten in 1860 and the Republican party was successful I thought it right enough for Mr. Lincoln to call men to him and to his support in all the offices of the country—men who truly sympathized with him in his political views—that he should have confidence in all from the highest to the lowest; and I never thought of charging it as an outrage by him, and as a reason why by legislation the whole policy of the Government should be changed in that regard.

The proscription since 1861 has been surpassing anything ever observed before. It has not only extended to the high offices of the country, but to the smaller officers; until it has gone into the courts, and for the past five years in the Federal courts, where the marshal and the clerk control the subject, you would scarcely see a juror called into the box or placed upon the grand jury who did not agree in political opinion with the party in power. The proscription has gone into the courts, and juries have been organized upon political principles. The men called into the grand jury-room to inquire of the violation of law,

and who ought to be free from partisan feelings, have been selected with a view to their party politics. I have thought that a wrong, I have felt, as a practitioner of the law, that party politics ought never to find its way into the court. Stopping short of that and leaving it to be felt only in the executive offices, I have no charge to make against the late Administration. But the gentlemen who supported that Administration in this proscriptive policy certainly are not justified in saying that Mr. Johnson, the present Chief Magistrate, is chargeable with wrong if he calls his friends into one sixth of the public offices.

But, sir, is the Senate of the United States the place in which to make the charge of proscription? Of all the employes of this body I know of but one man who sympathizes with the conservative sentiment of the country; and on the first or second day of the session, because of political party views, three of the distinguished chiefs or heads of committees were stricken from their places and assigned to the foot of the committees. I should have no criticism to make upon that if those committees were in charge of matters relating to the political questions of the day; but they had no reference to such questions. The three committees to which I refer have no charge of any question that now agitates the country or divides Congress and the President; but simply because brother Senators differ upon a political question the majority of the Senate proscribe them, and in the middle of a Congress assign them from the head of a committee to the foot of it. And yet Senators say that it is an outrage to proscribe men because of political opinions.

Why, sir, in this very city, under the eye of the President, nearly all the offices are filled by men that oppose him. The postmaster in this city is understood to be one of the leaders of the opposition to the President and of the adherents of Congress. The collecting officer in this District is another instance; and of all the clerks in the Departments my information is that there is not perhaps one out of ten that supports the President of the United States. And yet he is charged with proscription; he is charged with doing a wrong, because some of the officers of the country have been removed and men sympathizing with his policy have been placed in their stead.

I know very well the argument which is used: that Mr. Johnson has proscribed men who belong to the party that put him in power. Well, sir, who have been appointed in their places as a general thing? Not Democrats, not men who opposed the Lincoln and Johnson ticket in 1864; but, as a general thing, the men who have been appointed by this Administration are men who voted for Mr. Lincoln and Mr. Johnson in 1864; and in removing one man and putting in another the President has simply selected among the men who supported him in the contest of 1864. And is it wholly unreasonable that he should make such a selection? Have questions not come up since 1864 that did not enter into the contest of that year? Did the question that now divides Congress and the President enter into the contest of 1864, and was Mr. Johnson elected upon that question? I submit to the candid judgment of every Senator whether the question that divides you from the President formed an issue in the contest of 1864? It did not. Since Mr. Johnson's election, and since he has come to be President of the United States, a question has arisen because of the close of the war, and that question is in what mode shall the States be restored to all their proper relations to the Federal Government.

Upon that great question the President of the United States has assumed his ground; Congress has assumed an opposite ground; and here is a difference, a difference upon a question that has arisen since the President came into power, an unexpected difference of opinion. Undoubtedly his views are honestly entertained by him; and so on the other hand are

the views of the majority of Congress honestly entertained by them. That question having arisen, and the President of the United States being charged with the duty to see that the laws are executed, are you willing to deny to him that which you have claimed for every Administration that went before him—the right to put into the public offices of the country men who sympathize with him and in whom he can have entire confidence?

It is charged now as a wrong that he removes one Republican from office and puts another one in. I do not say that this is the case in all instances, for there are instances of appointments to office of men who opposed his election in 1864; but they are very few compared with the appointments that have been made. The great body of appointments that have been made are of men who supported the Lincoln and Johnson ticket in 1864.

Then, sir, this bill proposes to deny to Mr. Johnson as President of the United States that which has been conceded to every President that went before him, to place in the offices of the country, to aid him in the execution of the laws, men who sympathize with him in his views.

A very significant question was asked by the Senator from Pennsylvania [Mr. Cowan] yesterday. To whom do the offices belong? He answered it well in saying they belong to the law. The man that is appointed is appointed simply to execute the law, to discharge his duty under the law. The office does not belong to him except for the time during which he holds it; he has no patent by which he can hold it beyond the will of the power that conferred it. But suppose the propositions of Senators be correct, that the offices belong to the people, is there nothing, then, due to the large minority in this country? At the recent elections, in October and November last, eighteen hundred thousand voters of this country indorsed the policy of the President; about twenty-two hundred thousand indorsed the policy of Congress. Out of the four million voters casting their votes eighteen hundred thousand men at the polls said they believed the President was right. Do Senators say that those eighteen hundred thousand men, representing nine million of the people of this country outside of the seceding States—do Senators say that that large portion of our population have no rights in the offices of the country; that it is a wrong, for which the President shall be arraigned before the judgment of the country if he does not leave all the offices in the hands of men who oppose his views? The President has thus far not asked to aid him in the execution of the laws a proportion of the officers of the country equal to the popular vote in his favor. He has asked for but one sixth; while of the voters of the country there is nearly one half who sustain him. In the great States of New York, Pennsylvania, and Indiana, giving a popular vote of about one million, forty-four thousand votes cover the majority. A change of forty-four thousand in the enormous vote of these three great States would have thrown them in favor of the President—three States that give about seventy-two electoral votes. And yet Senators say that if the President of the United States respects, in the little matter of appointments to office, this enormous sentiment of the country, he is to be charged with a wrong.

Mr. WILLIAMS. I should like to ask the honorable Senator from Indiana what proportion of the one million eight hundred thousand men to whom he refers voted and determined in 1864 that the war for the Union was a failure?

Mr. HENDRICKS. I have not made any calculation upon that subject; and, sir, I know of no portion of the voters of the country who voted that sentiment. I know of no expression of that opinion. I know of a resolution, to which I suppose the Senator means to refer, declaring that thus far, up to a certain time, the war had proved a failure to restore the Union. Eight months after that, in my judgment, that resolution ought to have been proved

untrue, and the result of the war ought to have proved that the Union was restored. But, sir, the Union is not yet restored; and until the Senator from Oregon is ready to bring all of the States into their proper relations in the Federal Union upon the basis of the Constitution, until he is ready to admit into the Senate and House of Representatives loyal men who are able to take the oath prescribed by law, he cannot say that the restoration of the Union is completed.

But, sir, I have spoken of the one million eight hundred thousand men who at the late elections voted in favor of the policy of the President of the United States, to say the least of it a very large minority; and when Senators claim that the offices belong to the people, what are the rights of this large minority?

Mr. McDOUGALL. Allow me to ask the Senator from Indiana whether he means to affirm that that question was involved in the late controversy? I do not understand it to have been involved at all in the States where the majority preponderated. I do not understand that the judgment of the people was passed on the question to which he has referred.

Mr. HENDRICKS. I think that in the late elections the difference between the Congress of the United States and the President of the United States did make a very marked issue in the contest, and upon that issue the majority which I have mentioned went in favor of Congress. I am now speaking of the large minority that sustained the President. It is known that upon that question ten of the States were not allowed to express any opinion. In the States that did at the ballot-box express their opinion Congress received the majority which I have mentioned. When you speak of the offices belonging to the people, let me ask what are the rights of this minority of one million eight hundred thousand men? It is not asked, and has not been asked as a general proposition, that the offices should be given to the men who opposed the election of the present Chief Magistrate. It is simply asked that of the men who voted for him in 1864 he should be allowed to bring into office a reasonable number of those who now support him and are in sympathy with him. Is that unjust? Is it an unfair thing to demand, so that the Senator from Massachusetts is authorized to denounce it as misconduct on the part of the President? Is a thing that was so generally sustained by the majority party in 1861 wrong in 1866? I do not understand it so.

Why is it that the President of the United States by public opinion has been sustained in removing men and putting those in office who sympathize with him? It is because in the due execution of the laws he should have his friends to aid him. That is the sentiment of the country upon that question; and now, if it has devolved upon the present Chief Magistrate to see that the laws are executed, why may he not claim that for himself; why may not his friends claim that for him which has been conceded to every Administration that went before him?

Mr. SUMNER. Will the Senator allow me to ask him a question in that connection? Does the Senator mean to give his approbation to the extraordinary language of the President in which he announced his policy? I refer to the declaration made in the speech at St. Louis that he would "kick out"—that is the word, as I have said before; I put it in quotation marks—kick out of office good Republicans, and that he would return from St. Louis to Washington and commence the work of kicking out. I ask if the Senator from Indiana, who is now vindicating the conduct of the President, means to vindicate that peculiar enunciation of what he intended to do?

Mr. HENDRICKS. Mr. President, the question that the Senator from Massachusetts suggests to me is a question of rhetoric. I cannot say that I like the style that he attributes to the President of the United States. I say this: that the President of the United States, by the judgment of the country in former Administrations, has been sustained in removing from

office men opposed to his policy and placing in office men in sympathy with him; but we always express that by the pleasing term of "removal from office." To "kick" a man "out" is but to express the same thought in other language, not quite so agreeable. I have doubted whether the President used that language at all; and after the Senator had concluded his speech, so strong were my doubts upon the question of fact that I went to him in his seat and asked him if he knew certainly that the President had used any such language; he said he thought that he had; that he thought he had seen it in the newspapers.

Mr. SUMNER. I was sure of it.

Mr. HENDRICKS. I was unfortunate in not reading that speech, perhaps. I read some of the speeches, but I did not know that I was obliged to read all the speeches the President made on his trip to Chicago, [laughter;] and it may be that I omitted to read that speech. I will not say that the President did not make the remark, for I cannot say that; but I have not met with it, and was surprised when the Senator from Massachusetts charged it upon him.

Mr. McDOUGALL. Allow me a word in this connection?

Mr. HENDRICKS. Well.

Mr. McDOUGALL. The Senator from Massachusetts has undertaken to state what the President of the United States has said while being President without giving exact references or an opportunity to ascertain whether it was really said or not. I say as a matter of order, of privilege if you please, that he is bound to state his authority. That is the law of the Senate, and has been from time immemorial. He does not furnish the day or date or paper even.

Mr. HENDRICKS. If the Senator from Massachusetts were to throw upon me the decision of the question I do not think I should say that the President ought to kick anybody out of office, but I would say that it is due to himself, due to the men who supported him, due to the safe execution of the laws, that he should place in a reasonable number of the public offices men who sympathize with him; and that was the judgment of the late Administration which the Senator supported.

But now, when we come to understand the facts, we find that only four hundred and fifty out of two thousand four hundred and fifty or about that number of office-holders have been removed, leaving nearly two thousand men in office opposed to the President or supposed to be opposed to him, and he having called into office only about four hundred and fifty of his friends to support him. This the honorable Senator from Massachusetts calls the "misconduct" of the President. If the Senator had confined his remark to the two cases which have been referred to, where the President after the adjournment of the Senate appointed men who had been rejected by this body, I should have no criticism to make upon his argument. I think that when the judgment of the Senate is expressed upon any nomination that judgment ought not to be reversed by the Executive; but as a question of law I understand the President took the opinion of the Attorney General, a very accomplished gentleman, high in the profession to which he belongs, an ornament to the western bar, an ornament of which we are all proud; and the present Attorney General, I understand, gave it as his opinion that the action of the Senate did not disqualify the party for an appointment after the adjournment. I think it would have been proper for the Attorney General to have gone beyond the question of law and to have said to the President that he owed it to the judgment of the Senate not to appoint a man who had been rejected for that particular office. The legal right and the power of the President under the Constitution to make those two appointments I believe has not been questioned by any Senator.

On the question of propriety I agree with the Senators who have expressed the opinion that

such appointment ought not to be made; and if Senators wish to prevent them in the future and will present a resolution expressing the sentiment of the Senate upon that question I shall have no objection to vote for it and let it be known as the opinion of the Senate that a man once rejected by the Senate shall not after the adjournment be appointed to that office. I think he ought not to be; but certainly the facts stated by the Senator from Pennsylvania on that particular question in reference to the appointment of the postmaster at St. Louis and the revenue officer at Philadelphia ought to be considered by the Senator from Massachusetts before he passes a harsh judgment upon the President even upon those cases.

But this bill has very little relation to that particular subject. It goes into the whole matter and undertakes to regulate the exercise of this constitutional power on the part of the President from first to last. And now, without referring to the justice and right of the thing, I ask Senators if it is well, because there is a difference of opinion between the President and the Senate, that the Senate shall undertake to take from the President any power which the Constitution confers upon him? It is too late now to question the power of the President on the subject of removals from office. A uniform practice of so many years does not leave it an open question. It is a settled question, settled, I believe, by every department of the Government. It was settled, I think, by the legislative department at the first session of Congress. It has been settled by the uniform action of the executive department. I think it has been settled also by the judiciary, by the judgment of the Supreme Court upon a claim made by the judges in one of the Territories after they had been removed from office by the President. I have not had occasion to look to that case for some time, and I cannot give the particular facts; but my impression of the decision is that the Supreme Court decided that after removal by the President the parties were not in office and could not claim their salaries.

Mr. EDMUNDS. Allow me to ask the Senator if he refers to the case of the United States vs. Guthrie, in 17 Howard; the Minnesota case?

Mr. HENDRICKS. I refer to the case of the Minnesota judges.

Mr. EDMUNDS. In that case the court declined as a body to express any opinion on that point, and the only judge who did express an opinion upon it held exactly the reverse of what the Senator seems to suppose. The other judges declined to pass on the question at all, holding it in reserve, and turned the case on the question of the propriety of issuing a writ of *mandamus* to compel the payment of the money. So that as far as we can get any light from that decision that light is against the power of the President.

Mr. HENDRICKS. Did the case come from the court below?

Mr. EDMUNDS. No, it was a proceeding in this District on a petition for a *mandamus* against the Secretary of the Treasury to compel the payment of salary.

Mr. HENDRICKS. I was not able to state the case exactly. The application was for the salaries of the removed territorial judges, and it resulted in their not getting their salaries.

Mr. EDMUNDS. Yes, that is true.

Mr. HENDRICKS. And it resulted in the persons who were appointed in their places getting their salaries.

Mr. EDMUNDS. Not by force of the decision.

Mr. HENDRICKS. I thought it had been by a judgment of the court finally upon the point.

This power, then, of the President to remove and to appoint during the recess, in my judgment, has been settled too long to justify us in saying that it is an open question for any purpose. The power being possessed by the President, I submit whether Congress can restrict the President in the exercise of the power.

We may fix the tenures of offices unquestionably so far as they are under our control. To that part of the bill I should have no objection—a bill for that purpose, confined to that purpose; but a bill that takes away from the President what I think to be a power conferred upon him by the Constitution I cannot dream of supporting. Suppose, the question being an original one, we should say that the President does not have the power to remove, that he does not have the power to create a vacancy during the recess: I submit to the Senator from Vermont as a lawyer whether upon a constitutional question he allows no force precedent, to the uniform practice of the Government, whether after seventy odd years of usage upon this subject, after a very full expression of the legislative opinion upon the subject, it be now an open question.

Mr. EDMUNDS. I will not make any extended answer to the question of my friend at this moment, but will only assure him that it is capable of demonstration, as he will discover presently, when we reach that question, that everything which has been done by way of practice, which is so much relied upon, has been done by express authority of law; and I have yet to learn that a practice may continue long enough under authority of law to preclude the law-making power from changing the law, and therefore changing the practice.

Mr. HENDRICKS. If the Senator refers to the Constitution as the law, I agree with him; but without reference to any particular power expressed in the law to remove an officer the President has exercised it.

Mr. EDMUNDS. Every officer that has been removed, so far as my understanding goes, has been removed by force of the express authority conferred upon the President to do it. It may be true that the President may claim the exercise of that power independent of the law; but I take it, as long as the law-making power confer the authority upon him they are not to be concluded because he chooses to say that he has got the power without, because we are not committed as long as we authorize it to any construction he may put upon the Constitution himself.

Mr. HENDRICKS. What law does the Senator refer to?

Mr. EDMUNDS. I refer to any act under which any Department has been created or under which any officer has been appointed from the beginning of this Government down to this day; and I will produce the acts for the benefit of my friend when we reach the point of the debate where it properly belongs.

Mr. HENDRICKS. Upon the question of fact I do not agree with the Senator by any means; I do not admit that in all the laws of this country creating offices provision is made for the removal of the officer during the term. I think that is quite impossible. If it were just as stated by the Senator from Vermont I would concede that the power being exercised under express law, it would not be a precedent against Congress. That argument, upon the establishment of the fact which he supposes, I would concede; but the fact I do not concede, and he will have to refer to a good many laws I think to establish his proposition. In some few instances I dare say such a provision has been made.

But, Mr. President, going beyond that, are we not admonished by the suggestions of our wisest statesmen and by every important event in our political history of our duty to avoid a clash between the different departments of the Government? In ordinary and quiet times we do not fear that one department of the Government will attempt to invade the constitutional powers and jurisdiction of another; but in times such as the present the danger arises that one department will undertake to interfere with the exercise of the powers and the discharge of the duties of another department. The executive department cannot do very much in that respect. All that the executive department can do is to execute the laws. The judicial department cannot invade either of the other departments. But

the legislative department originates law, makes law, subject only to the veto of the President; that is the department which is specially tempted in times of high party excitement to invade the provinces of the other departments. I submit to Senators that this time is not to last forever, the revolutionary sentiments of this day will pass away, and our country will be restored to quiet again, to harmony again, when all the people will sympathize in one common purpose to promote the interests of the country and of the Government, when all the States will be restored to their proper relations. Then I think Senators will regret that in a time of party excitement they allowed themselves to cast a vote or to make a speech in favor of a measure that invades the rightful constitutional province of another department of the Government.

Mr. CONNESS. Mr. President, it is a matter of regret to every sincere citizen that such a condition of relations should exist between the Executive and Congress as should call for such legislation as is now proposed in the Senate. I think that it can be said with entire truthfulness that the responsibility for such legislation does not lie at the doors of Congress. One short year ago there were no needs for such legislation; there was no exercise of the executive power demanding it at the hands of Congress; but in an evil moment, under as I believe bad auspices if not corrupted advice, the President of the United States permitted himself to receive the suggestions of men who could not rise above the position of partisans and whose highest aim was to build up a new political party in the United States. And singularly enough the chief engineers that took charge of the business of the construction of the new party had been prominent members of the then dominant party in the United States—the party that had led the country through four years of terrible war—the party that had under all circumstances stood firm and true to the flag and the national unity—the party that fought the open-handed rebels of the South and the “Sons of Liberty” organized as cowardly cabals in the free States of the North, and overcame them all.

Out of this party sprang the engineers of the new political combination. I trust that it will not be considered out of place if I deal a little candidly for the few moments I shall speak on the origin of this movement and the originators of it. How was it, sir? The Republican or Union party of the United States was considered as a tree in the forest that was the proper object of disposition by these persons. No less prominent a man in the country than the distinguished Secretary of State pointed a wedge at the trunk, while a great political leader from the State of New York took the maul to drive it in and rive the tree. And, sir, distinguished Senators that made themselves leaders, and whom it is unnecessary to mention here, undertook the lopping off of the branches and putting them into the market for immediate consumption. I think it ill becomes those gentlemen to come forward at this point of time, responsible as they are for all that has taken place, and complain that we stand here exercising the legitimate powers of this body to hinder their carrying out of this plan that they undertook.

The honorable Senator from Indiana remarked in the course of his speech that but a certain proportion of officers had been removed by the President by the advice of these bad advisers. I ask him how many would have been removed by their advice if the President would consent to the act, if the Senate had not been known to stand between the appointments and their confirmation.

Mr. HENDRICKS. I cannot answer a question like that. I do not know whether the action of the Senate prevented any removals or not. The Senator can predicate whatever argument he pleases upon his proposition. I cannot answer a hypothetical case.

Mr. CONNESS. The honorable Senator understands as well as I do that the work would not have stopped with the number of



four hundred, nor until it had reached the utmost bounds, but for the fact that the Senate had a say in the matter. The Senator tells us that they were entitled to a part. Who were entitled to a part? Not the party of which the honorable Senator is so distinguished a member, because I understood him to say that the effort of the President has been to confer these offices on men who were Republicans, not upon men who were Democrats, and that he has undertaken to do it only in less than the proportion of the number of votes that his supporters were shown to have polled in the last election, and he asks, Is it not fair that that shall be done?

Mr. President, no one knows better than the honorable Senator that political parties never play for a part; they play for the whole. The citizens in this country who were advised by the honorable Senator to hold the celebrated Philadelphia convention played for the whole, not for a part, and they lost the whole. They should be satisfied with the verdict and the result.

Mr. President, so far as my duty as a Senator is concerned in reviewing the President's nominations, when the time to exercise that duty shall come I am perfectly free to say that good nominations made by the President for apparent cause and for sufficient cause will receive at least my support in confirmation. It is not my design to oppose every nomination the President may see fit to have made or to make; but the President cannot expect, nor the Senator from Indiana, nor any Senator who has advised the decapitation of good men and the nomination in their place of men who only yesterday were opposed to the perpetuity of this Union, that such men shall be confirmed to those places.

The Senator has complained, and we have heard the complaint now I believe for the first time, that in the constitution of the committees of this body the Senate saw fit to exercise a discretion in the selection of the chairmen of the committees. It is not for me to make much reply to that part of the Senator's remarks. The question is well understood by the Senate; it is understood by the country. The gentlemen in question, as I before observed, played for all, and they lost all, and should be satisfied; and, sir, I have not heard from themselves that they are not satisfied. If the President has the right, if it is proper that he should surround himself by persons who sympathize with him and who represent or can represent his views, I apprehend that it will not be denied that it is any less right and proper on the part of the Senate to select its mouth-pieces in the prosecution of its business.

Mr. HENDRICKS. I did not refer to that as any criticism. I agree with the Senator; I have never found any fault with the majority of the Senate selecting the chairmen of committees. I have no objection to that; but I say that that is a specimen of proscription in the Senate which comes in strong contrast with the criticisms that are made by the majority party upon the President for doing a like thing. That was the use I made of it.

Mr. CONNESS. I have not used the word "proscription" myself. I do not think the construction of the committees of this body can be viewed in that light. I believe that one of the distinguished gentlemen to whom the Senator referred [Mr. COWAN] has only recently received the votes of the Opposition party in a neighboring State for the office of United States Senator, showing that the judgment of the Senate in regard to his political relations to the dominant party is not much out of the way.

I do not wish to pursue that branch of the subject; nor, indeed, do I wish to pursue this subject at all. It is evident from the direction the debate has taken the bill before the Senate has been lost sight of, and I am as anxious as any Senator to get to a vote upon the measure before us. Sir, it is not agreeable always (although it is in another sense quite agreeable to me always) to listen to the distinguished Senator from Indiana.

The astute manner of the Senator in endeavoring to seize all possible advantages for his political party out of questions as they arise in the Senate is, I think, pretty well understood. The Senator is of distinguished ability; he has exercised his ability in the Senate in the respect that I speak of, I think since he has been in it, the engineer of his party, the leader of his party, and recently having added to it a number in the Senate, he still keeps the lead. I do not know that a better one could be chosen.

But, Mr. President, I will not pursue this line of remark, nor waste the time of the Senate longer. What has taken place is well known and understood by the Senate and the country, and for one, as a member of the dominant party responsible for my part of their action, I feel entirely sinless in the premises.

Mr. McDOUGALL. Garments white as snow! I have said perhaps as much as I should say upon this bill, but I have not said all that is within my own mind as to the true policy with regard to the question of office, and the question of office being now depending I may as well say what I think, although I cannot speak exactly and am not prepared to put my thoughts in exact form of legislation.

It is my opinion that as a rule all offices outside of those strictly and properly executive, legislative, or judicial should be held during good behavior. If our officers in the city of Washington who take charge of our Government business here were not subject to be turned out any month or any day they would be able to begin in the public service young men, get trained to their duties, grow to be full-sized men, marry a wife, and raise children. As it is, all the employés of the Government in Washington are subject to be ejected at any moment. The policy that has obtained depraves the public officers here. The policy that obtains throughout the country with regard to postmasters and other officers depraves those men, because every one is anxious and in fear lest he may be ejected, and if the office he holds is a valuable one there are twenty persons about him watching to find some point of assault, some weak point in his armor where they think he may be successfully assaulted, so that the person assaulting him may take his position. It is the evil of our system, and it must be corrected. It is an evil that has been growing about us for years; and it is just as well that men who dare say these things should say them.

I undertake to say that we must change our whole system of appointments and the tenure of office. If the President, exercising his power, or one of his Secretaries exercising power in his place, appoints a person to office, he should hold the office as long as he conducts himself well in it. Until we can arrive at that so far as Washington is concerned, until we can arrive at that so far as the country generally is concerned, we shall fail in maintaining stability—standing firmly in our place. The greatest evil that exists in this Government is the multitude of offices and the multitude of aspirants; and it can only be corrected by having officers properly appointed, and then giving them a tenure of good behavior. If when a nomination was sent here we knew that the office was to be held during good behavior how careful would every Senator be in pronouncing whether or not he would confirm the individual, acting as a consulting and advising tribunal! How careful would the President be before he sent to the Senate the name of a man to hold a permanent office during good behavior! As it is now, it is a thing of a day, and they fall like autumnal leaves.

I repeat again what has been said by the wisest philosopher of our own period, that the evil of republican institutions is the multitude of offices and the multitude of aspirants. There is where our foundations are weak: there is where the surge is. If I were to produce my ideas in the form of legislation I would provide that, like an officer of the Army or a young man shipping in the Navy to become an officer, a clerk in the civil Departments should be entered

properly, should go through his course of discipline, be educated to the profession, become a master of his profession, and then as long as he did his duty well I would let him hold the office. I would extend this principle through all the ramifications of the Government.

The present condition of things may be illustrated by reference to a county. I will take a county in the State of the Senator from New Jersey. That is as far off as I know, for I believe New Jersey was out of the Union not long since. [Laughter.] The county clerk is elected I suppose once in three or four years, and he is elected by a majority. When he comes into office it is as much as he can do to make his own sign-manual. He knows nothing of the forms of office. I take a supposable case, one which has happened undoubtedly. So of the sheriff of the county, and so of all the officers throughout our various manipulations of office in the United States.

Then consider that for every officer there are ten aspirants and you see at once our weakness. That is the evil which we must correct, and when that shall be accomplished it will be a greater reform than any subject of reform which has been thrust upon us by the Senator from Massachusetts, and a better reform for us and for the maintenance of republican institutions. Of course I would have the people elect the Legislature of the Federal Government and their own home Legislatures. The law-making power, the judicial power, and the executive power must have very immediate relations with the people; but in the common business of administration the offices should be continuous, so that we could have disciplined officers.

Go up to the Treasury Department now and you find that not one out of ten of the employés understands his business. Go to the Fifth Auditor's office, and you will find only one man in that office who knows anything about foreign coins, and he has to deal with the accounts of our consuls in different nations abroad and to make computations of the currency of different nations and States. Go about through the various Departments of the Government and you will find the same ignorance prevailing. Why is it? Because we do not train men to office.

Look at our foreign ministers. Our present minister to Russia is an excellent gentleman, for whom I have great respect. He may know a little Greek and Latin; but I do not think he knows anything about any modern language of the continent of Europe. I am very happy to say that I believe our present minister at the court of Versailles is a man who is an accomplished scholar. But with few exceptions those whom we send abroad go out uninstructed and know nothing about public law, the science that treats of inter-state relations and the relations of government. We have not at this present time more than three men in our service abroad who speak the language spoken in the country where they are; we have not more than three or four who ever studied public law and who could answer a question propounded by the pundits at St. Petersburg or at Vienna or at Berlin or at Florence! What is the reason? It is because of the want of discipline in office. I should like, in order to test the question whether the majority desire to see our Government conserved at all, to see some of the majority bring forward a measure providing that the mass of the officers now appointed for service, both at home and abroad, should have their offices during good behavior. I would advocate the extension of the term even of the executive and legislative departments of the Government.

This may not seem very democratic, and I have always been called a Democrat, and I think I am one; but I want to see this Government maintained upon some steady basis, and I think the evil of the multiplicity of offices as exhibited in recent years demands that we shall have continuous officers and fewer of them. Go into any of the Departments in Washington and you will find many of the clerks reading

newspapers during business hours, or smoking cigars and enjoying themselves, if they happen to be in their offices at all. We have now employed at least three times as many clerks and other officials as could do the duty required if they worked as I did when I was a young man and was a clerk in a lawyer's office. The fact is; we are not now demanding faithful services, and this tendency to make offices that we may fill them ourselves is the cause of it. What do we see? "John, my boy, wants a place here." It is so from the police up to the clerks of the Secretary. "Then I must go and have an office made for him," if I happen to be in the majority, and go around and electioneer for him. In this way we have allowed ourselves to run wild, and we must apply a correction.

I have but little to say because I happen to be one of a very humble minority not able to affirm anything with any prospect of success, not able to maintain the truth, because the argument against the best truth I could advance would be that I had said it, and for that reason alone it would be ignored by many though not by all. But, sir, it is time that we should look these things boldly in the face; and if we do not look them boldly in the face now we shall feel the evil consequences of our neglect, we shall have failed to do something that has been charged upon us by our oath of office and by our obligations to the institutions given to us by our ancestors.

Mr. DOOLITTLE. I agree with very much that has been said by the honorable Senator from California [Mr. McDUGALL] in relation to the tenure by which the executive offices of the Government are held. I had occasion to look into it when examining into the administration of Indian affairs in British America. I found that one of the great superiorities of the system of the British administration of Indian affairs grew out of the fact that the agents and employes of the Government connected with the administration of Indian affairs substantially held their places for life. A person would be employed at a small salary, but with the implied understanding that holding the office during good behavior, if he served the Government faithfully twenty or twenty-five years in this office, made it a life business, a profession, when he became old, he should not be thrust out impoverished to die, but should have a small pension upon which to retire. I attribute to a very great extent the superiority of the administration of Indian affairs in the British Provinces to that fact. I have no doubt that in all the Departments of the Government, if all the Departments were thoroughly organized upon a system by which competent young men should be introduced into the Departments at a small salary to begin with, not exceeding \$600, \$800, or \$1,000 a year, gradually increasing the amount of compensation which they should receive in proportion to their term of service, with the understanding that they should hold these places during good behavior, it would do more than all other things to improve the administration of our affairs.

But, Mr. President, I do not intend to take up the time of the Senate in the discussion of this question. I am not prepared now to make a speech upon it, and I have no purpose to do so. I will simply make this remark, in reference to the change of men holding the offices of the Government: if the Executive for political reasons makes a change, you may say that the power can be abused; so, too, if the Senate for political reasons reject the confirmation, that power can be abused also. It is a power which can be abused by either department of the Government, either the executive or the Senate. We know what the history and practice of the Government has been; that as a general thing removals are made for political reasons, based upon political considerations, and in the midst of political conflicts gentlemen should have that regard for others to suppose that they have just as conscientious motives and patriotic motives to control their conduct as they claim for themselves.

As to what was said by the Senator from

California [Mr. CONNESS] a short time ago in relation to the Philadelphia convention and the course pursued by certain gentlemen who had been identified with the Republican party during the great war through which we have passed, I have only to say that while the Senator from California may challenge for himself the purest and most patriotic motives, the motives of those gentlemen who had to do with that movement were as high and as pure as his. They claim that for themselves, they claim nothing more. In relation to the questions which were then pending I shall not enter into their discussion now. There will be other occasions more appropriate for their discussion; but when that discussion does come, I think I shall be prepared to show and to demonstrate to any man who will look upon the facts of history that the course pursued, so far as the policy of the Administration is concerned upon the subject of reconstruction, was precisely the policy which was adopted by President Lincoln, the policy which was adopted by the convention in 1864 which renominated him for the Presidency, the policy which from the beginning was the policy of the Republican party, but from which policy they have departed within the last eighteen months.

But, sir, I shall not go into the discussion of it now. I simply rose to say that while the Senator from California can ask for himself and challenge for himself the considerations which are due to just, patriotic motives on his part, other gentlemen have a right to ask the same consideration for the patriotism and purity of the motives which have controlled them in their course of action.

Mr. HOWE. Mr. President, I rise for the single purpose now of reminding my colleague that before he commits himself absolutely and unequivocally to the task of demonstrating, so that any man can see it, that the policy to which the Philadelphia convention committed itself and undertook to commit the country was identical with the policy pursued by the late President and avowed by the convention which nominated that President, he ought to remember that he has been endeavoring, during the last campaign, to demonstrate that very fact, and that about two thirds of the American people were utterly unable to see it, and in view of his success on that occasion I think he ought not to undertake unequivocally to show it hereafter.

Mr. DOOLITTLE. Mr. President, when I enter upon the demonstration I hope that I shall be able to convince my colleague. I shall read his own speech on that subject, made not many months ago, and refer to his own votes in favor of that same policy.

Mr. HOWE. Mr. President, if my colleague will only confine himself to reading my speeches he will be able to demonstrate a good many things that he never has demonstrated yet; but he will utterly fail in the demonstration which he promises.

Mr. DOOLITTLE. Mr. President, I can only say that when the question of Arkansas was up not very long ago my colleague made a speech on that subject, which he has not answered and which has never been answered in this body, in which he demonstrated that the State of Arkansas was still a State of this Union, and that she had a right to choose Representatives. That is the speech to which I refer.

Mr. HOWE. Yes, Mr. President, I did make a speech on that occasion which I never have heard answered, and which I do not believe to-day can be answered, that under the law as it then stood the State of Arkansas had the right to send representatives here and a right which ought not by the Senate to be denied to her while the law stood as it did then on our statute-book. But in that speech I did insist that the State of Arkansas had forfeited that right, and that the two Houses ought to unite in declaring that forfeiture. At the very last session of Congress they did unite in declaring that forfeiture.

Mr. DOOLITTLE. I do not understand

that the two Houses of Congress have passed any law declaring that these States are out of the Union. The law stands precisely where it stood when my colleague made the speech.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. SUMNER. As the proposition on which the Senate is about to vote was brought forward by me I should like to have the indulgence of the Senate for a few minutes while I answer the objections that have been made to it. Had I succeeded in catching the eye of the Chair at the proper time I should perhaps have said something in reply to the Senator from Indiana, [Mr. HENDRICKS,] but he has already been answered by the Senator from California, [Mr. CONNESS.] Besides, the topics which he introduced were, if I may so express myself, political in their character. He did not address himself directly to the proposition on which you are to vote. I do not say that his remarks were irrelevant; but obviously he seized the occasion to make a political speech. The Senator is an excellent debator; he always speaks to the point as he understands it; and yet his point is apt to be political. Of course he speaks as one having authority with his party, in which he is an acknowledged leader. And now, sir, you will please to remark, he comes forward as a leader for the President of the United States. The Senator from Indiana, an old-school Democrat—he will not deny the appellation—now presents himself as the defender of the President. Very well. I congratulate the President upon so able a defender. Before this great controversy is closed the President will need all the ability, all the experience, all the admirable powers of debate which belong to the distinguished Senator.

As I propose to call the attention of the Senate precisely to the question before us, I shall begin by asking the Secretary at the desk to read the amendments which I have offered.

The Secretary read the pending amendment, which was to insert as an additional section:

*And be it further enacted, That all officers or agents, except clerks of Departments, now appointed by the President or by the head of any Department, whose salary or compensation, derived from fees or otherwise, exceeds \$1,000 annually, shall be nominated by the President and appointed by and with the advice and consent of the Senate; and the term of all such officers or agents who have been appointed since the 1st day of July, 1865, either by the President or by the head of a Department, without the advice and consent of the Senate, shall expire on the last day of February, 1867.*

Mr. SUMNER. Now, Mr. President, I do not wish to be diverted from that plain proposition into any general discussion of a merely political character. I ask your attention to the simple question on which you are to vote.

And here I meet the objections which have been brought against my amendment, so far as I have been able to comprehend them. They have chiefly found a voice, unless I am much mistaken in the Senator from Maine, [Mr. FESSENDEN,] who is as earnest as he is unquestionably able. The Senator began with a warning, and his beginning gave a tone to all that he said. He warned us not to forget the lessons of the past; and he warned us also not to fall under the influence of any animosity. When he warned us not to forget the lessons of the past such was his earnestness that he seemed to me fresh from the study of Confucius. No learned Chinese, anxious that there should be no departure from the ancient ways and filled with devotion for distant progenitors, could have enjoined that duty more reverently. We were to follow what had been done in the past. Now, sir, I have a proper deference for the past; I recognize its lessons and seek to comprehend them; but I am not a Chinese to be swayed by any traditions. I break all bonds and wrappers when the occasion requires. I trust that the Senator from Maine will do so likewise. The occasion now is imperative, so that his lesson is entirely inapplicable. It is well to regard the Past, and study its teachings. It is well also to regard the Future, and seek to provide for its necessities. This is plain enough.

Then, sir, we are not to act under the influence of animosity. Excellent counsel; but pray what Senator on an occasion like this, when we strive to place in the statutes of the country an important land-mark, can allow himself to act under any such influence? Is the Senator from Maine the only one who can claim such immunity? I am sure he will not make any such exclusive claim: as he is conscious that he is free from this disturbing influence, so also am I. He is not more free from it than I am. Most precisely from my heart do I disclaim all animosity. I have nothing of the kind. I see nothing on this occasion but my duty.

And when I speak of my duty, I speak of what I would emphatically call *the duty of the hour*. I tried the other day in what passed between myself and the Senator from Maine somewhat to illustrate that idea. I said that we were not to act absolutely with reference to the past; nor absolutely with reference to the future, but we are to act in the present. Each hour has its duties and this hour has duties such as few other hours in our history have ever presented. Is there any one who can question it? Are we not in the midst of a crisis? It is sometimes said that we are in the midst of a revolution. Call it if you will simply a crisis. It is a critical hour, having its own peculiar responsibilities. Now, if you ask me, sir, in what the duty of the hour specially centers, on what the duty of the hour specially pivots, I have a very easy reply: it is in *protection to the loyal and patriotic citizen, wherever he may be*. I repeat it, protection to the loyal and patriotic citizen is the imminent duty of the hour. This duty is so commanding, so engrossing, so absorbing, so peculiar, let me say in one word, so sacred, that to neglect is like the neglect of every thing. It is nothing less than a general abdication.

Such, I say emphatically is the duty of the hour, in the presence of which it is vain for the Senator from Maine to cite the experience of other times when no such duty was urgent. He does not meet the case. What he says is irrelevant. All that was done in the past may have been well done. For it now I have no criticism; but at this hour it is absolutely inapplicable.

I return, then, to my proposition, that the duty of the hour is protection to the loyal and patriotic citizen. But when I have said this I have not completed my proposition. You may ask, protection against whom? I answer plainly, protection against the President of the United States. There, sir, is the duty of the hour. Ponder it well, and do not forget it. There was no such duty on our fathers; there was no such duty on our recent predecessors in this Chamber, because there was no President of the United States who had become the enemy of his country.

Mr. McDUGALL. Mr. President—

Mr. SUMNER. I do not yield the floor.

Mr. McDUGALL. I rise to a question of privilege. I wish to ask—

Mr. SUMNER. I do not yield the floor.

Mr. McDUGALL. I do not ask you to yield the floor. I rise to a question which gives me a right to be heard—a question of privilege.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator from California rises to a question of privilege; he will state his question of privilege.

Mr. McDUGALL. It is that no Senator on this floor has a right to make use of such remarks of or about the Executive of the United States as those the Senator from Massachusetts has just uttered, when that Senator may be a judge upon a question of impeachment, if an impeachment should be preferred against the President. It has been held so always as the law of Parliament. It was the law of the Senate in its better days, always maintained by the gentleman from Vermont, now called to his long home, who for so many years graced the chair, [Mr. Foot.]

Mr. SUMNER. I rise to a point of order. The rule is explicit—

The PRESIDING OFFICER. The Senator from Massachusetts rises to a question of order; he will state his point of order.

Mr. SUMNER. My point of order is this: the Senator undertook to interrupt me; I declined to yield the floor to him; and yet he proceeds to make a speech.

The PRESIDING OFFICER. The Senator from California rose to a question of privilege. The Chair understood him to object to words spoken in debate—

Mr. SUMNER. Let him take them down and present them.

The PRESIDING OFFICER. It is his place to reduce the words to writing.

Mr. McDUGALL. I will do so.

The Senator proceeded to write upon a slip of paper the words of Mr. SUMNER to which he excepted; and having written them, handed the writing to a page to be submitted to Mr. SUMNER.

Mr. SUMNER declined to receive the paper, saying: I do not want it.

Mr. McDUGALL. I ask if I am correct in what I have there put down as the words used by the Senator?

Mr. SHERMAN and Mr. JOHNSON. Let the paper be read.

Mr. McDUGALL. I wanted to see if I was correct. [To Mr. SUMNER.] Are not the words I have written down the words you used?

Mr. SUMNER. If the Senator has any point of order to make let him make it; otherwise I must insist upon proceeding.

Mr. McDUGALL. I insist on my point of order, then. I say as a question of order as well as of privilege that it is not the privilege of a Senator, while on the floor of the Senate, unless the President is accused and being tried by this body as a high court—

Mr. SUMNER. I rise to a question of order. I insist upon proceeding unless the rules of the Senate are complied with.

The PRESIDING OFFICER. The Senator from California will send up a written statement of the words to which he excepts; and the question will be decided by the Chair. No debate is in order pending the decision, and after the decision is announced no debate on the question is in order unless an appeal be taken.

Mr. McDUGALL. I now send to the desk a statement of the words uttered by the Senator from Massachusetts, as I understood them.

The Secretary read the paper sent up by Mr. McDUGALL, as follows:

"We have never before had a President of the United States who was an enemy of his country."

Mr. McDUGALL. Those are the words I understood the Senator from Massachusetts to use.

The PRESIDING OFFICER. It is the impression of the Chair that those words do not exceed the usual latitude of debate which has been permitted here. Of course the Chair, as at present occupied, is very liable to error; and if the Senator objects to the ruling he can take an appeal.

Mr. McDUGALL. I do not desire to appeal from the decision of the Chair; but I think I must ask for a vote of the Senate on the question whether such language is parliamentary or not.

The PRESIDING OFFICER. The Senator from California appeals from the decision of the Chair.

Mr. McDUGALL. And I ask for the yeas and nays upon it.

The PRESIDING OFFICER. The Chair will state the question. The Senator from California has risen to a question of privilege, and objected that the words read at the desk are out of order. The Chair decides that the language is not out of order. The Senator from California appeals from the decision of the Chair, and asks for the yeas and nays.

Mr. SUMNER. I insist that the actual words I used shall be read by the short-hand writer.

Mr. McDUGALL. Very well.

The PRESIDING OFFICER. The Chair will first ascertain whether the call for the yeas and nays is sustained.

The yeas and nays were ordered.

Mr. SUMNER. I insist that the words which I used and which are objected to shall be taken from the notes of the short-hand reporter.

Mr. McDUGALL. I have no objection to that; the sense is the same.

Mr. SHERMAN. I think the words objected to are clearly in order. I have heard similar remarks fifty times without any question of order being raised. I may say, when the tariff bill is up, that the Senator from California in taking a particular course is an enemy of the country. It is a common mode of argument, which has always passed unquestioned. We may express our opinion that an officer of the Government in doing so and so is an enemy of the country.

Mr. McDUGALL. Mr. President—

Mr. SUMNER. I rise to a question of order. I wish to proceed with my remarks.

Mr. McDUGALL. I have the floor. The Senator from Ohio would be right if the person addressed was a member upon this floor; but he not being on this floor, the Senator from Massachusetts has no more right to use such language than he would if he were in the Supreme Court.

Mr. SUMNER. I raise the point of order that debate is not in order now. The Senator is insisting upon debate.

Mr. JOHNSON. There is an appeal from the decision of the Chair. Debate is in order upon the appeal.

The PRESIDING OFFICER. The appeal is debatable.

Mr. McDUGALL. I have the floor then on the appeal. If a rude remark or an accusation like that were made against a Senator it would be a grave offense and would deserve the condemnation of the Senate unless there was good cause why. But it is not within the courtesy of the Senate to assault a person not present on the floor who cannot defend himself. To assault here a judge of the Supreme Court on the bench would be a violation of parliamentary rules. If the Senator from Ohio should go into the Supreme Court to-morrow morning and should say a rude thing of the President of the Senate, he would be immediately told by the presiding justice to take his seat. It is not within the courtesy and the law that a person absent, belonging to an independent branch of Government, should be assaulted by being accused of being an enemy of his country. Why? Because it is accusation of treason, if you please, substantially. When that question shall come here and the Senator from Massachusetts shall be its champion, it being brought up here by its promoters from the House of Representatives, then he may discuss it as carefully and well as he can as a member of the high court of impeachment, if he chooses to be one of the impeaching parties. Otherwise, it is not within the license of a Senator to say of the President things of that kind that involve his integrity as a public officer.

Sir, there have been times in the better days of the Republic when such things would not be listened to, would not be heard on this Senate floor or in the House of Representatives; and when, if any person should have said that of a Senator, whether he agreed or differed with him in politics, to the President of the United States, he would have shown him the way to the door and asked him to absent himself. In our Supreme Court the rule has always been so. It has been witnessed by every Senator who has had anything to do with judicial tribunals, both in the States and in the Federal Government. It has been done here. The gentleman who presided over our councils here for many years, and who honored our body by being a member of it from Vermont, never permitted words of that kind to be said of any department of the Government that were not here to respond for themselves.



If I am accused of treason or treachery or being an enemy of my country, I being here it is assumed that at least I have a chance to defend myself; but the absent may have no defenders.

Mr. EDMUNDS. Will the Senator allow me to make a suggestion?

Mr. McDougall. Certainly.

Mr. EDMUNDS. This is a very important question, and I am rather inclined to agree in opinion with the Senator from California; that the words spoken exceeded the proper limit of debate, but I am not certain about it. I suggest the propriety of this question of order being adjourned until to-morrow, and that we proceed with the consideration of the bill, so that we may have time to look into the precedents.

Mr. McDougall. I should like to have the question determined by the Senate.

Mr. EDMUNDS. I move to postpone the further consideration of this question of order until to-morrow.

Mr. HOWARD. I move to lay the appeal upon the table.

Mr. SUMNER. That cannot be done.

The PRESIDING OFFICER. The appeal cannot be withdrawn except by the unanimous consent of the Senate, the yeas and nays having been ordered upon it.

Mr. McDougall. The question of the appeal may be postponed, and the debate may go on on the bill.

Mr. EDMUNDS. My motion was, the Senator from California yielding the floor for that purpose, to adjourn this question of order until to-morrow and to proceed with the bill. That motion I believe to be perfectly in order.

Mr. GRIMES. I hope that will not be done. I think it is due to the Senator from Massachusetts that this question should be settled. He is charged with having given utterance to a sentiment here which the reporter's notes do not bear out. The appeal should be changed by the Senator from California so as to correspond with the official report, and then let us settle this question and let the Senator go on.

Mr. JOHNSON. What are the words?

Mr. McDougall. I wrote them as I heard them.

Mr. GRIMES. The words used by the Senator from Massachusetts were, we have never had a President of the United States who was an enemy of his country.

Mr. McDougall. "Until this."

Mr. GRIMES. No, sir. The words attributed to him by the Senator from California were, "We have never before had a President of the United States who was an enemy of his country," making a very material difference.

Mr. JOHNSON. Do you speak now from the report?

Mr. GRIMES. Yes, sir, from the report by the reporter.

Mr. McDougall. If the Senator will allow me, I wish to make an inquiry of the Senator from Massachusetts. I put down his language as I heard him deliver it. I wish to ask him whether he denies the affirmation?

Mr. SUMNER. The Senator has not quoted my language correctly. Of course he has not quoted it correctly.

Mr. McDougall. Very well. I designed quoting it correctly, and I have a very bad pair of ears and a very short memory if I have not done it.

Mr. JOHNSON. The decorum which the Senator from Massachusetts almost always observes, and which is so necessary to the success of our own deliberations and the character of the body, satisfies me that he could not have intended to apply the remark, whatever he may think, in the sense in which it was understood by the Senator from California. I do not know that my friend from Massachusetts has before him, as he sometimes has, in writing what he stated to the Senate; but if he has not, my own experience, and what I am sure will be admitted to be the experience of every member of the body is, that our reporters are

accurate to a letter. I have no doubt, therefore, that if my friend from Iowa is correct in saying what the reporters have stated to have been the remark it is not out of order. It does not imply that the incumbent of the presidential office is or has been an enemy to his country. It is—

Mr. HOWARD. If the Senator from Maryland will allow me a moment—

Mr. JOHNSON. With pleasure.

Mr. HOWARD. I wish to inquire whether this debate is in order. I made a motion to lay the appeal on the table.

The PRESIDING OFFICER. The Chair did not hear the motion.

Mr. JOHNSON. I did not hear it either. I think if the honorable Senator from Michigan will permit me to go on I shall not say anything that he will find fault with. There is nothing—

Mr. McDougall. If the Senator from Maryland will allow me one moment. Upon the statement of the Senator from Massachusetts, if he will affirm that the language expressed by him is that just stated I will withdraw the appeal.

Mr. JOHNSON. Very well; then I have nothing further to say.

The PRESIDING OFFICER. It can only be withdrawn by unanimous consent, the yeas and nays having been ordered. Is there any objection?

Mr. DOOLITTLE. As some question has arisen—

The PRESIDING OFFICER. Does the Senator object to the withdrawal of the appeal?

Mr. DOOLITTLE. I object until I make my statement. I say some question has arisen as to the precise language which was used by the Senator from Massachusetts—

Mr. SUMNER. I will read it.

Mr. DOOLITTLE. I understand the Senator proposes to read his precise language, so that there will be no doubt as to what were the precise words which were used by him, and then of course we shall be better prepared to judge whether they are in or out of order.

Mr. McDougall. I have withdrawn the appeal.

Mr. HOWARD. If the appeal is withdrawn, of course the Senator from Massachusetts will proceed with his remarks.

Mr. SUMNER. Have I the floor?

The PRESIDING OFFICER. The Chair understands there is no objection to the withdrawal of the appeal. It is withdrawn. The Senator from Massachusetts is recognized as entitled to the floor.

Mr. SUMNER. When I was interrupted in the extraordinary way which the Senate has witnessed a few moments ago, I was trying to present reasons in favor of the proposition on which we are to vote, and I had insisted as strongly as I could that the special duty of the hour was protection to loyal and patriotic citizens against the President of the United States; and in that connection I undertook to reply to something that fell from the Senator from Maine, who does not enter into this consideration; who seems, if I may judge from his argument, to feel that there is no occasion for any special safeguards at this hour; and while presenting that view I used language which, according to the short-hand reporter, was as follows. He has kindly written it out and sent it to me. I read it from his notes:

"There, sir, is the duty of the hour. There was no such duty on our fathers; there was no such duty on our recent predecessors, because there was no President of the United States who had become the enemy of his country."

Such were the words which I used when suddenly interrupted. By those words, sir, I stand.

Mr. DOOLITTLE. I raise a question of order, whether these words are in order, as stated by the Senator?

The PRESIDING OFFICER. The Chair has already decided a similar point of order. The Chair will submit this question to the Senate.

Several SENATORS. Oh, no; decide it.

Mr. DOOLITTLE. Very well; let it be submitted to the Senate, and let the sense of the Senate be taken as to whether these words are in order.

The PRESIDING OFFICER. In the opinion of the Chair the words referred to do not exceed the latitude of debate that has been usual here. That has already been decided on these precise words. Does the Senator from Wisconsin appeal from the decision of the Chair?

Mr. DOOLITTLE. I understood the Chair to state that he would take the sense of the Senate on the question, and on the question of submitting it to the Senate I desire to make a single observation.

Mr. SUMNER. I rise to a question of order. I insist upon proceeding in order unless there is some further motion pending before the Senate.

The PRESIDING OFFICER. The Senator from Wisconsin rose to a point of order.

Mr. SUMNER. Very well; he has been overruled.

The PRESIDING OFFICER. The Chair proposed to submit the point to the decision of the Senate; but several Senators calling upon the Chair to decide the point of order, the Chair decided that the words referred to were not out of order. Does the Senator from Wisconsin appeal from the decision of the Chair?

Mr. DOOLITTLE. I do.

Mr. SUMNER. Very well.

Mr. DOOLITTLE. Mr. President, as this precise question is one of very great importance, inasmuch as discussions are continually arising and observations are being made in relation to the executive department of the Government, I think it should be passed upon dispassionately and considerably, and in order to give us an opportunity to do so I move that the Senate do now adjourn. ["Oh, no."]

The question being put; there were on a division—yeas 9, noes 24.

Mr. McDougall. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were not ordered.

The Senate refused to adjourn.

Mr. LANE. I move to lay the appeal from the decision of the Chair upon the table, and on that motion I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor, and the Senator from Indiana cannot take the floor from him to make the motion without his consent.

Mr. LANE. I supposed the Senator was through.

Mr. SHERMAN. The Senator from Wisconsin must have yielded the floor because the question has been put to adjourn.

Mr. SUMNER. He lost the floor by allowing another motion to intervene.

The PRESIDING OFFICER. The Chair was in error. The motion of the Senator from Indiana is in order.

Mr. DOOLITTLE. On the question of moving to lay on the table an appeal on a question of order, I submit whether the Senator from Indiana is in order in moving to lay the appeal on the table?

The PRESIDING OFFICER. The motion of the Senator from Indiana is in order in the judgment of the Chair.

Mr. LANE. It is the only possible and proper motion to suit such a case as this, in my opinion.

Mr. DOOLITTLE. It is a motion which is made in reference to a great many things.

Mr. SUMNER. I call the Senator to order.

Mr. DOOLITTLE. I rise to a question of order, whether a motion to lay the appeal on the table is in order?

Mr. FESSENDEN. The Chair has overruled that point.

Mr. DOOLITTLE. I do not understand the Chair to have made any announcement on the subject.

The PRESIDING OFFICER. In the judgment of the Chair the motion is in order. The

Chair is not aware of any exceptions to this motion.

Mr. DOOLITTLE. I will appeal, then, from that decision.

Mr. LANE. You cannot pile up two appeals, one upon the other. The first question of order must be decided, and then an appeal may arise; but you cannot pile up one appeal on another. If so, the process will be interminable and we shall reach no result.

Mr. DOOLITTLE. I call the honorable Senator from Indiana to order. I had the floor on an appeal from the decision of the Chair, and having the floor I did not yield to the Senator from Indiana for any such purpose. Now, I insist that where an appeal is taken from a decision of the Chair on a question of order, and the question of order is thus brought before the Senate, if a motion to lay the appeal on the table can be entertained, it is utterly impossible to get the judgment of the Senate upon the question of order; it is disposed of, of necessity, without debate; whereas an appeal from the decision of the Chair is always a matter for discussion, so that the Senate can pass considerably upon the question of order; and questions of order are sometimes the most important questions which can be submitted to the Senate. The objection which is made that I am piling appeal upon appeal—

Mr. SUMNER. I rise to a question of order. I insist that all that the Senator from Wisconsin is now interjecting into this debate is out of order. There is a motion of the Senator from Indiana to lay the appeal on the table. You cannot pile another appeal upon the first appeal. The vote must be taken.

Mr. COWAN. The motion of the Senator from Indiana to lay the appeal on the table is not an appeal.

Mr. SUMNER. But there is an appeal, which he moves to lay on the table.

Mr. COWAN. I so understand it; but that is not an appeal from the decision of the Chair. I understand the Chair to decide that the motion of the Senator from Indiana is in order. Then there is only one appeal. My honorable friend from Wisconsin has a right to his appeal, and that is the only one.

The PRESIDING OFFICER. In the judgment of the Chair the Senator from Wisconsin is in order.

Mr. SUMNER. Very well.

Mr. DOOLITTLE. I was saying that I do not see how it is possible on a question of order to obtain the judgment of the Senate upon a consideration if a Senator can rise and at once move to lay it upon the table.

Mr. GRIMES. That is the very purpose, because the Senate is not prepared to express any judgment; to lay it over or lay it on the table for consideration at another day.

Mr. DOOLITTLE. But what is to be done with the Senator when, under the rule of the Senate, if he be not in order he cannot proceed at all? How are we to dispose of him?

Mr. FESSENDEN. For the sake of testing this matter I desire to appeal from the last decision of the Chair, that the Senator from Wisconsin was in order. That will make only three appeals pending at the same time.

The PRESIDING OFFICER. There is only one question of appeal pending. There is a motion of the Senator from Indiana to lay an appeal on the table. The Chair decides that that motion of the Senator from Indiana is in order. From that decision the Senator from Wisconsin appeals.

Mr. FESSENDEN. And then the question is raised by the Senator from Massachusetts whether the Senator from Wisconsin is in order. The Chair decides that he is. From that decision I appeal.

The PRESIDING OFFICER. The Chair thinks he is in order.

Mr. WADE. And I move to lay this last appeal on the table. [Laughter.] I want to see how we shall come out.

The PRESIDING OFFICER. The appeal of the Senator from Maine is an appeal over an appeal.

Mr. FESSENDEN. Mine was the third. There were two previous appeals.

Mr. DOOLITTLE. The same objection which was made to the motion of the Senator from Indiana applies to the motion of the Senator from Ohio. If an appeal can be laid upon the table and the question of order disposed of in that way, and without debate, it is impossible to get the judgment of the Senate upon the question; whereas we know that questions upon appeals are always open to debate in order that the judgment of the Senate may be had. I simply desire that the judgment of the Senate shall be pronounced upon this question as to whether the use of such words is allowable. Suppose we were to speak of the Congress or the House of Representatives—

The PRESIDING OFFICER. The gentleman from Wisconsin is not in order in discussing any question except the appeal.

Mr. DOOLITTLE. That is just the point I was intending to present.

The PRESIDING OFFICER. The other point is not in order.

Mr. McDUGALL. Will the Senator from Wisconsin allow me to ask him a question?

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. McDUGALL. I wish to ask him a question for information. I understood that he had not yielded the floor when the Senator from Indiana rose and made the motion to lay on the table, but still claimed the floor.

Mr. LANE. That is an entire mistake. The Senator from Wisconsin had made a motion to adjourn, and that motion being put, of course he lost the floor, and then I was properly on the floor, and the motion was in order.

Mr. DOOLITTLE. I was still entitled to the floor.

Mr. SHERMAN. Will the Senator allow me a moment?

Mr. DOOLITTLE. With pleasure.

Mr. SHERMAN. I merely rise to say a word on this point of order, because we do not wish to be involved in alterations of this kind here. The manual and rule of parliamentary law both of the House of Representatives and the British Parliament is, that whenever a motion is made that is not debatable you cannot accumulate questions upon it. Therefore, when a motion is made to adjourn, you cannot take an appeal from the decision of the Chair on the adjournment and debate that; and when a motion is made to lay a question on the table, the most ordinary form of parliamentary motion, there can be no debate after that motion is made until the motion is determined. Therefore, in my opinion, with due deference to the decision of the Chair, when the Senator from Indiana makes a motion to lay the appeal on the table, that is the end of all debate, and that motion must be put, and no other motion or business can intervene except a motion to adjourn. That being a motion of a prior and higher order, supercedes the motion to lay on the table. That is the parliamentary rule. I trust, therefore, that we shall go back and commence at the beginning of this difficulty and take the question, without debate, upon the motion of the Senator from Indiana. That is the parliamentary rule.

Mr. DOOLITTLE. In reply to the Senator from Ohio I have simply to say that one of two things is certain: we must either dispose of and settle the question of order in the midst of the debate, for it has reference to the debate and the Senator upon the floor; we must dispose of that question now, or if a motion to lay that question on the table can intervene, it carries the debate with it and the subject-matter of the debate.

Mr. SHERMAN. The Senator from Indiana moves to lay the question upon the table. What question is that? Simply the appeal. The point of order can come up again to-morrow or any day, at any moment. The Senator from Wisconsin may call up that question which was laid upon the table, and we can consider it then. That is the custom of the Senate.

Mr. DOOLITTLE. Let us see where we stand, and not be misled by the very astute argument of my learned friend from Ohio. A Senator is upon the floor, making use of language alleged to be out of order. He is called to order because the words are out of order. An appeal is taken from the decision of the Chair on the question of order. A motion is made to lay that appeal on the table. What effect has that motion upon the Senator on the floor in debate? Is he allowed to go on?

Mr. SHERMAN. The parliamentary law says expressly that upon any disposition made of the point of order the Senator may proceed according to the judgment of the Senate; and that is the language used in the rule.

Mr. DOOLITTLE. Then, according to the Senator from Ohio, the judgment of the Senate can be taken without debate on a question of order.

Mr. SHERMAN. The judgment of the Senate may be taken without debate on a question to lay a proposition on the table. It is simply to lay it aside for the present. Then the ordinary motion is that the Senator be allowed to proceed in order.

Mr. DOOLITTLE. What I desire is, to get the judgment of the Senate—and I want the deliberate judgment of the Senate—on the question whether the use of these words is parliamentary. I do not care whether it is decided just at this moment or decided an hour hence or decided to-morrow; but the question ought to be passed upon, so that we may know whether such words are or are not within the rules of parliamentary proceedings; whether it is parliamentary for a Senator speaking of the Supreme Court of the United States to say that the Supreme Court of the United States is the enemy of the country; whether it is parliamentary for a Senator to say that the House of Representatives is the enemy of the country; whether it is parliamentary for us to say of the President of the United States that he is the enemy of the country; whether it is parliamentary for us to say of each other on this floor that we are the enemies of the country.

Mr. FESSENDEN. No; that would not be in order.

Mr. DOOLITTLE. My friend suggests that we cannot say on this floor to each other that we are the enemies of the country. Why not? If it be not in order for one Senator to say to another Senator that he is the enemy of the country, what is the reason that it is out of order? It is because you are not using proper and parliamentary language toward an officer of the Government who is entitled to be treated with ordinary respect.

Mr. FESSENDEN. Because it tends to promote disorder in the body.

Mr. DOOLITTLE. It is suggested because it tends to promote disorder in the body. But, sir, is there not a still greater tendency to promote disorder and confusion in the country if one branch of the Government is to denounce another branch of the Government as an enemy of the country; for the Senate to denounce the House of Representatives as an enemy to the country; for us to denounce the President as an enemy of the country? That is the question. I wish to have the judgment of the Senate upon that question. I do not care how it is arrived at. Forms are nothing to me; substance is all at which I aim. I believe that according to parliamentary law it is not even parliamentary for any person in debate on this floor to say of a pending measure that should it pass the President would veto it, or would probably veto it. It is not within the rule of parliamentary law for us to speak of the proceedings of the House of Representatives in any way disrespectful, or in any way whatever, or of the proceedings of a committee. All I ask is, that I may understand the judgment of the Senate on this question. I care not as to the form of arriving at it. I have great respect for the decisions of the Chair always, and it was simply with a view of getting the judgment of the Senate on this

question that I took the appeal, and I wish that the person occupying the Chair had taken the sense of the Senate directly upon the question as to whether the use of these words was in order.

**THE PRESIDING OFFICER.** The Chair is satisfied, upon an examination of the authorities, that the former decision made by him in regard to the appeal taken by the Senator from Wisconsin was not correct, and that no debatable motion can intervene after a motion to lay upon the table. Such is the judgment of the Chair after an examination of the authorities.

**MR. DOOLITTLE.** Having made the appeal for the purpose of making my statement, I will now withdraw it. What I desire is—

**MR. SUMNER.** I rise to a question of order; the Senator from Wisconsin is not in order.

**THE PRESIDING OFFICER.** The question is on the motion of the Senator from Indiana to lay the appeal on the table.

**MR. SUMNER.** And that is not debatable.

**MR. DOOLITTLE.** If it is decided that that is not debatable I will withdraw my appeal.

**THE PRESIDING OFFICER.** It is moved that the appeal taken by the Senator from California [Mr. McDougall] from the judgment of the Chair be laid upon the table.

**MR. DOOLITTLE.** I withdraw my appeal from the decision on the motion of the Senator from Indiana, the Chair having stated that on examination he found the authorities the other way.

**THE PRESIDING OFFICER.** The question is on the motion of the Senator from Indiana to lay on the table the appeal taken by the Senator from California, and that motion is not debatable.

**MR. McDOUGALL.** I withdrew my appeal by unanimous consent.

**THE PRESIDING OFFICER.** The Senator from California asks leave to withdraw the appeal by unanimous consent.

**MR. McDOUGALL.** It was withdrawn, and then renewed by the Senator from Wisconsin.

**MR. LANE.** It was the appeal of the Senator from Wisconsin which I moved to lay upon the table, and there the debate should have ended, and the vote should have been taken.

**THE PRESIDING OFFICER.** The Chair understands it was renewed by the Senator from California. ["No!" "No!"]

**MR. McDOUGALL.** I withdrew it by unanimous consent.

**MR. SUMNER.** The appeal is by the Senator from Wisconsin.

**THE PRESIDING OFFICER.** The appeal is by the Senator from Wisconsin, and the question is on the motion of the Senator from Indiana to lay that appeal on the table.

**MR. CONNESS.** And upon that question the yeas and nays were called for by the Senator who made the motion.

**THE PRESIDING OFFICER.** They were called for, but not ordered. On this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 10; as follows:

**YEAS—**Messrs. Brown, Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Ramsey, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

**NAYS—**Messrs. Buckalew, Cowan, Dixon, Doolittle, Hendricks, Johnson, McDougall, Norton, Patterson, and Saulsbury—10.

**ABSENT—**Messrs. Anthony, (presiding), Creswell, Davis, Foster, Guthrie, Nesmith, Nye, Poland, Pomeroy, Riddle, Ross, Sumner, and Trumbull—13.

So the appeal from the decision of the Chair was laid upon the table.

**MR. FESSENDEN.** With the leave of the Senator from Massachusetts, I understand from him that he is not particularly desirous of closing his remarks to-night, and it is quite evident that we cannot get through with the bill to-night. Cold as this room is and uncomfortable as it is, I would be willing to stay here if we could finish the debate to-night, but

it is quite evident that we cannot do it. I rise, therefore, for the purpose of moving an adjournment. If my friend from Vermont has anything to say I will withdraw the motion.

**MR. EDMUNDS.** I merely wish to say this: it is quite obvious to me that we shall be just as far off to-morrow morning as we were this in reaching the end of this question, unless we determine to go on with it. Of course if it is the pleasure of the Senate to adjourn they will do so. It is their pleasure not mine that will control that question.

**MR. FESSENDEN.** I will withdraw the motion if my friend desires me to do so.

**MR. EDMUNDS.** I certainly desire it to be withdrawn.

Several SENATORS. Let us adjourn.

**MR. FESSENDEN.** I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 17, 1867.

The House met at twelve o'clock m. Prayer by Rev. E. P. MARVIN, D. D., of Boston.

The Journal of yesterday was read and approved.

### HARBOR AT POINT SAL.

**MR. McRUER**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the existence of a harbor in the vicinity of Point Sal, on the coast of California, the practicability of rendering such harbor available for the purpose of commerce, and what expenditure is necessary therefor.

COLONEL L. C. HOUK.

**MR. STOKES**, by unanimous consent, introduced a bill for the relief of Colonel L. C. Houk, of Tennessee; which was read a first and second time, and referred to the Committee of Claims.

JAMES M. LATTA.

**MR. DEFREES**, by unanimous consent, introduced a joint resolution for the relief of James M. Latta; which was read a first and second time, and referred to the Committee of Claims.

### PAVING OF PENNSYLVANIA AVENUE.

**MR. INGERSOLL**, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be hereby instructed to inquire into the expediency of paving Pennsylvania avenue, or any part thereof, and that the committee have leave to report by bill or otherwise.

WILLIAM B. TODD.

**MR. INGERSOLL**, by unanimous consent, introduced a bill for the relief of William B. Todd; which was read a first and second time, and referred to the Committee for the District of Columbia.

### FRAUDS ON THE GOVERNMENT.

**MR. COOK**, by unanimous consent, introduced a bill to enable the United States to recover the value of property of which it has been defrauded; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### LEGISLATIVE, ETC., APPROPRIATION BILL.

**MR. STEVENS.** I now call for the regular order of business.

The House resumed, as the regular order of business, the consideration of the bill reported last evening from the Committee of the Whole on the state of the Union, with sundry amendments, being House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

**MR. STEVENS.** I was somewhat surprised, sir, to read in the papers of this morning that the call for a division on the last amendment pending in the Committee of the Whole on the state of the Union last evening had been withdrawn. It is entirely untrue. I called for and

insisted upon a division, and I left the House knowing that there was not the third of a quorum here. I cannot understand how the amendment can have been reported to the House as having been adopted by the committee. If the Journal so reports, I beg to have the Journal corrected, if there be any Journal, and I do not know that there is in Committee of the Whole.

**THE SPEAKER.** There is no Journal in Committee of the Whole on the state of the Union. The chairman of that committee reported the bill with various amendments.

**MR. STEVENS.** Can that include an amendment which was not adopted at all by the committee? I am ready to assert that the last amendment pending was not adopted, and therefore it could not be reported.

**MR. BLAINE.** Then I would ask if it was not equally incompetent for the chairman to report the bill if that amendment was still pending?

**THE SPEAKER.** The chairman of the committee decided that the amendment was agreed to, and it is not within the province of the Speaker to rule in regard to what occurred in Committee of the Whole. All that takes place in Committee of the Whole is subject to revision in the House, and that is the reason why no Journal is kept in Committee of the Whole.

**MR. STEVENS.** I am very unwilling to have the record left in the condition in which it now is, for it is wholly untrue in the respect I have indicated.

**MR. FARNSWORTH.** I have quite a distinct recollection how this matter occurred. Before the Committee of the Whole rose last evening the gentleman from Pennsylvania [Mr. STEVENS] called for a division upon an amendment which was then pending, and he insisted upon the division. I myself, with other gentlemen here, appealed to the gentleman to withdraw his call for a division, let the amendment be regarded as adopted, and then the bill could be reported to the House. But the gentleman did not withdraw his call for a division, but persisted in it, and therefore after the committee rose and the chairman of the Committee of the Whole had made his report, the Speaker will recollect that I made the point of order that the report was not strictly correct, as there was an amendment offered to the bill in Committee of the Whole which had not been acted on. But the Speaker decided that he had no right to go behind the report of the chairman of the Committee of the Whole.

**THE SPEAKER.** The Chair understands that there was no division upon the motion to report the bill with amendments from the Committee of the Whole. The Chair supposes that the chairman of the Committee of the Whole did not understand the gentleman from Pennsylvania as persisting in his demand for a division.

**MR. STEVENS.** I over and over again declared that I would not withdraw the call for a division.

**THE SPEAKER.** It is not within the power of the Speaker to rule upon the subject. The gentleman can move to recommit the bill, with amendments, to the Committee of the Whole.

**MR. STEVENS.** I desired to make the statements I have made in order that what I may say hereafter upon the subject will not be misunderstood. I do not know but what it would take longer to go into Committee of the Whole than to dispose of it in the House. Therefore perhaps we had better go on with the bill in the House.

**THE SPEAKER.** The gentleman can make a motion to recommit the bill, with amendments, to the Committee of the Whole, or the gentleman can ask for a separate vote upon the amendment in the House.

**MR. STEVENS.** Very well; I will move to recommit the bill and pending amendments to the Committee of the Whole for the purpose of correcting an amendment that was made on page 8 of the bill, in relation to contingent expenses of the House of Representatives. I



therefore move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. COBB in the chair,) and resumed the consideration of House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

Mr. STEVENS. I now ask that unanimous consent be given to restore the clause in relation to laborers for the House of Representatives to what it was when originally reported, so that it will read as follows:

For laborers, \$12,693.

No objection was made, and the clause was restored to its original form.

Mr. STEVENS. I now move to amend the clause so that it will read:

For laborers, \$12,893.

For additional compensation to Louis Saunders, in charge of House water-closets, \$109; and for deficiency due him for the current fiscal year, \$100.

Mr. FINCK. I rise to a point of order. I ask whether it is in order for the gentleman from Pennsylvania to move to strike out an amendment inserted by the Committee of the Whole without first reconsidering the vote by which it was adopted?

The CHAIRMAN, (Mr. COBB in the chair.) The motion to restore the clause to its original form was made by the gentleman from Pennsylvania [Mr. STEVENS] and agreed to by unanimous consent; that left the clause open to amendment as before. The Chair is further advised that in Committee of the Whole the motion to reconsider is not in order.

Mr. FINCK. I understand the amendment was made in Committee of the Whole.

The CHAIRMAN. That amendment was stricken out by unanimous consent.

Mr. FINCK. I did not understand the question.

The CHAIRMAN. The Chair rules the amendment to be in order.

The amendment was then agreed to.

Mr. STEVENS. I now renew an amendment which I withdrew last evening, adding a new section. I have altered it so as to make it apply to the Court of Claims alone, and I understand there will now be no objection to it. I move to add the following new section:

And be it further enacted, That the proviso contained in the third section of chapter two hundred and ten of the act of July 2, 1864, shall be construed to embrace all suits to which the United States shall be a party in the Court of Claims, either as plaintiff or defendant.

Mr. WASHBURNE, of Illinois. Before I agree to that I want some explanation of it. I want to know what that act is.

Mr. STEVENS. That act, which was passed in 1864, provides that in the courts of the United States there shall be no exclusion of any witness on account of color, and that in civil actions parties in interest may testify. It was supposed, and I suppose now, that that provision was broad enough to include all cases in which the United States was a party in any court; but inasmuch as the Court of Claims is not mentioned, that court has decided that this provision does not apply to suits pending in that court; that the old law with regard to exclusion still exists. The object of this amendment is to put suits in the Court of Claims on precisely the same footing as suits in the United States district courts.

Mr. WASHBURNE, of Illinois. The proposition now offered has no business in an appropriation bill.

Mr. STEVENS. The original provision was contained in an appropriation bill.

Mr. WASHBURNE, of Illinois. Well, it had no business there. I object to this amendment. I do not wish to give the Court of Claims any further jurisdiction. I object to the passage of any law under which parties may go into that court and swear their claims through. I raise the point of order that this amendment proposes independent legislation

on an appropriation bill, and it is flagrantly out of order under the rule.

The CHAIRMAN. The Chair decides that under the usage of this House the amendment is in order. Although as an original question the Chair would be inclined to regard this amendment as inadmissible, yet long usage has settled the practice in favor of the reception of such propositions.

Mr. STEVENS. The appropriation bill of 1864 contained the provision to which I have referred. This is merely a declaration as to the meaning of that law—nothing else.

Mr. WASHBURNE, of Illinois. It is an alteration of existing law; and it is general legislation in an appropriation bill. To my mind it is clearly out of order.

Mr. STEVENS. The appropriation bill of 1864 contained a provision—

"That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to or interested in the issue tried."

This amendment is a mere construction of that law, declaring that it applies to the Court of Claims as one of the courts of the United States.

Mr. WASHBURNE, of Illinois. I have objected to the admission of this amendment. The committee cannot go back except by unanimous consent.

The CHAIRMAN. The Chair understands that this amendment is offered to come in at the end of the bill.

Mr. STEVENS. Certainly.

Mr. JENCKES. If I understand the gentleman from Pennsylvania, this amendment is restricted in its operation to cases in the Court of Claims.

Mr. STEVENS. Yes, sir.

Mr. JENCKES. It goes no farther?

Mr. STEVENS. No farther.

Mr. HALE. Do I understand the gentleman from Pennsylvania to say that since the passage of the civil rights bill the Court of Claims has decided that negro testimony cannot be received in that court?

Mr. STEVENS. They have decided within a few days that the provision which I have quoted does not apply to that court.

On the amendment of Mr. STEVENS there were—ayes 52; noes 25; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. STEVENS and Mr. WASHBURNE, of Illinois.

The committee divided; and the tellers reported—ayes 73; noes 25.

So the amendment was agreed to.

Mr. WENTWORTH. I desire to ask the unanimous consent of the committee to a modification of an amendment adopted yesterday: The amendment offered by the gentleman from Illinois [Mr. HARDING] with regard to employing in the police force of this city those who have served as soldiers of the United States does not embrace those who have been in the naval service. There are now in the police force some who have served as sailors. I ask unanimous consent that the amendment be modified by inserting "seamen and marines."

The CHAIRMAN. If there is no objection the amendment will be so modified.

There was no objection.

Mr. RAYMOND. Allow me to ask a question. I desire to know whether the following paragraph has been acted on:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. STEVENS. It has been acted on; but there is to be a vote in the House, and the gentleman may call for the yeas and nays if he chooses.

Mr. BIDWELL. I ask unanimous consent that we may go back and consider the following paragraph which was stricken out:

For continuing the collection of reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, which information shall be reported to Congress, \$10,000.

Mr. FARNSWORTH. I object.

Mr. STEVENS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. COBB reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, had directed him to report the same back to the House with sundry amendments.

Mr. STEVENS. Before demanding the previous question I beg leave to renew an amendment rejected in Committee of the Whole. I understand some gentlemen who objected then are now in favor of the proposition. I again move the following amendment: to strike out these words—

For salary of the reporter of the decisions of the Supreme Court of the United States, \$2,500.

And to insert in lieu thereof the following:

For salary of the reporter of the Supreme Court of the United States, \$2,500, if one volume only of the reports is published as heretofore; and in case the Supreme Court should direct him to publish two volumes, then the sum of \$2,500 for each volume so published.

Mr. WASHBURNE, of Illinois. That amendment has already been rejected.

Mr. STEVENS. Certainly.

Mr. WASHBURNE, of Illinois. I object.

Mr. THAYER. The gentleman from Pennsylvania asks unanimous consent to submit the amendment in the House; and if the gentleman from Illinois will permit me I will make a short explanation. If he will hear me I am sure he will not insist on his objection. If it had been understood by the committee yesterday it would not have been voted down. It has always been customary.

Mr. WASHBURNE, of Illinois. I insist on my objection. I do not object to the gentleman from Pennsylvania making an explanation until the House adjourns, but I insist on reserving all my objections.

The SPEAKER. The amendment is not before the House.

Mr. THAYER. Allow the House at least to vote upon it with some explanation on the subject. I am sure the gentleman would not do this gentleman an injustice.

Mr. BIDWELL. I desire to know whether it is in order to ask for a separate vote on the amendment.

The SPEAKER. It is.

Mr. BIDWELL. Then I ask for a separate vote on the amendment in reference to mining statistics.

Mr. THAYER. I rise to a point of order. Is it not competent for the chairman of the Committee on Appropriations to move an amendment?

The SPEAKER. Any amendment appropriating money must have its first consideration in the Committee of the Whole on the state of the Union. This appropriates \$2,500 under certain contingencies which have not been fully considered in the Committee of the Whole.

Mr. THAYER. Two thousand five hundred dollars have been appropriated; and the proposition is to double the appropriation in consideration of the reporter being obliged to issue an additional volume, three hundred copies of which he has to give to the Interior Department at his own expense. Now, is it not competent for the chairman of the Committee on Appropriations to move to amend the bill at this stage by striking out "two thousand five hundred dollars" and inserting "five thousand dollars?"

The SPEAKER. It is not; that would be a very good argument in Committee of the Whole.

Mr. THAYER. I am not making an argument, but a point of order. I inquire whether it is not competent for the chairman of the Committee on Appropriations, after the bill is reported to the House, to move an amendment to his own bill increasing the appropriation?

The SPEAKER. It is no more in order for the chairman of the Committee on Appropriations than for any other member of the House to move the amendment.

Mr. STEVENS. Better let it go to the Senate.

Mr. THAYER. Very well.

Mr. STEVENS. Before I call the previous question I have a single word to say in regard to what is reported as the last amendment. I beg it may be read.

The Clerk read the amendment as follows:

*And be it further enacted,* That to enable the Clerk of the House of Representatives to pay the increased compensation voted by the House during the Thirty-Ninth Congress to its employés, clerks, and others, and to pay the increased rate of compensation thereby authorized, a sum sufficient therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STEVENS. Now I deny that that was ever reported by the Committee of the Whole; therefore I think it ought not to be adopted. I have no objection to paying these clerks any reasonable amount that anybody will bring in a bill for, but it is proper for me to say that there is a great inequality in the compensation of the different classes of clerks. Some of them receive fifty, some sixty, and some eighty per cent. more than another large class of them. Now I am willing, if a bill is brought in equalizing the compensation of these clerks, to make an appropriation putting them on the same footing; but while this difference in their relative compensation exists this amendment is unjust and ought not to be made. I again say that if a bill is presented giving any reasonable amount of compensation, but equalizing it, I shall not object to it.

Mr. BLAINE. I presume the chairman of the committee will not dispute the fact that this enables us to carry out what at the last session we promised to do, and that my friend from Pennsylvania himself supported it.

Mr. STEVENS. There were various resolutions offered relative to the clerks—those who have been most vigilant; but there are a considerable number of clerks who were quite as much entitled to it who did not get the advantage of the resolutions. But the Senate refused to make the appropriation, and we adopted in lieu of it, for the clerks in both branches, twenty per cent. increase. I thought that had ended the matter. I am willing to equalize the whole, but I cannot vote for this amendment in its present shape.

Mr. BLAINE. This went in by general consent upon an amendment offered by the gentleman from Illinois limiting it to the Thirty-Ninth Congress; but by some construction of the Auditor these clerks failed to get what the House pledged itself they should have; and now this appropriation is merely a question of good faith on the part of the House agreeing to do what it promised.

Mr. STEVENS. After that we passed in both branches a provision giving them twenty per cent. additional.

Mr. BLAINE. This has nothing to do with that.

Mr. STEVENS. So I suppose.

Mr. FARNSWORTH. An item on page 32 was stricken out in Committee of the Whole, namely: "For additional and temporary clerks in the Post Office Department, \$40,000." I have a letter from the Postmaster General which I will ask the Clerk to read.

The Clerk read as follows:

POST OFFICE DEPARTMENT, January 11, 1867.

SIR: The clerical force of this Department was increased by act of Congress February 16, 1866.

On July 23 following, an appropriation was made for compensation of authorized additional and for temporary clerks, \$37,000 for the current fiscal year. The amount estimated for temporary clerks was \$12,000. It was thought that the additional clerks authorized by the act of February 16, with the temporary clerks provided for July 23, would be sufficient. This expectation, however, has been disappointed, mainly owing to the unexpected amount of labor growing out of the restoration of mail service in the late insurgent States. When this work shall be accomplished, the number of clerks, regular and temporary, now provided for by law may probably be sufficient. It is manifest, however, that for another year from 1st of July next the number of temporary

clerks must be increased, and for this purpose an appropriation of \$40,000 has been asked.

It should also be noted that the money-order business is increasing more rapidly than was anticipated a year ago, which renders the more necessary the desired appropriation for the next fiscal year.

The "additional" clerks named in the appropriation of July 23, 1866, are females not included under act of February 16, 1866.

Yours, very respectfully,

ALEXANDER W. RANDALL,  
Postmaster General.

Hon. JOHN F. FARNSWORTH,  
House of Representatives, Washington, D. C.

Mr. FARNSWORTH. I had a conversation—

Mr. WARD, of New York. I desire to ask the gentleman whether the increased labor alluded to by the Postmaster General in his letter is the increased labor which was caused by removing Union men and soldiers from post offices and substituting in their place copperheads and rebels?

Mr. FARNSWORTH. The letter explains itself. The Postmaster General says that this increased labor was caused by the opening of new mail routes in the southern States.

I had a conversation this morning with Mr. McLellan, the second Assistant Postmaster General, who made this estimate himself, and also with Mr. Zevely, and from conversation with those gentlemen I am satisfied that an appropriation of this sum or of some other sum will be necessary for the next fiscal year. A large number of temporary clerks are already employed in the Department.

I am very glad that such action has been had in Committee of the Whole on the state of the Union as has brought this explanation before the House. Before this we had no explanation of this appropriation. Now, I am satisfied of its propriety, and I ask the House to non-concur with the Committee of the Whole in their action upon it.

The question was put; and the amendment of the Committee of the Whole on the state of the Union was not concurred in.

Mr. STEVENS. I desire to say a word or two in regard to the appropriation for five watchmen on reservation No. 2. That reservation includes the Smithsonian Institution, and their appointments are all authorized by law. I ask a separate vote on that amendment.

Mr. RAYMOND. On page 44 of the bill there was a clause appropriating \$40,000 "for facilitating communication between the Atlantic and Pacific States by electrical telegraph." That clause was stricken out by the Committee of the Whole on the state of the Union last evening, for what reason I do not know. I desire to ask a vote upon that amendment in the House mainly for the purpose of asking from some person who may know it the reason for striking out this appropriation.

As I understand the matter, the appropriation was made in fulfillment of a contract provided for expressly by law. That contract was made in 1860 with the Western Union Telegraph Company, and gives \$40,000 annually to that company; provided the amount of service rendered to the Government by the company reaches that sum.

Now, I do not know that any breach of contract on the part of the company is alleged further than is contained in some complaints that private messages have, in one or two instances, been overcharged. That, I understand from the company, was the work of its employés, without the sanction or approval of the company, and was at once corrected by the company as soon as it came to their knowledge. I have heard from no quarter allegations of any other breach of contract.

I desire to say further that I understand from responsible officers of the company that there is now due the company from the Government a larger sum for services rendered to the Government than is provided for by this appropriation. The amount of this appropriation is actually due for services already rendered. It is not a deficiency, but an annual appropriation.

Mr. STEVENS. I wish to say that this appropriation is for the future and not for the past.

Mr. RAYMOND. Certainly; but what has been done in the past has not been paid for, and is absolutely due.

Now, sir, if it will obviate objection in the mind of any gentleman, I will move a proviso to this clause—

That the sum of \$40,000 hereby appropriated shall not exceed the amount that may be due the company for services rendered the Government during any year for which it shall be paid according to the rates fixed by law.

The proviso is not necessary, but it is simply offered to obviate the objections urged by some gentlemen. The rates fixed by law will be found in the law of 1862. The rate is three dollars for any dispatch. I think the company has fulfilled its contract with the Government, and I have yet to learn why the Government should not fulfill its part of the contract.

Mr. STEVENS. I cannot consent to have the amendment offered.

Mr. RAYMOND. I suppose a motion to restore the section would be in order.

The SPEAKER. The same object can be accomplished by voting down the amendment of the Committee of the Whole.

Mr. WOODBRIDGE. I desire to say a few words upon the proposition in relation to the pay of our clerks. The pay of our clerks was increased by our votes at the last session of Congress. I took some interest in the subject at that time, and gave it what consideration and investigation I could in the short time I had to spare; and if my memory serves me I prepared the clause which was adopted. The bill originally provided that this increase should be made permanently; but at the suggestion of the gentleman from Illinois [Mr. WASHBURN] the increase was provided for only the Thirty-Ninth Congress. I afterward learned that the bill did not work equally in all respects; that some clerks, particularly in the lower part of the building, complained that it did not apply to them. I was very sorry, indeed, that it did not apply to them, for I designed to make it as general as my information on the subject would permit. It was conceded on all hands that the provision made for the clerks, which was included in the bill, was not too large; that they ought to receive the increased compensation which it provided. And I think it would be very unwise and very unjust for us now to refuse to make the appropriation to carry out the law which Congress intelligently made at the last session. If injustice has been done any one I am willing to vote to equalize this increased pay, if equalization does not exist when that question comes up in a proper shape. But I think it would be very improper to strike out here an appropriation to meet the exigency provided for at the last session of Congress.

Mr. SCHENCK. After what has been said by the gentleman from Vermont [Mr. WOODBRIDGE] and by others, it is hardly necessary for me to add remark or testimony on this subject. But it certainly does strike me that this is a question, not of legislation, but of appropriation. The legislation has already been passed; we have wisely or unwisely agreed to make a certain increase of compensation to certain classes of our clerks, it being intended to include all who might equitably be entitled to it and who had claims upon us. That law now stands in abeyance upon a question of construction, and we are appealed to here to take what steps may be necessary for the purpose. And the proposition is made here to appropriate the money necessary to carry out in good faith what Congress intended.

Now, it is too late to say that some persons are not benefited by that legislation who ought to have been benefited by it. Let that be provided for by legislation hereafter, if they have claims which we in justice ought to consider. Those clerks, however, who in good faith have accepted the pledge of that which Congress legislated to give them, have unquestionably arranged their expenses accordingly, have made their preparations, founded their expectations, and laid their plans all up to this time, with reference to having the money ultimately paid them which was thus proposed to be added

to their pay. And it would be an act of exceeding unkindness, it would be ungenerous, it would be unjust, to say to these men that because we did not accomplish all perhaps which we ought to have done at that time, therefore we will not now pay to them what we undertook to pay to them.

I trust the gentleman from Pennsylvania [Mr. STEVENS] will not insist upon changing this matter. As to the way in which it came to be inserted in this bill I do not think the merits of the case are at all affected by any such consideration. I was not present at the time; but the amendment has been made in the Committee of the Whole, whether legally or illegally. It has been reported to the House and must now be acted upon. When we come to act upon it I hope we will not be thrust aside by any question which is not properly germane to the merits of the appropriation itself, but that we will vote upon it as a question of good faith and as a question of meritorious desert and claim on the part of the clerks as originally intended by us.

Mr. STEVENS. I have only to say that these different appropriations were all made last year before the twenty per cent. clause was inserted in the appropriation bill. I send up and ask to have read a statement prepared by the Clerk of this House upon this subject.

The Clerk read as follows:

"All have already received twenty per cent. advance upon their previous salary, and this is permanent, voted in the act of July 23, 1866.

"If the resolutions are now executed, those included in them will receive, some twenty-five, some thirty, some forty, and some sixty per cent. additional on the pay as existing before any legislation was had. Those excluded will receive no increase beyond the general increase voted alike to all. The increase voted in the resolutions was irregular in amount, because the language of the resolutions differed, some referring back to the beginning of Congress, some to the beginning of the last session, &c., as the date at which the increase should begin.

"I suppose thirty or forty thousand dollars would be required to pay the resolutions.

"A letter from the Clerk of the House, transmitting the resolutions and the correspondence with the First Comptroller of the Treasury in regard to them, was on Monday presented to the House, and has not yet been printed.

Mr. STEVENS called for the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS. I yield for a moment to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. I desire to say a word in reply to the gentleman from New York, [Mr. RAYMOND.] I moved to strike out this appropriation in regard to telegraphs, and if I may be permitted by my friend from Massachusetts, [Mr. DAWES,] who undertook to administer a sort of rebuke to me yesterday because I objected to paying \$40,000 to a telegraph company that has violated its contracts, I will state the reason why I submitted my motion and why I presume the House sustained it.

It is well known to you, sir, and to the old members generally, that the contract with this telegraph company is one of the most extravagant and profligate contracts ever entered into by the Government. The company has made so much money out of this contract that it should be held to a strict performance of every obligation. The Senate has investigated this matter fully, and has found that the company has violated its contract. For this reason the Senate has in two instances, I believe, struck out the appropriation for this company. I think this is a good reason to induce us to strike out this proposition. The Senate, after full investigation, has rejected this appropriation, and we have concurred in their rejection. Why should we now send again to the Senate a proposition to appropriate money to this company?

Mr. BLAINE. In what respect has the company violated its contract?

Mr. WASHBURN, of Illinois. It has over-charged and has delayed messages.

Mr. RAYMOND. With the consent of the gentleman from Pennsylvania, [Mr. STEVENS,] I desire to add a word or two on this subject. As I understand, the only reason assigned for

the Government declining to fulfill its part of this contract is that the Senate has once or twice refused to make the appropriations to carry out the contract. I acknowledge that this would be a good reason, provided that the reasons which influenced the action of the Senate were such as to satisfy the judgment of this House. But the mere fact that the Senate has taken such action is no reason why we should blindly follow in its footsteps. I should be glad if the gentleman from Illinois would state the grounds on which the Senate acted. If he can show any instances in which the company has palpably and intentionally violated its contract I will yield my convictions on this subject as readily as any one. I would like to ask the gentleman whether there is any other allegation than this: that in one or two instances—and I think the names could be specified in all the instances which may be brought in question—the company's employés have made an overcharge for private messages from Denver east. I ask him further, whether in each of those cases the error was not corrected as soon as it was brought to the knowledge of the company?

If this contract is profligate, let Congress provide for its abrogation. I am perfectly willing, if the gentleman will allow me, to offer a proviso that this sum shall be appropriated in fulfillment of the contract, upon the condition that the company will consent to the abrogation of the existing contract upon the application of the Secretary of the Treasury or any other officer who may represent the Government in the matter. I submit that the gentleman should give us some better reason for violating a Government contract than the mere fact that the Senate refuses to consent to the appropriations required to carry out the contract.

Mr. STEVENS. I ask a separate vote on the amendment with reference to the additional pay of House clerks and employés.

Mr. GRINNELL. An amendment was adopted in Committee of the Whole, on my motion, striking out the provision for a "clerk of pardons." Learning from authentic sources that there is a necessity for this clerk, on account of the applications for pardons from persons imprisoned, &c., I am willing, upon deliberation, to consent that the provision for this clerk shall be retained.

The SPEAKER. If there is no objection, the amendment will be reconsidered, and the clause restored to its original form.

There was no objection.

Mr. HALE. I ask a separate vote upon the amendment providing for a termination of the contract for furnishing volumes of the Congressional Globe to members of future Congresses.

The various amendments reported from the Committee of the Whole, except those on which a separate vote was demanded, were agreed to.

The Clerk read the following amendment of the Committee of the Whole, on which Mr. HALE asked a separate vote:

Page 4, line seventy-two, add the following:

Provided further, That no appropriations shall be made for supplying complete sets of the Congressional Globe and Appendix to members of any succeeding Congress.

The House divided; and there were—ayes 24, noes 62.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. FARNSWORTH demanded tellers. Tellers were ordered; and Mr. HALE and Mr. FARNSWORTH were appointed.

The House again divided; and the tellers reported—ayes 51, noes 57.

So the amendment was non-concurred in.

The question next recurred on concurring in the following amendment, on which a separate vote was asked by Mr. HALE:

Page 8, line one hundred and sixty-three, insert the following proviso:

Provided, That notice is hereby given that at the close of the Fortieth Congress of the United States

will terminate the purchase of one complete set of the Congressional Globe and Appendix for each Senator, Representative, and Delegate, provided for by the act approved July 4, 1864.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 55, not voting 51; as follows:

YEAS—Messrs. Delos B. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Dawes, Deftrees, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Finck, Goodyear, Grinnell, Aaron Harding, Abner C. Harding, Hawkins, Henderson, Higby, Hill, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, Ingersoll, Julian, Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Lynch, Marvin, Maynard, McIndoe, McKee, McKuer, Mercur, Moorhead, Morris, Moulton, Orth, Paine, Perham, Pike, Plant, Pomeroy, Price, John H. Rice, Ritter, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Spaulding, Stokes, Taber, Nelson Taylor, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Wentworth, and Williams—85.

NAYS—Messrs. Allison, Ancona, Anderson, James M. Ashley, Baldwin, Bergen, Bingham, Blaine, Boyer, Buckland, Campbell, Cooper, Dawson, Deming, Denison, Dixon, Eldridge, Glossbrenner, Hale, Hayes, Hise, Hogan, Holmes, Humphrey, Hunter, Jevons, Johnson, Kelley, Kelo, Kerr, Le Blond, Loan, Longyear, Marshall, McClurg, Mills, Newell, Niblack, Nicholson, O'Neill, Radford, William H. Randall, Raymond, Rogers, Ross, Shanklin, Sitgreaves, Stevens, Nathaniel G. Taylor, Thayer, Thornton, Andrew H. Ward, Welker, James F. Wilson, and Woodbridge—55.

NOT VOTING—Messrs. Alley, Ames, Arnell, Beaman, Blow, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Delano, Dodge, Donnelly, Driggs, Dumont, Eggleston, Garfield, Griswold, Harris, Hart, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Jones, Kasson, Latham, Leftwich, Marston, McCullough, Morrill, Myers, Neill, Patterson, Phelps, Samuel J. Randall, Alexander H. Rice, Rousseau, Starr, Stilwell, Strouse, Francis Thomas, Trimble, Robert T. Van Horn, Hamilton Ward, Whaley, Stephen F. Wilson, Windom, Winfield, and Wright—51.

So the amendment was concurred in.

The question then recurred on the following amendment, on which a separate vote was asked by Mr. RAYMOND:

Strike out these words:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. RAYMOND. I ask unanimous consent to add the following proviso:

Provided, The company will consent to the abrogation of the existing contract upon the application of the Secretary of the Treasury.

Mr. WASHBURN, of Illinois. I object; they are not entitled to anything.

The House divided; and there were—ayes 63, noes 34.

So the amendment was concurred in.

The question next recurred on the following amendment, on which a separate vote was asked by Mr. BIDWELL.

Strike out the following:

For continuing the collection of reliable statistical information concerning the gold and silver mines of the western States and Territories, which shall include the labor and capital employed, the product and the modes of working the same, which information shall be reported to Congress, \$10,000.

Mr. BIDWELL. I happened to be absent yesterday, and ask unanimous consent to make a few words of explanation.

Mr. FARNSWORTH. I object.

The House divided; and there were—ayes 64, noes 34.

Mr. BIDWELL demanded tellers.

Tellers were not ordered.

So the amendment was concurred in.

The question next recurred on the following amendment, on which a separate vote was asked by Mr. STEVENS:

Strike out the following:

For compensation of five watchmen in reservation No. 2, \$4,500.

The amendment was non-concurred in.

The question then recurred on the following amendment, on which a separate vote was asked by Mr. STEVENS:

And be it further enacted, That to enable the Clerk of the House of Representatives to pay the increased



compensation voted by the House during the Thirty-Ninth Congress to its employes, clerks and others, and to pay the increased rate of compensation thereby authorized, a sum sufficient therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The question was taken on concurring in the amendment made in Committee of the Whole; and it was concurred in—ayes eighty-three; noes not counted.

The question recurred on ordering the bill, as amended, to be engrossed and read a third time.

Mr. BIDWELL. Is it in order to move an amendment?

The SPEAKER. It is not, the previous question having been moved.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is House bill No. 543, in regard to reconstruction.

Mr. STEVENS. There are a great many gentlemen around me who want a morning hour. I will agree, therefore, to have this bill postponed till the expiration of the morning hour.

No objection was made.

The SPEAKER. The morning hour has now commenced, and the first business in order is Senate bill No. 380, to incorporate the Washington County Horse Railroad Company in the District of Columbia, being the unfinished business at the expiration of the morning hour yesterday, on which the gentleman from Tennessee [Mr. MAYNARD] is entitled to the floor.

Mr. MAYNARD. I yield to allow several gentlemen to offer resolutions by unanimous consent.

#### REPORTING CONGRESSIONAL PROCEEDINGS.

Mr. HILL, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of providing by law for the reporting of the debates and proceedings of Congress by reporters chosen by each House thereof, and for the publication of such debates and proceedings at the Government Printing Office, with leave to report by bill or otherwise.

#### REPORT OF FREEDMEN'S BUREAU.

Mr. ELIOT, by unanimous consent, offered the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That two thousand extra copies of the report of the Commissioner of the Bureau of Freedmen and Refugees be printed; one thousand for the use of the Commissioner and one thousand for the use of members of the House.

#### TEXAS DEBT.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be instructed to report to the House what amount of the debt due by the United States to the State of Texas previous to the rebellion yet remains unpaid, and whether the State of Texas has accounted for the money and stores taken by said State from the Confederate authorities upon the breaking up of the confederacy, and the amount of said money and stores.

#### INVESTIGATION AT WEST POINT.

Mr. ANCONA. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee on Military Affairs be directed to inquire into alleged abuses in the quality and charges for board and other articles furnished at West Point; that they have power to send for persons and papers and to proceed to West Point to prosecute the investigation, if in their judgment deemed expedient.

Mr. SCHENCK. I will ask my colleague on the committee to accept an amendment to his resolution. I understand the resolution is offered upon representations which have been made to my colleague on the committee, and through him to the committee. But if there should be an investigation instituted it seems to me it ought to be more general and not be confined to that particular matter. I ask the gentleman therefore to accept the following as an addition to his resolution:

In which case the committee shall extend its investigation as far as may seem to be required into other matters connected with the administration and discipline of the institution.

Mr. ANCONA. I accept it.

Mr. RADFORD. I object.

The SPEAKER. It is too late. The resolution is already before the House by unanimous consent.

The resolution as modified was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### KING AND WOOD.

Mr. HITCHCOCK, by unanimous consent, introduced a joint resolution for the relief of King & Wood, of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### MINERAL RESOURCES OF THE UNITED STATES.

Mr. HIGBY, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of having the report of J. Ross Browne to the Secretary of the Treasury upon the mineral resources of the United States printed in the French and German languages for distribution at the Paris Exposition.

#### TARIFF ON SILK GOODS.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of making the tariff on silk goods imported into the United States specific, according to weight, instead of *ad valorem*, as recommended in the statement of Louis W. Viollier, herewith submitted for reference to said committee.

#### WASHINGTON COUNTY HORSE RAILROAD.

The House then proceeded to the consideration of the bill pending yesterday at the expiration of the morning hour, being Senate bill No. 380, to incorporate the Washington County Horse Railroad Company in the District of Columbia, reported from the Committee for the District of Columbia by Mr. MAYNARD.

The bill was read. It provides that Samuel P. Brown, Francis Mattingly, Noble D. Larner, Marshall Brown, and Joseph L. Pearson, and their associates and assigns be created a body corporate under the name of the "Washington County Horse Railroad Company," with authority to construct and lay down a double or single track railway, with the necessary switches and turn-outs in the county of Washington, in the District of Columbia, as follows: commencing at Boundary street, at its intersection with Fourteenth street, and along the Fourteenth street road in a northerly direction to a point where said road intersects a new road recently opened by the levy court, and along said new road in an easterly direction to the Seventh street turnpike, and along said turnpike in a southerly direction to Boundary street; provided that the consent of the board of directors of the Seventh Street Turnpike Company be first obtained for the use of their road, with the right to run public carriages thereon, and receiving therefor a rate of fare not exceeding ten cents a passenger for any distance on said road.

The second section provides that the said railroad shall be deemed real estate, and it, with the other real and personal property of said body corporate, shall be liable to taxation as other real estate and personal property in

the county aforesaid, except as hereinafter provided.

The third section provides that the said railway shall be laid in the most approved manner adapted for street railways, and that the tracks shall not be more than six nor less than four feet apart, and the gauge the same as that of the street railways in the city of Washington.

Section four provides that the tracks of the said railway shall be laid in such a manner as will least interfere with the ordinary travel of the roads over which the said tracks shall be laid.

The fifth section provides that this act of incorporation may at any time be altered, amended, or repealed by the Congress of the United States.

The sixth section provides that nothing in the act shall be so construed as to authorize said body corporate to issue any note, token, device, scrip, or other evidence of debt to be used as currency.

The seventh section enacts that the capital stock of said company shall be not less than two nor more than five hundred thousand dollars, and that the stock shall be divided into shares of fifty dollars each, and shall be deemed personal property, transferable in such manner as the by-laws of said company may direct.

The eighth section directs that the company shall place first-class cars on said railway, with all the modern improvements, for the convenience and comfort of passengers, and shall run cars thereon daily as often as the public convenience may require.

Section nine provides that the company shall procure such passenger rooms, ticket offices, stables, and depots at such points as the business of the railroad and the convenience of the public may require; and it authorizes the company to lay such rails as may be necessary for the purpose of connecting the said stables and depots with main tracks. It likewise authorizes the company to purchase or lease such lands or buildings as may be necessary for passenger rooms, ticket offices, stables, and depots above mentioned.

Section ten provides that all articles of value that may be inadvertently left in the cars or other vehicles of said company shall be taken to their principal depot and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

Section eleven provides that the corporation shall, on demand of the President of the United States, Secretary of War, or Secretary of the Navy, cause to be transported over said railway any freight cars laden with freight for the use of the United States; the officers causing such service to be done shall pay a reasonable compensation therefor.

Section twelve provides that within thirty days after the passage of this act the incorporators named in the first section, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder, shall cause the books of subscription to the capital stock of said company to be opened and kept open in some convenient and accessible place in the city of Washington, from nine o'clock in the forenoon until three o'clock in the afternoon, for a period to be fixed by said corporators, not less than two days; and said corporators shall give public notice, by advertisement in the daily papers published in the city of Washington, of the time when and the place where said books shall be opened; and subscribers upon said books to the capital stock of the company shall be held to be stockholders; provided every subscriber shall pay at the time of subscribing twenty-five per cent. of the amount by him subscribed to the treasurer appointed by the corporators, or his subscription shall be null and void. If a larger amount than the capital stock of said company shall have been subscribed, the books shall be closed, and the said corporators named in the first section shall forthwith proceed to apportion said capital stock among the subscribers *pro rata*, and make public proclamation of the number

of shares allotted to each, which shall be done and completed on the same day that the books are closed; provided nothing shall be received in payment of the twenty-five per cent. at the time of subscribing except money. And when the books of subscription to the capital stock of said company shall be closed the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder, shall, within twenty days thereafter, designate a day for the choice of directors, of which public notice shall be given for five days in two public newspapers published daily in the city of Washington, or by written personal notice to each stockholder by the clerk of the corporation; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

Section thirteen enacts that the government and direction of the affairs of the company shall be vested in a board of directors, seven in number, who shall be stockholders, and who shall hold their office for one year and till others are duly elected and qualified to take their places as directed; and that the said directors (a majority of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company, and they also shall choose a treasurer, who shall give bonds with surety to said company in such sum as the said directors may require for the faithful discharge of his trust. It further directs that in case of a vacancy in the board of directors by the death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

Section fourteen provides that the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter or to the laws of the United States.

Section fifteen provides that there shall be an annual meeting of the stockholders for choice of directors, to be holden at such time and place, under such conditions, and upon such notice as said company by their by-laws may prescribe, and said directors shall, when requested, make a report to the stockholders and to Congress of their doings.

Section sixteen provides that the company shall have at all times the free and uninterrupted use of their roadway, and if any person or persons shall willfully and unnecessarily obstruct or impede the passage on or over said railway, or any part thereof, or shall injure or destroy the cars, depot stations, or any property belonging to said railway company, the person or persons so offending shall forfeit and pay for every such offense the sum of twenty dollars to said company, and shall remain liable, in addition to the said penalty, for any loss or damage occasioned by his, her, or their act, as aforesaid, but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

Section seventeen provides that the company shall make and complete the railway within one year after the organization of the same.

The Committee for the District of Columbia reported the following amendments:

First amendment:

In line thirty-two of section twelve, after the word "thereafter," insert the words: "shall call a meeting," so that it may read "shall within twenty days thereafter call a meeting for the choice of directors," &c.

The amendment was agreed to.

The second and third amendments, which were merely verbal, also were agreed to.

The fourth amendment was to add to the bill the following as an additional section:

Be it further enacted, That the levy court of the county of Washington are hereby prohibited from doing any act or thing to hinder, delay, or obstruct

the construction or operation of said railroad as herein authorized.

The amendment was agreed to.

Mr. SCHENCK. I move to amend this bill by adding to the section providing for the conveyance of passengers the proviso:

That it shall not be lawful for the said railroad company, through any of its conductors or agents, to collect fares for the transportation of passengers to whom a seat in such conveyance is not furnished.

Mr. GRINNELL. I ask the gentlemen to allow me to move to add the words, "without the consent of the passengers."

Mr. SCHENCK. No, sir, I cannot yield for that amendment. I have but a word to say in regard to my amendment. We are now about to charter, if this bill passes, a new street railway company in this District. It will be a sort of suburban railroad and may not be much affected by this amendment if it shall prevail; still, the amendment involves a principle which I should like to see ingrafted on this charter, as it ought to be on the charters of other companies.

This bill proposes to charter a railroad to commence at the end of Fourteenth street, where the existing railway terminates, to pass around the city returning into it at some other point. Without regard, however, to the route of the road, I think the principle of my amendment is correct, that when this company undertake to be common carriers they should do in good faith that which their undertaking binds them to do. Now, to accept passengers in any numbers and hang them on leather straps or crowd them like sheep or pigs into one of their conveyances is not carrying out their undertaking to convey passengers comfortably and properly, which, by making themselves common carriers, they have undertaken to do. I believe I have said once before to the House that the most patient ass in the world is the American people, as it regards submission to the impositions practiced on them by these various companies and corporations. Abroad nothing of this kind is permitted. Matters are much better regulated there so far as the police arrangements connected with such things are concerned. There the seats in public conveyances are all numbered, and each passenger gets his seat and keeps it. He is not liable to be imposed upon by having others thrust upon him more than the conveyance can hold. He is there recognized as having some rights. But here in this country—and we need not go far to get an exemplification of the fact—in an omnibus or railway car, as long as parties are to be picked up who are willing to be forced into a crowded car, which perhaps will steam with the perspiration engendered by this close packing, conductors feel themselves authorized to stop and take up such passengers; until it has passed into a proverb that there is always room for one more in an omnibus or railway car. Gentlemen may reply that this is the fault of the passengers; that if they choose to submit to such impositions they are to be held to it. Sir, it is the fault of the company in not furnishing a sufficient number of conveyances; and then the passengers, rather than not go, submit to impositions and take up with such accommodations as they can get.

Now, I want to guard them against such impositions. We will have no difficulty from crowded railways or omnibus conveyances if the principle I have indicated shall be established. Let it once be understood that they cannot collect fare of those to whom they do not furnish accommodations, and they will take care, as a matter of interest, to furnish sufficient accommodations for their passengers. Where they have one car now they will have two or three then if necessary. I think this little provision, more than any one thing else, would cure the whole of this evil—a simple provision that when this new company shall undertake to convey passengers for hire in their conveyances they shall provide proper accommodations, or else fail at their peril, because they will have no legal right to enforce and collect fare from such passengers.

Mr. GRINNELL. I desire to say, in reply to the gentleman from Ohio, [Mr. SCHENCK,] that I think his amendment is unprecedented, and will be very embarrassing to this new company. This railroad is to be established for the purpose of bringing the suburban population of this city into a nearer and closer communication with the heart of the city. If he will accept the amendment I have offered to his proposition, so that the fare shall not be collected from persons not having seats except by the consent of the person riding, I will not make any objection to the proposition. The fault the gentleman complains of is the fault of those who hang on the cars, who demand admission under the circumstances, and not the fault of the company. My friend himself would consider it a great hardship if during a rain-storm, when his carriage was not at hand, he was not allowed to get into a car out of the rain, because the seats were all taken before he applied for admission. Let my amendment be adopted and then if he gets into the car he can exercise his own option in regard to paying the fare.

Mr. SCHENCK. I will say simply this to the gentleman from Iowa, [Mr. GRINNELL,] there will be no necessity for his amendment if we give to a man the legal right not to have fare collected of him unless he is provided with a seat, for he can waive that right if he thinks proper. If I go to a tavern and ask for lodgings, and I am content to be put into the cellar or a coal-hole or upon the floor, and waive my privilege of going where I can get a bed, I can do so. The effect of the amendment of the gentleman from Iowa [Mr. GRINNELL] is to reenact the common law, which gives every man the right, if he thinks proper, to waive his legal rights. I propose to give every person a legal right against these corporations if they do not supply him with the accommodations the law requires. Then, if he is fool enough to waive those rights, he has the common-law right to do so.

Mr. GRINNELL. My answer to that is, that most people do not understand the common law; they only understand the common principle that if they ride they must pay.

The question was upon the amendment of Mr. GRINNELL to the amendment of Mr. SCHENCK.

Mr. INGERSOLL. I call the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

The first question was upon the amendment of Mr. GRINNELL to the amendment of Mr. SCHENCK.

Mr. INGERSOLL. Mr. Speaker, I am opposed to the amendment offered by the gentleman from Ohio, [Mr. SCHENCK,] and also to the amendment to the amendment, offered by the gentleman from Iowa, [Mr. GRINNELL,] though if the idea of the gentleman from Ohio meets the favor of the House it would be better that the amendment of the gentleman from Iowa should prevail. The amendment of the gentleman from Ohio proposes to declare it unlawful for the agents of this corporation to collect fare from any person to whom a seat is not furnished. No option is to be left to the person riding or to the conductor as to the payment or collection of the fare. I submit to the House that such a provision is unjust to the company we now propose to incorporate. This company proposes to construct a railroad running out into the country for the benefit of the poor people who live in the suburbs of the city and for the convenience of the departmental clerks. Now, sir, if it were probable that the travel on this railroad would be regular, that there would be ten, fifteen or twenty passengers for each car on each trip, the gentleman's amendment would be proper enough; and I would have no objection to it. But it is well known that there are times when the cars, even on Pennsylvania avenue, run empty or almost so, while at other times every car is crowded. The travel fluctuates. So it must be with this railroad, the construction of which we now propose to authorize. At the hour when the clerks

leave the Departments, there would be hundreds wishing to ride, while at other times the passengers would be but few. Can this Congress with any justice require this company to keep six, eight, or ten cars in waiting at certain hours to accommodate a momentary rush of passengers? This would impose upon the company a hardship which would result in the abandonment of the project. The Washington and Georgetown Railroad Company and the Metropolitan Railroad Company, already incorporated, are not subjected to any such requirement.

Mr. HILL. Will the gentleman from Illinois yield to me for a moment?

Mr. INGERSOLL. I will hear any suggestion of the gentleman.

Mr. HILL. I desire to read the requirement which is imposed upon the Washington and Georgetown Railroad Company by its charter:

"The said company shall place first-class cars on said railways, with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon during the day as often as every five minutes, except as to Seventh and Fourteenth streets, and on these once in fifteen minutes each way, and until twelve o'clock at night as often as every half hour; and throughout day and night as much oftener as public convenience may require."

Mr. INGERSOLL. All that there is in that section is incorporated in this bill.

Now, sir, let me state for the information of the House that this company proposes to commence its road at the terminus of the Fourteenth street railroad, extending it about a mile and a half into the country, then crossing over to the Seventh street turnpike, and coming down Seventh street to the terminus of the Seventh street railroad. The whole extent of the route is about four miles. It will run through a suburban portion of the District which at present is sparsely populated, but which is being settled by clerks and mechanics and laborers, the very men for whom above all others we should provide accommodations of the sort here proposed.

Mr. COBB. Will the gentleman from Illinois [Mr. INGERSOLL] yield to me for a question?

Mr. INGERSOLL. Yes, sir.

Mr. COBB. The gentleman has stated the route of this railroad. I wish to ask him in this connection whether the route which he describes does or does not run around what is known as the "Corcoran farm," and whether he knows or has heard that this proposition for chartering a railroad is part and parcel of a job for the sale of that "Corcoran farm" to the Government for a presidential mansion and park, and the Lord knows what all?

Mr. INGERSOLL. No, sir; I have heard nothing of the kind; and even if it were true it would not affect this question, which is one involving the interests, not merely of those who are to be the corporators of this road, but of those who now reside and shall hereafter take up their residence in that section of country through which the road is to pass.

Mr. INGERSOLL. I will not detain the House in reference to this matter any longer, except to add that a reservation is made in this bill by which Congress retains control over this road, so that if these powers be abused or the public be put to inconvenience in regard to the running of the cars or anything else, we can at any time alter, amend, or abolish the charter.

Mr. MAYNARD. I was called away temporarily from my desk when the consideration of this bill was resumed this morning. When I reported it I intended to yield to any gentleman who thought proper to make the motion, which I was not authorized to make myself, that each Senator, Representative, and Delegate during his official term should be permitted to ride free on the cars of this company as a matter of right. I will not give my views in this connection; but it would relieve the members of this House from some insinuations and imputations and suggestions which are thrown out, and which are not very pleasant to hear. I will not move the amendment myself, but

will yield to any gentleman who may think proper to do so.

It was intimated by a question which has been propounded that this is a private enterprise, a matter of private speculation. Undoubtedly it is so. Those who invest in railroads do not do so without expecting to make something. That is undoubtedly so. This will afford access to country I do not know how many miles from the Capitol, and will enlarge the area, where those who are engaged here in the Government service may seek homes for themselves. It will be of great benefit to the public; and, as has been well said, the bill contains a reservation by which Congress may alter and amend or abolish this charter if it be abused.

Mr. GRINNELL's amendment to the amendment was disagreed to.

Mr. SCHENCK's amendment was also defeated. The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

#### FIRST CONGREGATIONAL SOCIETY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back Senate bill No. 253, to incorporate the First Congregational Society of Washington, with the following substitute:

That Hiram Barber, Roswell H. Stevens, Charles H. Howard, Silas H. Hodges, Henry A. Brewster, John W. Rumsey, David M. Kelsey, Abner T. Longley, Benjamin F. Morris, William T. Bascom, S. C. Pomeroy, and Calvin S. Mattoon, and their associates, are hereby created a body politic and corporate by the name of "The First Congregational Society of Washington;" and as such may purchase, hold, and convey real and personal estate, make contracts, sue and be sued, plead and be impleaded, and may exercise all such powers as are requisite to enable them to sustain religious worship in Washington, in the District of Columbia, and to erect and maintain edifices for that purpose, and parsonages; and said society shall be exempt from any taxes to be assessed upon their property, under the authority of Congress, or of the District of Columbia, or the city or county of Washington: *Provided*, That the whole value of their property shall not exceed \$200,000.

SEC. 2. And be it further enacted, That the first meeting of said society shall be held at the time and place at which a majority of the persons herein above named shall assemble for that purpose; and six days' notice shall be given each of said corporators; at which meeting, and at all annual meetings, and at all meetings specially called for that object, said society may enact, amend, or repeal by-laws regulating the government of said society; prescribing the number, character, and duties of their officers, and the manner of their election; defining the terms on which members may be admitted to it, and shall cease to be such; and providing in all things for the management of the affairs of said society or for securing its interests and welfare.

SEC. 3. And be it further enacted, That the powers of this corporation shall vest in a board of trustees, who shall be chosen as provided by the by-laws, and shall consist of five persons, and shall have perpetual succession, each one holding his office until his successor is chosen and qualified.

Mr. INGERSOLL. If it is in order I suggest that my friend from Ohio [Mr. SCHENCK] should add a proviso to this bill that no more persons should be admitted into this church than they have eligible seats for. [Laughter.]

Mr. SCHENCK. I would then perhaps deprive the gentleman from Illinois of the means of grace, and I know none who so much needs it. [Renewed laughter.]

Mr. INGERSOLL. Of late I have associated much with the gentleman from Ohio, and consequently I shall not insist that he shall offer the proviso.

Mr. THAYER. Has it been customary in acts of incorporation of religious societies in Washington to insert a clause of exemption from taxation? If it has I then do not object; but if not, inasmuch as equality is the essence of justice in taxation, I move to strike it out.

Mr. INGERSOLL. That question came up in the committee, and we were reliably informed that no church in Washington paid taxes of any kind on church property.

Mr. THAYER. Assuming that statement to be correct I shall make no objection.

The substitute was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### JUSTICES OF THE PEACE IN THE DISTRICT.

Mr. WELKER, from the Committee for the District of Columbia, reported back House bill No. 571, to regulate proceedings before justices of the peace, and for other purposes, with a substitute therefor.

The substitute, which was read, provides that justices of the peace in the District of Columbia shall have jurisdiction in all cases where the amount claimed does not exceed \$100, except in cases involving title to real estate, actions for assault and battery, slander, &c. It further provides that the supreme court shall establish rules of practice and forms of proceedings and fix and determine fees and costs to be taxed; that all justices of the peace may issue civil and criminal warrants returnable before themselves, but causes may be removed on filing a proper affidavit that the applicant believes he will not get a fair and impartial trial on account of prejudice or other reasonable cause; that no person shall be fined for disorderly conduct unless guilty of acts disorderly in themselves; and that in all criminal cases the justice shall allow the defendant reasonable time to prepare for defense or bail. It repeals all acts of the Legislature of Maryland or of Congress now in force inconsistent with this act, which takes effect from and after its passage.

Mr. WELKER. I demand the previous question on the adoption of the substitute.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table. The latter motion was agreed to.

#### GRAND AND PETIT LARCENY.

Mr. WELKER, from the same committee, reported back House bill No. 431, defining and providing for the punishment of grand and petit larceny, with a substitute therefor.

The substitute, which was read, declares stealing to the value of thirty-five dollars to be petit larceny, and punishes the same by imprisonment at hard labor not less than one year nor more than three; it declares the stealing of bank bills, promissory notes, receipts, checks, bonds, &c., of the value of thirty-five dollars a misdemeanor, and affixes the same punishment; also the buying and receiving of stolen goods or chattels, promissory notes, &c., of the like value knowing the same to be stolen. It also affixes penalties for embezzlement and for the fraudulent taking of goods by common carriers. It provides that all persons sentenced to imprisonment in jail may be employed under regulations prescribed by the supreme court, the proceeds thereof being applied to pay the expenses of their trial and conviction, and that the supreme court shall make proper regulations necessary for the health and proper treatment of the prisoners. Four peremptory challenges are allowed to the defendant; payment of necessary witness fees and costs are allowed the same as Government witnesses are now paid; attorneys who may be assigned by the court are not to be paid more than twenty-five dollars; all laws of the District inconsistent with the provisions of this act are repealed, and the act takes effect from and after its passage.

Mr. MAYNARD. I appeal to my colleague on the committee [Mr. WELKER] to allow me to offer a single amendment. One of the sections of the bill provides that—

"On the trial of any person charged with crime the punishment whereof may be confinement in the penitentiary or district jail, the defendant shall be entitled to four peremptory challenges of jurors."

I desire to move that instead of four, ten peremptory challenges be allowed. So far as



I have had an opportunity to observe the criminal practice of the country that would not be an undue provision in favor of the personal liberty of parties accused of crime.

Mr. WELKER. I have no objection to yielding to allow the amendment to be offered.

Mr. MAYNARD. I do not intend to argue it.

Mr. ASHLEY, of Ohio. I hope it will not be adopted.

Mr. WELKER. The practice of nearly all the States does not allow so many challenges in criminal trials in these prosecutions as the amendment proposes. With the exception of Tennessee I do not know of any State that allows more than four challenges. I hope the amendment will not be agreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. MAYNARD was disagreed to.

The substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

On motion of Mr. WELKER, the title of the bill was amended so as to read, "A bill providing for the punishment of certain crimes therein named, and for other purposes."

#### TRANSPORTATION AND COAL COMPANY.

Mr. WELKER also, from the Committee for the District of Columbia, reported back, with an amendment, bill of the House No. 592, to incorporate the Washington Transportation and Coal Company.

The Clerk proceeded to read the bill.

Mr. WASHBURN, of Illinois, (interrupting the reading.) Will the gentleman allow me to ask him a question?

Mr. WELKER. Certainly.

Mr. WASHBURN, of Illinois. I hear the name of Charles Knap among the incorporators. Is this bill for the benefit of the Johnson committee which existed here during the last campaign?

Mr. WELKER. Not that I know of.

Mr. WASHBURN, of Illinois. He was treasurer of the committee through which black-mail was levied upon office-holders.

Mr. WELKER. I do not know anything about that, although I see his name among the incorporators.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

#### NUMBERING OF HOUSES IN WASHINGTON.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire into the expediency of having the houses in the city of Washington numbered in accordance with the system adopted by the city of Philadelphia, and report by bill or otherwise.

#### PRINTING OF MILITIA BILL.

Mr. CLARKE, of Ohio, from the Committee on Printing, reported the following resolution:

*Resolved*, That three thousand extra copies of the bill to provide for organizing, arming, and disciplining the militia, and for other purposes, referred to the Committee on the Militia January 3, 1867, be printed in pamphlet form for the use of said committee.

Mr. WASHBURN, of Illinois. Is that for the members of the committee or for the members of the House? It seems to me too large a number for the members of the committee.

The SPEAKER. For the use of the committee.

Mr. WASHBURN, of Illinois. I move to strike out the words "said committee" and insert "House," so as to have these bills printed for the use of the members of the House.

Mr. CLARKE, of Ohio. This resolution is reported in response to a request of the Committee on the Militia for copies of the bill.

Mr. WASHBURN, of Illinois. It is entirely unprecedented. I never knew a resolution of this kind to pass.

Mr. ASHLEY, of Ohio. I object to the amendment of the gentleman from Illinois, [Mr. WASHBURN.] I do not, for one, want any copies of this bill.

The question was taken on Mr. WASHBURN's amendment; and it was agreed to.

The question recurred upon the adoption of the resolution as amended; and being put, there were—ayes 28, noes 42; no quorum voting.

Mr. CLARKE, of Ohio, demanded tellers.

Tellers were ordered; and Messrs. CLARKE, of Ohio, and WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported one in the affirmative; and a further count not being demanded, the resolution was disagreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was rejected; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### BRIDGES ACROSS THE MISSISSIPPI.

Mr. HOGAN, by unanimous consent, introduced a bill to repeal the second section of the act authorizing the construction of certain bridges, approved July 25, 1866; which was read a first and second time, and referred to the Committee on Commerce.

#### HARBOR OF ONTONAGON.

Mr. DRIGGS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be, and he is hereby, requested to send to this House any surveys and estimates for improving the existing harbor at Ontonagon, on Lake Superior, in the State of Michigan, that may be in his possession; and if no such estimates have been made then that he cause the same to be done and sent to this House as soon as practicable.

#### PUBLIC COAL LANDS, ETC.

Mr. DRIGGS, by unanimous consent, introduced a bill to amend an act entitled "An act for the disposal of coal lands and of town property in the public domain," approved July 1, 1864, and to amend an act supplemental thereto, approved March 8, 1865; which was read a first and second time, and referred to the Committee on Public Lands.

#### TWENTY-FIRST NEW YORK CAVALRY.

Mr. HOTCHKISS, by unanimous consent, introduced a bill for the relief of the members of the twenty-first regiment New York cavalry volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

#### ADMISSION OF COLORADO AND NEBRASKA.

Mr. LAWRENCE, of Ohio. I was necessarily detained from my seat during the first days of this week. I ask leave of the House merely to have printed in the Globe a statement, which I have prepared, of how I would have voted upon several propositions had I been present.

Mr. LE BLOND. I am willing that my friend shall record his vote, as the rest of us were allowed to do. But I must object to his being allowed to hand in for publication in the Globe his statement in writing of how he would have voted.

Mr. LAWRENCE, of Ohio. I would be very glad to have my vote recorded now, if I can be allowed to have it done.

The SPEAKER. That can be done only on Monday, by a suspension of the rules.

Mr. LAWRENCE, of Ohio. Cannot leave be given by unanimous consent?

The SPEAKER. Under the rule the Speaker cannot even ask unanimous consent for a member to vote who was not present, when his name was called.

Mr. LAWRENCE, of Ohio. I hope my colleague [Mr. LE BLOND] will allow my remarks to go in the Globe.

Mr. LE BLOND. I do not wish to give my friend any more privileges than were granted to us. I would have been very glad to have given my reason for the vote I desired to give but was not permitted to do so. I must object. Subsequently Mr. LE BLOND withdrew his objection.

Mr. RANDALL, of Pennsylvania, renewed the objection.

Subsequently Mr. RANDALL, of Pennsylvania, withdrew his objection.

No further objection being made,

Mr. LAWRENCE, of Ohio, accordingly obtained leave to have printed in the Globe the following:

On Tuesday, January 14th, the Senate bill providing for the admission of the new State of Nebraska into the Union, came before this House and was passed. I was unavoidably detained from my seat in the House during the first three days of the week, and so did not vote on the bill or amendments thereto. I wish to say merely that if I could have been in the House I would have voted for the final passage of the bill. I would have voted for the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL.] The bill as it came from the Senate, and the amendment offered by the gentleman from Massachusetts, both provide for the same thing; that is both make it a fundamental condition that there shall be no denial of the right of suffrage on account of race or color. The Senate inserted a provision in the bill to that effect, known as the "Edmunds amendment," being section three of the bill in these words:

*And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise, or of any other right, to any person by reason of race or color, (excepting Indians not taxed.)

The "Boutwell amendment" is in these words:

Strike out the third section of the Senate bill and insert in lieu thereof:

*And be it further enacted*, That this act shall take effect with the fundamental and perpetual condition that within said State of Nebraska there shall be no abridgment or denial of the exercise of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the territorial government within thirty days after the passage of this act, to act upon the condition submitted herein.

The only difference is that the latter amendment requires the assent of the Legislature of the new State. I regard it as eminently proper that the people of this new State, speaking through their Legislature, should decide for themselves this whole question of suffrage; and this is authorized by the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.] If it shall receive their sanction that settles the question. And I understand the Senators from this new State desire this course to be taken.

There is one other reason for this. Many of us desire the speedy admission of this new State, and it is perfectly well understood that the bill cannot pass over a veto unless the amendment is agreed to.

The bill for the admission of Colorado was passed, and I should have voted for that bill also if I had been present. It will be seen the bills for the admission of these two new States came to us from the Senate. It is not necessary to say what might or would have been the vote of this House if the "Edmunds amendment" had not been inserted in the Senate, and if no provision had been inserted on the subject of suffrage. But however much some members of this House might feel disposed to vote for or against these bills if they had contained no provision as to suffrage, yet

it is perfectly well understood that a bill in that shape could not have passed.

#### RECONSTRUCTION.

Mr. WASHBURN, of Illinois, called for the regular order of business.

The SPEAKER stated the first business in order to be the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights.

The pending question was upon the substitute of Mr. STEVENS, upon which Mr. BAKER was entitled to the floor.

Mr. BAKER then proceeded to address the House. [His remarks will be published in the Appendix.]

Mr. STEVENS, by unanimous consent, during the remarks of Mr. BAKER, modified his substitute by striking out of it the following:

SEC. 2. And be it further enacted, That the State governments now existing *de facto*, though illegally formed in the midst of martial law, and in many instances the constitutions were adopted under duress and not submitted to the ratification of the people, and therefore are not to be treated as free republics, yet they are hereby acknowledged as valid governments for municipal purposes until the same shall be duly altered, and their legislative and executive officers shall be recognized as such.

Mr. GRINNELL. Mr. Speaker, I had meditated no remarks and shall yield a portion of my time to the gentleman from Minnesota, [Mr. DONNELLY,] and therefore I will not long occupy the attention of the House. I feel as if there was a demand upon us for action rather than for hypercriticism. I should have been much better pleased with the remarks of the able gentleman who has just taken his seat [Mr. BAKER] if he had directed his attention to perfecting a bill rather than in technical opposition to the proposition now before the House.

Mr. BAKER. I thought the Committee on Reconstruction were incomparably more competent to perfect a bill than myself, or even the gentleman from Iowa, [Mr. GRINNELL,] if he will pardon me for saying so.

Mr. GRINNELL. I am perfectly willing to surrender the most of my labors and rights; but I am not willing, at this stage of the proceedings of Congress, to surrender this great question of reconstruction to the joint Committee on Reconstruction, while I believe if this subject were so referred to that committee it would end the question of reconstruction for this session. I desire immediate action upon the subject; and it is my conviction that if there is any voice this Congress ought to hear it is the voice of the suffering in political chaos and of the loyal people of the States, demanding of us early and decisive action with reference to these rebellious States. Why, sir, it is the easiest thing in the world for a man to tear down. History tells us that Nero set Rome on fire and fiddled over the ruins. Yet it is not known that he could erect a dog-kennel. It becomes us not to be destructives where there is so much ruin and chaos, but to be builders. I am willing that these bills presented by the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Ohio [Mr. ASHLEY] shall be taken up in Committee of the Whole and considered, amending them wherever necessary, if they are not already perfect, as I do not think they are. The eloquent gentleman from Wisconsin, [Mr. PAINE,] who has manifested great energy and zeal to destroy, had, I thought, better occupied himself with building up and perfecting a bill rather than destroying this now amended by the framer by changing a few words. So with the learned gentleman from Ohio, [Mr. BINGHAM,] who spoke yesterday with so much power, but with little constructive purpose. I thought I understood him to be ready for radical methods; yet he desires that this question shall go to the Committee on Reconstruction. If I were on the committee it would seem to me not the most modest proposition in the world for me to urge the reference to my committee of a great question which the House generally desires to consider, giving perhaps the younger members, and from different sections, such opportunities as would otherwise be denied them.

But the gentleman proposes that we shall defer our action till the constitutional amendment has been adopted or has been well considered. This involves waiting. Why, sir, does the gentleman desire to have that amendment with the *animus* of traitors hurled back in his face again by those States? What is the fact? The amendment has been fairly presented before the Legislature of each of those rebel States; and every State except Louisiana has rejected it, and that State has yet taken no action. Yet the honorable gentleman desires that we shall wait and hold ourselves in subserviency when those States, he is well aware, still continue to refuse its adoption.

The Legislatures of the loyal States have assembled; their Governors have spoken. What do they say? Examine the executive messages and the resolutions of the Legislatures and you will find them demanding stronger guarantees and equal justice, and declaring that it is time to act. The constitutional amendment being rejected by the rebel States, let Congress now go to work and frame governments for those now defiant and rebellious. Let there be justice meted out and safety for the loyal millions. Yet the gentleman from Ohio thinks that we had better wait; that we had better refer the subject to his committee. I do not disagree with him in his patriotic utterances, but in his methods, by which it is proposed to consolidate and bless a people now to be molded by our will and law.

The gentleman from Pennsylvania, [Mr. DAWSON,] who spoke yesterday and whom I now see in his seat, charges that New England especially desires to put off and hinder this work of reconstruction for mercenary purposes. Here is his language:

"We cannot shut our eyes to the fact that, having heretofore profited so largely by shaping the legislation of the country to her own advantage, she is now, with concentrated energy, struggling to maintain that advantage even at the sacrifice of the Union of the States. She dreads a full representation of the great agricultural South, acting in conjunction with the great agricultural Northwest and the commercial interests of New York and the States of the Pacific coast."

Sir, I feel that I should be an unworthy son of New England and an unfit representative of a State so deeply imbued with her principles if I did not repel this charge as too base for belief in this House. It was the fashion a few years ago to say that the Northwest was allied to the States in rebellion; that it would go out with them rather than abide with New England and Pennsylvania and New York. But the contrary of this has been shown. Did not the States of the Northwest during the war with promptness meet every demand of the Government? Did not their troops fight even to the death? And did they not in the last election give more than one hundred thousand majority against Democratic conservatism and in favor of sustaining Congress? They have not now, and never had, any idea of mercenary or political alliance with the South. Let me tell the gentleman from Pennsylvania that the majority in the Northwest is composed of neither traitors nor free-traders. They believe in the Union they fought for—in the Government; they believe in justice, and ask no peculiar privileges, but seek for the enforcement and vindication of the rights of man as man, regardless of fortune, regardless of color or race.

I cannot refrain from calling attention to another very unfortunate allusion of the gentleman from Pennsylvania who opposes reconstruction, whose whole argument ranks him with the destructionists rather than with the constructionists now entered upon the work of preparing governments for the States late in revolt. Here is his allusion:

"You will remember, sir, that the Roman republic granted the full rights of citizenship even to the aliens of conquered provinces, and this regardless of the bitterness and obstinacy of their resistance to the standard of the republic. When once subdued and their defeat acknowledged, they were received into the enjoyment of equal rights with the inhabitants itself. 'I am a Roman citizen' was the talismanic formula which secured the inhabitant of distant Sicily protection against the extortions of a Verres as much as it did from any other injury the dweller upon the Seven Hills."

This is the gentleman's historical illustration, beautiful in itself; and what is the application he proposes to make of it? That you are to let these rebels in unquestioned, though they may throw the mild offers we have made and constitutional amendment in your face. We are to embrace them without a guarantee. They do not say they are repentant. They do not confess they were in the wrong; they only want to come into the family of the Union again; and having great experience in oath-taking and perjury, the leaders can with greater facility sting the heart of the old mother even to death.

Now, sir, to make his illustration pertinent he should apply it to the four million black men in the South and of mixed colors. They were our friends, and they are still intelligently loyal. That cry two thousand years ago, "I am a Roman citizen," was an exclamation which commanded respect and protection all over the world. But what to-day is the condition of our friends in the South? The black man cries out: "I am an American citizen!" He wears the uniform of an American soldier. What is the response? "Make the trial of his murderer a mockery. Trample him down. Pursue him to the death." We cannot close our eyes to the fact that not less than five thousand of these defenders have been cut down by those southern traitors, those very men whom gentlemen would bring back here to give them a numerical respectability.

Yes, sir, let us apply these words to our own time, and then we shall not be deserving of the reproach of the civilized world. We certainly will deserve that reproach if we do not succor the imperiled millions and see justice done to those who fought in defense of the life and liberty of the nation.

What is the demand in this bill? It is for full justice. Can it be obtained without restricting these States? Ask any Democrat here if he is willing to extend equal rights and privileges in these ten States. No, sir; they are not in favor of taking one step in that direction, though they do not allow in a neutral State a man to carry the gun which he used against rebels and in our cause. They fine them five dollars and take away the gun if found in their possession. And in Mississippi a black man cannot own a rood of land outside of incorporated limits. Is that liberty? Yet we hear men saying, "O brothers, come back; Congress is waiting to forgive you of the ten rebel States for all your starving of prisoners and your robberies and murders."

I cannot be a party to any such transaction, and I appeal to this House in the effulgence of this century, in the name of its soldiers and all true hearts, that we shall do justice to the poorest, that we shall at least protect those wasting and like the slain under the altar who cry "how long, how long!"

I do not advocate the gallows for all these traitors; I do not say we shall hang them, but it is my conviction that some of them should suffer. Nor will I talk of punishing these men by exile. No, sir, I would not be lost to humanity so far as to banish such miscreants, men so lost to honor, to other countries. I would not even poison Austrian society nor the air of Australian convicts with their presence. All we propose is to allow them to remain among the loyal, to let the black men have equal rights with them. If that be a punishment to these rebels, very well; it is so far short of their expectation and desert. We have the right to say to ex-slaves now friendless in South Carolina and Georgia, that they shall have an equal chance in the race of progress with our enemies, and that in these incipient measures none unconvicted of crime shall be denied a voice.

It is said this will demoralize and degrade the people there. Is it a degradation to traitors to make our friends their equals? I do not fear that; I only fear the wrong of delay to make a compromise with injustice, and I do not want to see the woes we have just borne again brought upon the country by neglects or

a compromise which would invite the vengeance of a just God.

Mr. Speaker, this question will take care of itself, only allow the ballot. You will find these Democrats under political bonds taking the black men under their care, as in this city I am told since the colored men have been entitled to vote the Democrats begin to court and caress them; and to suppose that that ingenious, unscrupulous party, that managed to keep itself in power for forty years by appeals to the prejudices of Irish votes and by the use of whisky, is so scrupulous in methods and choice as to its companions as not to seek the negro vote by fair promises, is a manifest absurdity. Let them be welcome to such a fraction as they can earn by good conduct only. Let the black man have the ballot, let him have justice meted out to him; for he deserves to be enfranchised. He was our friend when the clouds of heaven rolled black over us; and our responsibilities only began when we broke his chains and made him a soldier of the Republic.

Let me relate a little incident. It is known in this House that I was very anxious that all the black men, North and South, that could possibly be enlisted should be placed in the Army to help put down the rebellion. I introduced a resolution to that effect, and it passed the House of Representatives. Shortly afterward I met Mr. Lincoln, and he asked me to come to his room, when he said to me: "That resolution implies that we are not doing all we could; but I am glad that Congress has indorsed the policy of actively enlisting black men. It implies that if they are enlisted and fight for the country it must do something more for them. It is a great day for the black man when you tell him he shall carry a gun. Now," said Mr. Lincoln, "tell your people in Iowa, and your friends in Congress if you choose, that the time has come when I am for everybody fighting the rebels. Let Indians fight them; let the negroes fight them; and if you have got any strong-legged jackasses in Iowa that can kick rebels to death they have my hearty consent," [laughter;] and added, "When you give the negro these rights, when you put a gun in his hands, it prophesies something more: it foretells that he is to have the full enjoyment of his liberty and manhood."

Happy for the nation's future if we would take up the prophecy and make his philosophy our guide in this political crisis, and never be a party to a wrong done to a human being because he is black or because he has been a slave.

I had intended before I closed to have read an extract from a memorial address to this House by Judge Thomas J. Durant, of New Orleans, in behalf of the loyalists, in which he describes truthfully the condition of that country, the murders and outrages that prevail, and I might read from the scores of letters just sent to the venerable gentleman near me [Mr. STEVENS] which are enough to stir the blood of age and ought to convince us of the necessity of early and prompt action. I will ask to have the concluding portion of the memorial read.

The Clerk read as follows:

"What is the remedy for so great an injustice to the faithful friends of the nation, and so palpable a danger to the body-politic? As the facts cannot be denied, and the great Law Giver of the universe cannot permit so crying an injustice, the remedy must be found and applied. Moreover, the loyal masses have willed that no single fruit of the hard-earned victory shall be lost. We respectfully submit the propositions of the loyal Union sufferers, whose devotion has been proven, and whose claims cannot be disregarded without peril to the nation, not from us, but from your undisguised enemies and ours, as a basis for decisive action. The remedy is plain and simple. The nation's valor, with the blessing of Heaven, has conquered those who voluntarily, willingly and persistently made themselves public enemies, and involved their States in all the consequences of conquered insurgents. If traitors, they forfeited their rights to life, liberty, and property; if, as they claim, they were a nation of public enemies, the territories and districts which have been conquered are subject to the law-making power, which alone can decide, accept, and legalize war and peace. In every light, therefore, the power exists, and the necessities of the case demand immediate and prompt action.

"A long line of precedents, both of the United States and of these same rebels as 'confederate States,' have established that whatever authority in a State is recognized by the political or law-making power of the nation is the lawful government, is the State, and there is no appeal from this decision but by the bayonet. We pray you, then, to set aside these hostile organizations, illegally and unconstitutionally created and incapable of self-government, because hostile to the nation; and, under the nation's power as conservator of the peace, authorize the loyal and true men, regardless of race or color, to organize governments, excluding so many of the unrepentant rebels as shall be found necessary for the permanent security and preservation of the Union. In this way and in no other, we verily believe those guarantees may be obtained which clearly define and certainly protect the American citizen, equalize representation, give suffrage to loyal voters only, disqualify the traitor for franchise and office, make secure the national debt incurred in the cause of liberty, forever silence the holders of the rebel promises, elevate manhood, reward devotion to the Union, and secure the blessings of liberty to our posterity and yours.

We plead for these things, not for ourselves and fellow-sufferers only, but for our still bleeding country, from which capital, enterprise, free labor, free speech, the blessings of education, the rapid strides of internal improvements, and large progressive views are virtually expelled by ignorance, stupidity, bigotry, treason, and rebellion.

We ask for early, speedy, sharp, short, and decisive action; and we ask it in the names and behalf of the millions of devoted friends of the Union inhabiting the best parts of the continent, no one of whom can claim that he enjoys the blessings of free republican government or the security which the Constitution of the United States guarantees to the citizen."

Mr. GRINNELL. Allow me to say, in conclusion, that it rests upon us to decide at an early day whether we are to allow rebels to come and take their seats here unwashed, unrepentant, unpunished, unhung, [laughter;] or whether we will heed the voice of our friends, fleeing from the South for their lives; whether we will listen to the supplication of four million black people, all true to the great principles which we here seek to establish. For one I urge the earliest action. I desire we should place those States in a position where a home may be possible, where education may be established, where the ballot may be secured to all those who are loyal to this Government. Yes, sir, education and the ballot, as I have read history, they will be as the urim and thummim, the polished stones to be placed in this great temple of national liberty now being reared by the American Congress. Let us have no delay, no recommitment; rather the earliest action upon this bill, as the requirement of the people who have saved the country; what the suffering implore, what justice demands, and what I believe God will approve. I now yield the remainder of my time to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY took the floor.

Mr. STEVENS. The gentleman will allow me to say a word?

Mr. DONNELLY. Certainly.

Mr. STEVENS. As this bill now stands the pending motion is to commit it to the Committee on Reconstruction. I desire to say to the House that if the motion to commit shall be voted down, it is not my intention to call the previous question, but to afford an opportunity to any gentleman who may desire to offer amendments.

The SPEAKER. The Chair will state that if a demand for the previous question on the motion to commit should be sustained, the previous question, would not exhaust itself until the third reading of the bill, except by unanimous consent.

Mr. STEVENS. I did not intend to move the previous question on that motion, but to say that after the vote is taken on the motion to commit, if that motion shall be voted down, I intend to leave the bill open for gentlemen to offer amendments to it. I should like to say a few words myself before the vote is taken on the motion to commit.

Mr. DONNELLY resumed the floor.

Mr. BINGHAM. With the permission of the gentleman from Minnesota, I will move that the House adjourn, as the hour is late.

The SPEAKER. The Chair would ask the gentleman from Pennsylvania [Mr. STEVENS] at what time he expects the debate to close upon this proposition?

Mr. STEVENS. I understand that a large number of gentlemen have put down their names as desiring to speak upon it.

The SPEAKER. Quite a number of gentlemen desire to speak.

Mr. STEVENS. I do not wish to deprive them of the opportunity within reasonable limits.

Mr. SPALDING. I suggest to the gentleman that he fix the 10th day of next month as the day for closing the debate.

The SPEAKER. The Chair will state that at the rate at which the debate has been progressing, about two speeches a day, the Chair knows of enough gentlemen desiring to speak as would occupy the next two weeks.

PRINTING OF NAVY REGISTER.

Mr. LATHAM. I rise to a privileged question. I am instructed by the Committee on Printing to report the following resolution:

*Resolved*, That there be printed for the use of the members of this House fifteen hundred extra copies of the Navy Register for 1867.

Mr. RANDALL, of Pennsylvania. Cannot we put in also the Army Register?

The SPEAKER. That was not referred to the committee, and they can only report under the law upon what is referred to them.

The resolution was agreed to.

Mr. LATHAM moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NEW YORK POST OFFICE SITE.

On motion of Mr. RAYMOND, by unanimous consent, joint resolution of the House No. 229, to procure a site for a building to accommodate the post office and United States courts in New York city, which had been returned from the Senate with an amendment, was taken from the Speaker's table, and the amendment of the Senate was concurred in, as follows:

Add to the resolution the following proviso:

*Provided*, that the title to said property shall be approved by the Attorney General of the United States.

Mr. RAYMOND moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

And then, on motion of Mr. BINGHAM, (at four o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ARNELL: A memorial from a portion of the colored men of the State of Alabama, asking a repeal of the three per cent. tax on cotton.

By Mr. BINGHAM: The petition, together with exhibits, of John Fordyce, of Ohio, for relief.

Also, the petition, together with exhibits, of Peter D. Robins, of Ohio, for relief.

By Mr. FERRY: The petition of Thaddeus L. Waters, Norman Cunningham, Morgan Thompson, Patrick Rooney, and 30 others, citizens of Muskegon county, Michigan, praying for the restoration to market and settlement certain lands in said county reserved originally under Indian treaty, &c., the term of reservation having now expired.

By Mr. GARFIELD: The petition of J. L. Hartzell, and 32 others, citizens of Berlin, Mahoning county, Ohio, praying for increased protection on American wool.

By Mr. HARDING, of Illinois: The petition of cigar-makers of Quincy, Illinois, praying that specific duties and revenue stamps be substituted for the *ad valorem* and present tax, under which, by frauds, their business is destroyed.

By Mr. HOGAN: A memorial of the North Missouri railroad, of Missouri, praying for certain relief.

By Mr. HOOPER, of Massachusetts: The petition of Franklin Snow, &c., and Albert Bouker, for a change of register.

By Mr. HUBBARD, of New York: The petition of Eleazer Brown, and 54 others, citizens of Norwich, in the county of Chenango, New York, praying for the immediate passage of a tariff which shall conform to the bill agreed upon by the joint committee of wool-growers and manufacturers; and which passed the House of Representatives at its last session.

By Mr. HUBBELL, of Ohio: The petition of W. W. Wood, and 95 others, citizens of Marysville, Ohio, remonstrating against any immediate contraction of the currency.

By Mr. HUMPHREY: Remonstrance of citizens of Buffalo, New York, against granting American registers to foreign-built vessels.



By Mr. INGERSOLL: The petition of John B. Nixon, and 250 others, citizens of Woodhull, Illinois, praying for a daily mail from Oneida to Woodhull.

By Mr. JULIAN: The memorial of the working men, mechanics, and others, employed in the Washington navy-yard, asking an increase of compensation.

Also, the memorial of J. E. Wallace, praying such action by Congress as will compel the State of Louisiana to retrocede all swamp lands within her borders originally donated for levee purposes which have not already been sold to bona fide purchasers, and asking for an appropriation to defray the expense of repairing the levees of said State.

Also, the petition of 28 citizens of Richmond, Indiana, manufacturers and journeymen cigar-makers, to alter the present system of stamping by selling stamps to manufacturers at five dollars per thousand, and to increase the penalty for violating the internal revenue laws.

Also, the petition of 21 citizens of Indiana, praying the impeachment of the President of the United States for high crimes and misdemeanors.

By Mr. KOONTZ: A petition of certain citizens of Franklin county, Pennsylvania, asking for change of time of departure of mails from Greencastle, on route No. 2559, from twelve o'clock m. to six o'clock p. m. of each day, and for increased pay for carrying the mails on said route.

By Mr. LAWRENCE, of Pennsylvania: Two remonstrances from citizens of Waynesburg and vicinity, in the county of Greene, Pennsylvania, against any curtailment of the national currency.

By Mr. MOORHEAD: A petition of Nimick & Co., C. G. Hussey, and others, citizens of Pittsburgh, Pennsylvania, praying that the law of copyright be extended to trade-marks.

By Mr. PIKE: The petition of J. A. Milliken, and 13 others, of Cherryfield, Maine, in aid of the petition of Robert L. Willey for pension.

By Mr. ROLLINS: The petition of W. F. Lahey, and 27 others, citizens of New Ipswich and Manchester, New Hampshire, journeymen cigar-makers and manufacturers of cigars, representing inequality and injustice in the tax law passed last session of Congress, and praying for a modification of the same.

By Mr. VAN AERNAM: The petition of Mrs. Almira Thompson, asking compensation for services as volunteer nurse during the war for the Union.

## IN SENATE.

FRIDAY, January 18, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

### THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Governor of the State of Kentucky:

EXECUTIVE OFFICE,

FRANKFORT, KENTUCKY, January 14, 1867.

Hon. President United States Senate:

In obedience to the requirements thereof, I herewith transmit to you "resolutions in regard to the proposed amendment of the Constitution of the United States," adopted by the General Assembly of Kentucky, now in session.

Respectfully, THOMAS E. BRAMLETTE,  
Governor.

Resolutions in regard to the proposed amendment of the Constitution of the United States.

Whereas the Congress of the United States did, at the first session of the Thirty-Ninth Congress, propose to the Legislatures of the several States, as an amendment to the Constitution of the United States, the following:

### ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may,

by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

And whereas the same has been officially laid before this Legislature for its consideration and action: Therefore, be it

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the proposition to amend the Constitution of the United States as aforesaid be, and the same is hereby, rejected.

2. *Resolved*, That the Governor be requested to notify the proper departments of the United States Government of this action of the Kentucky Legislature in regard to said proposed amendment.

H. TAYLOR,

Speaker of the House of Representatives.

RICHARD T. JACOBS,

Speaker of the Senate.

THOMAS E. BRAMLETTE,

Governor of Kentucky.

Approved 10th January, 1867.

By the Governor:

JOHN S. VAN WINKLE, Secretary of State.

The communication and accompanying resolutions were ordered to lie on the table, and be printed.

### PETITIONS AND MEMORIALS.

Mr. WADE presented two petitions of citizens of Ohio, praying for the passage of House bill No. 708, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie upon the table.

Mr. WADE. I also present a petition very numerously signed by the cigar-manufacturers of Cleveland, Ohio, in which they complain that the inspection of cigars is very irregular, in some districts different from what it is in others, greatly to the detriment of the petitioners, &c. Finally, they request that a specific duty of five dollars per thousand be levied upon all domestic cigars, and they state that they earnestly approve of the present tariff on imported cigars, and hope it will not be changed. As this subject, I believe, has been reported upon, I move that the petition be laid upon the table.

The motion was agreed to.

Mr. WILSON presented a petition of Major General George H. Thomas and other officers in the United States Army, praying that when officers are withdrawn from active service and placed upon the retired list they may be allowed to retain their service or longevity rations; which was referred to the Committee on Military Affairs and the Militia.

Mr. WILSON presented twelve petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. WILSON. I also present the petition of George W. Paschal, of Texas, praying that the present system of exterminating Indians be discontinued, as it is very expensive to the Government and ineffectual; and that a system for their civilization be adopted by the establishment of missions to feed, clothe, and educate them, both adults and children, and that the privileges of citizenship be conferred upon them at as early a date as possible. I move the reference of this petition, which states many facts bearing on the subject to which it refers, to the Committee on Indian Affairs.

It was so referred.

Mr. LANE. I present two memorials, numerously signed by respectable citizens of Indianapolis, Marion county, Indiana, praying Congress not to pass any law curtailing the national currency, or providing for a return within a limited time to specie payments; and also that no redemption of the national currency shall be required at the city of New York. I ask their reference to the Committee on Finance.

They were so referred.

Mr. HENDERSON presented two petitions

of citizens of Missouri, praying for the imposition by Congress of a duty of at least thirty cents per bushel on flax-seed; which were ordered to lie upon the table.

Mr. HENDRICKS. I present two petitions, signed by business men of the city of Indianapolis, reciting that "the further reduction of the volume of the currency at present would prove highly injurious to the banking, manufacturing, and mercantile interests of the country, and would entail suffering upon nearly every member of the community;" expressing the opinion "that if such currency shall now be contracted, we are near to the time when the lawful obligations of citizens cannot be met; when the demands of the national Government, together with the heavy taxes levied by our State and municipal authorities, cannot be paid, and when many of our good citizens will have to submit to a confiscation of their hard-earned property." They therefore ask Congress to refrain from the passage of any law authorizing the curtailment of the national currency, and also to refrain from passing any law compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances. These petitions are signed by business men of such high respectability that I feel it my duty to call the attention of the Committee on Finance to the subject. I ask their reference to that committee.

They were so referred.

Mr. MORRILL. I present a petition of citizens of Georgetown, in the District of Columbia, who represent that they are suffering from the delay of Congress in failing to pass the bill already reported by the Committee of the Senate on the District of Columbia in regard to the aqueduct across the Potomac, and praying action in that behalf. It is numerously signed by highly respectable citizens of that city. I also present on the same point two other petitions very numerously signed by respectable citizens of Georgetown. As the subject is now pending before the Senate I move that these petitions lie upon the table.

The motion was agreed to.

Mr. WILLEY presented a petition of members of Kanawha Lodge No. 25, Independent Order of Odd Fellows, of West Virginia, praying to be remunerated for the use of and the damage done to the building used by them as a lodge-room, and for losses sustained by the destruction of their regalia, emblems, jewels, &c., by United States troops in 1862; which was referred to the Committee on Claims.

Mr. CRAGIN presented a petition of Ezra B. Gordon, late a private in company F, fourth regiment New Hampshire volunteers, praying for a pension for disability incurred in the line of his duty; which was referred to the Committee on Pensions.

Mr. RAMSEY presented a petition of clerks employed in railway post offices, praying for an increase of compensation; which was referred to the Committee on Finance.

Mr. SHERMAN presented seven petitions from citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, at least so far as it relates to the duties on imported wool; which were referred to the Committee on Finance.

He also presented a petition of journeymen cigar-makers and manufacturers of cigars of Cincinnati, Ohio, praying for a specific duty of five dollars per thousand on all domestic cigars, that the present tariff on imported cigars may remain unchanged, and that Congress will alter the present system of selling stamps to the manufacturers at five dollars per thousand, and increase the penalty for violating the internal revenue laws; which was referred to the Committee on Finance.

Mr. CONNESS. I present the petition of all the officers engaged in the military service of the United States on the Pacific coast for an increase of their pay, either by paying the

amount which they now receive in gold coin, which is the currency there in circulation, or its equivalent in paper. They state that coin is virtually the recognized currency in the Pacific States and Territories, and that the coin prices of commodities in those States and Territories are greater than the legal-tender prices of the same in the eastern States. The allowance for servant hire for officers is less than one third the amount of a servant's wages on the Pacific coast. They further state what their compensation amounts to when reduced to gold, which is the circulation there, giving the emoluments of a captain at \$96 25 a month, and so on. This petition is signed by a large number of officers, and I know of my own knowledge that there is a necessity for granting their request. I move the reference of the petition to the Committee on Military Affairs and the Militia, and I invite the attention of that committee to it.

The motion was agreed to.

Mr. SUMNER. I present the petition of the National Equal Rights League Convention of Colored Men, held at Washington, January 10, 11, and 12, 1867. In presenting this very important petition, I shall not err if I call the attention of the Senate especially to its prayer. They say this:

"Wherever your jurisdiction extends, and especially throughout all the Territories lately in rebellion, where States are in due time to be reconstructed, and the whole subject of the rights and franchises of citizenship is to be adjusted, there we ask you to secure to our people impartial suffrage and all the rights and privileges of American citizens, equality before the laws of our country."

They then proceed to say:

"Permit us further to remind you that the loyal whites throughout the portion of our country late in rebellion unite with one voice to implore you to make the elective franchise impartial, irrespective of race or color, believing it to be essential to their own safety as well as to ours, and altogether vital to the effective reconstruction of civil government and the ascendancy of loyal citizens in its administration."

In enforcing this prayer the petitioners dwell with admirable effect on the promises of the Declaration of Independence, which they ask Congress to carry out; and they conclude as follows:

"We ask a reconstruction therefore, gentlemen, which, founded on impartial justice, brings safety and peace to the loyal white American, happiness and prosperity to our common country, while it is the shield and buckler, the strong defense of the American freedmen. Our plea is before you."

This petition is signed by John M. Langston, president of the National Equal Rights League Convention of Colored Men and by the three secretaries of the convention.

You do not forget, Mr. President, that Lord Chatham, when the papers of the American Congress reached England, declared from his seat in Parliament that there was nothing in the political history of mankind which he had read with more respect and admiration. He pronounced those papers to be master-pieces. But I venture to say, sir, that among the papers at that time laid before Parliament there were none to which that designation was more entirely applicable than to this memorial and to the resolutions adopted at the same time by that convention. That convention was held here in Washington. Numerous as it was, and composed of delegates from seventeen States, it is perhaps not too much to characterize it as in itself a congress—a congress of colored persons held here in the national capital in order to plead with you, sir, on the critical condition of the country.

I have said that seventeen States were represented. These were Kansas, Indiana, Ohio, Pennsylvania, New York, New Jersey, Maryland, Virginia, North and South Carolina, Georgia, Alabama, Kentucky, Tennessee, Louisiana, Massachusetts, and California, and also the District of Columbia. The number of delegates was one hundred and ten. They represented well nigh all the callings of life. There was one lawyer among them, and he was their President—John M. Langston, of Ohio. There were also among them two doctors, B. W. Arnett and H. J. Brown, of Pennsylvania.

There were three bishops, Wayman, Green, and Talbot; ten ministers of the Gospel; three professors of colleges; five school-teachers; five graduates from colleges; three professional lecturers; two editors and publishers of newspapers; two grocers; one merchant; two cotton planters; a large number of mechanics and farmers; one ex-captain and two ex-lieutenants of the United States service, and three ex-chaplains. Let me add to this characterization that a large majority of the delegates were once slaves, and many of them gained their freedom through the recent war.

I think, sir, I do not err when I say that such a convention of colored people assembled here in the national capital is in itself an event; but if you will only carry out their prayer, you will create an epoch in the history of this country and in the history of civilization. Sir, in their prayer I unite absolutely, and gladly place myself by their side.

I ask that this petition be referred to the joint Committee on Reconstruction.

It was so referred.

#### PAPERS WITHDRAWN AND REFERRED.

Mr. HENDRICKS. I am requested to ask leave, on behalf of Mrs. Mary Ann Sands, to withdraw the petition and papers praying for compensation for services rendered by her brother, Joseph Gideon, as acting purser of the United States storeship *Fredonia*, which were presented by her at the Thirty-Eighth Congress. I am told that the papers were presented by myself. I do not now recollect about the facts connected with the case, nor do I recollect what was the action of the committee with regard to it; but on her behalf her attorney in New York, Mr. Tremaine, has asked for the withdrawal of the papers; and I move that leave be given to withdraw them so that they may be sent to her.

The motion was agreed to.

On motion of Mr. HOWE, it was

*Ordered*, That Knauth, Nachod & Kühne, importers of dry goods in the city of New York, have leave to withdraw from the files of the Senate their petition, praying for relief for the loss of goods stolen from the appraisers' storehouse while in the care and keeping of Government officials.

On motion of Mr. HOWARD, it was

*Ordered*, That the petition of John Watters, a lieutenant in the United States Navy, praying for compensation for property destroyed by the burning of the United States receiving-ship *Pennsylvania*, on the files of the Senate, be referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York, reported it without amendment.

#### NATIONAL CEMETERIES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia to report back without amendment the bill (H. R. No. 788) to establish and protect national cemeteries; and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. The first section provides that in the arrangement of the national cemeteries in the States lately in rebellion and in the District of Columbia, established for the burial of deceased soldiers and sailors, the Secretary of War shall have them inclosed with a good and substantial stone or iron fence; and hereafter such cemeteries are to be laid out in sections, to contain not less than two hundred nor more than three hundred graves; and to each section there shall be erected a marble or granite monument on which shall be inscribed the name of each soldier buried in such section, with his rank, number of his regiment, his company, and State.

The second section provides that each grave shall be marked with a small marble or cast-iron headstone, with the number of the grave thereon corresponding with the number opposite to the name of the party inscribed on the

monument. And national cemeteries already established are to be made to conform, as far as practicable, to the foregoing plan.

Section three directs the Secretary of War to erect at the principal entrance of each of these national cemeteries a suitable building to be occupied as a porter's lodge, and to detail a meritorious and trustworthy sergeant to reside therein for the purpose of guarding and protecting the cemetery and giving information to parties visiting it. The Secretary is also to detail some officer of the Army, not under the rank of colonel, to visit annually all of the cemeteries, and to inspect and report to him their condition and the amount of money necessary to protect them, to sod the graves, gravel and grade the walks and avenues, and to keep the sections and grounds in full and complete order; and the Secretary is to transmit the report to Congress at the commencement of each session, together with an estimate of the appropriation necessary for the purpose.

By section four any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, or other structure, in any of the national cemeteries, or shall willfully destroy, cut, break, injure, or remove any tree, shrub, or plant within the limits of any of them shall be deemed guilty of a misdemeanor, and upon conviction thereof before any district or circuit court of the United States within any State or district where any of the cemeteries are situated, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars, or to imprisonment of not less than fifteen nor more than sixty days, according to the nature and aggravation of the offense. And the sergeant, or other officer on guard, in charge of any national cemetery, is to have authority to arrest forthwith any person engaged in committing any misdemeanor thus prohibited, and to bring such person before any United States commissioner or judge of any district or circuit court of the United States within any State or district where any of the cemeteries are situated, for the purpose of holding the person to answer for the misdemeanor.

The fifth section proposes to make it the duty of the Secretary of War to purchase from the owner or owners thereof, at such price as may be mutually agreed upon between them and the Secretary, such real estate as in his judgment is suitable and necessary for the purpose of carrying into effect the provisions of the bill, and to obtain from the owner or owners title in fee-simple. In case the Secretary of War shall not be able to agree with the owner or owners of any real estate needed for the purpose of the act upon the price to be paid therefor, or to obtain from them title in fee-simple, he may enter upon and appropriate any real estate which, in his judgment, is suitable and necessary for the purposes of the act.

By the sixth section the Secretary of War, or the owner or owners of any real estate thus entered upon and appropriated, may make application for an appraisement of the real estate thus entered upon and appropriated to any district or circuit court within any State or district where the real estate is situated; and those courts upon such application, and in such mode and under such rules and regulations as they may adopt, are to make a just and equitable appraisement of the cash value of the several interests of each and every owner of the real estate and improvements thereon entered upon and appropriated for the purposes of the act.

The seventh section provides that the fee-simple of all real estate thus entered upon and appropriated for the purposes of the act, and of which appraisement shall have been made under the order and direction of the courts, shall, upon payment to the owner or owners respectively of the appraised value, or in case the owner or owners refuse or neglect for thirty days after the appraisement of the cash value to demand the same from the Secretary of War upon depositing it in the proper court to the credit of the owner or owners respectively, be

vested in the United States; and its jurisdiction over this real estate shall be exclusive and the same as its jurisdiction over real estate purchased, ceded, or appropriated for the purposes of navy-yards, forts, and arsenals. The Secretary of War is to pay to the several owner or owners respectively the appraised value of the several pieces or parcels of real estate as specified in the appraisement of the courts, or to pay into court by deposit the appraised value; and the sum necessary for such purpose may be taken from any moneys appropriated for the purposes of the act.

The eighth section appropriates \$50,000 to carry out the purposes of the act.

Mr. WADE. I have seen some of the iron monuments provided for by this bill, and I think it is not creditable to the country to have such monuments over the graves of our soldiers. They are small cast-iron slabs, not more, perhaps, than eighteen inches high.

Mr. RAMSEY. Not over twelve inches.

Mr. WADE. Perhaps that is it; I did not measure them. They look more like a tin kettle than anything else, and are liable to be kicked off and kicked about and changed from one grave to another by any mischievous person. I think the Committee on Military Affairs cannot have seen a specimen of them. They seem to me to be totally inadequate for the purpose contemplated, and it is discreditable to the country to erect such things as monuments for its soldiers.

Mr. CONNESS. A kind of solemn toy!

Mr. WADE. Yes, a solemn toy, or whatever you please. It is a burlesque rather than a monument. If we cannot do any better than that, I would much rather that nothing should be done. I think it is discreditable to us, and must be a means of wounding the feelings of the relations of the soldiers who may have occasion to visit the cemeteries where their remains are deposited.

I hope the bill will not pass in this form. I think it had better lie over, and let the Committee on Military Affairs inspect these monuments and see if some better model cannot be adopted. I was assured by persons in charge of some of the cemeteries that they were entirely opposed to the adoption of any such plan or style of monument, and I agree with them most heartily. I think if the Military Committee will look into the subject they will come to the same conclusion that I have arrived at. There are other gentlemen here who inspected some of these cemeteries at the same time that I did, and who as I understood came to the same conclusion.

Mr. WILSON. By existing law the War Department was authorized to prepare these monuments, and I am told they have agreed upon this plan. I have no particular reason for pressing this bill now if the Senate does not wish it acted upon at present. I am willing to take time to make further inquiries. The main feature of the bill, however, and the great object is to get possession of the land necessary for the sites of these cemeteries. The objection which the Senator makes is simply to the second section of the bill, which is only carrying out what has already been adopted. It may be necessary that Congress should arrest it, and I have no objection to allowing the bill to lie over that I may make immediate inquiry in regard to what has been done by the Department which would be covered by the second section. The other sections of the bill, in regard to obtaining the title to land, are very important to be passed.

Mr. RAMSEY. I think if the chairman of the Committee on Military Affairs would inquire of the Quartermaster's Department in this city he would find a large number of protests there from all those who have charge of these national cemeteries in the South against the adoption of this plan, which seems to have met the approbation of the Department, of iron tombstones, so called. They almost universally object, and there are many representations on file upon the subject. I think the committee should take some steps immediately to check

the further execution of the contract if it has already been entered into. It is unquestionably wrong.

Mr. WILSON. I have no objection to the bill lying over, and I shall call it up after I have made the necessary inquiries.

The PRESIDENT *pro tempore*. Does the Senator make that motion?

Mr. WILSON. I do.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the bill be postponed.

The motion was agreed to.

#### MINISTER AT VIENNA.

Mr. SUMNER. I offer a resolution of inquiry, which I should like to have acted on to-day:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not inconsistent with the public interest, any correspondence between the Department of State and Mr. Motley, envoy extraordinary and minister plenipotentiary at Vienna, relating to his reported resignation of this post.

Mr. BUCKALEW. I object to the consideration of the resolution.

The PRESIDENT *pro tempore*. It will lie over under the rules.

#### BILL INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 510) declaring a bridge to be built over the Missouri river at the town of St. Charles, in the State of Missouri, by the North Missouri Railroad Company, a legal structure and a post road; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

On motion of Mr. MORRILL, the amendment of the House of Representatives to the bill (S. No. 253) to incorporate the First Congregational Society of Washington, was referred to the Committee on the District of Columbia.

On motion of Mr. WADE, the amendments of the House of Representatives to the bill (S. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia, were referred to the Committee on the District of Columbia.

#### REMOVALS FROM OFFICE.

Mr. SAULSBURY. I move that the Senate proceed to the consideration of the resolution offered by me two or three days ago, calling on the various heads of Departments for information in relation to removals from office and appointments to office in their respective Departments from March 4, 1861, to March 4, 1865.

The motion was not agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. R. No. 229) to procure a site for a building to accommodate the post office and United States courts in New York city.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes; and

A bill (H. R. No. 896) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

#### BALTIMORE AND POTOMAC RAILROAD.

Mr. WADE. I move to take up for consideration House bill No. 388.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

The preamble of the bill recites that it is

represented to the present Congress that the Baltimore and Potomac Railroad Company, incorporated by an act of the General Assembly of Maryland, passed the 6th day of May, 1853, are desirous, under the powers which they claim to be vested in them by the provisions of that act, to construct a lateral branch from the Baltimore and Potomac railroad to the District of Columbia; and it is therefore proposed by the bill to authorize the Baltimore and Potomac Railroad Company to extend into and within the District of Columbia a lateral railroad, such as the company shall construct or cause to be constructed in a direction toward the District, in connection with the railroad which they are about to locate and construct from the city of Baltimore to the Potomac river, in pursuance of their act of incorporation. The company are to exercise the same powers, rights, and privileges, and be subject to the same restrictions, in the extension and construction of their lateral railroad into and within the District, as they may exercise, or are subject to, under and by intent of their charter in the extension and construction of any railroad within the State of Maryland; and to be entitled to the same rights, compensation, benefits, and immunities in the use of the road, and in regard thereto, as are provided in their charter, except the right to construct any lateral road or roads within the District from the lateral branch or road authorized by the bill; it being expressly understood that the Baltimore and Potomac Railroad Company shall have power only to construct from the Baltimore and Potomac railroad one lateral road within the District to some point or terminus within the city and county of Washington, to be determined in the manner subsequently mentioned.

Before the company shall proceed to construct any railroad which they may lay out or locate on, through, or over any land or improvements, or to use, take for use, any earth, stone, or other materials necessary for the construction of the road, on any land within the District, they shall first obtain the assent of the owner of such land, improvements, or materials, or if such owner shall be absent from the District, or shall refuse to give his assent on such terms as the company shall approve, or because of infancy, coverture, insanity, or any other cause, shall be legally incapable of giving such assent, then it shall be lawful for the company to apply to a justice of the peace of the county of Washington, who shall thereupon issue his warrant, under his hand and seal, directed to the marshal of the District, requiring him to summon a jury of twenty citizens of the District, none of whom shall be interested or related to any person interested in the land or materials required for the construction of the railroad, or a stockholder, or related to any stockholder in the company, to meet on the land, or near to the other property or materials required, on a day named in the warrant, not less than ten nor more than twenty days after its issue, to proceed to value the damages which the owner or owners of any such land or other property will sustain by the use or occupation of the same required by the company, and the proceedings, duty, and authority of the marshal in regard to such warrant and jury, and the oath or affirmation to be administered, and inquisition to be made and returned, shall be the same as are directed and authorized in regard to the sheriff by the thirteenth section of the act of the General Assembly of Maryland, incorporating the Baltimore and Potomac Railroad Company; and all the other proceedings in regard to such jury, and the estimating and valuation of damages, and the payment or tender of payment of any damages ascertained by such valuation and the effect thereof, and of the view of any lands, or other property, or materials, as to giving the company a right to use the same for the use or construction of any railroad within the District, are in every case and in every respect to be the same as is provided in and by the act of incorporation in regard to the railroad thereby authorized to be constructed by the company;



but whenever by that act the inquisition of the jury is required to be returned to the clerk of the circuit court, to be confirmed by that court at its next session, if not sufficient cause to the contrary be shown, the inquisitions under this act shall be returned by the marshal to the supreme court of the District of Columbia, which court shall have the same jurisdiction and powers over the subject-matter as the said circuit court would have under the act of Maryland.

Whenever the company, in the construction of a railroad into or within the District shall find it necessary to cross or intersect any established road, street, or other way, it shall be the duty of the company so to construct the railroad across such established road, street, or other way, as not to impede the passage or transportation of persons or property along the same; and where it shall be necessary to pass the railroad through the land of any individual within the District, it shall also be the duty of the company to provide for such individual proper wagon ways across the railroad from one part of his land to another; but nothing in the act is to be so construed as to authorize the entry by the company upon any lot or square, or upon any part of any lot or square, owned by the United States, or by any other body or bodies, private or corporate, or by any individual or individuals within the limits of the city of Washington, for the purposes of locating or constructing the road, or of excavating the same, or for the purpose of taking therefrom any materials, or for any other purpose or uses whatsoever; but the company, in passing into the District, and constructing the railroad within it, shall enter the city of Washington at such place, and shall pass along such public street or alley, to such point or terminus within the city as the company shall find best calculated to promote the objects of the road; but the level of the road within the city is to conform to the present graduation of the streets, unless the corporation shall agree to a different level.

The rate actually charged and received on all that part of the road within the District is not to exceed eight cents per ton per mile for both tolls and transportation, and to be the same each way; and the privileges granted by the bill are upon the condition that the company shall charge the same rate of toll upon the same articles going either way between Baltimore and Washington.

The company are also to be empowered to make such special contract with any duly authorized officer or agent of the United States for the conveyance of the mail or the transportation of persons or property for the use of the United States, on any railroad which has been or shall be constructed by the company, on such terms as shall be approved of by the competent officer or authority; and in all such instances to receive the compensation so agreed for, according to the terms of each contract.

The company may charge and receive, for taking up and setting down any passenger or traveler within the District, conveyed a shorter distance than four miles, a sum not exceeding twelve cents.

Unless the company shall commence the lateral road authorized by the bill within two years, and complete it with at least one set of tracks within four years from its passage, then the act, and all rights and privileges granted by it, shall cease and determine. But the act is not to be so construed as to prevent the Congress of the United States from granting the same or similar privileges to any other company or companies incorporated or to be incorporated by the State of Maryland or by Congress, or from authorizing, by any future law, such additional railroads or roads, in connection with this road, so as to extend it, or to construct others connected therewith, to such parts of the District as from time to time may be required by the convenience of those parts of the District into which the company are now restrained from carrying their road, or from enacting such rules and regulations, prescribing

the speed of cars or carriages passing over the road, and any other matters relating thereto, necessary for the security of the persons and property of the inhabitants of the District, in such manner as to the present or any future Congress shall seem expedient; and nothing contained in the act is to be construed to give any rights or privileges to the company beyond the limits of the District of Columbia.

The first amendment reported by the Committee on the District of Columbia was in section three, lines twenty-five, twenty-six, and twenty-seven, to strike out the words "the said company shall find best calculated to promote the objects of said road," and in lieu thereof to insert "may be allowed by Congress upon presentation of survey and map of proposed location of said road;" so as to read:

Shall enter the city of Washington at such place, and shall pass along such public street or alley to such point or terminus within the said city as may be allowed by Congress upon presentation of survey and map of proposed location of said road.

The amendment was agreed to.

The next amendment was to add to section eight the following additional proviso:

And provided further, That Congress shall have power to alter, amend, or repeal this act.

The amendment was agreed to.

Mr. WADE. I move further to amend the bill by striking out in lines sixteen and seventeen of section three the words "or by any other body or bodies, private or corporate, or by any individual or individuals." If those words remain they are entirely repugnant to the objects of the bill, and I do not see how the company could get their road into the District at all. If these words be stricken out the section will read: "upon any lot or square, or upon any part of any lot or square, owned by the United States within the limits of the city of Washington." Of course the road must pass over somebody's property, and the bill provides for the manner in which that property may be condemned, if necessary, in the usual way.

Mr. JOHNSON. I suppose that amendment is necessary to enable the bill to operate, because the road must pass over property belonging to the public or belonging to some individual; and if I understand the amendment, the Senator from Ohio proposes to strike out the latter words. I have no objection to that amendment, but I trust he will oblige me by letting the bill go over. Indeed I believe the time has come for the termination of business of the morning hour.

Mr. WADE. I should like to make a couple of verbal amendments, which will not take more than a few moments.

Mr. JOHNSON. I have no objection to that.

The PRESIDENT *pro tempore*. The morning hour having expired, this bill can only be proceeded with by common consent.

Mr. WADE. It will not take two minutes.

Mr. EDMUNDS. I feel it my duty to object. It will evidently take some time.

Mr. WADE. No, I only wish to make two verbal amendments.

Mr. EDMUNDS. Well I will give you five minutes. Let the special order be laid aside informally for that time.

The PRESIDENT *pro tempore*. The special order is laid aside by unanimous consent for the purpose indicated.

Mr. MORRILL. I wish to suggest to the Senator from Ohio that I hardly think the language which he proposes to strike out is repugnant to the general object of the bill or that any embarrassment can arise from it. If he thinks so, however, I shall not object to the amendment.

Section one authorizes the location of this road; section two provides the manner of purchasing the right of way, and on failure to purchase the right of way, the manner in which they may condemn it; and I think this language is put in simply to prevent their doing it without condemnation.

Mr. WADE. No, it would prevent them going on the land of private owners at all.

Mr. MORRILL. Very well, if the Senator thinks so I shall not object to his amendment.

Mr. WADE. There can be no objection to it. The amendment was agreed to.

Mr. WADE. I move to amend the bill further by striking out in line thirty of section three the words "the said corporation" and inserting "Congress," leaving it entirely under the control and direction of Congress.

Mr. JOHNSON. Does the term "corporation" as there used apply to the city?

Mr. WADE. I presume it does. The language is "that the level of said road within the said city shall conform to the present graduation of the streets, unless the said corporation shall agree to a different level." I want it to read: "unless Congress shall agree to a different level." Congress has entire control of the subject by other provisions.

Mr. JOHNSON. Certainly if the word "corporation" there applies to the city the amendment is right.

Mr. WADE. Undoubtedly it applies to the city and cannot apply to anything else.

The amendment was agreed to.

Mr. WADE. Now, I move in line thirty-one of that section to strike out "agreed to" and insert "authorized;" so as to read "unless Congress shall authorize a different level." This is a mere verbal amendment.

The PRESIDENT *pro tempore*. That change will be made, no objection being interposed.

Mr. JOHNSON. If the Senator from Ohio is through with his amendments I desire to repeat the suggestion which I before made that he would oblige me by letting the bill go over.

Mr. WADE. I do not ask any further action now. Let it go over and stand as unfinished business for to-morrow morning.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is Senate bill No. 453.

Mr. CHANDLER. I gave notice yesterday that at one o'clock to-day I should call up the Niagara ship-canal bill. Of course I cannot antagonize it with this bill, which is unfinished business, but I give notice that the moment this bill is passed I shall call up the Niagara ship-canal bill and antagonize it against any other measure that stands in its way.

#### TENURE OF OFFICE.

The Senate resumed the consideration of the bill (S. No. 453) to regulate the tenure of offices, the pending question being on the motion of Mr. SUMNER to amend the amendment agreed to as in Committee of the Whole by adding to it the following additional section:

And be it further enacted, That all officers or agents, except clerks of Departments, now appointed by the President or by the head of any Department, whose salary or compensation, derived from fees or otherwise, exceeds \$1,000 annually, shall be nominated by the President and appointed by and with the advice and consent of the Senate; and the term of all such officers or agents who have been appointed since the 1st day of July, 1866, either by the President or by the head of a Department, without the advice and consent of the Senate, shall expire on the last day of February, 1866.

Mr. SUMNER. It is only little more than a year ago that I felt it my duty to characterize a message of the President as "whitewashing." The message represented the condition of things in the rebel States as fair and promising when the prevailing evidence was directly the other way. Of course the message was "whitewashing," and this was a mild term for such a document. But you do not forget how certain Senators, horror-struck at this plainness, leaped forward to vindicate the President. Yesterday some of these same Senators, horror-struck again, leaped forward again in the same task. Time has shown that I was right on the former occasion. If anybody doubts that I was right yesterday I commend him to time. He will not be obliged to wait long. Meanwhile I shall insist always upon complete freedom of debate, and I shall exercise it. John Milton, in his glorious aspirations, said, "Give me the liberty to know, to utter, and to argue freely above all liberties." Thank God, now that slave masters

have been driven from this Chamber, such is the liberty of an American Senator! Of course there can be no citizen of a Republic too high for exposure, as there can be none too low for protection. The exposure of the powerful and the protection of the weak; these are not only invaluable liberties but commanding duties.

At last the country is opening its eyes to the actual condition of things. Already it sees that Andrew Johnson, who came to supreme power by a bloody accident, has become the successor of Jefferson Davis in the spirit by which he is governed and in the mischief he is inflicting on his country. It sees the President of the Rebellion revived in the President of the United States. It sees that the violence which took the life of his illustrious predecessor is now by his perverse complicity extending throughout the rebel States, making all who love the Union its victims and filling the land with tragedy. It sees that the war upon the faithful Unionists is still continued under his powerful auspices, without any distinction of color, so that all, both white and black, are sacrificed. It sees that he is the minister of discord, and not the minister of peace. It sees that, so long as his influence prevails, there is small chance of tranquillity, security, or reconciliation; that the restoration of prosperity in the rebel States, so much longed for, must be arrested; that the business of the whole country must be embarrassed, and that those conditions on which a sound currency depends must be postponed. All these things the country now sees. But indignation assumes the form of judgment when it is seen also that this incredible, unparalleled, and far-reaching mischief, second only to the Rebellion itself, of which it is a continuation, is invigorated and extended through a plain usurpation.

I know that the President sometimes quotes the Constitution and professes to carry out its behests. But this pretension is of little value. A French historian, whose fame as a writer is eclipsed by his greater fame as an orator, who has held important posts, and now in advancing years is still eminent in public life, has used words which aptly characterize an attempt like that of the President. I quote from the history of M. Thiers, while describing what is known as the resolution of the 18th Brumaire:

"When any one wishes to make a revolution or a counter-revolution it is necessary always to disguise the illegality as much as possible and to this end to use the terms of the Constitution in order to destroy it, and also the members of a Government in order to overturn it."

In this spirit the President has acted. He has bent Constitution, laws, and men to his arbitrary will, and has even invoked the Declaration of Independence for the overthrow of those Equal Rights which it so grandly proclaims.

In holding up Andrew Johnson to judgment, I do not dwell on his open exposure of himself in a condition of beastly intoxication while he was taking his oath of office; nor do I dwell on the maudlin speeches by which he has degraded the country as it was never degraded before; nor do I hearken to any reports of pardons sold, or of personal corruption. This is not the case against him, as I deem it my duty to present it in this argument. These things are bad, very bad; but they might not, in the opinion of some Senators, justify us on the present occasion. In other words, they might not be a sufficient reason for the amendment which I have moved.

But there is a reason which is ample. The President has usurped the powers of Congress on a colossal scale, and he has employed these usurped powers in fomenting the rebel spirit and awakening anew the dying fires of the rebellion. Though the head of the Executive, he has rapaciously seized the powers of the Legislative and made himself a whole Congress in defiance of a cardinal principle of republican government that each branch must act for itself without assuming the powers of the other; and, in the exercise of these illegitimate powers, he has become a terror to the good and a support to the wicked. This is his great and unpardonable offense, for which

history must condemn him if you do not. He is a usurper, through whom infinite wrong has been done to his country. He is a usurper, who, promising to be a Moses, has become a Pharaoh. Do you ask for evidence? It is found in public acts which are beyond question. It is already written in the history of our country. And now in the maintenance of his usurpation he has employed the power of removal from office. Some, who would not become the partisans of his tyranny he has, according to his own language, "kicked out." Others are left, but silenced by this menace and the fate of their associates. Wherever any vacancy occurs, whether in the loyal or the rebel States, it is filled by the partisans of his usurpation. Other vacancies are created to provide for these partisans. I need not add that just in proportion as we sanction such nominations or fail to arrest them, according to the measure of our power, we become parties to his usurpation.

Here I am brought directly to the practical application of this simple statement. I have already said that the duty of the hour was in protection to the loyal and patriotic citizen against the President. Surely this cannot be doubted. The first duty of a Government is protection. The crowning glory of a Republic is that it leaves no man, however humble, without protection. Show me a man exposed to wrong and I show you an occasion for the exercise of all the power that God and the Constitution have given you. It will not do to say that the cases are too numerous, or that the remedy cannot be applied without interfering with a system handed down from our fathers, or worse still, that you have little sympathy with this suffering. This will not do. You must apply the remedy, or fail in duty. Especially must you apply it when, as on the present occasion, this wrong is part of an enormous usurpation in the interest of recent Rebellion.

The question then recurs, are you ready to apply the remedy, according to the measure of your powers? The necessity of this remedy may be seen in the rebel States, and also in the loyal States, for the usurpation is felt in both.

If you look at the rebel States, you will see everywhere the triumph of Presidential tyranny. There is not a mail which does not bring letters without number supplicating the exercise of all the powers of Congress against the President. There is not a newspaper which does not exhibit evidence that you are already tardy in this work of necessity. There is not a wind from that suffering region which is not freighted with voices of distress. And yet you hesitate.

I shall not be led aside to consider the full remedy for this usurpation; for it is not my habit to travel out of the strict line of debate. Therefore, I confine myself to the bill now under consideration, which is applicable alike to the loyal and the rebel States.

This bill has its origin in what I have already called the special duty of the hour, which is the protection of loyal and patriotic citizens against the President. In what I have already said I have shown the necessity of this protection. But the brutal language which the President has employed shows the spirit in which he has acted. The Senator from Indiana, [Mr. HENDRICKS,] whose judgment could not approve this brutality, doubted if the President had used it. Let me settle this question. Here is the National Intelligencer, always indulgent to the President. In its number for 13th of September last it thus reports what our Chief Magistrate said in a speech at St. Louis:

"I believe that one set of men have enjoyed the emoluments of office long enough, and they should let another portion of the people have a chance. [Cheers.] How are these men to be got out, [a voice] 'Kick 'em out,'—cheers and laughter, unless your Executive can put them out—unless you can reach them through the President? Congress says he shall not turn them out, and they are trying to pass laws to prevent it being done. Well, let me say to you, if you will stand by me in this action—[cheers]—if you will stand by me in trying to give the people a fair chance—to have soldiers and citizens to participate in these offices—God be willing, I will kick them out; I will kick them out just as fast as I can." [Great cheering.]

Such language as this is without precedent. Coming from the President, it is a declaration of "policy" which it is your duty to counteract; and in this duty you must make a precedent, if need be.

The bill now before the Senate arises from this necessity. Had Abraham Lincoln been spared to us there would have been no occasion for this bill, which the Senator from Vermont [Mr. EDMUNDS] has shaped with so much care, and now presses so earnestly. It is a bill arising from the exigency of the hour. As such it is to be judged. But it does not meet the whole case. Undertaking to give protection, it gives it to a few only, instead of the many. It provides against the removal, appointment, or employment of persons whose offices, according to existing law and Constitution, are held by and with the advice and consent of the Senate. Its special object is to vindicate the power of the Senate over the offices committed to it according to existing law and Constitution. Thus vindicating the power of the Senate it does something indirectly for the protection of the citizen. In this respect it is a beneficent measure, and I shall be glad to vote for it.

The amendment which I have moved goes further in the same direction. It provides that all agents and officers now appointed by the President, or by the head of a Department, shall be appointed only by and with the advice and consent of the Senate; and it further proceeds to vacate all such appointments made since 1st July last past, so as in a certain measure to arrest the recent process of "kicking out." This proposition is simple enough; and I insist that it is necessary, unless you are willing to leave fellow-citizens without protection against tyranny. Really the case is so plain that I do not like to argue it, and yet you will pardon me if I advert to certain objections which have been made.

We have been told that the number of persons it would bring before the Senate is such that it would clog and embarrass the public business; in other words, that we have not time to deal with so many cases. This is a strange argument. Because the victims are numerous, therefore, we are to fold our hands and let the sacrifice proceed. But I insist that just in proportion to the number is the urgency of your duty. Every victim has a voice, and when these voices count by thousands you have no right to turn away and say, "these are too numerous for the attention of the Senate." This is my answer to the objection founded on numbers.

But this is not all. You did not shrink during the war from the numerous nominations of military officers, counting by thousands; nor did you shrink from the numerous nominations of naval officers, counting by thousands. The power over these nominations you never relaxed, and I know well you never will relax. You know that, even if unable to consider carefully every case, yet the power over them enables you to interpose your veto on any improper nomination. The power of the Senate is a warning against tyranny in the Executive. But it is difficult to see any strong reason for this power in the case of the Army and Navy which is not applicable also to civil officers. This I should say in tranquil times; but there is another reason peculiar to the hour. Even if in tranquil times I were disposed to leave the appointing power as it is, I am not disposed now.

Then, again, we are told that we must not abandon the system of our fathers. I have already answered this objection precisely, in saying that, whatever may have been the system of the fathers, it is inadequate for the present hour. But I am not satisfied that the proposition moved by me is inconsistent with the system of the fathers. The officers of the internal revenue did not exist then, and the inferior officers of the customs were few in number and with small emoluments. But all district attorneys and marshals, even if their salary was no more than \$200, were subject to the confirmation of the Senate.

Mr. EDMUNDS. And so they are yet.

Mr. SUMNER. And so they are yet, the Senator reminds me, and justly; but can the Senator doubt that if at the time when those officers were made subject to the confirmation of the Senate, weighers and gaugers and inspectors had been as well paid as they are now that they too would have been brought under the control of this body? I cannot.

Mr. EDMUNDS. I do not think they would.

Mr. SUMNER. The Senator does not think they would.

Mr. EDMUNDS. The reason was that those offices of marshals and district attorneys were considered in early times to be invested with a supposed degree of respectability, honor, and responsibility connected with the duties to be performed, and not in respect to the mere price which was paid to the persons for performing them. So the collectors of customs, with the approval of the Secretary of the Treasury, were authorized to appoint most of their subordinates; the Postmaster General was authorized to appoint all of his, it being supposed that that class of offices requiring only a low degree of skill and not involving large public trusts, either in respect to administration or in respect to the pecuniary consideration to be received, might properly be left to the heads of Departments. I think that was the rule which governed the discrimination which was made.

Mr. SUMNER. But even if the Senator does not accept the view which I now present on the probable course of our fathers, he cannot resist the argument that, whatever may have been the old system, we must act now in the light of present duties. I repeat, a system good for our fathers may not be good for this hour, which is so full of danger.

Then, again, we are told, with something of indifference if not of levity, that it is not the duty of the Senate to look after the "bread and butter" of office-holders. This is a familiar way of saying that these small cases are not worthy of occupying the Senate. Not so do I understand our duties. There is no case so small as not to be worthy of occupying the Senate; especially if in this way you can save a citizen from oppression and weaken the power of an oppressor.

Something has been said about the curtailment of the executive power; and the Senator from Maine [Mr. FESSENDEN] has even argued against the amendment moved by me as conferring upon the President additional powers. This is strange. The effect of this amendment is, by clear intendment, to take from the President a large class of nominations and bring them within the control of the Senate. Thus it is obviously a curtailment of executive power, which I insist has become our bounden duty. The old resolution of the House of Commons, moved by Mr. Dunning, is applicable here: "The power of the Crown has increased, is increasing, and ought to be diminished." In this spirit we must put a bit in the President, who is now maintaining an illegitimate power by removals from office.

We are in the midst of a crisis. On one side is the President and on the other the people. It is the old question between prerogative and Parliament which occupied our English fathers. But the form it now takes is grander than ever before. In this controversy I am with the people and against the President. I have great faith in the people; but I have no faith in the President. Here, sir, I close what I have to say at this time. But before I take my seat, you will pardon me if I read a brief lesson, which seems as if written for the hour. The words are as beautiful as emphatic:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves and then we shall save our country."

These are the words of Abraham Lincoln. They are as full of vital force now as when he uttered them. I entreat you not to neglect

the lesson. Learn from its teaching how to save our country.

Mr. EDMUNDS. I do not rise to prolong the debate on this amendment more than a few moments; but I think it right to say, in reply to my friend from Massachusetts, for whose opinions upon fundamental questions I have always entertained the highest respect, that I think upon reflection he will himself admit by and by that there are many theories which are absolutely perfect in themselves that cannot be carried into practice. There are many things that it would be exceedingly desirable to do if, as human nature goes and as human organizations are, they could be actually effected. It would be highly desirable if the will of the people of this country could be carried into the remotest detail of the Government, because that is the fundamental theory. It is, in theory, the duty of the hour in all democratic governments that the people's will should go to the uttermost artery and vein of the administration of a people's Government; but every man in his senses knows perfectly well that no such chimera can be carried into practice. The people are numerous. They cannot act individually or collectively together as a body. They must select their chief agents. Their chief agents must select subordinates, and those subordinates again must have more or less discretion in selecting the agencies which, under them, are to carry out the practical operations of the business of the Government.

Now, the question on the amendment of my friend is simply this: first, whether it be desirable for the President and the Senate of the United States to occupy their time, no matter whether they are in opposition or in accord, in discussing the particular merits of A against B for a night-watchman in the city of New York or for an inspector of customs in the city of Boston.

Mr. SUMNER. The Senator does not intend to misrepresent me; but he knows there is no such proposition before us.

Mr. EDMUNDS. Mr. President, I know that there is such a proposition before the Senate. The proposition before the Senate is the written amendment proposed by my friend from Massachusetts, and that makes a sweeping provision for every civil officer under the Government of the United States, except the clerks in the Departments, who is appointed by the head of a Department. If my friend will look at the law—

Mr. SUMNER. Let me correct the Senator.

Mr. EDMUNDS. Certainly.

Mr. SUMNER. The language is, "all persons now appointed by the President or any head of a Department." If a night-watchman is appointed by the head of a Department the Senator is right; if he is not appointed by the head of a Department he is not right.

Mr. EDMUNDS. Exactly. My friend has stated the point of difference between us precisely. If a night-watchman is appointed by the head of a Department then he comes within the operation of the amendment; if he is not, he does not.

Mr. SUMNER. That is, if his pay is upward of \$1,000 a year.

Mr. EDMUNDS. Certainly. Now, I submit to my friend from Massachusetts whether or not the Secretary of the Treasury is the head of a Department? I believe he is.

Mr. SUMNER. Yes.

Mr. EDMUNDS. Now, I refer him to the law, and it may be called almost the fundamental law—it is the fundamental law of customs—which has stood from 1799 to this day, which makes it the duty of the Secretary of the Treasury, the head of the department of customs, on the nomination of the collector or the surveyor or the naval officer, as it may be, of the port, to appoint all the subordinates, and he does—

Mr. SUMNER. Will the Senator allow me to read the precise text?

Mr. EDMUNDS. Certainly.

Mr. SUMNER. I have it before me, the statute of 1799. It is:

"That the collector shall, with the approbation of

the principal officer of the Treasury Department, employ proper persons as weighers, gaugers, measurers, and inspectors at the several ports within his district."

There it is. The collector shall do this with the approbation of the principal officer of the Treasury Department. What is the thing to be done? He shall employ proper persons as weighers, gaugers, measurers, and inspectors; nothing more.

Mr. EDMUNDS. Now, if my friend will allow me to instruct him a little—and it is very rare that I or any other man can have that opportunity, and I say it in sincerity—let me inform my friend that a night-watchman in the city of New York and in the city of Boston, or wherever he may happen to be in the customs service, is an inspector, and is appointed as such, and his business is to inspect and watch over vessels during the night, and so he is called a night-watchman. There is not any such legal officer known to the law by the name of night-watchman that I know of.

Mr. SHERMAN. If my friend will allow me, I will state that under the Constitution it is clear that Congress has no power to confer upon any one but the President, the heads of Departments, or the courts of law, the power of appointing officers.

Mr. EDMUNDS. That I stated the other day.

Mr. SHERMAN. By the Constitution we must confine it to the President of the United States, the courts of law, and the heads of Departments; and we have no right to confer it on the heads of bureaus. We attempted to do so, and the point was made, and we had to change the law in the case of assistant assessors.

Mr. EDMUNDS. I was about to refer to that, as I referred to it the other day. We have no power to place it in anybody else. Therefore, as I said I think yesterday or the day before, every officer who is an officer by law, whatever he may be, must be appointed and is appointed either by the President with the advice and consent of the Senate, by the President alone, by the heads of Departments, or by the courts of law; and there the list is exhausted; there is no other authority for appointment in any other way.

Now, to return. As I said before, a night-watchman (if my friend will allow me to tell him his error) is an inspector, and he is appointed as such. I know personally what the practice in the Department is about such appointments. Every appointment of that description is made in the form of a nomination by the collector of the port or the surveyor, who may have charge under the law of some particular branch of it, to the Secretary of the Treasury in writing. "I nominate John Smith," or whoever it may be, "to be an inspector of customs." If John Smith meets the approval of the Secretary of the Treasury he is sworn and examined and appointed, and is detailed to duty as a night-watchman or a day inspector or whatever it may be.

Now, then, the point is, whether it is wise, whether it is one of the duties of the hour, one of the high and solemn duties of the hour, of which we have been told so much, that we should descend, as I say it is descending, from the position of attending to many high duties of the hour that do surround us, to go into these small offices, that have no special trust or responsibility commensurate with our attention at all, and undertake to wage a warfare with the President or with the heads of Departments as to whether A or B should be the person employed; because, whether it is A or B, either is a citizen of the United States, and either, considered in himself as a citizen, is as much entitled to hold the office as the other. I agree with my friend that I vastly prefer that the President of the United States should appoint Republicans. My prejudices, if they are to be called prejudices—my judgment, as I should call it—leads me in that direction; but I do say that when we have a measure of this description under consideration, which involves the privileges of the Senate and is intended to re-



adjust the true equilibrium of the departments of the Government, we should not imperil such a measure by going into these doubtful questions of expediency which divide our own friends and jeopardize the success of the whole.

Mr. JOHNSON. Mr. President, in the deliberations of the Convention by which the Constitution was adopted, the result was that it was supposed to be better for the public interest and for the public liberty that the appointing power should be vested in the President alone. As far as the appointing power is concerned there has never been a doubt that the decision of the Convention was a correct one; and I have yet to learn that the Government by experience has been found to be less well administered, as far as its administration depends upon the manner in which the appointing power has been executed, by the fact that that power is vested in the President. I do not understand the honorable member from Massachusetts as denying that that theory is the wisest. His amendment is proposed, and he maintains it, upon the ground that it is called for by the particular character of the present incumbent of the presidential office; and he has thought proper to deal with that officer in terms which I am sure upon reflection hereafter his judgment will not approve. He has almost in words said that it ought to be taken from him because he has proved himself to be an enemy of his country, because he has proved himself to be a usurper.

In the particular condition in which we are placed—for we are obliged to look at what is occurring in another branch of the legislative department—I should have hoped that the honorable member from Massachusetts would have seen that it was not proper at this time, if under any circumstances it could be proper, to indulge in such epithets as against the President of the United States. A formal resolution has been offered in that branch looking to the impeachment of the President for high crimes and misdemeanors. If that impeachment shall be ordered by the House, we are to be the judges to decide whether he is guilty or innocent; and I should therefore have hoped that neither the honorable member from Massachusetts nor any other member of the Senate would in advance not merely express his opinion hypothetically, but express it decidedly, as justified by facts which are notorious. What sort of a trial, as far as that particular Senator is concerned, would the President of the United States have should he be impeached for being an enemy to his country, for being a usurper, either of which, in the contemplation of the Constitution, is a high crime? If upon the trial of such an impeachment that right, which the common law secures to every citizen or subject where the common law prevails, of having a fair tribunal to decide upon his case applied, the honorable Senator from Massachusetts ought to be, and I suppose would be, challenged for cause; and in what attitude would that place him, or either of us, if we were liable to be challenged upon the same ground?

Suppose we all went on, following the authority of the honorable member from Massachusetts, and expressed the same opinion: what would the world say? Suppose that without hearing the defense, in advance, without remembering the past conduct of the officer who is to be impeached, illustrated in the judgment of all until lately, at least, as perfectly patriotic, as evidencing a constant devotion to his country, we expressed an opinion that at least he had fallen from the duty which he owed to his country and to mankind, and had become a usurper and an enemy of his country: might not, to use the language of the common law, the whole array be challenged, and ought it not to be?

The Constitution, in the provision which says that a charge of that description is to be passed upon by the Senate of the United States, supposes that every individual member of the Senate will bring to the consideration of that question a mind as white as paper, upon which

nothing is written in the way of judgment; and yet my friend from Massachusetts, urged, as I think, by what has occurred in the past, unconsciously to himself, having been dealt with improperly upon one occasion by this officer, has suffered his feelings, in my judgment, to lead him astray, to pronounce sentiments in this Chamber to-day which will render it improper in him to sit as a judge upon such a trial.

Sir, the President of the United States has done things which I do not approve, and he has omitted to do things which I could have hoped he would have done.

Mr. SUMNER. May I interrupt my friend there for one moment? What right have I to know that the President is to be impeached? How can I know it? And let me add to that, even if I could know it, there can be no reason in that why I should not argue the measure directly before the Senate and present such considerations as seem to me to be proper, founded on the misconduct of that officer.

Mr. JOHNSON. Mr. President, I have not called the honorable member from Massachusetts to order. I trusted that his own good sense, or what was due to himself, to the Senate and the country, would itself have been a sufficient call to order. I say to the Senator now that he is bound to know, not that the President will be impeached, but that he may be impeached, because he knows that there is now a proposition in the House looking to that result; and in advance, without, as I think, the slightest necessity, he places himself out of the pale of his judges by pronouncing, in the face of the public, that he has adjudged and condemned already.

During the Presidency of General Jackson the Senate of the United States had before it certain resolutions couched in such phrases as implied as against him the charge of being an enemy of his country or a usurper. He sent in his protest. I invoke the honorable member from Massachusetts to read that protest again and see how it can be answered. He protested against it upon a ground not as strong as that upon which I now place what I suppose to be the erroneous and misjudged conduct of the honorable member from Massachusetts, upon the ground that the matters charged in the resolutions were offenses impeachable. It was perfectly well known that there was to be no impeachment of him in that House of Representatives. They sided with him. And one who might have been termed the leader of the Senate, one by whom I think the original resolutions were drafted, one who towered high among his fellows, and stood equally high in the estimation of his country was so forcibly struck with the objection that he changed the phraseology of his resolutions.

But I submit to the Senate and to the honorable member that upon a mere question whether it is advisable to vest in anybody else but the President the appointments to which his amendment refers, it was wholly unnecessary to inquire into the character of the President. The honorable member was here, I believe, during the whole administration of Mr. Lincoln, and if any member of the Senate had more influence with that departed statesman and officer than himself I am not aware of it. I had reasons to believe, satisfactory to my own mind, and I am sure the honorable Senator will not contradict me, that his judgment had not only an influence but a controlling influence upon the judgment of the incumbent of the office at that time. He applauded him. It is not for me to say the applause was not well merited. He justified all that that officer did. It is not for me to say that the justification was not well founded. But at the moment that he was applauding and justifying the acts of Mr. Lincoln, he knew, or might have known, that in exercising the power of appointment he had turned out twice as many officers as have been turned out of office by the existing President; but yet not a word of censure came from the honorable member from Massachusetts, or from any other quarter, except, perhaps, from the friends of

those who were dismissed. Why? Because the power was properly vested in the Executive, and because in the exercise of his power the friends of the honorable member had been put in, and those who were politically hostile to the honorable member had been, to use a phrase which he is about to make classic, "kicked out."

Mr. SUMNER. It would be impossible to make that classic.

Mr. JOHNSON. Why, almost everything in that way is possible that the honorable member from Massachusetts undertakes to accomplish. Everybody may dispute for himself, until the authority of the honorable member is brought to its support, the poetry of the phrase; but if he lends it his sanction, as he has done now twenty or thirty times and more, and talks to the Senate from hour to hour and day to day of officers being "kicked out," it will become a household word. What did the President mean by "kicking out?" Does the honorable member suppose he really intended to "kick them out?"

Mr. SUMNER. He said so.

Mr. JOHNSON. Did he mean to carry it out literally? All that he meant was that he would turn them out. But at last the honorable member is quarreling with a word used by the President, which he thinks was used in bad taste, but which was used merely for the purpose of saying that he would turn out the incumbents wherever he thought it proper to do so.

Now, upon what ground did he put his duty to turn them out, or to use the presidential phrase and the Massachusetts phrase, "kick them out?" It was upon a doctrine which swept over the country at one time—"rotation in office." A large majority of the people of the United States thought—unwisely as I believe—that the people individually had a right from time to time to participate in the patronage of the Government; that there should be no life offices; and that the only way in which they could share in the patronage was upon the doctrine of enforcing a rotation in office; and upon that theory Congress, by a vote nearly unanimous, provided that the tenure of office of almost all officers should be for a period only of four years, so as to leave the offices vacant and give the President for the time the authority to put in his own friends without "kicking out" his opponents.

Mr. President, as I have already stated, the President of the United States has said a great many things that I could wish, for his sake and for the sake of the office, had not been said. But he is by nature impetuous. Brought up, springing from the humblest ranks in life, he has been subjected to turmoils from time to time to which perhaps he would not have been subjected, or into which he would not have entered if he had been educated in the colleges which have given to my friend from Massachusetts the celebrity which he holds in the estimation of the learned. He has been on the stump in Tennessee, meeting men who spoke not in the language of the classics, but in a language which shows what their feelings are for the moment, and the stronger the terms are that they use the better they are liked by themselves and generally by their auditors. The President has fallen into that habit; he exhibited it on the 22d February, and neither the honorable member from Massachusetts nor any other member of the Senate nor any citizen of the country regretted more than I did the exhibition of it upon that occasion. He exhibited it upon the journey which during the summer he made through the West. Admit it all to have been in bad taste, admit it all to have been censurable in the judgment of men of taste, even in the individual man, and above all admit it not to have been in accordance with the dignity of the office of which he was the incumbent: does that prove or tend to prove that he is designedly untrue to his country?

If the honorable Senator from Massachusetts, with all the firmness which may characterize him or which belongs to his character, had accompanied the President of the United States

when he left this Chamber in the spring of 1861 on his journey home, and met with the difficulties and been surrounded by the dangers which threatened even his life, even he might have quailed. The President did not. After hurling his anathemas in language which struck the patriotic heart of the country with delight against the men who were plotting treason in this Chamber, just as they were about to leave for their respective States in order to consummate the treason, he went through the dangers of his travel home, reached that home, and there, surrounded by men who sympathized with the South, and, whether with good or bad reasons, hated the North, was charged with treason to his section and was in imminent peril. He kept on in the even course of his way; he was patriotic to the last, defied the men around him, predicted what the result of the contest would be in which they had involved the nation, and emerging out of it he was selected by the political friends of the member from Massachusetts for the second office in the gift of the people, and he was elected. What has he done since? He has done two things: he has, first, sought to reorganize the States that seceded precisely in the same manner, upon the same terms, as his predecessor was seeking to reorganize them; he has, secondly, consistent himself with the principles upon which he was elected by the people to the office, desired to have brought into the Union the States that once were in rebellion, as his predecessor did, and he is met with opposition here and in the other branch of Congress.

What was he to do? What would any man have done in his place who was honest in that conviction; and we have no right to doubt his honesty. He would have used the power of appointment; and almost any other man than himself would have used it to a much greater extent than he has done. What else has he done? In the exercise of a right in words conferred upon him he has refused to give his assent to several bills passed by Congress; he had a right to do it. To deprive him of the exercise of his judgment upon bills which Congress may pass from time to time is to take from him the very power which the Constitution confers. There is no treason in his doing that. In some cases his veto has been effective; in other cases it has been overruled. Has he not submitted? Who can with truth allege that he has failed to give an honest support to the acts of Congress which have been passed in opposition to his veto? I think no one can, and I do not know that any one has attempted to do it. The Constitution providing that if upon reconsideration the two Houses of Congress give votes which make a bill a law in spite of the veto, he has submitted to it as a law as a good citizen.

Whether in speaking before the people he has sinned against good taste, whether he has been provoked by political enemies who themselves or through their instruments have endeavored to provoke him to say things which a President of the United States should not have said, is one question; but he will be false to the history of the man's life, above all false to the history of that part of his life which has been passed since the rebellion commenced and in anticipation of the rebellion, who will charge him with not being true to his duty to the country according to his understanding of it. Unfortunately some would have us believe, but I believe in the end fortunately for himself upon the true policy in reference to the States that have been in rebellion, he differs from those who were instrumental in placing him in power; he does not differ from his immediate predecessor. Is he to be condemned for that? Reared in the humblest walks of life, having a trade as contradistinguished from a profession, not calculated, one would suppose, to educate him for the Presidency of the United States, the highest office, as I think, in the gift of the world, he has in every period of his career, from the time he first entered into public life to the present hour, never been charged with being faithless to his country until he hap-

pened to differ, not with his immediate predecessor, but happened to differ from what the party who elected him thought ought to be the policy of the Government as administered by the Executive. He is about to retire to private life; and when his history shall be written, as written it will be after the passions of the hour have subsided and reason shall have resumed its sway, the biographer and the historian will say that no President of the United States ever labored more zealously to cure the wounds which the rebellion had inflicted upon us, or had a more earnest desire to place the Government of the United States upon a footing which would enable it to stand during all time the honor and admiration of the world, as not only sufficient to work for us a national renown but that greater virtue of securing to every individual citizen the rights which the Constitution and nature and nature's God conferred upon him.

Sir, I am no party friend of the President of the United States in the strict sense of that term. He has done things which I disapprove, and I have no doubt he will do so in the future; but that he has ever erred consciously, that he has ever usurped power knowingly, that he has ever entertained a thought inimical to the true interest or honor of the country, I have never been as yet able to believe, and I have no reason to suppose I shall ever be made to believe. He has fallen in the estimation of his party, not upon any ground assumed by the party at the time he was elected; not upon any ground of policy pursued by his immediate predecessor, who died amid the lamentations of the whole country and almost of the world; but because a new state of things has arisen since in which he differs from the men by whom he was elevated to power. In my judgment, exercising the privilege which every Senator on this floor has and every American citizen has of having a judgment upon all the political questions of the day, I think that so far from sinning in the course which he has adopted, he would with the opinions which have governed him through his life have sinned if he had adopted a different course. What he has done has obviously been done with a view to bring about a complete restoration of the Union, to have all the States together as they were when Washington presided over its destinies in the executive chair. He may be mistaken—personally I think he is not, but that is a matter of little or no moment; that is a matter of individual judgment—he may be mistaken in the policy which he has adopted; but as I believe in my existence there is no man living within the broad limits of the United States who will more rejoice than the present incumbent of the presidential chair when peace and harmony shall have been restored and we shall again be as we were before, brothers in everything.

Mr. HOWE. Mr. President, the Senator from Massachusetts has thought fit to animadvert upon the President of the United States, I must confess in rather strong terms. I do not rise for the purpose of supporting that arraignment or for the purpose of defending the President against it. Upon that subject I have only one or two remarks to make. The first is that what he said was either in order or it was out of order. If that question had been raised it would have been determined by the Chair, subject to no revision whatever except that of the Senate. That question was not raised, and there is but one question now to raise upon those remarks, and that is they were either just or unjust. Upon that question I suppose the Senator is responsible to his constituents and to the country. Upon that question the Senator from Maryland and every other Senator has an undoubted right to be heard here or elsewhere. The Senator from Maryland evidently thinks those remarks were unjust. He was quite at liberty, as I think, to assert and maintain that proposition; but it did strike me that the Senator from Maryland, in his zeal, if I may so say, to defend the President of the United States, has undertaken in advance to attack the character of the high court of impeachment, and he

has done that in the face of his own reminder to us that it is barely possible, it is one of the events which the future has possibly in store for us, that the President himself may be arraigned before this court of impeachment for trial. The Senator says that the President or any other party who may be arraigned before that court is entitled to a candid, to an impartial, to an unbiased tribunal; that every mind coming to the consideration of that trial should be as white paper on which no impressions are made whatever; and he argues that because of the opinions which the Senator from Massachusetts has advanced here he would be open to challenge.

Sir, if it should happen that the President of the United States should be presented before this court upon the address of the House of Representatives, I suppose the Senator from Maryland, in common with the whole country, would desire that this court should hold that position in the public confidence which would entitle its verdict, when its verdict should be pronounced, to the respect of the country; and I therefore wish to remind the Senator and the Senate that this Senate is and must be the court to try that impeachment if it should come, for the Constitution expressly declares that the Senate shall have the sole power to try all impeachments; there can be no other tribunal than the Senate. And it is also to be remembered that the Senate is by the express command of the Constitution to be composed of two Senators from each State, and it is to be remembered that Massachusetts is a State, and it is to be remembered that the Senator from that State who has just addressed the Senate is one of those Senators representing that State; so that whatever may be his opinions he must of necessity be a member of the court to try that impeachment.

The Senator from Maryland seems to think it of the utmost importance that each Senator should be unbiased. If it be so, I suppose he should not only not have any opinions unfriendly to the President but he should not have any friendly to him. The Senator from Massachusetts has advanced the idea that the President has become an enemy to his country. The Senator from Maryland says that that is a high crime, and if he be guilty of it he ought to be impeached, and upon that question the Senator from Massachusetts ought not to act because he has already formed an opinion. Mr. President, I suppose there is no member of the Senate but what has an opinion on that question one way or another. I think it will be the judgment of the Senate, in view of the debate which has already been listened to, that the Senator from Massachusetts does not seem to be any more firmly impressed with the idea that the President is the enemy of his country than the Senator from Maryland seems possessed with the contrary opinion. It does not disqualify a Senator from acting in this court that he has an opinion on one side of the question unless it disqualifies a Senator who has an opinion on the other side. An opinion of one kind, it seems to me, disqualifies one as much as an opinion of the other kind. And I suppose there is, as I said before, no member of the Senate but has an opinion on that very question one way or the other. It may be that every one of these opinions is not so obstinate but that it can be controlled by testimony. That may be the case with the opinion advanced here by the Senator from Maryland, and we have no authority for saying that it is not the case also with the opinion advanced by the Senator from Massachusetts.

But I suppose that not only to be the condition of the sentiment in this Senate touching the present President of the United States, but I suppose we never had a President who was not in communication with a Senate divided upon just that question, some thinking he was an enemy of the country and others thinking that he was not; and I respectfully submit, therefore, that the Senator from Massachusetts will be competent to try an impeachment if it should be sent here against the President as I conceive the Senator from Maryland would be

competent to try that question in spite of the opinions which he has pronounced here.

Mr. LANE. If it is not considered out of order I will take a very few moments to attempt to direct the attention of the Senate to the question before the body. [Laughter.] I shall not undertake to anticipate a state of things where the President of the United States shall be regularly impeached by the lower House and where the members of this grave body shall be his triers. I know not what the result of such an investigation may be, but I hope we shall all be prepared to decide that question upon its merits whenever, if at all, it shall be presented. But I desire now to enter my protest against this doctrine that the freedom of debate in the Senate of the United States shall be or can be curtailed. I know by the parliamentary law that it is out of order to speak disrespectfully of a coordinate branch of the Government. The meaning of it is that when it is not necessary for the purposes of the debate that we shall travel out of the record to denounce improperly a coordinate branch of the Government it is out of order to do so. But here is a bill proposing to restrict the power of removal of the President, based upon the supposition that there has been an abuse, a shameful abuse of the power of removal and appointment. That is precisely the subject-matter before the Senate; and every Senator, under his responsibility to his constituents, his conscience, and his God, may characterize the conduct of the President in such language precisely as he believes to be fit and proper, having no other possible restraint in the law or in the Constitution.

We are called upon to act on the subject of the abuse of the executive patronage. That is the subject now before the Senate. If it be not so, the whole object of the bill is aimless and purposeless. And if we are to be tied here, if a padlock is to be placed upon our mouths here, we have a despotism instead of a Republic, and this high body, the grand inquest of the nation, has no right to characterize tyranny and usurpation as they should be characterized! We may not travel beyond the verge and scope of proper debate to denounce a coordinate branch of the Government; but when it comes legitimately within the proper discharge of our duties we may, we must, we are recreant if we do not, use fitting terms to characterize what we consider an abuse of the appointing power.

Now, Mr. President, what is contemplated by this bill? Simply to restrain and restrict the unlimited power of removal now claimed by the President of the United States. This has always been a doubtful question. It was raised in the First Congress of the United States and decided in the Senate only by the casting vote of John Adams, the then Vice President. From that time to this the power has been doubted by distinguished lawyers. The power has been supported also, I admit, by distinguished lawyers; and perhaps the Supreme Court alone can determine who is right and who is wrong as to the construction of the Constitution on this point. But this bill steers clear of all possible constitutional objections. There are certain officers known to and recognized by the Constitution, whose duties are defined by the Constitution, whose necessary qualifications for office are defined, whose tenure of office is defined. Congress has no right to fix additional conditions or qualifications or a different tenure of office for these constitutional officers; but every other officer in the civil or military administration is subject to the jurisdiction of Congress, and they have a perfect right to fix the tenure of office, the mode of appointment, the duration of the term, and the compensation. This bill does not propose to touch a single constitutional officer, but simply to provide a different tenure of office for those officers provided for by law and whose only existence is under the statute law. You have breathed the breath of life into their bodies. The Constitution never called them to be and to exist. It is your action and yours alone

under which they exist, and the Congress alone can fix the tenure of their offices.

This bill by its first section provides that certain officers; excepting the Cabinet of the President, shall hold their office for a certain time and until their successors shall have been confirmed by a vote of the Senate. That is substantially the first section of this bill. We might, if we chose, apply this principle to the Cabinet officers of the President of the United States. I know heretofore the doctrine has been held that Cabinet officers stood in a relation to the President so confidential that he alone should be consulted in their choice; and except perhaps in two instances no Cabinet officer has been rejected by the Senate; but if we choose we may fix the tenure of their offices. We have as much power over them as we have over an inferior clerk. They are only head clerks of the President, echoing his wishes and will; and the moment their action becomes objectionable to him they are removed. Such is the theory of our Government, and such is the practice that has always prevailed. I do not know that it would be expedient now to embrace the Cabinet officers in this bill; but I am willing to go even to that extent. I think, however, they may be properly left out of this bill as proposed by the Senator from Vermont, and let the President have the absolute power of appointment and the absolute power of removal in reference to them, and I do not care how soon he begins to exercise that power of removal.

What furthermore is contemplated by this bill? That where an officer during the recess of Congress shall be shown to be incompetent or unfaithful the President shall have a right to suspend him from office, and the duties shall then be discharged by the person empowered by law to perform those duties in case of a vacancy, and that the President shall report that suspension, with his reasons for it, to the Senate of the United States at their next session. I see nothing wrong in that. The law in most instances already designates the proper person to discharge the duties when the incumbent shall be incompetent from absence or any other cause. I see nothing wrong in giving the President power to suspend for good cause and allowing the functions to be discharged by the persons defined in law in other cases, or even to allowing a new appointment of a temporary character in such a case.

Then comes the amendment of the Senator from Massachusetts, more wide-sweeping in its scope than any provision contemplated by the bill; and that is that all officers whose annual compensation is more than a thousand dollars shall be appointed by the President subject to the approval or satisfaction of the Senate. That applies, I understand, to all officers who are not properly constitutional officers; those I suppose we may not touch. Excluding the Supreme Court, the President, and Vice President, and according to the provisions of this bill the Cabinet officers, all others shall be subject to confirmation by the Senate of the United States. When this proposition was moved a few days ago upon a pension bill which I had the honor to introduce, I opposed it as an amendment to that bill; but I now support it. From my heart of hearts I support it as a proposition to be attached to this bill, to which it is properly germane. I would make all these officers subject to confirmation by the Senate of the United States. We must lodge discretion somewhere, either with the Executive or with the Senate. In the light of passing events I prefer to trust the Senate. I have confidence in the Senate.

But gentlemen here upon this floor echo the objection of the President in his recent veto message, that danger to public liberty comes from popular representation. Sir, if you will read the history, ancient and modern, of the Old World, you will find that popular liberty has been in no single instance stricken down by popular representation. Look to the revolution in England, look to the terrible French

Revolution, look to the Greek republics, and to the republics of the middle ages, and you will find that it was the tyrants, the dictators, the self-constituted usurpers of authority who overthrew public liberty. I deny that the great danger in our institutions results from popular representation. If that be true, all history is a lie; if that be true, your Government is a fraud and a cheat and the people are not capable of self-government. But that argument is used by the President and repeated here. There is no danger from popular representation. Under our theory of government the only danger is that the popular voice may not be heard, and constitutionally heard.

I would not strip the President of the United States of a single one of his constitutional powers. But, sir, what are the two powers now threatening the liberties of the people? They are the veto power and the indiscriminate use of the power of removals from and appointments to office. The people, thank God, have disposed of the argument arising out of the veto power, and we have now a two-thirds majority in each House of Congress. The loyal voice of this country is heard. By the echo of the previous decision of the people the veto power is no longer regarded, although such is the frequency of its exercise that it has wrought a secret and almost silent revolution in the country, so that now when we look to measures of legislation we do not inquire as to majorities, but whether we can secure a two-thirds vote and overrule the action of the President.

So much, then, for the argument attempted to be drawn from the assumption, as I conceive wholly unsupported in history, that the danger to public liberty results, not from the power exercised by the king or the emperor or the despot or the President, but results from the tyranny of the majority. Sir, if you will cause to pass before you in procession the grand nations of ancient and modern times, if you will open the mausoleum where reposes the history of the past and the dead of ages, you will find that popular representation has never threatened popular liberty in any country upon earth.

Gentlemen tell us, however, that there is no evil here to be remedied, and consequently no necessity for a new law on this subject. Gentlemen tell us that the removals have been few and far between, and that the President in the main has selected men for office who voted for himself and Mr. Lincoln in 1864. I know not how it may be in other sections; but in my own State I do know that two collectors of internal revenue have been appointed by Mr. Johnson who were among the most able and efficient supporters of McClellan and Pendleton during the controversy of 1864. I know of those two instances; there may be hundreds of others, and perhaps there are; but the argument is that he has not always appointed Democrats to office, that he has sometimes, carrying out the sentiment of one of his Cabinet ministers, appointed men to eat his bread and butter who were ready to sell their principles for the sake of office. I regard that as more demoralizing in its character and tendency than the appointment of honest and upright Democrats.

Now, Mr. President, I desire to say a few words in reference to this question, so that I may be properly understood at home. We are told upon this floor that out of four million votes cast at the last elections eighteen hundred thousand were for the President's policy; and out of a vote of four millions there was a popular majority of only four hundred thousand in favor of the congressional policy; and that the eighteen hundred thousand who supported the policy of the President are a large minority who have a right to share in the patronage of the General Government.

Sir, our Government proceeds upon the theory of majorities. The majority have a right to rule. Heretofore when an Administration has come into power, as in the case of Mr. Lincoln, where the President has been in ac-



cord with his party, he has distributed the offices to his party friends. That system was introduced by General Jackson; as I believe, under the counsel—at least it was so stated—of Mr. Van Buren; and from that time to the present it has always been considered that upon the incoming of a new Administration there should be a change of officers, so to make them generally in accord with the Administration.

In 1860 Mr. Lincoln was elected President, and when he came into power in 1861 there was an extensive removal from office, but I believe not so extensive as there should have been; but he was in accord with his party, that party representing a constitutional majority of the people of the United States. Mr. Johnson, the present acting President of the United States, elected Vice President in 1864 upon the same ticket with Mr. Lincoln, comes into office and finds Mr. Lincoln's appointees in place, and he, for mere political and partisan purposes commences a general removal from office. Now, the question is who represents the majority of the people of the United States—the grand national Union Republican party which has sustained the country through five years of terrible war. Who represents that party, the President of the United States, or the Congress of the United States? To whom do the public offices belong, to the President or to the people? If they belong to the people, the people come only to be heard through the voice of their representatives in Congress. Do they belong to the President? If so, the grand battles and triumphs of the Revolution were fought in vain, for then we have a despotism more onerous and terrible than any despotism which has ground down the eastern nations.

But gentlemen say they should have a part of these offices. Who cast the eighteen hundred thousand votes that sustained the President at the last elections and who sustain him to-day? The Democratic party, who brought on this war, who are chargeable for every grave which furrows the battle-fields of the South; who are chargeable for the terrible convulsions which have shaken the country and threatened free government and free institutions upon the continent. They gave these eighteen hundred thousand votes, and they claim now to participate in the patronage of the Government. Who, furthermore, support "my policy?" Who stand beside the President to-day? Not only the Democratic party of the North, who in the Chicago convention resolved that the war for the Union thus far had been a failure, but the ten States in rebellion. They now support and sustain the policy of the President of the United States. I ask you, Mr. President, to look at the emergency now upon us, at the grand crisis through which we are now passing, in the terrible and lurid light of five years' civil war; look at it in the history of Libby prison and Salisbury and Andersonville, and you must recognize your right not only to protect loyal men here but loyal men everywhere.

Mr. President, I regret that I have injured a very fine voice in denouncing the outrages of the Democratic party for the last twenty years; and I am sorry that the state of my lungs is such that I cannot proceed either with satisfaction to myself or satisfaction to the Senate. I have only to repeat that I shall give my vote for this bill in its widest and most extensive scope, not for the purpose of striking down any proper constitutional power of the President, but with the firm determination to stand upon and assert every constitutional power of the Senate. There I stand and shall stand as long as I have the honor to be a member of this high body.

**THE PRESIDING OFFICER.** (Mr. HARRIS in the chair.) The question is on the amendment proposed by the Senator from Massachusetts to the amendment made as in Committee of the Whole.

Mr. SUMNER. Before the vote is taken I will amend my amendment, as it is within my power to do so, by striking out "\$1,000" and substituting "\$1,500."

**THE PRESIDING OFFICER.** The Senator

has a right to modify his amendment, and it will be so modified.

Mr. SUMNER. I have made that change in deference to Senators about me, and especially yielding to the earnest argument of the Senator from Vermont, who was very much disturbed by the idea that the Senate would have to act upon inspectors. My experience in this body teaches me not to be disturbed at anything. I am willing to act on an inspector or a night-watchman; and if I could I would throw over him the shield of the Senate against the tyranny of the Executive. The Senator from Vermont would leave him a prey to that tyranny, so far as I can understand, for no other reason than because he is an inspector, an office of inferior dignity; and because also if we embrace all inspectors we shall have too much work to do. Sir, we are sent to the Senate to do work, and especially to surround the citizen with all possible safeguards. The duty of the hour is now as I have declared. It ought not to be postponed. Every day that it is postponed is to my mind a sacrifice of duty. Let us not, then, be deterred even by the humility of these officers or by their number; but whether humble or numerous let us embrace them within the protecting arms of the Senate.

Mr. EDMUNDS. Only a single remark, sir. I do not think that in order to save these inspectors from what my friend seems to consider the dangerous clutches of the President we ought to neglect all the rest of the people of the country in protecting them by appropriate legislation. The Senator has now modified his amendment to make the limit \$1,500; and the effect of that, without going into it any further than to point out one single effect, will be to take away from the confirmation of the Senate hundreds of deputy postmasters, as they are called, who are now required to be confirmed by the Senate, because according to the existing law where the salary of a deputy postmaster is \$1,000 a year we have to act upon his nomination. The consequence will be that the Senator by this change will lose almost as many offices from the control of the Senate as he will get into it. He will throw the postmasters into the dangerous clutches of the Postmaster General, and will save a few inspectors. I hope that every friend of the real purpose of this bill will vote against the amendment.

Mr. SUMNER. Let me reply precisely to the Senator. He says that the proposition I have now made would throw certain postmasters within what he calls the clutches of the President. The language he employs is apt—within the clutches of the President. But he is mistaken; let him read the amendment and he will see that it is open to no such interpretation. My amendment is only applicable to those agents and officers who are now appointed by the President or by the head of a Department without the advice and consent of the Senate. All postmasters with \$1,500 salary are now appointed by and with the advice and consent of the Senate.

Mr. EDMUNDS. Yes, Mr. President, but the law under which those appointments are made, as it now stands, is that all postmasters with a salary of \$1,000 or upward shall be appointed by the President by and with the advice and consent of the Senate. It is proposed to change the law by making the point of confirmation \$1,500, and that of course will throw out all who receive less.

Mr. SUMNER. The point to which the Senator refers is made applicable only to officers now appointed by the President or the head of a Department without the advice and consent of the Senate. If \$1,500 postmasters are in that category, then I admit that they fall within my amendment; but if they are not within that category then they do not fall within my amendment.

Mr. MORRILL. I ask the Senator from Massachusetts if he will accept an amendment which proposes to submit all of these officers to the confirmation of the Senate? As I un-

derstand the proposition now it is that all officers appointed by the President whose salary amounts to \$1,500 shall be submitted to the Senate for confirmation, and those appointed by the heads of Departments not.

Mr. SUMNER. No; the Senator does not read the amendment aright. It is that all agents or officers appointed by the President or by the head of a Department whose salary or emoluments, whether from fees or otherwise, amount to \$1,500 per annum, shall be appointed hereafter by the President by and with the advice and consent of the Senate, and only in that way.

Mr. MORRILL. I do not know but that the amendment is susceptible of that construction, but I think it is not quite as clear as the Senator's statement. If, however, that is the view of it, I of course make no further suggestion.

Mr. SUMNER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. NORTON. I wish to state that I have paired off on this question with the Senator from Tennessee, [Mr. FOWLER.] If he were present he would vote for the amendment and I against it.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

**YEAS**—Messrs. Brown, Chandler, Conness, Grimes, Harris, Howard, Howe, Lane, Morgan, Morrill, Ramsey, Sprague, Sumner, Wade, Wilson, and Yates—16.

**NAYS**—Messrs. Anthony, Buckalew, Cowan, Cragin, Dixon, Doolittle, Edmunds, Fessenden, Fogg, Foster, Hendricks, Johnson, Nesmith, Patterson, Poland, Riddle, Saulsbury, Sherman, Van Winkle, Willey, and Williams—21.

**ABSENT**—Messrs. Cattell, Creswell, Davis, Fowler, Frelinghuysen, Guthrie, Henderson, Kirkwood, McDougall, Norton, Nye, Pomeroy, Ross, Stewart, and Trumbull—15.

So the amendment to the amendment was rejected.

Mr. HOWE. I desire now to renew the amendment which I submitted while this bill was in Committee of the Whole, to strike out the words included within parenthesis in the third, fourth, and fifth lines of the first section, as follows:

Excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General.

I tried the other day when this same question was before the Senate to submit my reasons for urging the amendment. I was conscious at the time that I made a very inadequate presentation of them; but I find the whole argument in a morning paper; and it is so complete and I find myself so utterly unable to answer it and so confident that no one else can answer it that I desire to produce it. It is a quotation in the paper from which I read, from the New York Herald:

"It is rumored this evening, in reference to Senator Cowan's appointment as minister to Austria, that an important position in the Cabinet, which it is confidently asserted has been tendered him, will influence in a great measure his decision in accepting or rejecting the appointment to a foreign mission. The portfolio of the Secretary of War is among the considerations which will induce him to remain."

No one has denied that our authority over this question of removing a Secretary of State is just as ample as it is over the removal of any other officer. If my amendment be adopted, then this portfolio will not operate at all to dissuade the gentleman alluded to in this paragraph from going to Austria. If my amendment is adopted, this portfolio will not, I take it, be given to the gentleman alluded to in this paragraph. Those who think that that change ought to be made I suppose will vote against this amendment. Having a very high opinion of the gentleman alluded to myself, so far as his personal character is concerned, I am compelled to say that I do not think that would be a good change to make for the interest of this country, and therefore I shall vote for the amendment, and I ask for the yeas and nays upon it.

Mr. SAULSBURY. The reason assigned by the honorable Senator from Wisconsin certainly is a very unanswerable one indeed! What is it? A rumor. Where does it come from, who is responsible for it, and upon what authority is it based? A passage taken from a daily paper, that the portfolio of War may be

tendered to the distinguished Senator from Pennsylvania, who certainly has no superior as a statesman on this floor, if any in the country; and the action of the Senate of the United States is gravely invoked in behalf of an important amendment to this bill because, perhaps by the adoption of that amendment, the portfolio of War may not be tendered to the Senator from Pennsylvania! And that, too, sir, when, if that portfolio be tendered to that distinguished Senator, his confirmation will be in the hands of the Senate of the United States; and if the Senate of the United States forbid that confirmation no disaster can come to the country from such a tender as that to the Senator from Pennsylvania. The distinguished Senator from Wisconsin said he could not answer the argument which he himself read; in other words, he confessed that he could not answer an idle rumor, which I suppose is true.

Mr. BUCKALEW. Mr. President, I desire to state, in connection with what has been said, that my colleague is now absent from the Chamber, and is not himself able to take any notice of the introduction of a newspaper correspondent's speculation in the debates of this body. I desire also to state, as this point has been raised, that my colleague was nominated by the President of the United States for a position abroad without his knowledge. He had no information that such a nomination was proposed, no concern whatever in procuring it. He stands perfectly independent of the whole proceeding, having had no personal connection with it in any way whatever.

I must say, in addition to that, as to the statement by a newspaper correspondent upon a proposed location of my colleague hereafter in intimate relations with the President at home, I have no information whatever; but so far as my opinion can be formed from a knowledge of him, from a knowledge of the general circumstances of the case, I do not believe there is the slightest foundation for what is stated by the correspondent. Of course we may conjecture upon what may take place hereafter as we please. What I desire to say is that, so far as I know and believe, this statement by the correspondent is a vague, idle conjecture, belonging to a class of conjectures which I suppose find their way into the newspapers of the country from the fact that these newspaper correspondents are in want of material to make up the correspondence for which they are paid, and in the absence of definite and exact information to communicate to the newspapers with which they have the relation of correspondent they exercise their ingenuity for the purpose of feeding that popular love of excitement upon which newspaper circulation is to a great extent based.

I have said thus much because of the circumstance which I stated in rising: that the member of this body who was affected was not then present in the Chamber.

Mr. HOWE. I trust it is not necessary for me to disavow any purpose of reflecting upon the character of the distinguished gentleman whose name is introduced in this paragraph. It is not necessary for me to disavow any such purpose, because I did not indulge in any such reflection, had none to indulge in. I have not a feeling in the world toward that gentleman, but of the very kindest character. The only point I make is that, judging of the matter from my stand-point, which differs essentially from the stand-point of the Senator from Pennsylvania and the Senator from Delaware who have just taken their seats, I do not think it would be a good thing to do. I should prefer to see the present incumbent retained in the custody of that portfolio, and therefore I am not willing to leave the power in the hands of the President to take it from him without the consent of the Senate. That is the only point I make upon it. I do not think that is a very strange opinion for me to entertain. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HOWARD. I shall vote for the motion made by the Senator from Wisconsin to strike

out the exception contained in the third line of the first section.

Mr. COWAN. Mr. President—  
The PRESIDENT *pro tempore*. Does the Senator from Michigan give way to the Senator from Pennsylvania?

Mr. HOWARD. I have but a word to say. I shall so vote, not for the reason intimated by the honorable Senator from Wisconsin, though I may say with truth that I sympathize with him somewhat in the reason which he has given, but I shall do it in order to save the principle which is incorporated in the bill. The clause reads that every person, except the heads of Departments, holding any civil office, shall hold the same until his successor shall be appointed by and with the advice and consent of the Senate. The principle of the bill is, if I understand it rightly, that all civil officers of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate. To except from the category the heads of Departments, as is done by the clause as it now stands, seems to me to give up the principle and to acknowledge in the same breath that as to the highest officers of the Government the President has authority to remove them at pleasure during the vacation and to appoint others in their stead. That is the very principle that we are combatting.

Mr. EDMUNDS. Allow me to say to my friend from Michigan that he misapprehends the principle of the bill, taking his statement of it, in this: the bill does not undertake to declare that every civil officer shall be appointed by and with the advice and consent of the Senate; but it simply undertakes to declare that every civil officer who by law is required to be appointed by and with the advice and consent of the Senate, with the exception named, shall hold his office for a certain length of time. That is, it regulates the duration of holding office; and it makes this exception, not as surrendering the principle upon which the bill goes, but because by express authority of law now the President is authorized by the law, as I say, or as is claimed, in opposition by the Constitution, to remove these officers at pleasure. We thought it right for the time being at least to try the experiment of still authorizing him by law, that is leaving the law to stand just as it does now, to change Cabinet ministers. That is the principle of the bill.

Mr. HOWARD. I did not misunderstand the theory of the bill; nor was it very highly necessary in my judgment that the Senator from Vermont should have interrupted me with a view to correct what he calls my misapprehension. What the bill intends to do is to prevent the President of the United States removing from office during the vacation those who have been regularly appointed, and substituting others in their stead. That is the evil which we propose to remedy. Now, sir, this exception in the bill seems to me to yield the very principle itself upon which the bill is founded, and to say to the President, "You may remove the Secretary of State, the Secretary of War, &c., during the recess of the Senate and appoint others in their stead if you see fit to do so." In short, it appears to me to be a clause which is utterly inconsistent with the object, the scope, and purpose of the bill; and I shall therefore, for the sake of harmonizing the provisions of the bill, vote to strike out this exception, and then I shall vote also to strike out another clause in the second section, which is a recognition of this previous exception.

Mr. COWAN. Mr. President, I understand that my colleague has explained my position in the matter which, as I think, has been without any sufficient warrant introduced here as an offense on the part of the President. I have only to say, as I understand my colleague has already said, that I am utterly, entirely, and totally innocent of all these honors which are about to be thrust upon me; I have never had the slightest intimation of any one of

them; and this report, to which the Senator from Wisconsin has directed my attention, that I am to be Secretary of War, I certainly never heard from anybody connected with the President, the Secretary of War, or anybody else in authority. I have only to state further with regard to the Secretary of War that from the time he accepted that position he and myself have been upon the most friendly and intimate terms, coming from the same region of country and having known each other for a long time, and I do not know of anybody to whom he might more safely intrust his destinies for fair play than to myself.

I make this statement in order that these things, which are mere rumors, idle wind, which may be made by anybody, may not be allowed to influence the action of this body in the premises.

Mr. CONNESS. From the direction that the latter part of this debate has taken it might appear as though the Senate, or some part of the Senate, desired the adoption of the amendment now proposed by the honorable Senator from Wisconsin, for the purpose of preserving to the distinguished citizen who now holds the position of Secretary of War the office which he has so ably filled and which he still graces. I take it that it is scarcely necessary to be said here or necessary to be said anywhere to those who know him or know his character, that he would be the last man either to seek or wish protection to himself in that or any other place. It is unnecessary to add that he occupies the place because of the high position that he holds in the hearts of the people, and the great fitness which he has in the opinion of the people for the office. I feel called upon to say this much only because of the turn the latter part of this debate has taken.

Mr. HOWE. I am obliged to the Senator from California for the reminder he has given the Senate, and I ought in support of it to say that of course I offered this amendment upon my own responsibility entirely, without the slightest consultation with the Secretary of War or anybody, so far as I know, that has seen the Secretary of War; and he had no more idea that the amendment was to be offered than a person on the other side of the Atlantic.

Mr. CONNESS. Of course not. That is well understood.

Mr. HOWE. I have, I avow here, a very high opinion of the public services of the Secretary of War. I should regard it a public calamity to have him removed at the present juncture. I should think the Congress of the United States assumed a grave responsibility if, knowing that there was a probability of his being removed, they allowed it to be done when they could prevent it; and I say this, not having been, as the Senator from Pennsylvania says has been the case with him, on intimate terms with the Secretary of War. I have occupied no confidential relation whatever with him. I have judged of him as from a distance, judged of his public acts, and put upon them perhaps an exalted, certainly a very high estimate, as I have no doubt every Senator on this floor has done.

The question being taken by yeas and nays, resulted—yeas 13, nays 27; as follows:

YEAS—Messrs. Brown, Chandler, Fogg, Grimes, Howard, Howe, Lane, Morrill, Ramsey, Sprague, Sumner, Wade, and Wilson—13.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Cowan, Dixon, Doolittle, Edmunds, Fessenden, Foster, Frelinghuysen, Harris, Henderson, Hendricks, Johnson, Morgan, Nesmith, Norton, Patterson, Poland, Riddle, Saulsbury, Sherman, Van Winkle, Willey, Williams, and Yates—27.

ABSENT—Messrs. Cragin, Creswell, Davis, Fowler, Guthrie, Kirkwood, McDougall, Nye, Pomeroy, Rosa, Stewart, and Trumbull—12.

So the amendment to the amendment was rejected.

Mr. EDMUNDS. I move to amend the sixth section by adding these words:

*Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointments shall have been advised and consented to by the Senate.

I do not think myself that this amendment

is absolutely necessary; but as opinions differ as to the precise point of time when an appointment is completed, the committee thought it best, to save all question, inasmuch as the penalties of this section are very heavy, to add a proviso giving the President power to make out, after we have adjourned, commissions in cases where we have confirmed men, on the last day of the session, for instance, so that he could not make out the commission before the adjournment.

Mr. HOWARD. I inquire of the Senator from Vermont whether that has not been the uniform practice of the President in such cases. I think it has been. I have no desire to make opposition to this amendment, but it seems to me to be supererogatory.

Mr. EDMUNDS. That undoubtedly has been the uniform practice; but it has also been the uniform practice of the President to remove and appoint and make out commissions at his own free will altogether. We now propose to regulate the duration of appointments and to punish by heavy penalties any violation of this act; and we do not think it wise, on the whole, to leave it open to any criticism as to what precise point of time an appointment takes effect, and therefore we thought it better to say in express words, to save all question, that commissions in these cases may be issued after the adjournment.

Mr. HOWARD. I do not wish to oppose this amendment, though I really think it is superfluous. I think the point was decided by the Supreme Court of the United States in the case of *Marbury vs. Madison*. What I understand to be the proceeding is this: the President of the United States makes a nomination of a particular officer to the Senate; that is to say, he asks the Senate to give their advice and consent to the appointment of A. B. Suppose the Senate does so, and the proper officer of the Senate reports the fact to the President; then he has in his hand the advice and consent of the Senate to that particular nomination. After this advice and consent are thus communicated to the President I do not understand that he is under the slightest obligation actually to appoint that nominee. The vote of the Senate may remain in his drawer unnoticed. The appointment, properly and strictly speaking, is never made and completed until the President, in the form of a regular commission, with the seal of the United States affixed by the Secretary of State, has appointed the person to that office. In other words, I think that an appointment by the President is never complete and the office completely vested in the appointee until a commission has thus been signed and delivered to the appointee. Is not that the law? Believing that to have been the understanding of the country and to have been the decision of the Supreme Court, or rather the reasoning of Mr. Chief Justice Marshall in the case to which I have referred, I cannot see the propriety or necessity of this amendment.

Mr. EDMUNDS. That is precisely the reason why the committee thought it best to offer this amendment. Inasmuch as we preclude any appointments being made in the recess, so far as the making out of the commission for a person whose appointment the Senate have advised and consented to is a part of the appointment, we want to have the President authorized to do it in the recess when necessary, and therefore to save any question as to violating the penal provisions of the section we thought it wise to put in this provision. My own opinion is that it is not necessary, but we did not want to leave any excuse to prevent the making out of the commission in such a case.

Mr. HOWARD. Very well; if the committee have considered this somewhat delicate question and think this provision necessary I shall not object.

Mr. LANE. I am going to make a motion which I hope will meet the general concurrence. We propose by this bill to restrict the power of removal in the President. We have already determined upon the motion of the

Senator from Massachusetts not to restrict certain officers to be removed in the future whose salary is over \$1,000. We have upon motion of the Senator from Wisconsin already voted that Cabinet officers shall be excluded. We propose to do a certain thing and at the same time the bill does not accomplish it; and I move now the indefinite postponement of the bill, and I shall vote for that motion in the hope that it may prevail.

The PRESIDING OFFICER. That motion has precedence. The question is on the motion of the Senator from Indiana to postpone the bill indefinitely.

Mr. SUMNER. I cannot say that at this stage I am ready to vote for the indefinite postponement of the bill, but I am ready to say that the votes which have been taken do deprive the bill of its essential practical value. The Senator from Vermont follows up his bill on points of law: he had better meet the practical questions of the hour; they are involved not in law, but in facts. The facts are that a tyranny at the other end of the avenue seeks to oppress the honest citizens of this Republic. We can interpose our protecting arm, but we have refused to do it. Now, we proceed to try to settle certain questions of law. If those questions of law can be settled by this bill, I shall be glad of it; therefore I am not ready at this moment to vote for the indefinite postponement of the bill; but I do say that the bill will be of very little practical value compared with what it could be had it not been shorn of its proper functions. The bill does not meet the exigency of the times. It ignores great facts that fill this whole country. It ignores the tyranny of the President, which is brought to bear with a strong arm upon loyal and patriotic citizens throughout the land. It seeks simply to vindicate to itself certain powers of the Senate, and thus to throw a safeguard over a certain number constituting a limited class of office-holders. The bill should go further and surround all office-holders, so far as it is practicable, with the arms of the Senate.

Mr. EDMUNDS. Mr. President, the difficulty with my friend from Massachusetts seems to be that unless he can have plum-pudding every day he is almost ready to starve. I suppose, on his theory, if we were organizing a court of justice, he never would consent to the passage of a bill which should establish a judiciary until he had gone over the country and gathered up all the suitors and arranged their places in it and provided exactly who should be tried first. If my friend from Massachusetts would only consider for a moment that the simple proposition in this bill relates to the powers of the Senate and to the duration of the tenure of certain offices and to nothing else, and would content himself with doing one thing at a time, there would then be time enough to declare afterward how broad the area should be of the number of offices to whose appointment the confirmation of the Senate should be a necessary ingredient. As fast as that number of offices is enlarged, just so fast the officers to fill them will come within the scope of the protection of this bill. Now, I implore my friend from Massachusetts and my friend from Indiana, if they are really sincere in treating this subject in any other way than that of mere enthusiasm and heat, let us settle the principles upon which the action of the President and Senate shall proceed, and then as fast as the occasion arises we shall find the subjects upon whom these principles shall operate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana to postpone the bill indefinitely.

Mr. LANE. I do not wish to embarrass the action of my party friends; I have generally acted with them; and I will withdraw the motion, although I think there is nothing at all in the bill.

The PRESIDING OFFICER. That motion being withdrawn, the question recurs on the amendment proposed by the Senator from Vermont.

Mr. JOHNSON. The Senator from Vermont has no doubt given more attention to the subject of his amendment than I have, but it seems to me to be liable to two objections, the first of which is that it is not necessary. The President as a matter of course, or of the proper Department, would have the power to issue the commission after the Senate had advised and consented to the appointment. I think that is regulated by a general law independent of this provision. The second objection is that perhaps impliedly it takes from the President authority to issue commissions during the session of the Senate. It says that he shall issue commissions to officers when the Senate has advised, consented to their appointment, after the adjournment of the Senate. Then, if there is no law now which gives him authority to issue commissions in the recess, the implication from this language would be that no commission could be issued during the session of Congress. That would be attended with very great difficulty, particularly during the long session, when we are here sometimes until the month of August, and have been here until September. During that whole period, from week to week and month to month, appointments are being made, and that will be the case if this bill passes in such cases as are provided for by the bill.

If I am right in supposing that the implication will be that there is no authority to issue a commission until after the adjournment of Congress, the officers appointed early in the session, not intermediately in the session, would have to wait until Congress adjourned before they could get their commissions. That I suppose is not the purpose of my friend from Vermont; but I submit to him whether that perhaps will not be the effect of his amendment.

On the other question I am not so certain; that is to say, whether the President has not the power, or to state it more correctly, whether it is not his duty to issue commissions to officers who have been appointed by and with the advice and consent of the Senate. Except for the authority of the Supreme Court in the case of *Marbury vs. Madison*, the doctrine of which was perhaps recognized as a sound one in the subsequent case of the United States vs. Guthrie, I should presume the President had no authority to withhold a commission, after it has been signed and filed in the Department, of an officer who has been appointed by and with the advice and consent of the Senate. If there be any doubt of the authority of the President to issue a commission after the adjournment of the Senate, it is a doubt that ought to be cured by this amendment; but I am by no means sure that such a doubt is well founded, and I think it more probable perhaps that the amendment would create difficulty instead of removing it, by giving room for the construction that it takes from the President the power to issue commissions until the Senate does adjourn.

Mr. BUCKALEW. This amendment is clearly proper and necessary if the bill itself shall pass. By the third section it is provided that "if no appointment by and with the advice and consent of the Senate shall be made to such office so vacant or temporarily filled, as aforesaid, during such next session of the Senate, such office shall remain in abeyance"—shall not be filled. Then, in the sixth section, to which it is proposed to add the amendment, are provisions making it a penal offense to fill up or issue any paper in connection with an appointment forbidden by the present bill. It will follow that where an appointment is not actually made and the commission issued before the adjournment of the Senate, it cannot be made or issued after the adjournment. We know that in the closing hours of the session we very often confirm hundreds and hundreds of officers when it is physically impossible that the President shall in consequence of our confirmations sign the commissions before the Senate adjourns. It therefore becomes strictly necessary that we should confer authority by an amendment upon him to make the appointment, or rather sign the commission and issue



it after our adjournment. It is physically impossible that he can do it before. The Senator from Maryland [Mr. JOHNSON] asks, does he not have that power now? Of course he has, but this bill takes it away. It takes away the power to make an appointment, to sign a commission, to issue a commission, to do any act where the office is not actually filled during the session of the Senate; it cannot be done afterward. If the Senator will look back to the third section and consider it in connection with the penal clauses of the sixth he will see that this amendment is indispensable.

The amendment to the amendment was agreed to.

Mr. HENDRICKS. I suppose we all understand this bill now very well, and the votes upon the different propositions indicate the pleasure of the majority to stand by the report of the committee, and I think it is desirable, as this bill is to pass, not by my vote however, that it should be passed this evening. It is a matter of comfort that we should soon come to a vote, and I suggest that we do come to a vote and dispose of this bill. If I thought further discussion was useful on the subject I should like to participate in it; but I reckon we have considered all the amendments it is important to consider, and I hope we shall come to a vote this evening so as not to take up any further time with it.

Mr. WADE. Very well; let us have a vote.

The PRESIDING OFFICER. The question now is on concurring in the amendment made in Committee of the Whole as it has been amended in the Senate.

The amendment as amended was concurred in.

Mr. EDMUNDS. I promised my friend from Indiana yesterday that at the proper time I would endeavor to convince him and other gentlemen of the strict propriety of this measure under preceding legislation and under the Constitution; but I am disposed, as I perceive such is the temper of the Senate, and it agrees with my own decidedly, to forego any observations upon that point and let the bill come to a vote at once.

Mr. HENDRICKS. In reply to the suggestion of the Senator from Vermont, I will say to him I have investigated the subject somewhat that was between us about the legislation on this subject, and he and I would not be able to agree upon the question of fact. So we shall have to postpone that discussion to some other bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HENDRICKS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. JOHNSON (when his name was called) said: I have paired off with the member from Iowa, who is not in his seat, [Mr. KIRKWOOD,] on the question. He would have voted for the bill and I should have voted against it.

Mr. NORTON (when his name was called) said: I have paired off with the Senator from Tennessee, [Mr. FOWLER,] who would have voted for the bill and I would have voted against it.

The result was announced—yeas 29, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Morgan, Morrill, Poland, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Cowan, Dixon, Doxittle, Hendricks, Nesmith, Patterson, Riddle, and Saulsbury—9.

ABSENT—Messrs. Creswell, Davis, Fowler, Guthrie, Johnson, Kirkwood, Lane, McDougall, Norton, Nye, Pomeroy, Ross, Stewart, and Trumbull—14.

So the bill was passed.

On motion of Mr. EDMUNDS, the title of the bill was amended so as to read, "A bill regulating the tenure of certain civil offices."

PERSONAL EXPLANATION—THE TARIFF BILL.

Mr. GRIMES. I rise to a personal explanation.

A friend has just called my attention to the last number of a newspaper, published in the city of New York, called The Iron Age, which contains an article headed "Senator GRIMES and the Tariff" which reads thus:

"It was on the motion of Senator GRIMES, of Iowa, that the consideration of the tariff bill passed by the House was postponed until the present session. In making his memorable motion Mr. GRIMES is reported in the Congressional Globe as using the following words:

"I do not believe that you can convince the people of any State that it will be to their advantage to increase the duty on iron variously from ten to fifty dollars a ton; or that it will be for their advantage to increase the duty on the low grades of cutlery, such as go into every farmer's house, six hundred percent."

"We should be very sorry to do Senator GRIMES an injury; but it is fair to him to say that it is currently reported that he has a pecuniary interest in a hardware establishment in Burlington, Iowa, and is a silent partner in a cutlery business in Beekman street, New York; and as in his speech proposing the postponement of the tariff he exhibited special repugnance to the duty on cutlery, it is, to say the least, not a little significant that the Senate bill should come with lower duties than were proposed either by the House bill or that of Mr. Wells. It looks certainly a little suspicious that in these special instances the tariff should be sent from the Senate so strangely low. But possibly the honorable gentleman has no pecuniary interest in this matter of imported cutlery, and has not used his influence as a member of the Senate to promote his own private ends. In that case we shall be happy to publish the disclaimer: at present it is but just to tell him that appearances are against him."

Mr. FESSENDEN. What paper is that in?

Mr. GRIMES. The Iron Age, the organ of the manufacturers of iron and cutlery in the United States. This, it seems, is the manner in which these men are to operate upon the fears and the judgments of members of Congress to induce them to assist in passing a bill which, in my conviction, while it would be to their advantage would be vastly to the disadvantage of a vast portion of this country, if not the whole of it.

Now, sir, as to the facts, I desire to say that it is true that I was once a partner in a house that conducted the hardware business; but my entire interest in that establishment ceased on the 28th of August, 1865. From that day to this I have never had the slightest interest in anything connected with the hardware or the iron business. I am not the owner, either directly or indirectly, of a dollar's worth of hardware save what is in use in my own dwelling for domestic purposes.

As to the statement that I am a partner in an establishment in Beekman street in the city of New York, I have simply to say that it is unqualifiedly false. I cannot imagine from what this falsehood springs, except it be from the fact that a person who once had an interest in my business in the State of Iowa is now, in some way or other, connected with a cutlery establishment in Beekman street, in New York. I do not even know the name of the firm with which he is associated.

My constituents, I think, the people of my own town and of my own State, know whether I am interested in an improper manner in the hardware or in the iron business. I have never heard that they suspected me of being improperly interested in this regard.

All I have to say is, that if the gentlemen connected with the iron and steel association, or any of those who act under their inspiration, imagine that they are going to accomplish any good for themselves by such gross, slanderous, libelous attacks upon members of this body, I trust they will find that they are mistaken; they certainly will so far as it depends upon me.

That this publication was intended as a libel is evident, from the fact that the publishers of the Iron Age could, without the slightest difficulty, have informed themselves of the falsity of their charges without going out of the city of New York, where their publication is issued.

As to the influence that I am said to have exerted upon members of the Finance Committee to induce them to report on the subject of cutlery as they have reported in the tariff bill they can answer for themselves. If I have ever spoken to any member of the committee on that subject during the present or in any

preceding session of Congress I am not conscious of it.

#### ORDER OF BUSINESS.

Mr. POLAND. I move that the Senate proceed to the consideration of House bill No. 598, to establish a uniform system of bankruptcy.

Mr. CHANDLER. I desired to make the same motion in regard to the Niagara ship-canal bill; but as the Senator is in advance of me, I will now move that the Senate adjourn, and I give notice that I shall try to get that bill up to-morrow at one o'clock.

Mr. JOHNSON. Will the honorable member do me the favor to withdraw his motion that I may say a word upon a question which interests us all I think?

Mr. CHANDLER. Certainly.

The PRESIDING OFFICER. The motion to adjourn is withdrawn.

#### PERSONAL EXPLANATIONS—THE TARIFF.

Mr. JOHNSON. Mr. President, in the latitude which the press or rather positions of the press sometimes take, it very often happens that every man in public life is more or less aspersed, or that injustice is done him in some form or other, either from party motives, or as frequently from interested motives. I felt that the instance to which the honorable member from Iowa [Mr. GRIMES] called the attention of the Senate was one of the latter character; and I was at the moment about to rise, and I believe my friend from Maine [Mr. FESSENDEN] was about to rise, for the purpose of saying a word upon that subject, when other matters intervened.

The honorable member from Iowa, wherever he is known, (and he is known well to all of us,) needed not for his vindication anything to be said by himself in contradiction of the charge, or the assumed charge, to which the editor of this paper alluded to by him has subjected him. I cannot say all that I think in his presence; but I may, without violating any good taste, I hope, say that every Senator upon this floor must be convinced that there is no member of the body who is more incapable of acting from improper or interested motives than the honorable member from Iowa. His appearance in this Chamber is not of a day only; he has been with us for years, he was reelected by an almost unanimous vote of his Legislature, and has resolved, wisely I suppose for himself, long before his term expired, to do nothing more than serve out that term, and then retire to private life, where I am sure he will be respected as much as he has been respected, and by those who know him beloved, by the members of this body.

The public, however, may not know the character of the honorable member, and I think it is due—a debt which we owe each to the other at all times and under all circumstances—when we find a brother member assailed to denounce it, if we believe it to be false, as a groundless slander. Such, I am sure, is the case in the instance to which the honorable member has called the attention of the Senate.

But, not satisfied with impeaching almost the honesty of the member from Iowa, charging him with having been in his public course influenced by considerations of personal interest, the writer of this article has ventured to say that he has been able through that instrumentality, or some other, to influence the members of the Finance Committee. Those who know the members of that committee, from its chairman down and including all its members, know that that must be false. They may be mistaken in relation to the tariff which they may propose from time to time, or in relation to the internal taxes which they may propose to have levied from time to time; but no man who knows the chairman of that committee, and the honorable men with whom he has been associated during the period he has been the chairman of that committee, will hesitate for a moment to charge as a vile

calumny if it be asserted that they have been influenced, any one of them, by improper motives in any measure to which they have given the recommendation of that committee.

I have said this, Mr. President, not because we ourselves demand or require any vindication to satisfy us that they stand above just reproach, but to say to those who deal in calumny or in slander that their efforts, as far as relates to the standing of the members of this body, will be aimless, if they are founded in falsehood.

Mr. FESSENDEN. I did not hear all of the article read by the honorable Senator from Iowa, but I am informed since that it makes an allusion to the Committee on Finance, and to the influence that was probably exerted by the honorable Senator from Iowa upon that committee. I can answer for only one of them, and I will say very frankly with regard to the general subject that if there is a man in or out of this Senate who possesses influence with me it is the honorable Senator from Iowa. No man possesses more. I have great respect for his opinions and for the uniform integrity of his character, as we all have. But, sir, I must say in justification of the Senator and of the committee, or the chairman of it in this particular instance, that the honorable Senator never spoke to me that I know of upon the subject referred to, or alluded to it in any way whatever. All I ever heard him say on the subject was said here on the floor of the Senate; and I presume it is the case with regard to all the rest of the committees. But, sir, if the Senator from Iowa or any other Senator had in conversation expressed his views outside of the committee-room upon the general subject of legislation on the tariff bill, or any particular item of it, it is a right that was perfect in him; and I trust if he had said it, or anybody else, I should have listened to those opinions with all respect and attention, and given to them all the weight which I thought they deserved. I hold it the perfect right, not only the right, but the duty of Senators to communicate with each other and to aid each other as far as possible in coming to correct conclusions on all subjects, both in the Senate Chamber and out of it.

Having said thus much, I have a word or two to add. I have for some time been of the opinion that if a man has made up his mind to do his duty honestly by his country as a legislator in the Senate or the House of Representatives, he has got to do it at the risk of his character as an honest man, and he runs more risk than those, if there are any such, who do not legislate upon those principles. I have observed that if a Senator happens to run across some scheme that is got up and pressed upon the Senate or the House of Representatives, or the Congress collectively, which is to eventuate in large profit to individuals, and places himself in opposition to it, forthwith he finds that some correspondents are attacking him for something or other, and, following upon the correspondents, forthwith some newspapers in certain sections are attacking him on the subject, trying to throw an imputation upon his integrity of action or his ability to understand the questions before the Senate. The more a man stands in the way of schemes for personal profit and personal advantage the more risk he runs of having his motives and his character assailed. Therefore I came to the conclusion myself that the only way for a man was to go along and do his duty as well as he could and take his chances; and I make up for it in my own individual case by not reading the newspapers any more than I can possibly help. [Laughter.] I very seldom look at them; and with regard to an attack upon myself, the only way that I generally hear of it is when some good-natured friend, like the Senator from Massachusetts—I mean the Senator nearest me—for instance, points my attention to it. I do not say that he ever did so; but some good-natured friend will say: "Have you seen the attack upon you in such a paper?" Or perhaps

the author himself who wrote it, or the editor of the paper, cuts it out and addresses it to me for my own particular edification.

Mr. SUMNER. That is the common way. Mr. FESSENDEN. Yes, that is the common way, to let me know what the newspapers say. Sir, I have as much regard for public opinion as anybody, that is, for a just public opinion, and like to receive the approbation of my fellow-citizens; but I have not got to that pass yet when every squib in a newspaper that any interested party chooses to launch at me, or even an attack of a stronger character, if there are any such, disturbs my equanimity to any very great extent. I am perfectly willing to "let them slide," and if they can have the best of it of course I must take the consequences.

Now, sir, let me state a fact as an illustration to show precisely how men are judged. A gentleman who is special commissioner of the revenue has been engaged, under the directions of Congress and of the Secretary of the Treasury, in the discharge of the duties of his office; he has been hard at work for months upon the tariff, devoting all his time to it with very great assiduity very much to the injury of his own health. He is not a man without means in the world. He is a gentleman of very comfortable fortune, who has taken hold of this business because he loves it, because it is the kind of thing which suits his taste. All these questions are to him questions of interest. He is able upon such subjects, and he is desirous to make a reputation in connection with them. He devoted himself with great assiduity to the duty before him. Well, sir, he got his report ready and brought it to Washington. Before anybody saw it hardly certain intimations were sent out from here—I saw them myself—in letters of correspondents and telegraphic dispatches that the commissioner's bill was here and it was a free-trade tariff; we were going to have a free-trade tariff, and the Senator from Maine and the Secretary of the Treasury and the commissioner were alluded to as getting up a free-trade tariff. I had not known anything about it at that time; had not seen it, and had not expressed an opinion, and have not, I believe, on the subject, except as the report of the committee expresses my opinion. He was denounced as a free-trader, and a man who had sold himself for British gold. Pretty soon his tariff scheme came out, or it was ascertained what it was—that instead of being a free-trade measure it was a very considerable advance upon the tariff of 1864, which was anything but a free-trade tariff; that although not quite up to the House tariff bill, it was an advance upon the last one; and the duties in it are so very high in some particulars that now the other side, the free-traders, turn round and say he is bought by the protectionists. Well, if he has been bought on both sides perhaps he has a profitable business of it. [Laughter.]

Now, sir, let me say that men in public life must stand these things; but I want to say of the special commissioner of the revenue, because I feel bound to say it, that I believe there has been no man more devoted to the public service in the line which he has adopted, or one who has given his time more honestly and more thoroughly to the investigation of the subjects committed to his charge. He has come to conclusions which are satisfactory to himself, not perhaps in all particulars to the Committee on Finance, for we have varied from them in many particulars, but such as he honestly believed to be true and for the best interests of the community; and this is his reward! Why? Because, in the first place, he was supposed to run against the personal interests of the protectionists, but now he runs against the interests of the importers.

Well, sir, I came to the conclusion long ago that the only thing we can do decently in relation to all these matters is to just go along and legislate according to our own belief of what is true and just and right and for the best interests of the country. We shall make mis-

takes undoubtedly; I expect to make a great many, as I have heretofore; but at any rate whatever comes we shall retain our own self-respect, and all these little, miserable attacks from interested parties for their own personal objects will be but the merest *brutum fulmen* in the world, and will disappear like mist in the face of the honest discharge of duty, and the people will do justice to faithful public servants.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill of the Senate (S. No. 311) for the relief of James Pool.

The message further announced that the House had passed a bill (H. R. No. 431) providing for the punishment of certain crimes therein mentioned in the District of Columbia, and for other purposes, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 229) to procure a site for a building to accommodate the post office and United States courts in New York city; and the enrolled bill (H. R. No. 964) in regard to the compensation of route agents in the Post Office Department.

#### ORDER OF BUSINESS.

Mr. POLAND. I move that the Senate proceed to the consideration of House bill No. 593, to establish a uniform system of bankruptcy throughout the United States.

Mr. LANE. There is a motion to take up the bankrupt bill, and the Niagara ship-canal bill is antagonized with it. I am equally opposed to both, and therefore I move that the Senate do now adjourn.

Mr. POLAND. I beg the gentleman to withdraw his motion, so that we may have a vote on the motion I have submitted. If the motion to adjourn is not withdrawn I hope the Senate will vote it down.

#### ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore*. With the permission of the Senator from Indiana and of the Senate, before putting the motion to adjourn, the Chair will announce the signing of the following enrolled joint resolution and bill:

A joint resolution (H. R. No. 229) to procure a site for a building to accommodate the post office and United States courts in New York city; and

A bill (H. R. No. 964) in regard to the compensation of route agents in the Post Office Department.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair will also, with the permission of the Senate, lay before the Senate certain House bills for reference.

The bill (H. R. No. 431) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes, and the bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes, were read twice by their titles, and referred to the Committee on the District of Columbia.

The bill (H. R. No. 896) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1867, was read twice by its title, and referred to the Committee on Finance.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

Mr. LANE. I do not know how it is that bills are presented after my motion to adjourn. I made a motion to adjourn, and it seems to me that is the first motion to be put.

The PRESIDENT *pro tempore*. The Senator is certainly correct. The Chair, however, stated that with the permission of the Senator from Indiana and of the Senate, before putting the

motion to adjourn, the Chair would announce the signing of certain enrolled bills, and also lay certain House bills before the Senate. No objection was made. The Chair therefore went on. It was the privilege of the Senator, certainly, to insist on his motion if he chose.

Mr. LANE. I will now withdraw the motion if gentlemen want to take up anything else.

Mr. SHERMAN. I should like to have a short executive session.

The PRESIDENT *pro tempore*. The motion to adjourn is withdrawn.

#### BANKRUPT BILL.

Mr. POLAND. My motion to take up the bankrupt bill is now in order, I believe.

The PRESIDENT *pro tempore*. That is the motion now before the Senate. The question is on proceeding to the consideration of the bill indicated by the Senator from Vermont.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion of Mr. SHERMAN, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, January 18, 1867.

The House met at twelve o'clock m. Prayer by Rev. O. H. TIFFANY, D. D., of Chicago, Illinois.

The Journal of yesterday was read and approved.

#### POST ROUTES IN MICHIGAN.

Mr. UPSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing post routes as follows: From Chinoe Prairie, in Kalamazoo county, Michigan, to Leonidas, in St. Joseph county; also from Galesburg, in said Kalamazoo county, via Pavilion Mills and Brown's Mill, to Mendon, in St. Joseph county; and to report by bill or otherwise.

#### AGRICULTURAL BUREAU.

Mr. RITTER. I ask unanimous consent to submit the following preamble and resolution for consideration at this time:

Whereas it is in the judgment of this House improper and a departure from the intention and design of Congress, in the establishment of the Bureau of Agriculture, for the Commissioner to purchase for distribution seeds that are common in the country: Therefore,

*Resolved*, That the Committee on Agriculture be, and they are hereby, instructed to report a bill restricting and prohibiting the said Commissioner from the purchase for distribution of any seeds, plants, or flowers that are common in the United States; and that they have leave to report by bill or otherwise.

Mr. SPALDING. I must object to this resolution unless it be modified so as to instruct the committee to inquire into the expediency of so reporting a bill.

Mr. RITTER. I will modify my resolution as suggested.

The preamble and resolution as modified were then agreed to.

#### JURISDICTION OF COURT OF CLAIMS.

Mr. HUBBARD, of Connecticut. I have been requested to ask leave to introduce the following joint resolution, for reference to the Committee on the Judiciary:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the jurisdiction of the act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster stores and subsistence supplies furnished to the Army of the United States, approved July 4, 1864," be, and the same is hereby, extended to the counties of Frederick, Warren, Clarke, Shenandoah, Page, and Rockingham, in the State of Virginia.

The SPEAKER. That requires unanimous consent at this time.

Mr. CULLOM. I object.

#### CONSTITUTIONAL AMENDMENT—KENTUCKY.

The SPEAKER laid before the House a letter from the Governor of Kentucky, announcing the rejection by that State of the constitu-

tional amendment; which was laid upon the table, and ordered to be printed.

#### A. D. MOREY.

The SPEAKER also laid before the House a communication from the Attorney General, transmitting, in compliance with the resolution of the House of January 14, 1867, the papers relative to the case of A. D. Morey, indicted in the local court at Vicksburg, Mississippi; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### INTERNAL REVENUE DRAWBACK REGULATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House of January 15, 1867, copies of all drawback regulations which have been prescribed under the internal revenue law; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### CONTINGENT FUND OF TREASURY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting statements of the disbursement of the contingent fund of the various offices of his Department, as required by the twentieth section of the act of August 26, 1842; which was laid upon the table, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. BENJAMIN called for the regular order of business.

The SPEAKER. This being private bill day, the first business in order is the consideration of reports of a private character from committees. On Saturday last, being private bill day, the House granted to the Committee for the District of Columbia an additional hour for their business, and that committee is now in order to make reports.

#### TRANSPORTATION AND COAL COMPANY.

The SPEAKER. The first business in order is the consideration of the bill pending at the expiration of the morning hour on yesterday, being a private bill reported by the gentleman from Ohio [Mr. WELKER] from the Committee for the District of Columbia, with an amendment, being bill of the House No. 592, to incorporate the Washington Transportation and Coal Company.

The bill was read at length.

The amendment reported from the committee was to add to section three the words "and the laws of the States respectively."

Mr. PRICE. I would inquire of the gentleman from Ohio [Mr. WELKER] how this amendment will affect the bill.

Mr. WELKER. It provides that in the transaction of business outside of the District this corporation shall be governed and controlled by the laws of the State in which the business shall be transacted.

Mr. PRICE. That is all right enough. I thought it had reference to two other points to which I had intended to call the attention of the committee reporting this bill.

Mr. HISE. I desire to offer an amendment to this bill to the effect that the corporators and stockholders of this company shall be severally and generally responsible for all the debts and trespasses of this company.

Mr. WELKER. I cannot yield for any such amendment. The bill already provides that the stockholders shall be liable to the amount of stock they have subscribed.

Mr. HISE. I must vote against the bill unless qualified as I have proposed, and I would like an opportunity to state to the House my reasons for that vote.

Mr. WELKER. I must decline to yield for that purpose.

Mr. PRICE. I desire to inquire of the gentleman from Ohio [Mr. WELKER] whether it would not be better, in that clause of the bill which provides that the stockholders shall have the power to make such by-laws as they may deem proper, to add the words "not

inconsistent with the charter;" and further whether in that part of the bill which binds the stockholders for the amount of their stock, it would not be better to insert the usual requirement in acts of incorporation and make the stockholders liable for twice the amount of their stock. I suggest to the gentleman that he had better allow something of this kind to go into the bill if he wishes it to be passed.

Mr. WELKER. I am willing to yield for the first amendment which the gentleman suggests; but I cannot consent to the second amendment which he proposes.

Mr. PRICE. Then I hope that the House will not sustain the call for the previous question and will vote down the bill; for no act of incorporation ought to pass here or elsewhere unless the stockholders of the bank, railroad company, or other corporation are bound for twice the amount of their stock. No other rule is safe.

Mr. WELKER. I will allow the gentleman to offer the amendment. If the House desires its adoption I will interpose no objection.

Mr. PRICE. Then I offer the following amendment:

After the word "prescribe," in the second section, insert the words "not inconsistent with this charter." In the same section strike out the word "full," and insert in lieu thereof the word "double," so as to read "double the amount of their stock."

Mr. WILSON, of Iowa. I ask the gentleman from Ohio [Mr. WELKER] to yield to me a moment for a single suggestion.

Mr. WELKER. I will do so.

Mr. WILSON, of Iowa. Mr. Speaker, I desire to call the attention of the committee and the House to one very singular fact in connection with this bill and numerous other bills that have been reported from the committee creating corporations in the District of Columbia. The names of the corporators in this bill seem to be very familiar to me. Almost every bill which has been reported for the incorporation of a company in this district has contained one or more or all of these names. There seems to be an effort made to consolidate in the hands of a few persons in this District corporate powers for every business purpose of the District. Now, sir, I for one object to consolidating in the hands of a few individuals powers to build up monopolies which shall embrace all branches of business. The operations contemplated in this bill are to extend to the article of fuel.

There is another thing that strikes me as very singular in connection with this bill. If I have understood it correctly as read by the Clerk, it proposes to continue in the hands of the first board of directors perpetual succession. In other words, the board of directors may by their own vote fill all vacancies occurring in the board. Sir, I hope that the House will hesitate before passing any more bills of this kind. This bill does not contemplate any operations in this District beyond the sale of coal. The coal fields lie beyond the District. It is proposed that we shall charter a company for the purpose of operating roads and canals and bringing coal in here, so as to monopolize the coal trade of this District.

Now, sir, unless the gentleman from Ohio, [Mr. WELKER], who has reported this bill, can give some very good reason for the establishment of a monopoly of this kind, and some very good reason for the incorporation of the favored individuals named in all these bills that have been reported, and some good reason for placing in the hands of this board of directors a power of perpetual succession, I hope the House will either defeat the bill by a direct vote or lay it on the table.

Mr. WELKER. In reply to the gentleman from Iowa, I will say that I do not know any reason why the names of the same individuals are inserted in these bills of incorporation. It may be that these gentlemen are the capitalists of the District of Columbia and the only individuals who make application for acts of incorporation to carry on business of this kind.

Mr. WILSON, of Iowa. I think I might



suggest an explanation to the gentleman from Ohio. It may be that these individuals who are constantly applying for charters intend to make money out of them by selling the franchises to some persons who may be desirous to engage in these particular branches of business.

Mr. WELKER. In reply I will say I do not see anything in the act of incorporation which authorizes them to sell their charter.

Mr. WILSON, of Iowa. They appear very often before this House in these bills.

Mr. WELKER. In reference to another objection the gentleman makes to this bill, that these directors may make their directorship perpetual, I will say I am willing an amendment shall be moved to make the election of directors annual. I remember no provision of the kind is contained in the bill. This company is intended to act outside of this District. It is intended to operate in Cumberland, and from the mines in that region coal is to be transported down the canal to Washington; and it is authorized to do general trading business. I do not see how this corporation can become a monopoly any more than a common partnership or any other combination of men who may engage in the coal business.

I know a great many attempts have been made to incorporate these companies, and for myself I should prefer that Congress should pass a general act of incorporation rather than to do as we have been doing.

In looking into this charter I see nothing objectionable, nor do the committee who make this report, in the provisions contained in this bill. Some of the men who are named as incorporators may be men to whom members may take personal exception. I do not know that. It was a matter not considered by the committee. We considered the incorporation for this purpose, and we did not think there was anything in this bill which could lead to the consequences spoken by the gentleman from Iowa.

Mr. WENTWORTH. I wish to ask the gentleman a question. We have lately passed a bill enfranchising a certain class of our fellow-citizens. Now, before they can assume their rights in this District it seems to me we are chartering away all of those rights. It seems to me these charters should be given without distinction of race or color. [Laughter.] We ought to live up to the faith we profess. I therefore suggest to the gentleman to insert the name of John D. Johnson, a well-known and respectable man, known to every member of this House, who I am certain owns as much property as many of those who are named here.

Mr. WELKER. I will let the gentleman move the amendment.

Mr. WENTWORTH. I move then to substitute the name of John D. Johnson for that of Charles Knap. He will be a representative of our colored brethren who were lately enfranchised.

The SPEAKER. No amendment is now in order.

Mr. ELDRIDGE. I do not object if it is understood we shall have the yeas and nays on the amendment.

Mr. WENTWORTH. Certainly. I want the country to see we are living up to our professions.

Mr. FARNSWORTH. I ask whether there are any coal mines in the District of Columbia?

Mr. INGERSOLL. No.

Mr. STEVENS. Is this an act of incorporation to work coal mines?

Mr. WELKER. Yes, sir; and for the transportation of coal, &c.

Mr. STEVENS. I desire to say I look upon it then as the most pernicious proposition before this House this year. The idea of incorporating companies to interfere with private enterprise where private capital is fully competent seems to me to be a great mistake. It was tried in Pennsylvania thirty years ago when our coal mines were first worked, and it was found to be injurious to all private interests. There was a general uprising against it by the mining districts, and it has long since been

rejected as utterly untenable. I object to the whole matter without regard to the particular features of this bill.

Mr. WELKER. Is it not true a large number of companies are now engaged in mining coal in Pennsylvania?

Mr. DAVIS. There is a large number of companies in Pennsylvania doing business, transporting coal, &c., and I ask whether it is under any general law?

Mr. STEVENS. There is a law by which companies may build railroads and carry upon them anything they choose, whether coal or anything else. There were originally companies formed to work mines, simply as miners, but Pennsylvania has repealed those charters and refuses to renew them.

Mr. DAVIS. I suspect the gentleman from Pennsylvania, while he has been giving very strict attention to his public duties as a member of Congress for a few years past, has overlooked the legislation of his own State. I undertake to say that in 1863 the Legislature of Pennsylvania passed a general statute authorizing the formation of coal corporations, with the right of transportation; that in 1864 that statute was amended, and that both those acts are now on the statute-book of Pennsylvania. Now, I know nothing about this bill or the character of the parties to be incorporated under it.

Mr. STEVENS. Does the gentleman refer to any special law or to one open to all?

Mr. DAVIS. To a general law.

Mr. STEVENS. Oh, certainly; undoubtedly.

Mr. DAVIS. But the objection the gentleman made was that these corporations were interfering with the rights of individuals.

Mr. STEVENS. I referred to the former practice of creating special corporations. A general law has since been passed allowing everybody to embark in the business.

Mr. DAVIS. Was the charter of the Pennsylvania Coal Company, or the Delaware and Hudson Canal Company, or the Delaware, Lackawanna and Western Railroad Company repealed or abolished?

Mr. STEVENS. The charters for those coal companies were long ago granted in Pennsylvania, and they did not undertake to abolish them, although there was a very strong protest against them, and no such charters have since been granted.

Mr. DAVIS. The gentleman said all these corporations were abolished.

Mr. STEVENS. So far as they had an opportunity to do it; these old charters were irrepealable laws.

Mr. HOOPER, of Massachusetts. I find in looking at this bill "that said company is authorized and empowered to rent, purchase, and hold such real estate as may be necessary to carry into effect the objects of their organization, and to build thereon all necessary docks, wharves, ships, roads, and buildings for their own use and accommodation; to rent, purchase, and hold coal mines for the purpose of mining the same; to build, purchase, own, and rent boats propelled by steam or otherwise, to carry freight and passengers," &c. Now, I wish to ask the gentleman from Ohio [Mr. WELKER] how this affects the coal trade beyond the limits of the United States; whether there is any limit to the power of this company in regard to mining, building, and general transportation by ships and steamboats within as well as outside the limits of the States?

Mr. WELKER. In reply to the gentleman I will say that so far as the bill is concerned there is no limitation; but I apprehend a corporate company in the District of Columbia would not possess any advantages upon the broad seas over any other individuals engaged in that branch of trade.

Mr. HOOPER, of Massachusetts. Then it is free to extend itself over the whole United States.

Mr. WELKER. I do not know whether this company intend to extend their business; I am not advised as to that.

Mr. HOOPER, of Massachusetts. They have the power to do it under this bill.

Mr. WELKER. I suppose they can buy vessels, go across the ocean, and do that class of business; but they can do that I suppose without an act of incorporation if they have money enough to buy vessels.

Mr. HOOPER, of Massachusetts. This is an act to authorize almost any kind of business and confines it to no locality except that the company itself is here in Washington.

Mr. WELKER. This corporation is like all others that have been created by Congress to transact business in the District of Columbia. There has been no special limitation as to the place where they may do business, and this is as general as other bills that have heretofore been reported by this committee and adopted by Congress. We do not of course undertake to limit the right of the company to trade wherever they can otherwise than by requiring them to obey the laws of the States in which they may transact business.

Mr. F. THOMAS. I came in but a moment ago. I understand the gentleman from Ohio [Mr. WELKER] to say that it was intended this corporation should operate in the district I have the honor to represent. I feel warranted therefore in making this inquiry. I would be glad to know whether these incorporators are to be responsible in their individual capacity for the contracts of the corporation.

Mr. WELKER. In answer to that I will state that the bill itself provides that the stockholders shall be individually liable to the amount of their stock, and the gentleman from Iowa [Mr. PRICE] has moved an amendment, which is now pending, to make them liable for double the amount of their stock.

Mr. F. THOMAS. I would simply make the remark in this connection that no section of the country has suffered more seriously than the county of Alleghany, in Maryland, from corporations created by the State of Maryland for the benefit of non-residents of that State. These charters unfortunately did not make the parties obtaining them responsible for the contracts of the corporations, and the amount out of which the population of Alleghany county has been plundered by such corporations has been enormous. One charter after another was granted to gentlemen from the northern section of the Union. They have come into Alleghany county and engaged in large operations and become indebted to the landed proprietors and also to the laboring classes of that county. Those companies have become utterly insolvent, and when their affairs came to be wound up a few old spades and pick-axes and worn-out horses were all that could be found to pay thousands of dollars of indebtedness. Now, I hope Congress will not thus interpose between the people of Maryland and these speculators and afford a further opportunity for plunder.

Maryland has upon her statute-book a law adequate to accomplish any purpose like this. Any number of individuals may go into Alleghany county and purchase coal mines and place on the county records evidence of title, and they are then entitled under the law to become a corporation for all purposes of mining, and they are amenable to the laws of Maryland. The extent of their resources is perfectly comprehended, and everybody who deals with them knows how far they can be trusted or not trusted. But under a charter like this speculators may go into the State of Maryland and reenact scenes the memory of which makes the heart of every man who loves his fellow-man sicken with sorrow and regret at the plunder and robbery committed. I hope, sir, if this bill is to pass, that these incorporators will be made responsible in their individual capacity for every dollar they may become indebted for in their operations.

Mr. WELKER. I desire to say to the gentleman from Maryland that there is a provision in the bill which requires the company to transact their business according to the laws of the State in which they may transact it.

Mr. F. THOMAS. Oh, yes.

Mr. WELKER. I demand the previous question on the bill.

Mr. WILSON, of Iowa. I move to lay the bill upon the table.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### SINKING FUND.

Mr. RANDALL, of Pennsylvania, by unanimous consent, from the Committee on Banking and Currency, reported back a bill to authorize the issue of Treasury notes, not bearing interest, to be used in providing a sinking fund for the extinguishment of the national debt, with a substitute; and moved that the bill be recommitted, and, with the substitute, ordered to be printed.

The motion was agreed to.

Mr. BLAINE moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### FIRE AND MARINE INSURANCE COMPANY.

Mr. MERCUR, from the Committee for the District of Columbia, reported back, with sundry amendments, bill of the Senate No. 98, to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia.

The bill was read.

The amendments reported by the committee were then agreed to.

Mr. WENTWORTH. I ask the gentleman to allow me to have inserted in the list of incorporators the name of John D. Johnson.

Mr. MERCUR. I will accept that.

The SPEAKER. The gentleman cannot accept an amendment to a bill reported from a committee. The amendment can be made by unanimous consent or by a vote of the House.

No objection being made, the amendment of Mr. WENTWORTH was agreed to.

Mr. MERCUR. I will, with the leave of the House, state the general features of this bill. This bill provides that this company shall have a capital of not less than \$100,000 nor more than \$1,000,000; that at the time of subscribing to the stock the sum of twenty dollars shall be paid in on each share of the stock subscribed, and that the balance shall be secured by mortgage, or notes indorsed, or bonds, which shall be approved by the directors of the company. The bill further provides that twenty dollars more on each share of stock subscribed shall be paid in at such times as the directors shall designate, not exceeding six months after the company shall have commenced business. It also provides that no dividends shall be made by the company greater than six per cent., unless there shall be remaining on hand a surplus of at least \$20,000. There is another clause by which it is provided that annual statements showing all the affairs of the company shall be filed in the office of the Secretary of the Interior; and that those statements shall also be published for six weeks, as often as once a week, in two of the daily newspapers of the city of Washington.

Upon the question of security, this bill provides that the stockholders shall, in addition to their stock, be liable to an additional amount, not greater than the amount of capital stock subscribed by them, for the debts and liabilities of the company.

It is believed that all the safeguards are thrown around this corporation which the interests of the public may require. Some of them have been inserted in view of the disposition indicated by the House upon a former bill of like character which was before it for consideration.

Mr. WILSON, of Iowa. I noticed, as the Clerk was reading the bill, that there was a provision in it declaring that no stockholder shall become liable to the corporation or asso-

ciation as the drawer or indorser to an amount greater than twenty per cent. of the amount of the stock held by him.

Mr. MERCUR. I think the gentleman from Iowa [Mr. WILSON] has misunderstood the bill in that respect.

Mr. WILSON, of Iowa. I have a very distinct recollection of hearing those words read.

Mr. MERCUR. The bill provides that no stockholder shall be required to pay an assessment of more than twenty per cent. of his subscription at any one time.

Mr. WILSON, of Iowa. I am satisfied I heard what I have stated, in connection with the words "drawer or indorser," and I could not see the propriety of such a provision in this bill, unless it rested upon another portion of the bill, to wit: that part which declares that the directors of this corporation shall have the power to determine what use shall be made of the profits of the association. Now it occurred to me that by taking these two sections of the bill together it might be discovered to be the intention of these corporators to engage in the business of banking.

Mr. MERCUR. They are expressly prohibited from doing that.

Mr. WILSON, of Iowa. I know there is a limitation in the bill prohibiting them from issuing notes to circulate as money. But there is nothing there which prohibits them from engaging in the exchange and brokerage business, for instance. And therefore it occurred to me that in that view of the case it was very proper to provide that no stockholder shall become liable as a drawer or indorser to more than twenty per cent. of his stock. And if I am correct in my view of the bill, it seems to me the House, in ostensibly incorporating an insurance company, will not be pleased to incorporate also a banking institution.

There is one other suggestion which I wish to make to the gentleman. A corporation—an insurance company for instance—incorporated in one State can transact business—

The SPEAKER. The morning hour has expired, and the bill goes over till to-morrow.

The Chair will state, in reply to some inquiry which has been made why the Committee for the District of Columbia has four morning hours, that on Wednesday and Thursday of this week the committee was called in regular order for public business. On last Saturday the House, by unanimous consent, when the call for private business had reached the Committee for the District of Columbia, granted two morning hours to that committee. Thus the committee has four morning hours; and this bill goes over as unfinished business for to-morrow.

#### PRIVATE CALENDAR.

Mr. DELANO. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the Private Calendar. I make this motion in obedience to the wish of the Committee of Claims.

The motion was agreed to—ayes 58, noes 40.

The House accordingly resolved itself into the Committee of the Whole (Mr. PRICE in the chair) and proceeded to the consideration of bills and joint resolutions on the Private Calendar, as follows:

#### JAMES POOL.

An act (S. No. 311) for the relief of James Pool.

The bill was read. It authorizes and directs the Secretary of the Interior to pay to James Pool \$1,287 10. Four hundred and eighty-seven dollars and fifty cents of this amount are to be paid out of any annuities or moneys payable to the Senecas and Shawnee Indians, if there be any, and if none, then the whole sum is to be paid out of the Treasury of the United States.

Mr. WASHBURN, of Illinois. Is there no report in this case?

Mr. JOHNSON. There is no report made to this House in this case. But the bill has passed three times in the Senate, and I have

here the Senate report, which I ask the Clerk to read.

The Clerk read the report.

The bill was laid aside to be reported to the House.

#### REIMBURSEMENT TO WASHINGTON CITY.

An act (H. R. No. 710) to pay and discharge certain debts and expenditures to the corporation of the city of Washington.

The bill was read. It authorizes the Secretary of the Treasury to pay to the proper authorities of the city of Washington, out of any money in the Treasury not otherwise appropriated, the sum of \$31,971 34, in full for all claims which the city of Washington now has against the United States on account of moneys expended in improving the streets, avenues, alleys, and public grounds in the city of Washington, or for repairing any of the bridges crossing the Potomac river prior to May 5, 1864. Before paying this sum, the mayor of the city of Washington is to present to the Commissioner of Public Buildings an account embracing each item of charge which the city has against the United States for expenditures herein referred to, which account the Commissioner is to certify to be correct and just.

The report was read. The committee state that when the city of Washington was laid out the proprietors gave to the United States ten thousand one hundred and thirty-six building lots, with the understanding that "whatever was realized from the sale of these lots was to be spent for the joint benefit of the then joint owners, the General Government and the proprietors of the soil." Of these lots, six thousand four hundred and eleven were sold prior to the year 1802, and yielded \$642,682 62. Of this sum, \$330,508 66 was applied toward building the Capitol, and \$240,632 87 toward the erection of a Mansion for the Chief Magistrate of the United States.

Further receipts from the sale of these lots were expended as follows: \$25,000 were given to each the Columbia and Georgetown colleges; \$10,000 each to the St. Vincent and Washington Orphan Asylums in the District of Columbia, and from time to time various sums were expended in improving the property of the General Government and in paying the salaries and expenses of the Commissioner and Superintendent of Public Buildings and other officers and employes.

After the General Government had realized a large sum from these lots, said to amount to nearly one million dollars, Congress, recognizing the propriety of appropriating some portion of the proceeds of these lots for improvement of the city, did, by the fifteenth section of an act passed May 15, 1820, provide—

"That the Commissioner of Public Buildings, or other person appointed to superintend the United States disbursements in the city of Washington, shall reimburse to the corporation a just proportion of any expense which may hereafter be incurred in laying open, paving, or otherwise improving any of the streets and avenues in front of or adjoining to or which may pass through or between any of the public squares or reservations, which proportion shall be determined by the comparison of the length of the fronts of said squares or reservations (property) of the United States, on any such street or avenue, with the whole extent of the two sides thereof, (individual property) where the like improvements shall be ordered by the corporation in front of such lots adjoining or squares adjacent thereto; and he shall defray the expenses directed by this act out of any moneys arising from the sale of city lots, and from no other fund."—*Statutes-at-Large*, vol. iii, p. 591.

Under this act the Commissioner of Public Buildings, according to the testimony of the gentleman now filling that office, (Hon. B. B. French,) did pay the proportion of the General Government for all improvements in front of the property of the United States until all the city lots were sold and their proceeds exhausted. This fund was exhausted in 1854.

Since and including the year 1854 the corporation of Washington has advanced and paid (as is claimed) for the United States, on account of the improvement embraced in the act of Congress before referred to, the sum of \$37,410 61, which remains unpaid because the fund arising from the sale of city lots, origin-

ally relied upon for payment, has been exhausted.

In considering the propriety of paying this claim two questions presented themselves to the minds of the committee:

1. The accuracy and fairness of the account on which the claim is founded.

2. The duty of the United States to pay it in case its accuracy and fairness shall be established.

The first question rests principally on the testimony of Hon. B. B. French, Commissioner of Public Buildings, who states in a letter to Hon. E. C. INGERSOLL, chairman of the Committee for the District of Columbia, that—

"I have gone with great care over the items of charge made by the mayor of Washington against the United States, &c. I have done this with diagrams of the city of Washington and the mayor's vouchers before me. I find that every improvement specified as fronting on a public square or reservation is so situated; the distances are correct where stated, and where not stated I have measured them, and give them to the committee, with the prices charged, which in my opinion are very reasonable, indeed in many instances exceedingly low."

This letter is accompanied by a detailed report, giving each item of the account with the Commissioner's examination thereof and the voucher for the same furnished by the mayor, all of which have been before the committee and are on file with the memorial.

The committee examined the mayor and Commissioner of Public Buildings orally. In this examination the documentary evidence was confirmed, excepting as to the item for the sum of \$2,500, dated September 14, 1860, for inclosing Judiciary square, under act of Congress approved March 3, 1857.

The committee ascertained that the iron fence inclosing Judiciary square on three sides was furnished by the United States. It was an old fence removed from the Capitol grounds, and its value, in the opinion of the committee, is equal to the equitable proportion chargeable to the United States for inclosing Judiciary square.

The committee state that they were not familiar with the history of congressional legislation in regard to the District of Columbia; but so far as they were able to inform themselves the account on which the memorialist rests her claim, except as before specified, is accurate.

3. Is it the duty of the United States to pay the claim?

By an act of Congress approved May 5, A. D. 1864, provision is made for paying the just proportion of the United States for all improvements to the streets, avenues, &c., in the city of Washington. This act seems to recognize the equitable liability of the United States to pay such proportion of these improvements for the health, convenience, and comfort of the inhabitants of the city as the property of the United States shall bear to the property of individual owners. Under this law no similar difficulty will hereafter be likely to arise.

The act of May 15, 1820, recognized the same principle; but having provided a specific fund to meet the liability of the United States, and this fund having been exhausted, it becomes necessary for the city to have assistance by legislation before she can be repaid what she has expended for the benefit of the property of the United States.

The committee also remark that Hon. James Harlan, Secretary of the Department of the Interior, in his last annual report, admits the validity of this claim and recommends its payment.

The committee further remark that it must be remembered that the account on which this claim rests was made under the act of 1820, after the fund arising from the sale of city lots had been exhausted, and prior to May 15, 1864, when the present law was approved, which provides for all similar claims arising after its passage. The act of 1864 is entitled "An act to amend the act of May 15, 1820."

Under these circumstances, and in view of the general liberality of the United States in aiding improvements in the city of Washington,

the committee concluded to recommend the payment of the claim of the memorialist, without interest, after deducting the item of \$5,439 27 for improving Judiciary square, and for inclosing public reservations.

Mr. SLOAN. I move to amend the bill by adding the following proviso:

*Provided, That before any money shall be paid under this act, the city of Washington shall file with the Treasurer of the United States a receipt to the effect that the city has received the amount to be paid by virtue of this act in full of all claims against the Government for grading, paving, and constructing sewers in the streets of said city.*

I will state my reason for offering this amendment. The claim which this bill proposes to pay is the same claim which the corporation of Washington presented before the Committee of Ways and Means; and that committee a short time ago reported an appropriation of many thousands of dollars to liquidate this very claim. If this claim is to be presented by the city before different committees of this body, I think it prudent that, when the claim is paid, the Government shall have some voucher to show its liquidation. If we do not take this precaution I have very great doubts whether the payment of this money will either settle the claim or even reduce it. We may have the same claim, swelled to a much larger amount, presented to some future Congress. I trust that the amendment I have offered will meet the approval of the committee.

Mr. WASHBURN, of Massachusetts. I see no objection to the amendment provided it be somewhat modified. The gentleman will understand that these items come down to May 23, 1865, and it was stated before the committee the items here presented and examined covered all the claims of the city against the Government up to that date. I do not think the gentleman, who is a member of the committee, would like to make his amendment so broad as to cover items which were not examined. Whether there has been anything done since that period I do not know; but this covers all of the items examined by that committee, which were said to embrace all the items of the city against the Government. And I think the House will see the impropriety of adopting the amendment as now presented, bringing it down to the present time, when there is not an item in the bill coming down later than the 23d of May, 1865.

Let me say in reference to the report of the committee this: These items have all been presented to the House by the Committee for the District of Columbia. The Committee on Appropriations also made appropriations to pay these same items. Now, the only difference in the report of the Committee of Claims is, that in examining the items we have cut down the claim about six thousand dollars. The items that the Committee of Claims struck out are not all enumerated in the report.

We struck out the item of \$2,500 expended in placing an iron fence around Judiciary square. The committee were unanimously of the opinion that the Government furnishing the fence, the city ought to be enough interested in that square to set it up. We thought that item of \$2,500 charged for setting up that fence ought not to be charged against the Government, and we therefore struck it out.

We also struck out the item for the improvement of the reservation at I street and Massachusetts avenue. We also struck out \$929 for another avenue, and \$1,129 for the improvement of another avenue. The committee took the ground, so far as these reservations and avenues were concerned, the land belonging to the Government; if the city saw fit to improve them, then the property-holders living round the improvements should pay for them. We did not think we ought to allow this corporation to take these avenues and reservations and to plant trees all over them, and to make all sorts of improvements, and then come here and make us pay for them. So in all these cases we have stricken out the items for these improvements.

We have, however, followed the law which

Congress has passed, that in making the improvement of streets the Government should pay its proportion according to the property it owns bordering on these streets and avenues. We have also allowed the money expended in repairing the Long Bridge, which the Government was bound to repair.

I agree with my colleague, the amendment should be adopted only up to the date of May 23, 1865, to which the bill goes. It was stated before the committee this embraced all the items and charges which the corporation had against the Government down to that date. With that modification I will agree to the amendment.

Mr. SLOAN. The truth is, as I understand, that the city has no legal claim for reimbursement of this money. It incurred this expenditure without authority of law, and I am opposed to recognizing it.

Mr. WASHBURN, of Massachusetts. The gentleman is wholly mistaken. That was the case until Congress passed a law that we should pay for the improvements according to the property we owned on these different avenues and reservations. These expenses to that extent, then, were made under the law binding us to pay according to the property we own. We left no charge in the bill not according to law. Some of these expenditures were made at the request of the Commissioner of Public Buildings and Grounds. There is so much for sweeping Pennsylvania avenue. It belonged to the Government to do that; but the Government not having the force necessary to do it at the time needed asked the city to do it. The money was expended in that way. So far as the principal items were concerned, they were all according to a law passed subsequent to the time to which the gentleman refers; and after the money was expended they came before Congress, and a law was passed providing that the Government should pay its proportion of these claims according to the amount of property it owned bordering on these avenues and streets. This is founded simply on that law.

Mr. SLOAN. Was this work done before 1864?

Mr. WASHBURN, of Massachusetts. Most of it and I think all of it was done since 1864.

Mr. SLOAN. I think the gentleman from Massachusetts is mistaken; I think the principal portion of the work for which this claim was put in was done before 1864, and some of it many years before; so that I am not mistaken in saying that by the law as it stood when this work was performed the city should only be reimbursed by the Government to the extent of the fund derived from the sale of these lots. It had no right to expect it; it had no claim on the General Government beyond that. The law of 1864 is prospective in its operation, and perhaps binds the Government to pay its ratable proportion of the work thereafter. But we are proposing to pay this money upon a prior claim which has no legal foundation.

As I was about to remark, I am opposed to recognizing the practice on the part of the city or of individuals of going on and expending any amount of money in the expectation that Congress will subsequently legalize their acts and reimburse the amount they have expended. It is time, I think, that we laid down a rule that we will not pay such claims unless there is a law of Congress authorizing the work to be done.

Mr. INGERSOLL. Will the gentleman from Massachusetts allow me a word?

Mr. WASHBURN, of Massachusetts. Yes, sir.

Mr. INGERSOLL. In my opinion the gentleman from Wisconsin [Mr. SLOAN] is laboring under a misapprehension as to the facts. My recollection is that the original proprietors of the city of Washington donated to the Government of the United States about one thousand lots, and by an act of Congress subsequent to that time the proceeds arising from the sale of the property were to be applied to the liquidation of any claims the city might have for improvements. But instead of apply-



ing it in accordance with the original intention and act of Congress, thousands of dollars were paid out of that fund for repairs of the presidential mansion and other purposes. The proceeds of the sale of those lots donated to the Government by the city of Washington were thus diverted instead of being applied to the legitimate claims of the city for improvements. Had the money been applied in accordance with the original intention and act of Congress there would have been no claim of this kind presented here now, and the city to-day would have been vastly in advance of what it is in regard to its improvements. When this improvement was being made it was supposed there were funds enough left from the sale of those lots to pay this claim, and it was supposed that the lots had not all been disposed of; nor were they. After this work was done the Commissioner sold ten lots, if my recollection serves me right, and under that act of Congress paid some eight or ten thousand dollars on that very identical claim, reducing it by that amount. But now this fund has been exhausted by the Government, and the balance of some thirty thousand dollars or more is due to the city.

This claim has been thoroughly examined by the Committee for the District of Columbia, who reported in favor of it. It has been examined also by the Committee on Appropriations, and an appropriation reported once or twice for its liquidation. Upon the motion of some gentleman, who had a very strict regard for the rights of the Government, when it was last reported by the Committee for the District of Columbia, it was referred to the Committee of Claims, knowing that that committee would scrutinize it closely, they having special charge of all claims. If it was not absolutely imperative that they should report in its favor they would report against it. They have examined it for some time—some three months, I believe—and now they have reported in favor of cutting it down five or six thousand dollars, and ask the Government to pay the balance due. Some of it has been due for ten or fifteen years, I think. The city has paid the money to the contractors long ago and had to lose the interest on it.

Now the fact becoming known to a former Congress that this fund had become exhausted and diverted—I might say perverted so far as the act of Congress is concerned—the act of 1864 was passed, which provides that the Government shall pay to the corporation of Washington its equitable proportion of the expenses for the improvement of the city, for laying sewers, paving streets, &c., where the Government has property on the streets thus improved. It is nothing but equitable and just.

Mr. SLOAN. I think I yielded the floor to the gentleman from Illinois, and I will now resume it.

Mr. INGERSOLL. I did not so understand. I understood that I held the floor by the courtesy of the gentleman from Massachusetts, [Mr. WASHBURN,] who has charge of the bill.

Mr. SLOAN. I yielded the floor to the gentleman.

The CHAIRMAN. The Chair understood that the gentleman from Massachusetts had the floor, and yielded it to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. I so understood it. I should certainly feel grateful to the gentleman from Wisconsin if he had yielded the floor to me.

Mr. SLOAN. I rise to a point of order.

Mr. WASHBURN, of Massachusetts. I will yield for a moment to the gentleman from Illinois [Mr. INGERSOLL] to close his remarks.

Mr. INGERSOLL. That is all I desire.

Mr. SLOAN. The point of order I make is that I was speaking and that the gentleman from Illinois [Mr. INGERSOLL] asked the privilege of making some remarks, and he took the floor from me; and I submit that it is out of order for the Chair to decide that he obtained the floor from the gentleman from Massachusetts.

The CHAIRMAN. The Chair understands

that the gentleman from Massachusetts [Mr. WASHBURN] had the floor and yielded it to the gentleman from Wisconsin, [Mr. SLOAN,] that the gentleman from Wisconsin finished his remarks, and that the gentleman from Illinois is now occupying the floor by the consent of the gentleman from Massachusetts.

Mr. SLOAN. Then I was mistaken. I understood that I was recognized as entitled to the floor.

Mr. INGERSOLL. I will not detain the committee longer than to say that after the careful examination had in reference to this claim by three committees of this House I would deem it an act of injustice longer to withhold the amount due to the city of Washington.

Mr. SLOAN. I only desire to say that my understanding is very different from that of the gentleman from Illinois. I understand that the Government takes the trouble and expense of selling these lots and the proceeds of the sales go to the city.

Mr. INGERSOLL. The gentleman is mistaken in regard to that.

Mr. SLOAN. Most of the cities of this Union purchase grounds for their public parks, and after having purchased them adorn and take care of them. The Government does that for this city, and yet the city claims that the Government shall not only do that, but afterward improve and adorn them. It is asking more than justice requires at the hands of Congress.

Mr. WASHBURN, of Massachusetts, resumed the floor.

Mr. INGERSOLL. Can I have one minute more?

Mr. WASHBURN, of Massachusetts. Well, you may take half a minute.

Mr. INGERSOLL. The reason why the Government of the United States stands in a different position toward this city than the States do toward the cities in their limits is, that Congress has always reserved exclusive jurisdiction over the avenues and streets of the city. The city cannot even lay out a street or alley in this District without the consent of Congress; and having this jurisdiction over the city, we have made ourselves liable for the payment of these claims.

Mr. WASHBURN, of Massachusetts. I yield now to the gentleman from Illinois.

Mr. WASHBURN, of Illinois. It seems to me that the committee must understand how this question stands. I do not know; I have not been able to ascertain from the report which has been read, nor from the statement made by the gentleman from Massachusetts, [Mr. WASHBURN,] how this money was expended, or what the proof was that this money had been expended by the city, or whether a fair and reasonable price was paid for the work, or the work was properly done.

This is not the only claim that the city of Washington has of this nature. The committee will recollect that there was an item of \$181,000 in one of the appropriation bills for work of this character, which the Committee of the Whole struck out unanimously by the consent of the chairman of the Committee on Appropriations. This is not a part of that sum, but it is a kindred claim. It appeared upon examination that the only authority for inserting an appropriation of that large amount of money in an appropriation bill was a mere certificate of the surveyor of the city of Washington. There was no proof whatever made that the work was done in the manner set out; there was no proof that it was done at a fair and reasonable price. I have seen nothing to satisfy me that if the Government is liable to pay anything in this case there is any proof of the amount that we ought to pay.

Now, it seems to me that if this bill is to pass it ought to pass with an amendment which I will suggest, and which should precede the amendment of the gentleman from Wisconsin, [Mr. SLOAN,] which I think is a very proper one. The amendment which I would suggest is to the effect that before any money

is paid under this bill the proper accounting officers of the Treasury shall make a full examination of all the items, and receive proof that the work was done at fair and reasonable prices. I think this is the least that can be done, if we are going to act upon this matter at all. I think it should undergo some sort of investigation further than it has undergone already—a judicial investigation to some extent. Let the whole question be investigated, and let testimony be taken to show, if there is really any liability, what the extent of that liability is.

Mr. WASHBURN, of Massachusetts. I have no objection to the amendment indicated by the gentleman from Illinois, [Mr. WASHBURN,] I only desire to say that so far as the Committee of Claims were concerned they could not go into a personal examination of all these items. But the Commissioner of Public Buildings appeared before them, and the question was put to him in regard to all these different items whether they had thus been examined. He replied that they had all been examined; that surveys had been made by the engineer on the part of the Government in order to ascertain if possible whether the amounts charged against the Government were proper; and that all the different items had been thus examined. It was upon that information that the committee acted. But I am perfectly willing that the amendment of the gentleman from Illinois [Mr. WASHBURN] should be adopted should the House consider it best to do so. I simply desired to state that the testimony upon which the Committee of Claims acted was to the effect that all those different items had been fully examined.

Mr. DELANO. I hope the amendment suggested by the gentleman from Illinois [Mr. WASHBURN] will be adopted. The committee who have reported this claim have not done so out of any feeling of favoritism toward the city of Washington, or from any opinion that the city of Washington had very strong claims upon the Government. We have examined this account with these feelings, and have rejected from it every item which we felt we could reject with justice. I desire to move an amendment to the amendment of my colleague on the committee, the gentleman from Wisconsin, [Mr. SLOAN.]

Mr. WASHBURN, of Massachusetts. Will not the gentleman permit the amendment of the gentleman from Illinois [Mr. WASHBURN] to be first offered?

Mr. DELANO. Is the amendment of the gentleman from Wisconsin [Mr. SLOAN] now pending?

The CHAIRMAN, (Mr. PRICE in the chair.) It is.

Mr. DELANO. I would suggest to the gentleman from Wisconsin [Mr. SLOAN] to withdraw his amendment until the amendment of the gentleman from Illinois [Mr. WASHBURN] can be offered and acted upon.

Mr. SLOAN. I will do so, with the understanding that I shall have an opportunity to renew it.

Mr. DELANO. I will renew it myself if necessary.

Mr. SLOAN. I withdraw my amendment. Mr. WASHBURN, of Illinois. I now move to amend this bill by adding the following:

*Provided further,* That no money shall be paid under this act until after a full examination of all the items by the proper accounting officer of the Treasury, and proof under oath that the work was done at fair and reasonable prices.

The amendment was agreed to.

Mr. SLOAN. I now move to further amend this bill by adding the following:

*And provided further,* That before any money shall be paid under this act the city of Washington shall file with the Treasurer of the United States a receipt to the effect that the city has received the amount to be paid by virtue of this act, in full of all claims against the Government for the grading, paving, and constructing sewers in the streets of the city of Washington.

Mr. DELANO. I move to amend the amendment of the gentleman from Wisconsin [Mr. SLOAN] by adding to it the words "to the date of May 5, 1864."

Mr. WASHBURN, of Massachusetts. I would suggest to the gentleman from Ohio [Mr. DELANO] to say May 23, 1865.

Mr. DELANO. The law is dated May 5, 1864.

Mr. WASHBURN, of Massachusetts. The last item of this bill is under date of May 23, 1865.

Mr. DELANO. Very well; I will modify my amendment as the gentleman suggests. I will now simply state my reasons for this amendment. Under the act of May 15, 1820, the Commissioner of Public Buildings was authorized to pay, out of a certain fund that was expected to arise from the sale of city lots, the Government proportion of the expense of improving the streets, &c., of this city. The exhaustion of that fund has rendered the Commissioner unable to pay what accrued under that act up to the date of the passage of the general law of May 5, 1864, by which it was provided that in future, from May 16, 1864, the proportion of these expenses properly chargeable to the property of the Government should be paid by the United States. This account is for the Government's proportion of these expenses arising previous to the passage of this law and under the law of 1820. We have sifted these charges with as much care as we could bestow upon them, and we believe that we have reduced them to as low an amount as they can be reduced to hereafter. These expenses are to be paid under the law of 1864; and it is proper that the city should give the Government a receipt in full for all expenses up to 1864.

This is all there is of the case. I hope the Committee of the Whole will concur in the action of the Committee of Claims, for I think we shall never get the claim in a more favorable shape for the Government.

The amendment of Mr. DELANO to the amendment of Mr. SLOAN was agreed to.

The amendment as amended was adopted.

Mr. UPSON. I move further to amend the bill by adding the following as a new section:

*And be it further enacted, That section three of an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864, be, and the same is hereby, repealed."*

Mr. WASHBURN, of Massachusetts. I must object that this is not a proper amendment to this bill. We have spent considerable time upon this bill, and I think it is now in as good a shape as it is likely to be hereafter if we reject it at the present time. If the House sees fit to reject the bill, let it be done fairly. But let us not undertake to attach to the bill an irrelevant provision for the repeal of an existing law.

Mr. UPSON. If the gentleman from Massachusetts still holds the floor, I desire that he may yield to me a few moments that I may explain the purpose which my amendment is designed to accomplish. Its object is to avoid incurring the expenditure—

Mr. WASHBURN, of Massachusetts. I do not yield to the gentleman. I submit the point of order that the amendment is not pertinent to this bill.

The CHAIRMAN. The Chair sustains the point of order.

TULLER AND FISHER.

A joint resolution (H. R. No. 175) to authorize the Secretary of the Treasury to audit and pay the claim of Tuller & Fisher.

The joint resolution was read. The preamble recites that the horses, coaches, stage property, and means of transportation of Messrs. Owen Tuller and Ulysses E. Fisher, mail contractors on mail route No. 10648, between Springfield and Rolla, in Missouri, were impressed in the military service and taken possession of and used by competent military authority, by reason of which a large amount of such property was captured by the enemy and lost to the contractors.

The joint resolution proposes to authorize and require the Secretary of the Treasury to have the claim of Tuller & Fisher audited, and

to pay to them out of any money in the Treasury not otherwise appropriated the amount that shall be found due them for such losses, not exceeding \$12,500.

Mr. WASHBURN, of Illinois. I call for the reading of the report.

The report was read.

Mr. THORNTON. This resolution proposes merely to authorize the Secretary of the Treasury to audit this claim. The only question which the case presents is whether the Government will pay for property seized for its use and the use of its Army during the recent war. It appears very clearly from the proof in this case that the claimants were contractors to carry the mail from Rolla to Springfield; that the parties had determined to abandon the contract, to give it up in consequence of the interference of armed rebels with their coaches and horses; that in consequence of this determination on the part of the contractors the military authorities interfered, compelled them to continue the carrying of the mails, and refused to permit them to remove their horses and coaches from the route. The carrying of the mail was continued under the orders of the military authority, these contractors being allowed no option in the case. The simple question is, will Congress authorize the auditing of this claim and the payment of these parties for horses and coaches thus taken from them? I hope this resolution will be laid aside to be reported to the House.

Mr. BENJAMIN. Mr. Speaker, when this bill was up the other day, when we were last in the Committee of the Whole House on the Private Calendar, I opposed its being considered at that time; and I am to-day opposed to the passage of this bill.

It seems here are certain contractors of the State of Indiana who make a claim against this Government for horses and coaches lost in carrying the mails of the United States in the State of Missouri. I have no doubt of the truth of the facts set forth in the report. It may also be that in equity these parties are entitled to relief from the Government; but the objection I make is, that we should not make this an exceptional case when every mail contractor in Missouri since 1861 has a similar claim that the Government seized and took possession of this property. There are thousands of individuals who are in the same condition, and yet they are not paid because of the rule which was adopted by this House on the report of the Committee of Claims. I know of no difference between a mail-carrier and any other person. The Government seized the property of men who were loyal, of men who were fighting the battles of the country. Their property in horses and other things was captured by the enemy, yet, sir, not a dollar can they get.

This case has no greater merit than those of the railroads which the Government seized and compelled to transport troops and munitions of war. Thousands and millions of property were seized belonging to these railroads. They can get nothing from the Government.

As I have said, every mail-carrier in the border States suffered irreparable losses, indeed were made bankrupt, by the action of our Government. I therefore oppose this being made an exceptional case. If we are going to enter into these claims there should be some general law passed. Some commission should be appointed to investigate them and to report to this Congress. While we are legislating for one we should legislate for all. If we set a precedent by the passage of this bill, we all know there are thousands of like cases which will come to the Committee of Claims. I am opposed to the passage of one until we can pass all. I know nothing in this case which will take it out of the rule we have adopted in other cases.

Then we may object to this on account of the amount appropriated. This is an *ex parte* hearing only of the claimants. The amount might be reduced on investigation.

Mr. THORNTON. I call the gentleman's

attention to the resolution itself. It authorizes the Secretary of the Treasury to audit the claim and to pay the amount found to be due on full investigation.

Mr. BENJAMIN. I do not know that it moves my objection. We know the Secretary of the Treasury is not going out to hunt up testimony. We know the claimants are the only parties who will be represented before him. If we are going to legislate upon these matters let us do it by general law.

Mr. DRIGGS. I want to say, Mr. Speaker, that I approve the remarks of the gentleman from Missouri, not because I am opposed to the recognition of these claims as a matter of right, but because we discriminate against all similar claims, some of which have as much if not more merit than the one now before the House. I need only remind gentlemen of the case of Mr. Bingham, of Alabama, a loyal man who suffered everything during the war. He furnished provisions for our forces as they passed through Alabama. He presented a small claim for \$1,800, and yet the committee reported against it. For a little while after coming to Washington he held a clerkship, but he has been removed because I suppose he is a radical. You refuse to pay him although he is now destitute, while you propose to pay these claimants.

As the gentleman from Missouri says, if we open the door we should establish the same rule in reference to all of these parties. Then the question comes up, are we able at the present time to open the door to so many as will present themselves? I will be as willing as any gentleman upon the floor to recognize and pay these claimants when we can do it; but I do not think it right to discriminate in favor of these individuals when so many of equal merit are cut off by our rule.

Mr. WASHBURN, of Indiana. I agree with the gentleman from Missouri [Mr. BENJAMIN] and the gentleman from Michigan [Mr. DRIGGS] that there are cases of great hardship that cannot be reached at present. The case of Bingham comes under the resolution which this House adopted, that parties in the insurgent States, until they are reconstructed, shall wait for the adjustment of their claims. Their claims may be just and right; but the House has decided that being so unfortunate as to reside in a State in rebellion they must wait a short time before they can be adjusted.

Mr. BENJAMIN. Does the gentleman say that the State of Missouri was in rebellion?

Mr. WASHBURN, of Indiana. I am not speaking of any claims of my friend from Missouri. I mentioned no claim in particular but that of Mr. Bingham, of Alabama, which was referred to.

Mr. BENJAMIN. I will merely state that Missouri never was in rebellion, and there are thousands of claims in that State unadjusted.

Mr. WASHBURN, of Indiana. But, sir, they have been and are being paid. A commission has been appointed and sent out, and they are getting their pay every day.

Now to the case in point. There are no objections to this claim, I believe, on the ground of justice. What then is the objection? The only objection that my friend from Missouri [Mr. BENJAMIN] has made, as I understand, is because a loyal citizen of Indiana brings it; and as an offset against it he says that people in Missouri have many claims that have not been paid. Sir, if they are honest and just I am for paying every dollar of them. And so I say if this is an honest and just claim it ought to be paid. You cannot dodge it by saying you have not the money. We are never too poor to do justice, and if we wish to sustain ourselves and our reputation when we admit the justice of a claim we should if possible pay it. I am not now speaking in regard to southern claims, because from the necessity of the case they must wait a little while. But in regard to claims of loyal men in the loyal States they ought to be paid without delay.

I know something about this claim by per-

sonal experience. Our troops were in Arkansas and southwestern Missouri. Our mails were stopped and regulations had to be made by which the military trains carried them, and had it not been for the mail contractors our mails would have been left behind. It may be thought that it would amount to a very little, but I tell you it amounted to a great deal with us there. Owing to the dangers that surrounded them, seeing that they were to be interrupted, the contractors said, "We cannot carry out our contract: we must take our stock out of the reach of the guerrillas and of the enemy." But the military authorities said, "No; you must go and perform the work, *notens volens*: we will put an escort over the mail trains." They went on and the mail trains were captured. And now when they come here with their claim we are told by some gentlemen that they should not be paid. I say it is a just claim, and should be paid without delay.

Mr. HILL. This bill is reported from the Committee of Claims, whose duty it is to investigate all claims referred to them, and it is but justice to that committee to presume that they have fairly investigated it. When they report favorably upon a claim I am disposed to consider their report fairly and candidly.

Now, in regard to the character of this particular claim, I understand it is for damages sustained by reason of the loss of stock. The Government with a high hand takes possession of horses and conveyances and uses them for its own purposes. Now, is it to be held that the Government is a grand pirate that lays its hand upon anything it wants, and the owner is to stand by without resistance and without redress, and that we, the only body that can afford redress, while admitting the justice of the claim in point of law and of every principle of right, cannot give relief? Why, sir, a Government of that character is not worth preserving. If a Government cannot afford to pay for property that it appropriates to its own use, and for its preservation in time of peril, it is time it should cease to exist, and be superseded by another that can do justice. Instead of being a protection to the citizen it is the citizen's most severe oppressor.

Now, sir, why is it that property so taken should not be paid for? I see no reason in the world. The Government is paying thousands and millions of dollars under contract for property where it purchased such property as this. If this principle which has been suggested is to be acted on, and property is not to be paid for under such circumstances as these, why does not the Government turn itself into a grand horse-stealing enterprise, and when claimants come before this House tell them that their claims are just enough, but that it would bankrupt the Government to pay them?

As my colleague says, this Government is certainly able to do right. If we have not the money to pay just claims, let them at least be audited, and let the claimant know that at some time he will receive his compensation, instead of telling him that we sustain Government officers in the exercise of a little temporary authority in taking property whenever and wherever they please, for which no compensation shall be paid to him. I insist that to refuse the payment of claims of this character would be worse than a bankruptcy of the Government, for it would bring the Government into contempt in the minds of all honest men.

Mr. INGERSOLL. If I understand this matter the Committee of Claims is acting upon the theory that the people of the States which were declared to be in rebellion became public enemies, and that consequently under the laws of war all property captured within their territory became the property of the captor, without compensation to the owner.

So far as the matter now in question is concerned, it is claimed that Mr. Bingham, who was a loyal citizen of Alabama, and who may have been ever so true and loyal a citizen, was in the eye of the law a "public enemy," and his property liable to capture. But, as I understand

it, the case does not fall under that rule. The State of Missouri was never declared in rebellion. It was in the eye of the law as loyal a State as Indiana or Illinois, and these citizens of Indiana took a contract to carry the mails within the limits of that State. They found after awhile that danger threatened; rebel guerrillas surrounded them; and they notified the Government that they wished to withdraw their property to a place of safety. They were denied that privilege by an officer of the United States, and their property was seized by Government officers, and the property used in carrying the mails upon the route for which they had the contract. These loyal citizens are now denied pay for property thus taken for the use of the Government.

Now, gentlemen tell us that if we recognize such claims as this it will bankrupt the Government and that there are other claims awaiting the action of Congress upon this which will be passed if this be allowed. Sir, will it bankrupt the Government to pay its honest debts? If I am a citizen of such a Government, I want to be a citizen of it no longer. If the Government cannot pay its debts now, let it give its note. It can do that much.

If the report of the committee is true, these men are entitled to this money, or to as much of it as may be found due. The bill involves the principle of the Government paying its debts. It does not involve the principle of paying for property taken by the enemy, or from the enemy, but only the principle of paying citizens of the United States for property taken from them by the Government for the use of the Government. The Government has no more right to refuse the payment of this claim—and I base my remarks on the report—than it would have to refuse payment for horses furnished under contract for a regiment raised in the State of Illinois.

Sir, I hold that this Government cannot afford to cover itself with dishonor by refusing to pay to its loyal citizens the value of that property which the Government deemed it necessary to deprive them of in the prosecution of the great work of putting down the rebellion.

These remarks I do not extend to the case of citizens who unfortunately resided within the enemy's territory, within the eleven States declared to be in rebellion. But I place a loyal citizen of Missouri upon the same footing with a loyal citizen of Illinois, and I imagine if these citizens of the United States who are pressing this claim were residents of the Galena district, which my colleague [Mr. WASHBURN] has the honor to represent here, you would hear him for once advocate the payment of a just debt. Now, I am not in favor of straining our ideas of equity in order to embrace all those who may unfortunately have resided within the enemy's territory during the rebellion. But I would manifest the high generosity of the Government toward that spirit of loyalty that was awakened by the appeal of the nation to its children to come up and defend it; to all the loyal citizens of all the loyal States. But you cannot do that by denying to pay them their just claims.

Mr. WASHBURN, of Illinois. I desire to say but a few words upon this subject about which my colleague [Mr. INGERSOLL] seems to have worked himself into quite a passion. I do not know why he considered it necessary to refer to me, and to say that if this claim had been made by citizens of the Galena district I would be found supporting it here. I can only say that there has been no claim presented here by citizens of the Galena district that I have supported since my colleague has been here.

Mr. INGERSOLL. I made the remark by way of compliment to my colleague, for I never knew him to fail to advocate any claim that came from the Galena district, and very properly, I have no doubt.

Mr. WASHBURN, of Illinois. I do not know that I have advocated any particular claim from the Galena district, or from any other district either. But I have heard con-

siderable said by my colleague [Mr. INGERSOLL] and by the gentleman from Indiana [Mr. WASHBURN] in regard to the duty of this Government. Why say that if this Government shall not do so and so, shall not pay this, that, or the other claim that is presented, the Government will be dishonored and disgraced; that this claim is honest and just, and if the Government does not come forward and plank down the money, or give its note for sixty or ninety days, it would be no just Government at all? Now, I take issue with those gentlemen in regard to what is the character of this Government. I think it is the most just, the most honest, the most liberal, and the most beneficent Government on the face of the earth. I think our legislation here is characterized by more liberality than that of any other Government in the world. I think more claims get through our Congress here, upon less evidence and with less real justice, than are allowed by any other legislative body.

Now, one word in regard to this claim. I think we should act in regard to it as Representatives who are sent here by our constituents to guard their interests; we should endeavor to ascertain whether or not we can pass this claim in justice to them; whether or not, should we pass it, we would not be reversing all the principles upon which we have heretofore acted since the rebellion broke out.

Now, what is this claim? It appears, so far as I could gather from hearing the report read, that there were some gentlemen—very honest and patriotic and loyal gentlemen, I have no doubt, for they were from Indiana. And Indiana has been heard upon that question; nobody will doubt her loyalty since she has sent back here such Representatives as she sends here. These gentlemen contracted to carry the mails in the State of Missouri. It seems that their route lay through the enemy's country, and they did not want to carry the mails while the bushwhackers were about. I do not blame them much for that; for I confess that I would not have desired to be there then. It was insisted, however, that they should perform their contract; and the military authorities there, in order to protect them, sent an escort with them to guard the mails. But the escort was not sufficient for that purpose, as I understand my friend from Indiana, [Mr. WASHBURN.]

And what next? The property of these perfectly loyal gentlemen from the State of Indiana was captured by the public enemy. And now they come here and ask us to do, what? Why, sir, to pay them for property captured by the public enemy. Sir, as I understand it, that is what we have in every case refused to do.

If we pass this bill and adopt this principle, we depart from the well-established rule of international law. No Government on the face of the earth has ever undertaken to pay for damages arising from the casualties of war. No Government could meet the expenditures which would be incurred in that way.

This whole question has been discussed in Congress a great many times—I will not say by abler men than there are here now—but it was discussed fifty years ago by the ablest men in Congress at that time, when persons came forward claiming compensation for damages incurred during the war of 1812.

Mr. WASHBURN, of Indiana. If the gentleman will allow me, I desire to call his attention to a portion of the report in this case, which seems to have escaped his attention.

Mr. WASHBURN, of Illinois. I will hear it.

Mr. WASHBURN, of Indiana. The report states:

"At this period, and at least as early as the 1st of March, 1863, Colonel S. N. Boyd, then a military officer in the volunteer service of the United States, and since a member of this House from Missouri, in conjunction with other citizens, applied to the commanding officer of that military department and obtained an order taking possession of their horses, wagons, staves, harness, forage; of all their means of transportation and stores used in the mail service on said route, and applied the same to military use and purposes of the Government."



Mr. WASHBURN, of Illinois. I was perfectly aware of what is there stated, and was coming to that very point. That raises another question: whether a military commander can seize the property of anybody he pleases for any purpose he pleases, whether good or bad, and render the Government liable? I contend that the Government is not liable. I contend that Colonel Boyd, a patriotic gentleman, who was a member of the last Congress, had no authority to bind this Government.

Mr. WASHBURN, of Indiana. It was not he that issued the order; he obtained an order from the proper military authority.

Mr. WASHBURN, of Illinois. That makes no difference. I concede that he was the proper military authority; but that is immaterial. I say that the Government is not bound by these orders of military commanders. I think it unsafe for us to adopt a rule which would render the Government liable for the action of its military commanders. I do not think this House will ever adopt such a rule.

Mr. INGERSOLL. I ask the gentleman from Illinois [Mr. THORNTON] to yield to me for a moment, that I may make an explanation.

Mr. THORNTON. I yield to the gentleman for one minute.

Mr. INGERSOLL. My colleague [Mr. WASHBURN] has—of course, without intending it—done me injustice. I did not say that this Government would act dishonorably if it refused to pay this claim. I did, however, make the remark that if the Government of the United States should repudiate its honest debts it would be dishonored; and I reiterate it. I agree fully with all that my colleague has said with regard to the liberality, the magnanimity, and the grandeur of this Government; and I feel an interest in maintaining its honor, so that its grandeur and glory may continue undimmed and may grow more resplendent. I am here, not alone to guard the Treasury of the United States, not alone to protect the interest of my immediate constituents, but to preserve, so far as I may be able, the honor of the whole country.

Mr. THORNTON. I now yield for a few moments to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. Mr. Chairman, I desire to state to the committee in as few words as possible the facts which control this case.

On the question of the assumption of liabilities by the Government much has been said with which I do not agree. I think that cases of this sort are best argued by presenting simply and clearly the facts on which they rest. The claimants in this case were contractors before the war for carrying the mail in Missouri. After the war broke out the troubled condition of affairs in that State rendered it, as they saw, almost impossible for them to continue to carry the mail—certainly impossible without subjecting themselves to terrible losses by the loss or destruction of their property. Under these circumstances they applied to the Government to be released from making the effort to carry the mail. The Government declined to release them. The mail service was considered so important that the Government insisted they should go on and do the best they could, promising them all the aid that could be given by the troops of the United States. They went on and carried the mails; and in doing so they suffered heavy losses. Their horses and coaches were captured.

Mr. BOUTWELL. Will the gentleman allow me to ask him a question?

Mr. DELANO. Certainly.

Mr. BOUTWELL. Did not these contractors receive from the Government their regular pay as contractors?

Mr. DELANO. The Government, as I understand, paid them the contract price, but no extra pay.

Mr. BOUTWELL. They went on as contractors?

Mr. DELANO. They went on as contractors under the contract. Of course they went

on at the importunity of the Government. They were not permitted to surrender their contract. The Government paid them, I am told, only for the trips actually made. The question arises whether the parties who have attempted to serve the Government under such circumstances when service was demanded, and who have sustained inevitable losses thereby, are to be paid. The committee agreed that this mail service was important to the Government. The committee thought it was one of the simplest cases, but the House can draw its own conclusions. It has nothing to do with the claims of disloyal States or of loyal States under the rule adopted by the House. It is simply whether these contractors, who entered into a contract before the war, who went on after the war being promised the aid of the Government, who sustained all this loss, should be paid for it by the Government.

One other view of this subject. If this could be said to be for property destroyed by the enemy in the ordinary sense of the term I would not vote for it. A private citizen can make no claim for property destroyed by the enemy. He must take his chance. As God orders, so he must endure. These parties suffered these losses while serving the Government at the importunity of the Government, and I do not think the case stands in the line of the principle alluded to. The resolution simply provides what they have actually lost in the effort to serve the Government shall be ascertained by the proper accounting officers and paid. That is all.

The joint resolution was laid aside, to be reported to the House with the recommendation that it do pass.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PRICE reported that the Committee of the Whole House had according to order had the Private Calendar generally under consideration, and had directed him to report the following bills and joint resolution to the House, with the recommendation that they do pass:

A bill (H. R. No. 710) to pay and discharge certain debts and expenditures to the corporation of the city of Washington;

Joint resolution (H. R. No. 175) to audit and pay the claim of Tuller & Fisher, of Missouri; and

A bill (S. No. 311) for the relief of James Pool.

#### EVENING SESSION.

Mr. INGERSOLL moved that the House take a recess from half past four o'clock till half past seven o'clock p. m., for the purpose of having an evening session to be devoted to debate only.

The motion was agreed to.

#### DEBTS DUE TO WASHINGTON CITY.

The SPEAKER. The first bill reported from the Committee of the Whole House is House bill No. 710, to pay and discharge certain debts and expenditures to the corporation of the city of Washington, with an amendment.

The amendment was concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### TULLER AND FISHER.

The question next recurred on House joint resolution No. 175, to audit and pay the claim of Tuller & Fisher, of Missouri, and also reported from the Committee of the Whole House with a recommendation that it do pass.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BENJAMIN demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 75, nays 37, not voting 79; as follows:

YEAS—Messrs. Ancona, Anderson, James M. Ashley, Banks, Barker, Bidwell, Bingham, Blaine, Reader W. Clarke, Davis, Dawson, Defrees, Delano, Denison, Dixon, Eldridge, Farquhar, Ferry, Finck, Goodyear, Hale, Aaron Harding, Hayes, Henderson, Higby, Hill, Hogan, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James B. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Julian, Kelso, Kerr, Koontz, Kuykendall, Le Blond, Lynch, McIndoe, McIner, Miller, Moulton, Niblack, Nicholson, Paine, Patterson, Perham, Pike, Price, Radford; Raymond, John H. Rice, Ritter, Ross, Sawyer, Shanklin, Shellabarger, Sloan, Stokes, Taber, Nathaniel G. Taylor, Francis Thomas, Thornton, Trowbridge, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, William B. Washburn, and Welker—75.

NAYS—Messrs. Baker, Baldwin, Baxter, Benjamin, Boutwell, Brownell, Broomall, Campbell, Cobb, Donnelly, Driggs, Eliot, Grinnell, Abner C. Harding, Hawkins, Edwin N. Hubbard, Kelley, Ketcham, Laffin, Loan, Longyear, Maynard, McClurg, Morris, Newell, O'Neill, Orth, Samuel J. Randall, Rollins, Scofield, Stevens, Andrew H. Ward, Elihu B. Washburne, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—37.

NOT VOTING.—Messrs. Alley, Allison, Ames, Arnell, Delor, R. Ashley, Beaman, Bergen, Blow, Boyer, Brandegee, R. Buckland, Bundy, Chandler, Sidney Clarke, Conkling, Cook, Cooper, Cullom, Culver, Darling, Dawes, Deming, Dodge, Dumont, Eckley, Eggleston, Farnsworth, Garfield, Glossbrenner, Griswold, Harris, Hart, Hise, Holmes, Hooper, Asahel W. Hubbard, Hulbard, Humphrey, Jones, Kasson, Latham, George V. Lawrence, William Lawrence, Leitch, Marshall, Marston, Marvin, McCullough, McKee, Mercer, Moorhead, Morrill, Myers, Neell, Phelps, Plants, Pomeroy, William H. Randall, Alexander H. Rice, Rogers, Rousseau, Schenck, Stigmeaves, Spalding, Starr, Stillwell, Strouse, Nelson Taylor, Thayer, John L. Thomas, Trimble, Upson, Robert T. Van Horn, Hamilton Ward, Whaley, Windom, Winfield, Woodbridge, and Wright—79.

During the roll-call—

Mr. LE BLOND stated that Mr. HARRIS was detained from the House in consequence of the illness of his wife.

Mr. HOGAN. I desire to state that my colleague, Mr. NOELL, is unable to be present.

Mr. RANDALL, of Pennsylvania. I wish to state that my colleague, Mr. STROUSE, is absent in consequence of sickness in his family.

The vote having been announced as above recorded,

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### JAMES POOL.

The last bill reported from the Committee of the Whole was Senate bill No. 311, for the relief of James Pool.

The bill was ordered to be read a third time; and was accordingly read the third time and passed.

#### ENROLLED BILL AND RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following title; when the Speaker signed the same:

An act (H. R. No. 964,) in regard to the compensation of route agents in the Post Office Department.

Joint resolution (H. R. No. 229,) to procure a site for a building to accommodate the post office and United States courts in New York city.

#### RECONSTRUCTION.

The House resumed the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights, on which Mr. DONNELLY was entitled to the floor.

Mr. DONNELLY. Mr. Speaker, I desire to express myself in favor of the main purposes of the bill now under consideration.

Through the clouds of a great war and the confusion of a vast mass of uncertain legislation we are at length reaching something tangible; we have passed the "Serbonian bog," and are approaching good dry land.

This is the logical conclusion of the war. The war was simply the expression of the determination of the nation to subordinate the almost unanimous will of the white people of

the rebellious States to the unity and prosperity of the whole country. Having gone thus far we cannot pause. We must still subordinate their wishes to our welfare.

This bill proposes to commence at the very foundation and build upward.

We have the assurance of President Johnson that "the rebellion has in its revolutionary progress deprived the rebellious States of all civil government," and that their State institutions have been "prostrated and laid out upon the ground."

In such a state of anarchy and disorganization the very foundations of society are laid bare; and we reach, as it were, the primary rocks, the everlasting granite of justice and right which underlies all human government. In the language of the great Edmund Burke:

"When men break up the original compact or agreement which gives its corporate form and capacity to a State they are no longer a people; they have no longer a corporate existence; they have no longer a legal coercive force to bind within, nor a claim to be recognized abroad. They are a number of vague, loose individuals, and nothing more; with them all is to begin again. Alas! they little know how many a weary step is to be taken before they can form themselves into a mass which has a true political personality."—*Burke's Works*, vol. iii, p. 82.

I shall not stop to consider the objection made to the second section of the bill by the gentleman from Wisconsin, [Mr. PAINE.] With the purpose and intent of his remarks I thoroughly concur. I conclude, however, that the object of the gentleman from Pennsylvania, [Mr. STEVENS,] in providing for such a partial and temporary recognition of the rebel governments, was to protect society from the evils of a total abrogation of all law and order. But it seems to me that whatever binding force those governments can have, founded as they are upon revolution and by the hands of revolutionary agents, is to be derived solely from such recognition as Congress may give them. It may be possible in this and other particulars to perfect the bill. I desire to speak rather to its general scope and purpose.

Government having, by the acknowledgment of the President, ceased to exist, law being swept aside, and chaos having come again in those rebellious States, by what principle shall the law-making power of the nation—the Congress—govern itself? Shall it bend its energies to renew old injustice? Shall it receive to its fraternal embrace only that portion of the population which circumstance or accident or century-old oppression may have brought to the surface? Shall it—having broken up the armies and crushed the hopes of the rebels—pander to their bigotries and cringe to their prejudices? Shall it hesitate to do right out of deference to the sentiments of those who but a short time since were mowed down at the mouths of its cannon?

It is to my mind most clear that slavery having ceased to exist the slaves became citizens; being citizens they are a part of the people; and being a part of the people no organization deserves a moment's consideration at our hands which attempts to ignore them. If they were white people whom it was thus sought to disfranchise and outlaw not a man in the nation would dare to say nay to this proposition; every impulse of our hearts would rise up in indignant remonstrance against their oppressors. But it has pleased Almighty God, who takes counsel of no man, not even of the founders of the rebellion, to paint them of a different complexion, and that variation in the pigmentum macum is to rise up as a perpetual barrier in our pathway toward equal justice and equal rights.

For one, with the help of God, I propose to do what I know to be right in the face of all prejudices and all obstructions; and so long as I have a seat in this body I shall never vote to reconstruct any rebellious State on any such basis of cruelty and injustice as that proposed by the Opposition here.

Take the case of South Carolina. She has three hundred thousand whites and four hundred thousand blacks; and we are asked to hand over the four hundred thousand blacks

to the unrestrained custody and control of the three hundred thousand whites. We are to know no one but the whites; to communicate with no one but the whites; this floor is to recognize no one but white Representatives of the whites. The whites are to make the laws, execute the laws, interpret the laws, and write the history of their own deeds; but below them, under them, there is to be a vast population—a majority of the whole people—seething and writhing in a condition of suffering, darkness, and wretchedness unparalleled in the world. And this is to be an American State! This is to be a component part of the great, humane, Christian Republic of the world. This is to be the protection the mighty Republic is to deal out to its poor black friends who were faithful to it in its hour of trial; this is the punishment it is to inflict upon its perfidious enemies.

No, sir, no sophistry, no special pleading, can lead the American people to this result. Through us or over us it will reconstruct those States on a basis of impartial and eternal justice. Such a mongrel, patchwork, bastard reconstruction as some gentlemen propose, even if put into shape, would not hold together a twelvemonth. Four million human beings consigned to the uncontrolled brutality of seven other million of human beings! The very thought is monstrous. The instinct of justice which God has implanted in every soul revolts at it. The voice of lamentation would swell up from that wretched land and fill the ears of mankind. Leaders and avengers would spring up on every hill-top of the North. The intellect, the morality, the soul of the age would fight in behalf of the oppressed, and the structure of so-called reconstruction would go down in blood.

Does any man think that it is in the American people, who rose at the cry of the slave under the lash of his master, to abide in quiet the carnival of arson, rapine, and murder now raging over the South? Sir, a Government which would perpetuate such a state of things would be a monstrous barbarism; the legislative body which would seek to weave such things into the warp and woof of the national life would deserve the vengeance of Almighty God.

A Senator from Pennsylvania [Mr. COWAN] the other day in the United States Senate said:

"I have no doubt but there are large numbers of the American people who are exceedingly anxious to compel negro suffrage through the southern States. But has any one of them ever made an argument to show that the southern States would be better governed; that there would be more peace and more quiet in consequence of it? I have never heard those arguments if they have been made, and I do not know how anybody could make them."

I will give the honorable Senator an argument, most potent and convincing, as to the kind of "peace and quiet" which now reign in the South without negro suffrage, and which will reign there so long as negro suffrage is denied. General Ord has just made a report upon the condition of things in Arkansas. He sums up matters as follows:

"Outrages, assaults, and murders committed on the persons of freed men and women are being continually reported from all sections of the State, and a decided want of disposition to punish offenders apparently exists with the local civil officers and in the minds of the people. There have been reported fifty-two murders of freed persons by white men in this State in the past three or four months, and no reports have been received that the murderers have been imprisoned or punished. In some parts of the State, particularly in the southwest and southeast, freedmen's lives are threatened if they report their wrongs to the agent of the bureau, and in many instances the parties making reports are missed and never heard of afterward. It is believed that the number of murders reported is not half the number committed during the time mentioned."

Or if this is not sufficient, I would answer the distinguished Senator still farther by quoting from the report of the officers of the Freedmen's Bureau as to the state of affairs in Tennessee as a further testimony to the condition of southern society without impartial suffrage:

"Captain Kendrick reports in substance that having proceeded to Union City he conversed with many of the citizens, who told him that but few freedmen were left about there, as they were driving them away as

rapidly as possible. There seems to be a fixed determination that the freedmen shall not reside there, and the citizens force them to fly by ravishing the females, shooting, beating, whipping, and cheating them. The superintendent of the bureau there, while investigating a case of assault upon a negro, was compelled to desist by threats upon his life. The magistrate of the town states that he is powerless to administer justice, owing to the feeling in the community. Captain Kendrick mentions the case of a freedwoman named Emeline, living in Union City, who, during the absence of her husband, was brutally violated by a party of whites. She appealed to the justice of the peace, who informed her that nothing could be done for her on account of the feeling in the town. The next day two men, named Goodlow and Avons, of Union City, together into a field and whipped her. A freedman named Callum was whipped by a man named Stanley for saying that he had fought in the Union army. A Mr. Roscol, county trustee, has been persistently persecuted by a gang of desperadoes because he was prominent in defending the Union, and has been shot at several times while sitting in his house. About a dozen bullet holes may be seen in his door. At Troy the freedmen are getting on prosperously and have no complaints to make. The feeling of hostility toward northern men at this place, the captain reports, is more bitter even than at Union City. Loyal citizens are waylaid and shot, and the ruffians escape punishment. A man named Hancock was called out of church, where he had just experienced religion, by a Dr. Marshall, who told him two persons outside wished to see him. When he had gone a short distance two men named Carruthers attacked and severely beat him with clubs because Hancock wore a Federal uniform coat. Several other cases of outrage of an aggravated character, and even murder, are reported by Captain Kendrick, and those who are thus maltreated dare not utter a word of complaint through fear of the desperadoes. He recommends that a detachment of troops be permanently stationed in this county, and says that matters will grow worse instead of better until it is done."

I find in the morning papers the following letter, which explains itself:

HEADQUARTERS DEPARTMENT OF THE SOUTH,  
CHARLESTON, SOUTH CAROLINA, January 10, 1867.

GENERAL: According to an article in the Charleston Daily News of this morning, it appears that the jail at Kingstree, South Carolina, has been destroyed by fire, and twenty-two colored prisoners smothered or burned to death, while the only white prisoner was permitted to escape. The article states that the jailer, who had the keys, refused to open the doors without the authority of the sheriff, and the sheriff refused to act without the orders of the lieutenant commanding the troops at Kingstree. This statement presents a degree of barbarity that would appear incredible except in a community where no value is placed upon the lives of colored citizens. The general commanding directs that you cause an immediate and thorough investigation of this affair; that in the mean time you arrest the sheriff and jailer, and if the facts prove to be as stated, that you hold them in military confinement, under the charge of murder, until the civil authorities shall be ready and willing to try them.

Very respectfully, your obedient servant,  
J. W. CLOUS,  
Brevet Captain and First Lieutenant Sixth Infantry,  
Acting Assistant Adjutant General.  
Brevet Major General H. K. SCOTT,  
Com. Mil. Com., South Carolina.

I might fill pages with similar testimony, but it is not required.

It is too evident that when you strip a man of all means of self-defense, either through the courts or the laws, deprive him of education and leave him to the mercy of his fellow men, he must suffer all the pangs which our unworthy human nature is capable of inflicting. Who is there believes that man can safely intrust himself solely and alone to the mercy of his fellow man? Let such a one step forward and select his master! Let him in the wide circle of the world choose out that man—pure, just and humane—upon whose vast, all-embracing charity he can throw the burden of his life. Alas! there is no such man.

Life is a perpetual struggle even under the most favorable circumstances; an unending fight of man against man,

"For some slight plank whose weight will bear but one!"

And occasionally how monstrous and horrible are the giant selfishnesses which start up under our feet like ghouls and affrights!

History is the record of the gradual amelioration of deep-rooted, ancient injustice. What a hard, long, bloody, terrible fight it has been! But for the fact that our national organization rests upon a basis of new colonizations we would not possess the large measure of liberty we now enjoy; we would be as are the old lands of the world, still weighed down by the burdens of feudality and barbarism. But being peopled by the overflows of the poor labor-

ing people of Europe, who left the errors and prejudices of the Old World in mid-ocean, we have started upon our career of national greatness on the grand basis of the perfect political equality of all men.

We cannot fail to recognize the all-fashioning hand of God as clearly in this sublime declaration as in the geologic eras, the configuration of the continents, or the creation of man himself. What a world of growth has already budded and flowered and borne fruit from this seed! What an incalculable world of growth is to arise from it in the future!

Now, then, comes the question to each of us, by what rule shall we reconstruct these prostrated and well nigh desolated States? Shall it be by the august rule of the Declaration of Independence; or shall we bend our energies to perpetuate injustice, cruelty, and oppression; and make of this fair Government a monstrosity, with golden words of promise upon its banners, a fair seeming upon its surface, but a hideous and inhuman despotism within it; the Christianity and civilization of the nineteenth century crystalized into a nation with Dahomey and Timbuctoo in its bowels! A living lie, a rotten pretense, a mockery, and a sham, with death in its heart.

There are but two forms of government in the world: injustice, armed and powerful and taking to itself the shape of king or aristocracy; and, on the other hand, absolute human justice, resting upon the broad and enduring basis of equal rights to all. Give this and give intelligence and education to understand it and you have a structure which will stand while the world stands. Anything else than this is mere repression, the piling of rocks into the mouth of the volcano, which sooner or later will fling them to the skies.

What is this equality of rights? It is the prescribing of a limit to human selfishness. It is the hospital measure which gives so many feet of breathing space to each man in the struggle for life. I must not intrude upon my neighbor's limit nor he upon mine. It is universal selfishness regulated by a sentiment of universal justice; fair play recognized as a common necessity. Break down this barrier and the great waves sweep in and all is anarchy. Hear Motley's description of society in the ancient time, ere this principle arose "to curb the great and raise the lowly:"

"The sword is the only symbol of the law, the cross is a weapon of offense, the bishop a consecrated pirate, and every petty baron a burglar: while the people alternately the prey of duke, prelate, and seignior, shorn and butchered like sheep, esteem it happiness to sell themselves into slavery, or to huddle beneath the castle walls of some little potentate for the sake of his wolfish protection."—*Rise of the Dutch Republic*, p. 14.

Sir, all history teaches us that man would be safer in the claws of wild beasts than in the uncontrolled custody of his fellow-men. And can any man doubt that he who lives in a community and has no share in the making of the laws which govern him is in the uncontrolled custody of those who make the laws? The courts simply interpret the laws, and what will it avail a man to appeal to the courts if the laws under every interpretation are against him? Set a man down in the midst of a community, place the mark of Cain upon his brow, declare him an outlaw, take from him every protection, and you at once invite everything base, sordid, and abominable in human nature to rise up and assail him. Is there any man within the sound of my voice who thinks so highly of our common humanity that he would dare trust himself in such a position for a day or for an hour? But if to this you superadd the fact that the poor wretch so stripped of all protection was but the other day a bondman, and was forcibly wrested from the hands of his master, and that to the common sordidness of our nature must be added the inflamed feelings growing out of a long civil war and the wrath and bitterness begotten of disappointed cupidity, you have a condition of things at which the very soul shudders. But this is not all; you must go a step further; and remember that the poor wretch who thus stands helpless, chained,

and naked in the midst of his mortal foes was our true, loyal, and faithful friend in the day of our darkness and calamity; and that those who now flock around him like vultures gathering to the carnage were but the other day our deadly enemies and sought our destruction and degradation by bloody and terrible means.

Sir, I say to you that if, in the face of every prompting of self-interest and self-protection, and humanity and gratitude, and Christianity and statesmanship, we abandon these poor wretches to their fate, the wrath of an offended God cannot fail to fall upon the nation.

There never was in the history of the world an instance wherein right and wrong met so squarely face to face and looked each other so squarely in the eyes as in this matter. Never did truth array herself in such shining and glorious habiliments; never did the dark face of error look so hideous and forbidding as in this hour. And yet in the minds of some we find hesitation and doubt.

I cannot but recur to a famous parallel in history.

On the 22d of January, 1689, the English Parliament assembled to decide upon the most momentous question ever submitted to that body. The king, James II, had fled the realm; the great seal of royalty had been thrown into the Thames; William had landed; the nation was revolutionized.

The great debate commenced. On the one side was the party of human liberty striving to cast down forever a dynasty strangely devoted to tyranny and absolutism; striving to make plainer the doctrine that the king reigned by virtue of the consent of his subjects. On the other hand were arrayed all the evil forces of the time and all the restraints of conservatism.

In precisely the same temper in which it is now argued that a State can do no wrong, and that under no circumstances can it cease to be a State, it was then argued that, although the king had fled the land and was at the court of France, nevertheless the magistrate was still present, that the throne, by the maxim of English law, could not be vacant for a moment; and that any Government organized to act during the king's absence must act in the king's name.

It was most plain that the liberty, the prosperity of England could only be secured by the deposition of James; and yet those who sought by direct measures to reach that end were encountered at every step by a mass of technical objections. The musty precedents of the law, a thousand years old, were raked up; and texts of the Holy Book were called into the defense of royalty as liberally as we have seen them in our own day paraded in defense of slavery. St. Paul's injunction to the Romans to obey the civil power, played as important a part in those debates as the texts of Ham and Onesimus have played upon the floor of this House.

Either the liberty of England must have perished, encumbered in this mass of precedents and technicalities, or the common sense of England must reach its own safety over the whole mass of rubbish. The common sense of England triumphed. James having fled he was declared to have abdicated the throne, and the throne being vacant Parliament asserted the right to fill it.

Now, in like manner at this day the resolute common sense of the American people must find its way out of the entanglements that surround it and go straight forward to its own safety.

The purpose of government is the happiness of the people, therefore of the whole people. A Government cannot be half a republic and half a despotism—a republic just and equitable to one class of its citizens, a despotism cruel and destructive to another class; it must become either all despotism or all republic.

If you make it all republic the future is plain. All evils will correct themselves. Temporary disorders will subside; the path will lie wide open before every man; and every step and every hour will take him farther away from

error and darkness. Give the right to vote and you give the right to aid in making the laws; the laws being made by all will be for the benefit of all; the improvement and advancement of each member of the community will be the improvement and advancement of the whole community.

Dealing with men, with all the attributes of men, with the souls, hearts, and minds of men, it is contemptible to attempt to turn justice aside by appeals to the color of the skin. At what precise point of the mingling of complexions shall these statesmen drive the stake and say, Thus far is man and beyond is brute; here human rights begin and there they terminate! What chemist shall analyze the mixture of man and beast, and tell us what fraction of an immortal soul is possessed by such a one? Or how many mulattoes go as component parts to make up one soul in heaven?

Sir, such a doctrine is too monstrous for consideration! The earth is God's, and all the children of God have an equal right upon its surface; and human legislation which would seek to subvert this truth merely legislates injustice into law; and he who believes that injustice conserves the peace, order, or welfare of society has read history to little purpose.

Let us then go straight forward to our duty, taking heed of nothing but the right. In this wise shall we build a work in accord with the will of Him who is daily fashioning the world to a higher destiny; a work resting at no point upon wrong or injustice, but everywhere reposing upon truth and justice; a work which all mankind will be interested in preserving in every age, since it will insure the increasing glory and well-being of mankind through all ages.

Mr. ELDRIDGE. Mr. Speaker, it is of little avail, idle perhaps, to attempt any resistance of a caucus measure of the majority of this House. But it is hard, sad to stand silently by and see the Republic overthrown. It is indeed appalling to those accustomed from early childhood to revere and love the Constitution, to feel that it is in the keeping of those having the power and determination to destroy it. Good men, patriots, have hoped that the mad passions of the war would ere two years have passed been succeeded by the spirit and temper that characterized those who originally formed the Union. But how great and sad their disappointment must be seen in the destructive and revengeful measures now pending in this House. With the passage of this bill must die every hope and vestige of the government of the Constitution. Never was there a measure or movement fraught with such fearful and fatal consequences to the Republic. It is indeed the final breaking up and dissolution of the Union of the States by the usurpation and revolutionary act of Congress. If the bill itself does not on its face and in express words recite the fact the speech of the gentleman from Pennsylvania, [Mr. STEVENS,] who introduced and has the management of it, plainly declares that it is revolutionary in spirit and purpose. No rebel to this Government, north or south, ever called with more bitter hate, scorn, and contempt for the forces of revolution to unite and rally to overthrow it. No leader ever had more supple and willing followers, none was ever more complete master of the situation. His word is law, his call will be obeyed. Hear him as reported in the Globe:

"May I ask, without offense, will Congress have the courage to do its duty? Or will it be deterred by the clamor of ignorance, bigotry, and despotism from perfecting a revolution begun without their consent, but which ought not to be ended without their full participation and concurrence? Possibly the people would not have inaugurated this revolution to correct the palpable incongruities and despotic provisions of the Constitution; but having it forced upon them, will they be so unwise as to suffer it to subside without erecting this nation into a perfect Republic?"

He need not have asked, "Will Congress have the courage?" The majority will surely follow their bold and daring leader even into revolution:

"Will it be deterred by the clamor of ignorance,



bigotry, and despotism from perfecting a revolution begun without their consent, but which ought not to be ended without their full participation and concurrence?"

What revolution? Begun by whom? Without whose consent? To be concurred in by the majority of a constitutional Congress? Or is the revolution referred to the one begun by secessionists, carried on by rebels to the Constitution and the Union for the purpose of dividing it, and to prevent which all the people of all the land were made mourners and future generations burdened with untold millions of debt? And this is the revolution in which, by this monstrous bill, the gentleman calls upon his friends and his party to fully participate and concur. Revolution it is—revolution to break up and divide the Union. Precisely what secession and rebellion, but for the valor of the Army of the Union, would have accomplished.

"Possibly the people would not have inaugurated this revolution to correct the palpable incongruities and despotic provisions of the Constitution."

What people? Not the southern secessionists certainly, because there was no doubt, no possibility of mistaking their position. They are willing now the revolution should "subside," they are willing to submit to the Constitution as it is and with all its "incongruities;" they are willing the Republic should stand. They have given up the revolution, and the gentleman and his party followers, by this bill, have taken it up and propose that it shall not subside till the "palpable incongruities" of the Constitution are removed.

It is then clearly admitted by the gentleman that the purpose of this bill is to correct or remove certain supposed "incongruities" in the Constitution by adopting and carrying forward the revolution inaugurated by secessionists, culminating in most bloody war, and which he says "possibly" without their beginning might not have been begun.

There can be no mistaking the object of this bill as declared by the gentleman from Pennsylvania. It is to avoid or get rid of the Constitution or some provision of it. Its revolutionary purpose is as clear as the sun-light. He says, in the same speech, advocating this bill, (and be it remembered that speech was no extemporaneous one, but carefully prepared, written, and reserved several days after delivery for revision.)

"Think not I would slander my native land; I would reform it. Twenty years ago I denounced it as a despotism. Then twenty million white men enchained four million black men. I pronounce it no nearer to a true Republic now when twenty-five million of a privileged class exclude five million from all participation in the rights of government."

Twenty years ago he "denounced" his "native land as a despotism," and he "pronounces it no nearer to a true Republic now." There were traitorous bad men in 1860 and 1861 who did the same thing, who as honestly believed as he did that it was a "despotism." Their convictions carried them into rebellion. The gentleman by this bill proposes not to let that rebellion and revolution end without "full participation and concurrence." If traitors instigated that revolution I need not characterize those who fully "participate and concur in it."

Sir, immediate passage of this bill is urged by the gentleman because of the late decision of the Supreme Court in the case of Milligan. That decision he denounces as "infamous," "dangerous to the lives and liberties of the loyal men of the country." What is there in this decision that calls for revolutionary measures? In what way is this bill to interfere with or effect it? What is there in it to call for malediction and denunciation? The gentleman does not complain that it does not truly declare the law. Is the court itself to be stricken down; to be revolutionized? Are the provisions of the bill as sweeping and extensive as that?

Sir, none but despots and violators of law hate or fear that court or its decisions. None but those who would donounce and condemn their native land denounce it. It brought the glad tidings to the depressed and despairing people of this country that the Constitution has not yet been destroyed, that it yet stands the bond

of our union, the fundamental law of the land. For one I thank God for that decision in this dark hour of our country. It may save us from just such usurpation as this Congress, by this bill, would inflict upon us. It is the only hope of liberty in this land to-day. That decision has crowned the court with immortal glory. Time, the clamor of disappointed demagogues, nor the malignant howl of crazy fanatics can ever dim the luster it has shed upon American jurisprudence. Future generations in all coming time will honor and revere that court as the great conservator of constitutional liberty and law. It rose above the surging, remorseless passion of rebellion and civil war into the calm judicial atmosphere of reason and truth, and gladdened the hearts of the millions who never "denounced their native land" by declaring the law as it is:

"The Constitution of the United States is law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great emergencies of the Government. Such a doctrine leads directly to anarchy and despotism."

Where is there an honest lawyer who doubts that as law? What is there to denounce in it? What is there infamous in that opinion? Sir, these denunciations are because that court does not adopt revolution as a precedent, because it does not follow the lead of the gentleman by "full participation and concurrence" in the rebellion to revolutionize this Government.

But the passage of this bill is a necessity also, according to the gentleman's construction of it, because the presidential office is in his way. It is not only to deprive the Supreme Court in some manner of its lawful jurisdiction, but the Executive of the nation, "the Commander-in-Chief of the Army and Navy," is to be made to bow in meek submission and obey the behest of the gentleman and his party in Congress. Listen, again, to his speech in support of this bill:

"Though the President is Commander-in-Chief, Congress is his commander; and, God willing, he shall obey. He and his minions shall learn that this is not a Government of kings and satraps, but a Government of the people, and that Congress is the people."

The President refuses to go with the gentleman and his followers into a "full participation and concurrence" in the revolution inaugurated by the rebellion, and this measure is to reduce him to obedience; to bring him into accord with the will of the majority of this Congress; to simplify the Government by striking down or usurping the powers of the coordinate departments.

There seems to be, then, three leading objects in this measure to be carried into practical effect by a full "participation and concurrence" in "the revolution:" to get rid of the Supreme Court or its decision; to depose the President or compel him to "obey" the majority of Congress; and thereby, or as an additional object, correct "palpable incongruities and despotic provisions of the Constitution," and turn ten of the sovereign States of the Union into Territories, or hold them without governments as conquered provinces. These are some of the avowed, bold, wicked, revolutionary purposes of this scheme. No wonder at the implied doubt of the gentleman: "Will Congress have the courage" to come down to the requirement? No wonder he finds it necessary to storm, bluster, threaten, and scold his weak-kneed followers. But they will all come in to the support of this or some like measure. They will tremble, turn pale, and curse a little, but his cunningly-insinuated punishment in the question he put, "Do you believe in hell?" will bring every mother's son of them, unless possibly the gentleman from New York, [Mr. RAYMOND,] of whom nothing quite certain is known till after he has made his speech and recorded his vote.

More, doubtless, was meant by this statesman-like inquiry. There may have been a more solemn significance. The tendency of

his party in that direction admonishes all its members not to deny the Divinity, in the presence of which they are soon to appear. Sir, this seems almost like trifling with a grave subject, and yet the devout earnestness with which that inquiry was propounded by the venerable gentleman cannot fail to impress this House with the thought that there is some very close and intimate connection between this measure and that gloomy abode upon which he would have his followers fix their faith and belief.

I listened to and have examined the gentleman's speech in connection with this bill to find, if possible, some argument, some suggestion of constitutional authority or warrant for the measure; but there is none—absolutely none. Ten of the pillars on which this Union rests, and some of those upon which and by the power of which it was originally erected, are to be torn from under it and prostrated to the earth by unauthorized and arbitrary power, by some means or power unknown to our law. The principles upon which it is to be done are all false, both in theory and fact, and as destructive of the Union as the States. The preamble, which has been stricken out since the bill was reported and since the gentleman made his speech, recites that the "confederate States," so called, "have forfeited all their rights under the Constitution." And in his speech he declares:

"The Federal arms triumphed. The confederate armies and governments surrendered unconditionally. The law of nations then fixed their condition. They were subject to the controlling power of the conquerors. No former laws, no former compacts or treaties existed to bind the belligerents. They had all been melted and consumed in the fierce fires of the terrible war."

Now, sir, I deny every assertion here made, except only that "the Federal arms triumphed." And that of itself, in view of the purpose of the contending parties, is a complete refutation of all the other allegations and conclusions. The States and their governments were not destroyed. All the attempts to take them out of their relations to the other States of the Union were failures, and every step in that direction was an illegal and void act. And the moment the rebellion was put down and the people freed from its control they, the people of the State, had the right to their State government as before the war.

On the part of the confederates the struggle was to separate and divide; on our part to prevent separation and division and preserve the States in the Union. They sought to avoid the laws of the Federal Government: we to enforce them. They denied their obligations to obey the Constitution: we insisted upon their obedience. They declared they would no longer live with us as States in the Union: we demanded they should remain forever. They claimed the right to secede when they felt disposed: we avowed secession a monstrous heresy, and that the Union was formed in perpetuity. They left the Halls of Congress and declared they would no longer perform their duties and functions in the Union: we swore on the altar of our country that they should obey the Constitution and laws made in pursuance thereof. They seized their arms and appealed to the God of battles for the justice of their cause: we accepted the wager of battle, and lifted our eyes in prayer to Heaven that the issue might be with us. We pressed them closely and more closely, and in their agony and desperation they cried for the purpose of rallying their dispirited forces, we meant to "subjugate" them. And as victory wavered in the balance we solemnly, before God and the civilized age, declared, "That, banishing all feeling of mere passion or resentment," we "will recollect only" our "duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation," "but to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired: that as soon as these objects are accomplished the war ought to cease."

"The Federal arms triumphed," and if the triumph is complete, determined all the issues in their favor. "The confederate armies and government were overthrown and surrendered"—not "unconditionally," but upon these conditions, held out to them and never withdrawn till the end of the war. The law of nations holds such promises as binding. Vattel, page 439, says: "All promises made to an enemy in the course of war are obligatory." Neither are treaties made void by war which were "stipulated in case of rupture." This is the case where the war is between two nations. I utterly deny the abominable and detestable doctrine of the gentleman as the law of nations, that the conquered nation is subject to the absolute will and disposal of the conqueror. What he may or may not do depends in some measure on the cause of the difficulty and who were actually engaged in it. His rights spring from the sources of natural justice, and should be exercised and measured by justice and humanity. The doctrine that the conquered nation may be disposed of at the sovereign will and pleasure of the conqueror is opposed to the humane and enlightened sense of the age. It is the source and fountain of despotism and despotic power. It is not the law of nations. Vattel, page 454, writing upon this subject, says:

"But if the whole nation be subdued, in what manner can the victor treat it without transgressing the bounds of justice? What are his rights over the conquest? Some have dared to advance this monstrous principle that the conqueror is absolute master of his conquest, that he may dispose of it as his property, treat it as he pleases, according to the common expression of treating a State as conquered country; and hence they derive one of the sources of despotic government. But enough of those who would reduce men to the state of transferable goods, or use them like beasts of burden, who would deliver them up as the property or patrimony of another man. Let us argue on principles countenanced by reason and becoming humanity."

But I deny that the law of nations fixed the condition of the so-called confederate States, or in any manner determined their status. The law of nations or the common laws of war, those maxims of humanity adopted by common consent for the more humane conduct of war, undoubtedly applied in its prosecution in the conduct of the war itself. But ours is a nation, with a government of its own, with a written Constitution and laws providing for peace and war, "with stipulations in case of rupture," which the "fierce fires of war" have not consumed. That Constitution has not been superseded by the law of nations, but it stood at the end of the war, and still stands, vindicated and sustained, the supreme law of the land "in war and in peace." For those innocent of its violation it provides protection and immunity, and for the guilty speedy, fair trials and just punishment. It superseded and annulled all rules, canons, treaties, compacts, laws, and constitutions not in harmony in letter and spirit with its provisions. And in the language of the Supreme Court, before quoted—

"The Constitution of the United States is law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances."

This is the voice of authority and settles the question finally and fully as to what laws are to be executed and control in the government of the people of the United States. Away, then, with all those who "denounce their native land;" who would substitute the uncertain, doubtful, and undefined laws of war and of nations for our matchless written Constitution; who would apply the musty code of the monarchs and kings of the dark ages to the citizens of the Republic and subject them to the forfeitures and penalties of the rules and laws of barbarism; who, contemning and denouncing the organic law of the Union, with bloody and malignant hearts would subjugate, confiscate, banish, burn, kill, and destroy others for resisting a Government which they themselves denounce as a despotism; who professing to be the especial champions of liberty would destroy the only charter by which it is secured to the people.

But it is insisted by the gentleman in his

speech and in the preamble to this bill that the warrant for this measure is to be found in the fact that the States called the "confederate States of America" have "forfeited all their rights under the Constitution."

On the 25th of January, 1866, in a speech delivered in this House, and published in the Globe of that date, I argued more fully than I can now the question of forfeiture and many of the others involved in this measure: I now affirm all I then said. The positions taken are, in my judgment, unanswered and unanswerable. I assert now as I did then, this Government is one created under and by a written Constitution emanating from the people through the States acting in their highest sovereign capacity. It has no powers sovereign or otherwise except such as are granted to it in and by that instrument. All powers not granted are expressly reserved to the States or the people thereof. The original purpose of the States in forming the Union under the Federal Constitution was the better to protect and preserve each other and the rights and liberties of their several communities from violence, both from within and from without. The jurisdiction granted to it over the States was to govern and control them as States and people of States in the Union. It was the creature of the States, deriving its life from them, and without any power to live except in the life of the States. It is a grand and majestic structure; its beautiful proportions towering high up among the proudest nations of the earth, uplifted, upheld, and sustained only by preserving the States by and of which it was created. Its highest authority and most solemn duty, self-preservation, demands the preservation of the States. It has no power, express or implied, by which it can consent to "forfeiture" by a State of any of its rights under the Constitution. The obligation of a State to remain in the Union and exercise its functions and perform its duties as a State is not an obligation to the Federal Government alone, but to each and all the other States, and to every citizen of the United States. But if it were possible that a State of the Union could "forfeit" its rights as a State, what would become of those rights, where would they vest? Certainly not in the Federal Government, because under the Constitution from which it derives all its powers and jurisdiction it has not the power or authority either to hold or exercise any of the rights that properly appertain to the States as such.

It has no use for such powers and no lawful right to exercise them. Should it attempt to seize, hold, or exercise or accept, even as a forfeiture or otherwise, any rights or powers not granted in the charter by which it was created it would be nothing but usurpation. It must preserve the States and the governments of the States and the people of the States in order to preserve and enjoy the powers and rights conferred upon it by them. Any other position is destruction of the Union.

Sir, this Union is not yet destroyed. The Constitution still binds and holds the States together. Its provisions have not been "melted and consumed in the fierce fires of terrible war." It is only the fiercer fires of more terrible and successful war that can melt and consume the ligaments by which that instrument binds together the States of this Union. All other "laws, compacts, and treaties" may "melt" and be consumed, but while the Constitution remains, while its provisions stand, war may rage, secession surge, and fanatics howl in vain against the Union. It will stand till the Constitution itself is melted and destroyed.

There never was a more abominable doctrine or one more fatal to this Government than that which asserts its right and power to hold the late insurgent States as conquered territory and the people as conquered subjects. It is a virtual denial of the power of self-preservation, and a pregnant admission that the powers assumed and the rights asserted are not to be found in the Constitution. It is a most base and wicked subterfuge by which to

usurp and exercise ungranted and despotic powers. It is a doctrine no less fatal to the Union than the States. If persisted in by those in possession of the Government, and acquiesced in by the people, it must end in the overthrow of the Republic and the establishment of an empire upon its ruins. It is at war with every principle of the Constitution and a complete swallowing up of the liberties of the people it was intended to secure. Hereafter our charters will be written grants of privileges from the Government to the people, instead of written grants of power by the people to the Government. This bill can be looked upon only as a bill granting privileges from the hand of arbitrary power to a pretended, wicked, and undeserving people who have forfeited all their rights under the Constitution. It is "a crumb from their master's table." It is a generous gift from this magnanimous Congress of so much of liberty and privilege to the people as it deems prudent and best. Is not this the plain, unvarnished theory of this measure and of the gentleman's speech? Ten of the States of this Union with ten million people of the United States have been conquered, and in virtue of its conquest the Federal Government is invested with all the rights and liberties of these States and people, holding them as a conqueror to be reluctantly doled out according to its supreme will and pleasure by this charter of privileges. I say reluctantly, for even this has been delayed for almost two years. Have not the centuries been rolling backward? Can we not almost see the people demanding of Congress Magna Charta?

Sir, the doctrine that this Government can make conquest of any of the States of this Union is opposed to, is at war with the fundamental idea of the Government itself. It would destroy the harmony of the system of States and Union by allowing of antagonist interests. It would offer to the General Government the allurements of power and aggrandizement not in the interest and growth of the States and Union, but in its own separate interest. It would nullify all the provisions of the Constitution reserving powers to the States and the people. It would be equivalent to a bribe to the Government to destroy the States and the liberties of the people by the exercise of despotic powers. But it is absurdly impossible that the United States Government, except by usurpation, should make "conquest" of one of the States of which it is composed. It has certain prescribed limited powers and jurisdiction with the means and capabilities of using and exercising them, but no use for, no capacity to hold, or means of exercising any others. It had before the war, by the authority of the organic act of its creation, the power and jurisdiction, certain, defined, and limited, to control, govern, and preserve the States as States in the Union. Its jurisdiction is the same now the war is over; no greater, no less.

There is, there can be no such thing as this Government being able to increase or enlarge its powers or jurisdiction over the States by "conquest." It can derive powers but in one way and that by constitutional grant. No act of any or all the parties to the Constitution can take from or add to those granted thereby in any other way than by amendment according to the provisions of the Constitution itself. Under the Constitution as it is, the power is granted to the General Government to suppress insurrection, repel invasions, and, upon application, protect the States from domestic violence. It is absurd that in successfully performing this duty it could by any possibility destroy the State, or permit the State or the insurrection or all together to destroy the State as such in the Union. And yet to such absurdities does the doctrine on which this bill is founded lead. Let insurrection arise in any State of the Union and the Government undertake to suppress it; if it shall assume proportions large enough to entitle the insurgents according to the laws of war to belligerent rights, the nation becomes divided into two

parties and the party that shall finally submit has forfeited all rights under the Constitution and is subject to the will of the other as a conqueror under the law of nations.

If the Federal Government should be called on to protect the State from domestic violence and the disturbing party should be able in any manner to possess itself of the State, so as to deprive the inhabitants for the time being of all civil government, and should magnify its powers and increase its numbers so that under the human laws of modern warfare, the laws that govern public war, should be recognized as applicable to its conduct, such a State and all the inhabitants thereof, when finally the Government should conquer, will have lost all their rights except only such as may be found in the law of nations as applicable when one nation conquers another.

The bare statement of such a proposition shows it to be preposterous. The Constitution is the paramount and ever-continuing law, both in war and in peace. The Army can only be used in aid of its enforcement. It is clear that no warrant for this measure can be found in the Constitution. The gentleman certainly has not claimed it. No one believing in the truth of the preamble of this bill will claim any constitutional power for it under that section: "the United States shall guaranty to every State in this Union a republican form of government." The bill goes upon the theory that they are not now States in the Union; indeed, that they are not States at all. The gentleman from Pennsylvania styles them States never "restored from a state of conquest," "outlawed States," and says:

"Congress denies that any State lately in rebellion has any government or constitution known to the Constitution of the United States, or which can be recognized as a part of the Union."

If, then, these are not States, or if not "States in this Union," that provision of the Constitution has no reference to them. It refers in express terms to States "in" the Union only. The Government has no such power, and is under no such obligation to any other States. There is then no law, no constitutional power for this measure, and no rightful power for holding these States in a state of "conquest." The war long since finished its bloody, its devastating work of suppressing the insurrection and putting down the rebellion. All have submitted, combatants and people, and admit that the Constitution is the supreme law of the land in all emergencies for rulers and people. To hold these States as the gentleman says they are held, as "outlawed" States in a "state of conquest," is the usurpation and exercise of despotic and tyrannical power in its most odious form, and will assuredly end in the destruction of all constitutional government.

Sir, a fearful responsibility rests upon those who would continue this state of things. Let us not flatter ourselves that this appetite for dismantling and devouring States and converting them into Territories will be satiated with the ten States now claimed by conquest; the more it devours the more it will demand. Already it has been declared by the leader of the majority here that the constitutions of Maryland and Kentucky, and even his own State of Pennsylvania, States as patriotic as any in the Union, ought to be reformed and made to accord with the congressional idea of republican government. A few months more of rapid progress and advancement like that of the last two years, and Congress will provide constitutions for all the States in accordance with its view of the spirit of the age and of republican government. Congress by its usurpations and assumption of powers and its growing hostility to the other coordinate departments of the Government is rapidly becoming the most fearful despotism that ever menaced liberty in this country. Through its acknowledged leader it scandalously denounces the decision of the highest tribunal as "infamous;" calls God to witness that the Chief Magistrate of the nation shall obey Congress, and

with most audacious effrontery falsely declares "Congress is the people." With the provision now being made by it for perpetual session there seems to be but one step more, and that is to declare the office for life, with the right, by will, to name a successor.

No candid man can deny that this measure is revolutionary. That we are in a state of revolution seems to be admitted by the advocates of this bill—a revolution by whomsoever "concurrent" in is now adopted and carried on by the majority of this Congress. It is a revolution more dangerous to the Republic, more hostile to its underlying its essential principles, than that which was prosecuted by armed rebellion. That was for separation, for a separate republic. The government it was to establish was founded on a written constitution with provisions challenging the respect of the most liberal and enlightened minds, and which, had it not been for its provision for slavery, would have been no reproach to any age or to any people. The revolution of today is against our written Constitution, and if successful will convert the Union into a despotism. Think not this can be done in peace or without the shedding of blood. It is not well to forget the fearful throes of the nation when secession would have rent the Constitution asunder and severed the Union. Peaceable consolidation is as impossible as peaceable secession. "Let us alone," will no more avail in the one case than the other. The people will not relish empire more than a dismembered Union. All history is not a lie. Human hearts and human passions are not all unlike what they have been in the past. The order of our Government cannot be reversed without a desperate struggle. The people will not long brook to crawl at the feet of despotic power, or beg their rights and liberties from the hands of one or two hundred despots. The people know the source of sovereignty is the people. "Congress is" not "the people." The people acting through the States created the United States, to protect, defend, and preserve, not to destroy, the States. Twenty-six States are not the United States.

The charter of the people's liberties did not come down from Congress. All the sovereign powers of Congress are named in the people's charter to Congress. In that charter is all your warrant. Go beyond it and you invade liberty. When liberty is invaded all but slaves and despots resent, and sooner or later will resist the invasion. It is the common cause of all who are worthy to be free. It is the cause of the people against power. In such a conflict liberty and justice will be not only vindicated, but their wrongs will be redressed and the malefactors punished. Retribution may be slow, but it will come with unerring certainty, measured by the hand of divine justice.

Mr. Speaker, I hope, I devoutly pray these troublous times may have an end without further sacrifice of fraternal blood; that our constitutional rights and liberties may not be lost in this fanatical revolution. Let sectional hatred and all revenge be buried in oblivion. Reconciliation is the only restoration. This Congress has never avowed any "policy" for either. The gentleman admits if we ask even now "what is the policy of Congress, the answer is not always at hand." It is time that answer were ready; it is time all were satisfied and assured. Delay awakens doubt and distrust and begets danger. If those who pant for more blood could reflect, they too would discard further sanguinary measures. Malignant passion has counseled long enough; let it slumber. Is it not enough to enslave ten million people; hold them in a "state of conquest for two years?" Congress has opportunity such as no other body of men ever had, such as I fear it may never have again, by a word to speak peace, reconciliation, amity to a suffering and unhappy country. A brave and unarmed people lie conquered at your feet, bowed in spirit and oppressed with many sorrows. They have surrendered all for which they contended on the battle-field and more

than you demanded before they gave to you their arms. Let not the pride of victory, passion, or revenge make you unjust and change your victory into defeat.

Generosity never lost the conqueror anything; cruel and unwise exactions have renewed many an arm and renewed many a struggle. Better than that subjugation and oppression should continue follow the example of the monster Duke of Alva; take twenty thousand to the block and be satisfied. Two hundred thousand may not satisfy the people for wrong and injustice long continued.

During Mr. ELDRIDGE's remarks the hour of half past four having nearly arrived, on motion of Mr. LE BLOND, by unanimous consent the session was extended till a quarter to five o'clock, at which time, pursuant to order, the House took a recess till seven and a half o'clock p. m.

#### EVENING SESSION.

The House reassembled at seven and a half o'clock p. m., (Mr. ECKLEY in the chair.)

Mr. WARNER. At the opening of this Congress we were confronted by a most extraordinary and dangerous condition of national affairs. The war which had crowded into the space of four years the events, transmutations, changes, and progress of ordinary centuries, had spent its force; the passions and purposes and energies of the nation were no longer entirely absorbed in the marshaling of armies and in their deadly conflicts. On one hand the insurgents had sullenly withdrawn from that arena discomfited, having renounced none of their iniquities or crimes, or abandoned any of their errors, prejudices, or ultimate purposes to control the Government. On the other hand, the loyal nation, swayed by all the delirium of success, surveyed the scene of their untold sacrifices and conflicts, stirred to no purposes of vengeance, moved to no act of retribution, impelled to no excess of action, and seemingly scarcely susceptible of any emotion or virtue but charity, or of being awakened to any consciousness or belief but that of the absolute safety of our then more than ever imperiled country.

The conflict of arms had shocked the world, had wrung an unparalleled tribute of torture from humanity, and scarred the face of the continent. But the rebellion had not spent its force in brute concussion alone. It had changed the whole course of our civilization; it had settled forever many doubtful and long-debated questions of constitutional right and governmental policy; it had crystalized all political elements and forces, and arrayed them either for or against the national unity and national life. But beyond this it had a still higher significance. A rebellion of political elements, of ideas, and an antagonistic system of government, it had marshaled all their constituent elements and forces; it had marshaled a nation extemporized; it had States with all their high, sacred trusts and guardianships, and peoples with all their fortunes, hopes, and civilization, and in that death struggle for the mastery of the nation, with all the terrible energy of despair, had cast them into the scale, and lost, for they were the hazard of the die.

Discuss it as we may, torture the actual facts and condition as we will, refine and sublimate this matter as we please, this Congress was called to contemplate and provide for this state of facts. Ten insurgent communities, comprising ten million people, lawfully under the disability of unsuccessful treason and war, conquered by no other force than arms, held to our dominion then, and now, by that force alone, and who, by the laws of war and of conquest, speaking in their adjudications as the highest arbiter of Christendom and above all other laws and constitutional formula, had forfeited all civil rights and all civil government.

We were called to contemplate and act upon these admitted facts. Six million people, lawful belligerents, owing to our sovereignty allegiance, having no rights toward their former



State governments, and outlaws under the national Government; a people in fact launched by their act of unsuccessful treason into the shoreless sea of anarchy, having neither a government nor the right of government, but, nevertheless, subjects of government; having neither laws nor the right to laws, property, nor the right of property, nor any other right, but holding all, even life itself, upon the tenure of the arbitrary will of the conqueror!

We were called to contemplate and provide for four million people, who by the act of the nation as the price of its life had received the highest benison of all human governments, the right to liberty and American citizenship. It became our duty as far as possible to lift the load of woe which the degradation of two centuries of oppression and slavery had not in vain heaped on the head of that devoted people; to eradicate as far as possible by all humane and congenial legislation those obstacles which otherwise would prevent their being incorporated into the body-politic, and which would inevitably hereafter render them not only a dangerous element to our political and national stability, but a financial problem the solution of which might involve the question of national financial disaster and ruin.

These were presentments which well might confound our philanthropy and tax the utmost resources of our highest order of statesmanship. But this was not all. The national Executive had proclaimed the fact of the entire extinction of all State government in the insurgent States. He had ignored every constitutional function which they could perform; and arrested, imprisoned, or driven into exile every functionary who dared to assume or exercise a right or function under those governments. He had proclaimed and issued his edicts to that effect, that new State governments should be created in the place of those subverted, through the medium of the loyal people alone; and made the determination of that loyalty to depend upon unjust, unwise, and arbitrary rules, with no appeal to any other department of the Government, but prescribed and enforced to suit the caprices of his passions and prejudices and more than imperial will. He had placed the iron heel of State and national disfranchisement upon the entire people, and suffered their communities and States to commence their existence alone through his license and the medium of his amnesty and pardon.

He had compelled these communities and States thus organized to submit to the behests of their military governors and dictators, appointees and creatures of his; and through them molded their several constitutions and internal policies, not in conformity to the desires or political sentiments of their people, but in conformity to his own; and these bastard State governments, having no legitimate origin either in the people of those States or as an emanation of the State or national governments, but wrung from a conquered and violated people as the price of their submission to his policy, having representatives subservient to his purposes, he presented to this Congress with an audacity shocked at no inconsistency; proclaiming the entire work of reconstruction and restoration of these States an accomplished fact, and denying that any other department of the Government had the prerogative, power, or right to question the effect of such action on the nation, or to call in question either his power or purposes in the premises.

Thus had been stricken from existence the whole fabric of southern society. Their State and municipal governments, State and municipal institutions, had as a fact all been subverted; and the champion of State immutability and State inviolability would do well to square his logic in the light of this incontestable and inexorable fact. The insurgent State governments upon which the revolution opened, and in fact those upon which it closed, were then as now presented to us as defunct and dead, as inoperative and in-existent as are the ancient Governments of Thebes, Palmyra, or Greece

to-day. And this stupendous fact was but resultant from another fact, admitted and acted upon by every department of the Government, the moral and political incapacity of the people of those States at that time to be expounded by a State government having any constitutional relation to or rights as against the national Government, for all connection with that Government had been severed, excepting alone the indissoluble bond of national citizenship and consequent allegiance.

Under such embarrassments and circumstances we were called to address ourselves to the duties imposed upon us by our position. The permanent peace of the country, the public safety, the reestablishment of our national authority, the material and permanent welfare of the insurgent communities, and all the inducements to the sway of law, order, civilization, and human progress demanding our immediate attention. Never were such responsibilities imposed upon a deliberative body, and never was there such an occasion for the exercise of pure, patriotic, and enlightened statesmanship. But for this action of the Executive, then was the first opportunity since the organization of the Government, when the bright dreams and high purposes of its founders, the absolute security of the blessings of liberty to us and our posterity, could possibly have been realized; and a failure of any department of the Government at that juncture to cooperate in the attempt to secure that result to the utmost possible extent was a crime which cannot fail to invoke the severest condemnation of impartial history.

But, sir, it is evident that this action of the Executive was deliberately intended to thwart, pervert, and prevent anticipated action of this Congress; to shorten the arm of its humanity, and weaken the sanctions of all possible requirements it might make of the insurgents before the people. It is evident that thereby he intended to place himself at the head of antagonisms in the public sentiment of the people of the South, which had arrayed that people, with such a deadly purpose and effect, against the life of the nation. It is evident that he thereby intended to fan the fires of the spirit of the rebellion until he had warmed into life a political organization with which, with himself at the head, he might hereafter successfully contend for the control of the Government. And this step was not hastily taken; this action was not resolved upon without a deliberate calculation of the forces and energies by which his purposes were to be accomplished. What if the course proposed involved a betrayal of party pledges, denial of professed political confidence, and an abandonment of all pretense of consistency. He well calculated that the cohesive power of the spoils of public plunder would be sufficient to make party of thieves even; that sycophancy would still fawn and flatter, and political success be sufficient to obliterate every remembrance of political inconsistency. He supposed that he had the gage of the passions and prejudices of the popular mind, and was prepared to feed those passions and inflame its delusions. He had weighed in the scale of his own integrity the honor, integrity, and constancy of the nation, and coldly, yet vainly, calculated the amount of patronage and appliances required to bribe and prostitute them to his ends.

Thus bent upon his purposes, no concession by us, excepting those which surrendered our manhood, which abnegated the functions we hold, and left the country a prey to desperate political adventurers, could have averted the storm which subsequently burst on the country. The country will bear witness to the fact that for months this Congress sat under the imputation of almost imbecile weakness because we hesitated to accept the issue which the Executive so defiantly and tauntingly hurled in our teeth. We hesitated until the country almost commenced to doubt our fidelity to principle or our constancy to serve them. I am appealing now to facts within the consciousness of us all, how we hesitated and demurred for the

manifestations of his pleasure with reference to every act we considered, no matter how necessary our immediate action or how vital to the country; how, day by day, we were startled by his inconstant and incoherent utterances, as with all the pomp of pontiff, he promulgated them for the public press or public ear, to awe the timid, to distract the weak, and poison the confiding heart of the people against us; how once and again, presuming upon his confidence and cooperation, even the presumption of confidence was repelled by vetoes couched in the lowest appeals to the vulgar prejudices of the country against us; and how unwilling still to let him go we palliated his short-comings and excused his follies until the appearance of longer reposing confidence on our part was criminal, for the fact of his apostasy and betrayal had been roweled into the previously confiding heart of the country.

But, sir, when we sit in the shadows of this rebellion, the greatest conflict of centuries; when we contemplate its scope, its aims, its purposes and origin, its cruel exactions of human suffering, its drafts upon the energies of this generation, and the relentless mortgage it has imposed upon the right hand of its posterity, and its necessary effect upon our future governmental policy; and contemplate also the fact that the issues it precipitates into the politics of the nation are the land-marks of national progress, are the scales upon which we are given to read the elevations and depressions of humanity; when we contemplate that these issues were for the ultimate decision of the heart and brain of the nation, this action of the Executive, in thus arrogating to himself the sole prerogative of their adjustment or settlement, assumes a hideous magnitude of error, not to say criminality. Contemplated in its moral aspects it has all the profanity of a taunt against the purposes of the Almighty. It is the interposition of a man's hand against the light of Heaven, or His will, to check the irresistible motion of the spheres.

But, contemplated as political action, it had no legitimate object and was an unwarrantable provocation to the disturbance of the public mind. The people had become fully convinced that it was the prerogative of Congress to fix and settle the status of the insurgent States in the Union. It was a popular instinct of the people. It was their conviction, drawn from their knowledge of the precepts of the Constitution, from the teachings of history, and the overbearing demands of the public safety. Were the liberties of the people any less safe in the hands of Congress than in those of any other department of the Government? Does history present a single encroachment upon the liberties of the people by the popular branch of a representative Government? Was it even possible, under our theory of government, that such encroachments should come except through the executive department? The framers of the Constitution wisely anticipated the answer to these questions. The manner in which they interposed the checks and balances of that instrument, and the placing of the exercise of the powers of other departments of the Government under our ultimate control by providing for the impeachment of their officers, is an answer to any speculation on the subject; and the ominous retort of Sir Edward Coke to the arrogant message of Charles I to the House of Commons, at a time when they were considering the exercise of the king's prerogative and warning the Commons against such a course, "that it is the duty of this House to moderate the king's prerogative—nothing which reacheth to abuse that may not be treated here," may yet receive a far more significant utterance in our own history than when it was first chronicled in the history of English liberty.

But one word as to the pretenses and guise under which the rebellion, discomfited in arms, precipitates itself into this Congress to grasp the scepter of the power of the nation. Of course, Mr. Chairman, high constitutional sanctions are easily found. Subterfuges and

false premises are easily invented. Why, they say that this rebellion, which in its political organization for four bloody years held almost undisputed sway over a quarter of the continent; which baffled the craft of our cabinets, and defeated, resisted, and held back almost the omnipotency of our arms, whose armies during all that time represented more material martial force and power than those of Frederick the Great, Alexander, or Cæsar; whose cruisers on the high seas drove from the protection of our flag eight hundred thousand tons of our shipping, sinking or burning as many more, more than the entire mercantile marine force of some of the first class Powers of Europe, or of any State of antiquity; and whose cruisers as lawful belligerents in the exercise of a legally accredited right anchored in the ports of every nation but one of the globe; that all this has no significance above that of individual action, nothing above a riot, and that too, as the Government is administered, not worthy the consideration of a grand jury one hour; that all this, as the Secretary of State dwarfs and belittles it, has no name or meaning above "our recent southern political disturbances," only a rude announcement of a political difference. They would have us believe that, having wrung from our Government and from the civilized world the concession of belligerents in war, they are not subject to all their incidents and penalties.

And we are told by the President and his partisans—indeed the President has made a formal announcement of the fact—"that the moment peace was declared the insurgent States became rehabilitated at once and instantly restored to all their former positions and rights in the Union." But this position concedes too much. In December, 1865, the President sent a special communication to this House in answer to a resolution as to "by what authority certain State criminals were held in confinement," in which communication he then declares that a state of war against the United States then existed in all these insurgent States. This, too, at a point of time months after these pretended State governments were organized, and they had elected Senators and Representatives to this Congress. Thus the rights of these pretended State governments and their representatives are condemned by the concessions of the logic and law of the Executive. But in all reason if war, not insurrection, can have no effect upon the integrity of the State governments, why should the fact of peace be required in the work of their restoration? What is the necessity of any policy of "restoration" or "reconstruction" where there has been neither forfeiture nor destruction. Such a position has all the illogical consequences of impossibility. This requirement of peace which the President considers as a condition precedent to restoration or reconstruction of these States has no basis in fact, and if conceded as necessary blasts his whole policy to the winds.

But, sir, one more step in the presidential logic of reconstruction is that these insurgent States have complied with all required conditions, and therefore good faith and right entitle them at once to admission to Congress. Now, this placing of a single condition or limitation upon the right of the insurgent States to assume their former condition or relation in the Union is a concession of the whole constitutional question; I care not whether that condition is loyalty or disloyalty, war or peace. If limitations or conditions exist by what power are they imposed? Are they imposed by the Constitution? Plainly not. They are imposed simply by the conqueror's might. They are imposed as a means of the public safety. Concede one limitation or condition and why not all others compatible with that safety? Then who is to determine their adjustment, and who when they are satisfied? If this right is suspended for a single moment where is the power vested to revive it? Who holds this discretion to exercise? I care not if you hold to a permanent or "temporary suspension" of the right of functions of these States;

the question is still the same, where is the power of reanimation? If the power is falsely or improperly exercised has the nation any appeal, and if so, to whom? In what constitutional forum is the ultimate decision? The power rests where the Constitution puts it, in the United States; not in any department of that Government exclusively. Not in the Executive, for his power over the rebels was exhausted in the proclamation of amnesty and the signature of this pardon. That power was a simple suspension of the right of confiscation, extirpation, or to inflict the penalty of death. It related to certain functions of national as contra-distinguished from State citizenship.

But the disability of these States is not alone a disability as against the national Government, but on the contrary a primary and paramount disability is in the people of the State. The rebellion was not less a rebellion against the State than the national Government. The first fruits of the rebellion was the subversion of the State governments. This treason to the State governments affected the rights of State citizenship, and with the one fell the other. As treason against the General Government worked an incapacity of the citizen as against that Government, so treason against the State by the same rule works an incapacity in the citizen of the State. Now, both this destruction of the State government and its citizenship were facts primarily recognized by President Johnson in his scheme of reconstruction. Thus by proclamation he declares that his appointment of his provisional governors is "to present such a republican form of State government as will entitle the State to the guarantees of the Constitution." Were these States as States then entitled to the guarantees of the Constitution why then this action of the Executive?

Hence also, it is to restore State citizenship he deems it necessary to limit, define, fix, control, and confer the elective franchise on those who are to participate in the Government; that peculiar endowment and right of citizenship from which under our form of government the State is supposed to emanate, to which it owes its origin, and without which it could not exist one hour. But all know that the Executive has as much power to fix the qualification or limit the right of a voter for a member of the English House of Commons as for the meanest elective office in the State of North Carolina. And this is the weakness of those State governments. They are creatures of usurpation. They were so condemned by the best legal mind of the South, and they have been so condemned upon an appeal to the highest tribunal known to our policy, the bar of the intelligent judgment of the American people. And they will forever sit under that condemnation until it can be found that the whole theory of the Government has been perverted, and the national Executive can bestow State enfranchisement, can remove State disabilities, can restore the rights of State citizenship; in a word, until centralization shall have become the theory, and the whole functions and powers of the State and national Governments shall have been lost in the brain and power of the national Executive.

This necessarily anticipates the conclusion to which I come as to the legal condition of the insurgent States. I assume that until they are formally recognized and validated by Congress they have no constitutional relation to the General Government. I deny that the Executive has any authority to reorganize a State government or to initiate steps to that end; I insist that the attempt so to do is an act contrary to the theory of the Government, against its wisest provisions, and fraught with the greatest danger. As a practical question the concession of their validity is a repudiation of the whole results and benefits of the war; as a constitutional question such a precedent is pregnant with evils which cast their shadows of disaster down the whole course of our future history. For one I shall not enter upon such an experiment.

I voted for the constitutional amendments of

the last session because I thought them declarations of sound, necessary, and as far as they went efficient constitutional requirements. It was my conviction at the time that our action in the premises ought to have been prefaced by a formal act or resolution of Congress declaring the action of the Executive touching the pretended organization of these States if not illegal, at least what he expressly declared it to be, "provisional or experimental" only, and "subject in its results to the approval of Congress." This action ought now to be taken at once. The sanction of time matures the greatest aggressions and wrongs into accreted rights. The President now pleads the fact that we did not declare him an usurper by the immediate overthrow of those State governments, as a justification for his usurpation and a vindication of his course. He tells us in his message that "Congress failed to provide any other plan of reconstruction." This is his admission of our power in the premises. If the power exists, the duty is imperative. With such a declaration emanating from this Congress, evincing its cool, settled, determined purpose in regard to these State organizations, you have taken the first and most efficient step in the solution of the problem of reconstruction.

My hour would not permit me at this time to discuss in detail all the requisite guarantees which I think the national safety demands of the insurgent States. The constitutional amendments submitted have already received the sanction of the people in a contest which has tried their honor, their integrity, and inflexible purpose more than any since the organization of the Government. That action is final; that decree is irrevocable. The people are too sensitive to their rights, too imperious in their high purposes, to be thwarted in the ultimate realization of the benefits they are calculated to bestow. Time has matured my conviction of their propriety. Events transpiring since their submission have convinced me of their necessity.

But the manner in which these proposed constitutional amendments have been received by the insurgent States has demonstrated the fact that they are superficial, and unattended by other requirements will rather prolong than eradicate the evils they were intended to correct. Prompted by and acting upon the unchecked and unrevoked authority of the Executive, they now repudiate our overtures and laugh our authority to scorn, and to-day the rebellion in its ostracism of all known friends of the Government, in its relentless proscription of all who have adhered to its fortunes, in its sentiment of caste, in its State and municipal legislation and administration, in its animus, in its purpose to dominate the Government, in its all, excepting the overt act of war, is as potent in the South as at the hour of Sumter or at any time during the war.

The war never had any political or moral justification other than as a means of bringing into control of those States those who were loyal to the Government and a proper administration of its laws. Each dollar spent, each drop of blood spilt, each maimed or fallen hero in that struggle, were so many pledges to the world that the hour of the nation's victory should be the hour of the realization of the fact. Without this consummation the war becomes a murderous mockery, a wretched failure. But up to this hour how has this promise been kept? Witness the thousand corpses of loyal blacks lining the by-ways and highways of those States, fendishly, wantonly, and even sportively murdered, and whose blood rests on the skirts of that whole people, because neither public sentiment nor law has even attempted to bring a single perpetrator of these outrages to justice. Ask of the loyal whites, and they point you to the hundreds thronging this Capitol demanding of us even the boon of protection. They point you to the thousands fleeing from their homes and exiles in the land they had sacrificed all to save. They point you to even the grave despoiled of its trust by solemn legislative action; to the ashes of the soldier

of the Republic dug from the soil he had deemed by his death, to be consigned to the common receptacle of fiends and outlaws of society, that thereby they might dishonor the cause and insult the nation for which they died.

History presents not a parallel to that religious, patriotic devotion to a Government exhibited by those in the insurgent States who adhered to the Government during this struggle; a constancy attested by all the perils, yea, and the sacrifices of martyrdom; a constancy holding allegiance to the Government when its arm was too weak to reciprocate the duty of protection; a faith peering through every cloud of defect and gloom which for those terrible years seemed almost to stifle in our own breasts each illusion of hope. Heroic men standing amidst the wreck, chaos, and desolation of individual and national honor, of violated oaths and outraged laws, holding still their faith. Men who in that carnival of persecution and proscription, unchecked vengeance, with its untold ferocity, and all unmarked by any mitigatory feature, yielding none of their high purpose. These are virtues deserving to be canonized in the heart of the nation. Upon those virtues which no threats could awe, no perfidy barter, or bribery tempt, the unerring instincts of justice, the teachings of reason, the demands of peace and national safety, placed at once the reorganization of those States and the control of their destiny. The failure to do this was a crime which no words can palliate and no subterfuge excuse. The evils and disasters which this crime invoked you will find difficulty in the attempt to aggravate. There is not to-day an evil distracting our politics; there is no portentous cloud casting its impenetrable shadow into the future; there is not a murmuring discord of anarchy or an open threat of revolution grating upon the sensitive ear of the people which would or possibly could have been had this great crime been averted.

Sir, your work of restoration will never commence until the Congress of the United States assumes to be one of the departments of the General Government. It will never commence until it dare assert the fact that when the Constitution declares the United States shall guaranty to each State a republican form of government that there are other powers within the Constitution to be consulted than the Executive. It will never commence until you have declared, in the language of the Supreme Court, that the Executive, as Commander-in-Chief of the Army and Navy, "cannot exercise a civil function." It will never commence until you have declared in the spirit of our institutions that the President in the exercise of the war power, in the creation or organization of these pretended State governments, has invaded the prerogative of this body, yea, the very prerogative of the people of those States, and set the most dangerous precedent in the whole of our constitutional history. It cannot be considered as commenced until you have laid these giant usurpations and wrongs at the feet of the loyal people of those communities for whose protection they were ostensibly created. And, sir, the work of restoration will have been accomplished when you declare, in the language of the Supreme Court, that this body has the sole power to determine which is the lawful government set up in these States; that if conditions are to be required we are the constitutional body to interpose those conditions, and that those conditions shall be loyalty to your Government, full protection to property and person of all within their borders, together with a full investment in all men alike of all endowments, franchises, and rights necessary to the most ample enjoyment of the blessings of liberty.

No more fearful experiment can be tried by the nation than the investment of one race or class of community with despotic legal arrogance and power, while at the same time you clothe another with nothing but the servility of trembling dependence. We have learned at too bitter cost the effect on the political morals of the nation of a lack in community

of all reciprocal benefits and interests and legal obligations between race and race, man and man. We have tried that system which bred nothing but contempt on one hand and servile awe on the other, and the contemplation of which made Jefferson tremble for his country at the possibility of a God. We have tried a system of government which abrogated that sublime and divine attribute of law, and which through all time has not failed wherever found to challenge and secure all reasonable submission to its authority, and without which law cannot long have any sanction, the protection of helplessness, weakness, necessity, and dependence, and which gathers them into its sanctuary as the most sacred object of its highest interest and most anxious solicitude.

No nation but the most abject despotism can long survive a deprivation of any considerable class of its subjects from the full protection and benefits of its laws. Universal history attests this fact as one of the penalties of the exercise of exorbitant power. Moreover, he who has been accustomed, even to the smallest extent, to exercise an arbitrary and irresponsible control over the lowest of his fellow-creatures, to meet with no check either of power or popular opinion, "to feed a degrading pride by the habitual contemplation and contact of objects which the laws have abandoned" to his contempt and will, cannot fail to carry into all the walks of private life and public action a spirit at once noxious and dangerous to liberty. The lessons of this war were but to teach us the dangerous infection of degraded objects in the eyes of the law. Liberty, that divine summary of all good, like all its constituents and graces, happiness, virtue, and charity, in God's providence, must perish by hoarding and augment by diffusion; and we peril the peace of the nation, we dwarf its future greatness, we check its high career, if we exclude from its highest enjoyment any one within our borders whom God has thought worthy of humanity.

How is this view vindicated by the painful exhibitions we are daily called to witness? What other system than one similar to that to which I have just alluded could possibly have given to history those foulest blots upon its pages—those words, Pillow, Andersonville, and New Orleans? What other system could have produced such diabolisms as day by day crowd the public prints and the ear of this House with tales of horror, the very recital of which freezes the marrow to the bone, and drives the blood back curdled to its fountains? What other national Executive than one whose conscience was subverted by its influences, having power to prevent such crimes, could hand a defenseless race over to such torture and wink at such outrages, while he strikes hands with their tormentors, conspirators against the nation's life? What other Executive than one whose daily contact with such scenes had stifled the ordinary impulses of humanity would dare to palliate such crimes, and single-handed attempt to choke down the gushing protest of Christendom against them?

And how quickly come the practical results of even our premeditated abandonment of the black man, and our ostracism of him from the benefits of the Government. At once came the call for a permanent increase of your standing army to treble its number prior to the war. Let us look at this as statesmen. In the face of what necessity was this increase made more than the full expenses of the Government prior to the war? What was the exigency demanding it? The nations of the earth trembled at the thought of your power, and there was no possible contingency within the whole scope of conjecture which could possibly bring us into collision with them. Your Secretary of State had just declared the recently rebellious States perfectly restored to amicable relations to the General Government. Why must the nation be burdened with this expense? Why is the nation, which could not tolerate the humane and Christian expedient of the Freedman's

Bureau, now to inflict upon the labor of the nation the incubus of a standing army? This demand, this recommendation, this action of the Government was only a substitution of force for humanity and justice. The pretended necessity involving it is conclusive against the policy producing it.

Why is it that by the advice of the Lieutenant General military occupancy is to be continued over the insurgent States, and why does the Executive talk of a possible war of races as a justification, at the expense of the nation, of this maintenance of the national police there? Let us remember that in all our late struggle this race, with the remembrance of centuries of degradation and slavery, with a present consciousness of the fearful fact that they were then the objects of a system of human wrong which lead their persecutors around the whole circle of human vices, and of which they were the victims; with every provocation, every motive, and every justification for revenge more than ever stirred the passions of any people; and yet no single outrage has ever been laid to their charge. What is this night-mare that seems to haunt the public quiet; what new crimes are these people the victims of; what right withheld; what threatened wrong depending that we can avert, that demands this new appliance of a standing army in our policy, more in its cost, more in its power than is required to keep a quarter of Asia at the foot of the British throne? I appeal to the conscience of the people to that of the nation and the world. The answer is here: it is the possibility of broken pledges of the nation of their equality before the law. It is the legitimate result of threatened crimes against them as a race, crimes organized under all the sanction and terrible ingenuity of pretended State laws, of unreasonable penalties for nominal crimes, of class legislation, of codes of blood against them and them only, which no nation can enact without peril, and which no people should enact without paying the forfeit of blood.

Let these insurgent State governments continue, let the African race be handed over to their tender mercies, let there be no interposition of the power of the nation in their behalf, and this programme will require, not only seventy thousand, but two hundred thousand soldiers to police these States. We have given them a measure of liberty, and as sure as the unerring logic of the human heart we will be obliged to follow it to its logical consequence. We have given them citizenship; you will be compelled to give them its necessary concomitant protection. If you give him protection, his equality in all respects before the law will assert itself. Force may postpone, but it cannot prevent. The equality of all men may come, as I trust God it will, peacefully, yet come it will inevitably if it costs the nation the reenactment of the bitterest experiences of centuries. With this, peace permanent and lasting will settle upon us; without this, as God rules and vindicates humanity there can be no peace. With this, we shall have a manly submission to all reasonable authority; without this your power will be but a provocation to future resistance, to future rejection of its sanctions, and, as it may be, revolution and anarchy.

Am I asked for the power to disturb these State governments and to require the terms which I have indicated of those communities before they are allowed the resumption of their former rights in the Union? I might reply that the right to make war implies the right to make peace; it implies the right to the exercise of all powers necessary to that end. Peace, just and permanent, is the right of war, it is the end and only object of war, and to accomplish that end the right of war is to strike down all laws, constitutions, or conventionalities of men that interpose.

But the President and these States have conceded our power in the premises; the one by express reservation and the other by the acceptance of the terms of such reservation. Upon



the organization of these States the President placed in our hands and subject to our control the limitations and conditions upon which they were organized, and upon which their existence respectively depends. He and they have made these State governments subject to our will. Indeed, at the time that was an express condition of his policy. These States accepted that policy: have they any right to complain of its terms?

In his instructions to Governor Sharkey the President expressly informs him that the government which might result from his appointment must be understood "as provisional only." In his instructions to Governor Marvin, of Florida, he insists that the restoration contemplated by his policy must be distinctly understood as being at all times subject to the control or "approval of Congress." The proclamations upon which all other of these States were attempted to be reorganized were identical, and such was the conceded policy of the President's policy at the inception of these governments. Now, by what show of consistency do the President and the friends of these States now insist upon the inviolability of these State governments and that they are above any action we in our wisdom may see fit to take with reference to them? By whom has one conceded power been circumscribed? What power or fact now intervenes that was not then as potent as now?

But the President, pleading for the inviolability of these State governments, now insists that Congress is estopped against the imposition of any terms upon these States. He says that they "have exercised the highest functions of States, that of participating in the alteration of the Constitution of the General Government." The argument is, "they accepted the constitutional amendment abolishing slavery, therefore they have necessarily all the powers and rights of all other States." But was the part taken by those States State legislation or Federal dictation? Was that action the action of the people or the persuasion of Federal bayonets? Was the action of any legal efficacy? Was slavery even in existence to abolish? Was the sham of the passage of that amendment by those States legislation or a bargain for pardon of those who played the part of passing it? This pretended action of the States was a burlesque on the name of legislation. The State governments pretending to pass or ratify the amendment were purely the creatures of the Federal Government. Those pretended Legislatures were not known to the constitution or laws of those States, but were bodies born of Federal power and installed over those States at the point of the bayonets of the national Army, to play the part to be assigned to them by the caprices of the central power and policy of the national Executive at Washington. This pretended ratification or acceptance of the constitutional amendment was the simple playing of that part of the programme.

But how quickly this claim of the Executive dissolves at the touch of the test of his own logic. He and his partisans now insist that it is as essential that all the States should be represented in Congress to the proper submission of an amendment of the Constitution as to participate in their passage or acceptance. Yet all know this amendment, thus accepted by those States, was submitted, they not participating in the act. Thus the Executive urges upon us the indorsement of a nugatory act of the General Government as the validating act of these States. Why, we ask, does the Executive insist upon the fact that we are estopped denying the validity of these governments. From the fact that they have ratified this amendment unlawfully and unconstitutionally submitted, as he claims.

But, sir, he tells us that the executive and judicial departments have been singularly coincident in recognizing these States, and therefore again we are estopped from denying their constitutional validity. The answer to that is, that the determination of the question as to whether a pretended State government is a

lawful constitutional form of government is a legislative act expressly so declared by the Supreme Court, and a question which neither the Executive nor the Supreme Court have any right to anticipate the action of Congress with reference thereto.

But, sir, are we to be seriously told that because the Supreme Court recognizes the geographical State of South Carolina as the boundary of a judicial district or State, that therefore this or that form of State government set up within that State is a valid constitutional form of government? That there is no difference between a judicial and a political State, or between a geographical State and an actual constitutional form of State government under our Constitution?

Upon such platitudes and assumptions as these the President in his recent message rises to be the mentor of this Congress. With an air of protestation against our supposed claim to impose all conditions in our judgment necessary to the public safety upon these insurgent communities, he solemnly protests "against any change by usurpation." But, sir, before the President enters his protest against our action as "usurpation" he would do well to square his own action by the maxim of his own arrogant warning to us, a coequal and coordinate department of the Government. In less than two brief years of office he has exercised more questionable powers, assumed more doubtful constitutional functions, obliterated more constitutional barriers, and interposed more corrupt schemes to the expression of the popular sentiment or will of the people than all other Executives since the existence of the Government. And such has been the verdict of the people upon his Administration. Such was the arraignment of his Administration before the people in the last elections, and such their judgment of condemnation against him.

But while for one year the Administration have arraigned us for "usurpation," from the fact that we have not conceded the legitimacy of the presidential bantlings of these insurgent State governments, how has the Administration conducted toward them? Upon his theory of the rights of these State governments, at whose door really lies the charge of usurpation toward them? This Congress, in the neglect of its duty, as I have claimed, has not yet done one positive act affecting the integrity of these governments. But in what single act of the Executive has he practically conceded their full rights as States? Has he in any instance treated these several States as anything more than military dependencies? For many months after these States were in full blast, after they had elected Senators and Representatives to this body, he held their archives in the iron chests of his military governors, and governed and ruled them by proclamations and military orders, fulminated by him from this city with all the imperious efficiency of the royal rescripts of an Alexander or Napoleon.

He suffers and provides for the convocation of their Legislatures; the time designated is fixed, not in accordance with the constitution or laws of the State, but fixed with reference to the procurement of certain legislation before the assembling of Congress, and with a view to prevent its anticipated action. But when thus assembled, their military governors advise him that it is doubtful whether they will concede the required legislation; he is advised that the "temper of the body is bad;" in fact, they are contumacious; but as a corrective the withholding of their pardons is suggested; it is done, and the legislation is obtained. The Legislatures of these pretended sovereign States enter upon the experiment of legislation; they pass enactments; but under the persuasive suggestion of arrest, trial, condemnation, and hanging of all executive, judicial, or ministerial officers of those States attempting their enforcement, the President gives to those States, to this House, and the world a practical exemplification of the powers and rights of a "sovereign State" fully reconstructed

under his policy. Sir, the whole course of the President touching these States, taken with his claims to their right to be recognized by Congress, is a perfect marvel and infatuation of inconsistency.

But has he recognized these insurgent State governments as full constitutional States? How has he done it? By the appointment of provisional governors, he says. This was done, he says, to restore the suspended functions of the State government. But are not the functions of the State government and the functions of the State government inseparable? Were these provisional governors State functionaries? Were they to exercise any known constitutional functions, either of the State or national governments? Most assuredly not. They were neither creatures upon whose shoulders a lawful State government could be cast, from whose loins one could spring, nor through whose line of descent one could succeed. They are simply monsters in the whole constitutional policy and family of the Government.

Sir, upon what theory are your provisional governments established, and what is a "provisional government?" What is it, sir, but a government extemporised by the force of mere necessity alone? What is its basis in the State except the extinction of all former State government? Such was the solemn, but now forgotten proclamation of the Executive in this case. It is not a constitutional government, nor the legitimate outgrowth of such government. It is the fruit of revolution; it is the necessity of the State not yet crystalized into law; it is the revivification and return of reason to the body-politic as it startles from the embrace of anarchy, civil disability, and civil death. It is a provisional government, because no other government exists; it is a provisional government, because there is neither the power nor right of the government it deposes to provide for or perpetuate its successor. And upon any other assumption a provisional government is treason, is revolution, and anarchy in the State.

These are some of the reflections inducing my mind to the belief that it is not only the prerogative, but the duty of Congress to assume control of this matter of the reconstruction of these insurgent communities. The organization of the State governments was never claimed to have been upon any other than this express condition. The people of these States fully understood the matter, and until the Executive had placed himself, in violation of his pledges, in open hostility to the exercise of this power by Congress, would never have denied its right, nor opposed its assertion. <Whether these State governments should be allowed to continue, with the further imposition of all terms consistent with the absolute safety of the nation, and with the provision and assurance by Congress that they shall be accepted and validated upon their acceptance in good faith, or whether the loyal people of those States should be allowed and authorized by Congress to establish a government, which government should be recognized by Congress as the legal State government of those States, are means looking to the same ends, each involving the exercise of undoubted powers of Congress, and upon the adoption of either one or the other I should have no difference with the majority of this House when the same was determined upon. But, in the language of my colleague, I would require these guarantees of the national safety to be firmly embedded in the bulwarks of the Constitution. I would require them to fix forever the high endowment of national citizenship as the right of all; and place beyond peril the liberty and equal civil rights of all. I would have them declare in unequivocal language the nation's supremacy and duty on all questions and subjects affecting either, and I would gird the national Government with authority sufficient to crush every assumption of power or right to impair the one or jeopardize the enjoyment of the other.

How, sir, can we do otherwise unless we abandon the Government? There never was

any alternative in this matter. Our hesitancy has been and is our weakness. The necessity of the nation demands it. The people have rejected the policy of the Executive. These States make no overtures, and they have up to this spurned any attempt on our part to offer any. The power of this Congress, backed by the loyal people, is the only power they will respect or is left for the nation to exercise in our future reconstruction. Of course we shall meet the opposition of the President, of the rebels, and the Democratic party. We have not the right nor wish to expect otherwise. Up to this time they have arrayed themselves in impotent opposition to every measure contemplated calculated to give humanity a higher elevation or to secure for it any permanent benefit as a reward for all its sacrifices and struggles in the war. And, sir, I consider this to be one of the most lamentable exhibitions of political degeneracy. What measure looking to either of these ends has received the sanction of either the Democracy or the President? Which one has not invoked their bitter and most implacable opposition? It seems to me that their whole course up to this hour has been but a merciless attempt at the crucifixion of humanity. It has been up to this time but a little less than a jargon of constitutional protests against its every effort to assert itself, and that, too, at the expense of every possible claim of political consistency.

The Democratic party in their national convention at Chicago explicitly

"Resolved, That the interference of the military authorities of the United States in the elections of the States was a shameful violation of the Constitution, and a repetition of such acts would be held as revolutionary and resisted by all the powers under their control."

At the same time their prominent leading men in Congress and elsewhere insisted that the people of the insurgent States without enabling acts of Congress could not assume their former rights of representation in Congress. But now the President steps in, and as a pure military measure stamps out the *de facto* State government in those States by the same military power, inaugurates new ones in their stead by that power, molds and controls and superintends all the minutest details of their governments, and denies to Congress any voice in the matter. One would naturally suppose that here is the very provocation to awaken the jealousy of the Democracy, our constitutional guardians, and stir their blood to the revolution they threatened. But all at once they lose all their abhorrence of military rule, or to the exercise of the worst and most arbitrary feature of its power.

Now, the very governments which they threatened to resist by revolution they propose to inaugurate by the same means, and their press at the North now discuss and seriously entertain the question of deposing Congress at the point of the bayonet that they may accomplish that end. Why is it, and what are the motives for this unaccountable and degrading inconsistency. I submit it is here. These governments are now the means of Democratic and rebel power. These State governments are the needed instruments of political ostracism and disfranchisement of the only loyal element of the South. Because they now need these military pretended State governments as the impassable gulf over which the national Government cannot pass, as they otherwise would, to rescue the loyal white and black man of those States from the rack and torture to which the baffled seething passions of the rebellion have consigned them.

The expedient of the Freedmen's Bureau was to be resorted to. It was a measure following in the furrows of war with the seeds of permanent peace. It proposed to take a race of four million people representing the laboring producing element of the insurgent States, "houseless, homeless wanderers on the earth," with no possible knowledge of their rights, in a society inimical to every influence that could possibly elevate or protect them, and for a temporary season protect their person, their

lives, and the property acquired by their honest toil. With the Bureau directed and administered as humanity and justice demanded, the labor of those communities would have doubled their products, produced nearly a balance of foreign trade in our favor, reduced the volume of our currency an incalculable amount, and converted those States—now only a tax upon the beneficiaries of the nation—into communities contributing toward the expense of the Government, and thereby relieved the loyal North from almost the entire burdens of the war. But these military State governments, then supported and trembling upon the military arm of the nation, in fact too weak without this measure to afford protection to this class, and too infamous not to attempt it, we were told by the Democracy was the wall of adamant through which the full constitutional power of the nation could not penetrate to accomplish that end.

More than ten years since the Sultan of the Turkish empire issued and put into effect the following decree throughout his dominions:

"Every distinction or designation tending to make any class whatever of the subjects of my empire inferior to another class, on account of their religion, language, or race, shall be forever effaced from the administrative protocol. The laws shall be put in force against the use of any injurious or offensive terms either among private individuals or on part of the authorities."

Such was the concession of the civil rights to all within the dominion of the Turkish empire; concessions from a power gray and old in despotism and not under the inspirations of Christianity; they were political sentiments which shocked neither the moral nor political sense of the most abject despotism of Europe. But the Congress of the United States in the progress of events is brought to the consideration of a bill which contemplated the guarantee of the same rights to all, and what an exhibit do we witness? Day by day, and month by month an enlightened American Congress hesitate and debate the practical question, which is the prophet of humanity, Christ or Mahomet, whether human rights are assure of protection under our own boasted government as under that Ottoman dynasty which for centuries has been the outlaw of almost all civilized nations of the globe; more than this, the question is seriously debated as to the power of the nation to confer an equality of civil rights on all its subjects.

The bill finally passes; but it passes against the united vote of the Democratic party. The measure passes from this body to the representative head of the Republic and of American civilization, to the Chamber of the national Executive, and for his approval. But it comes back to us with the stamp of the dark ages upon it in the shape of a veto, having no other legitimate bearing on our national polity than the official promulgation of the fact that humanity has no rights that the Government is bound to respect. But, thank God, it is not left to the Executive, the Democratic party, nor their rebel sympathizers to attain the charter that liberty and humanity have, not only in the power but the purposes of the nation. A perverse Executive may refuse to execute this law, it may be smothered or crushed beneath the merciless platitudes of the Supreme Court; party organizations may be indifferent or hostile; men may combine to prevent its assertion, but the man, the party, the department of Government, standing in the way of the ultimate realization of the equality of all men before the law, will be ground to powder.

Sir, I notice a painful anxiety in the public mind as to the possible action of the Supreme Court touching the "civil rights bill." But, sir, I have learned to place but little reliance upon the dogmas of that court as an element of power in the nation upon any question touching the rights of humanity or the advancement of the race. As it has been administered that court has been but the chain which bound humanity helpless to the rock of pretended constitutional immutability, that its vitals might be gnawed by the cankering vices of

other generations or consumed by the devouring flames of our own. It gave us the Dred Scott decision, but the chain it sought to rivet more surely and firmly on the limbs of the slave were melted in the war it invoked. And now, if the Supreme Court should take the action on this bill which some anticipate, calculating upon the moral elements and forces which move the world, I had rather have the single black soldier of the Republic, spurned as he will be from the sanctuary of the Supreme Court as he applies to it for protection, as an element of power, than all the adjudications of that court touching the rights of man or the power of the nation upon them since the organization of the Government. I do not believe that that court will be hasty to array itself against the spirit of the age, the tendency of modern thought, and the irresistible momentum with which they have to this moment uprooted each opposing obstacle.

Mr. Speaker, our action is not alone for this hour, but for all time. Our legislation addresses itself not only to the good of this generation, but of all generations of men. The stake is not alone the awful stake of the permanent peace, prosperity, and welfare of thirty million human beings, but the progress of civilization, constitutional liberty, constitutional form of government, the destiny of a continent, and the hope of liberal governments on earth. The lines of national policy and action we now draw cast their deepening shadows of national night along the whole course of our future empire until the mind shudders and starts back at the contemplation of its gloom; or they reveal the full bow of the nation's promise, its arch encompassing all mankind, and the fruition of its now painfully struggling hopes, of liberty, equality, and justice to all. Such a future I believe we control, and such a future is alone worthy of the present realizations, the heroic sacrifices, the immortal memories of the Republic.

Mr. HENDERSON. Mr. Speaker, I am disposed to appropriate the time allotted to me on the present occasion to the investigation of the following question, namely: Is Congress justified in excluding under existing circumstances the representatives from the ten States lately in rebellion against the General Government from a participation in the councils of the nation?

The President in his late message, and those who indorse his policy take the negative of this question, and urge a variety of reasons why those representatives should be immediately admitted. The President assumes that all the provisions of the Constitution of the United States applicable to States whose inhabitants are in a state of perfect loyalty to the Government of the United States should be applied to those States that have just come out of a four years' rebellion against that Government without exception. He also assumes that they are in a perfectly organized condition, and fully prepared to exercise all the functions of States and appreciate all the privileges of citizenship equally with the most loyal inhabitants of the nation. This he does, too, in the face of his own official acts at the close of the organized rebellion, when he ignored all their State constitutions, laws, and officers, and proceeded to make rules and appoint officers for their government in accordance with his own views of propriety, without reference to their will.

At this point in my remarks, Mr. Speaker, I wish to express my thorough conviction that all the difficulty between the President and Congress, and the delay in admitting those States to the enjoyment of representation in the national councils, has grown out of the fact that the President ignored and trampled under foot the great principles of democracy in his attempts to reconstruct and reorganize those State governments. Why did he not call Congress together and lay the case of those States before them, and invite their cooperation in a matter so vital to the safety and well-being of the whole nation? If ever

there has been a time when an extra session of Congress was demanded since the formation of this Government it was immediately following the surrender of the rebel armies. Then was needed the exercise of the wisdom of the nation; at any rate, the people were entitled to a voice in the mighty transactions. Why did the President manifest such "indecent" haste in laying down conditions and establishing rules for these States in resuming their places in the Government? It, sir, was a want of confidence in the representatives of the people, or rather a want of confidence in the people themselves, for it is always to be presumed that representatives understand and respect the will of their constituents.

That old-fashioned democracy that I learned in early life taught, first, that the people have the right to govern themselves; second, that the representative is presumed to understand and respect the will of his constituents; third, he that rejects or distrusts the representative distrusts those he represents. These are fixed principles, and in those days no true Democrat violated or controverted them. Until it is proven that the representative has betrayed the trust imposed in him his acts are entitled to full faith and credit. Had President Johnson recognized the validity of those principles and acted upon them at the proper time he and Congress, and also he and the people of the nation, would now be cooperating harmoniously in restoring and rebuilding the members of the sisterhood desolated by the tramp of hostile armies. But he distrusted the people and hastened to put into execution his own policy and plans before the representatives of the people would have an opportunity to call in question the wisdom or patriotism of his measures. In my judgment here lies the great wrong that is now plaguing the nation; and here with the President rests the responsibility.

Those who sustain the President and his policy generally urge either in justification or extenuation of the conduct of those who rebelled against the Government one or more of the following considerations:

1. An intangible, indescribable, and I presume imaginary something that has no real existence anywhere, which they denominate "State sovereignty," and which they seem to suppose existed long prior, if not to the creation of the world, at least to that of the formation of the General Government, and it is altogether independent of its Constitution and laws.

2. They tell us of certain "reserved rights" which the States never surrendered to the national Government. These they seem to think at least partially support the doctrine of secession and justify acts of rebellion against the United States Government.

3. Another circumstance which they all plead most eloquently in extenuation of the crime of rebellion is the great insults and indignities offered the slaveholding States by abolitionists and fanatics of the North.

While rebels and some of the modern democracy claim that that mysterious something which few can understand and nobody describe authorizes States to secede at will, the majority of the party shrink from an open avowal of the doctrine; yet they talk a great deal about "reserved rights," the "bad faith and bad conduct of the people of the North." In reply to that part of the democracy who deny the right of secession and still plead the "reserved rights of the States" in behalf of the rebels, I inquire what of "reserved right?" Did the States reserve to themselves at the formation of the Constitution the right to secede at their own will and pleasure? If they did, let them point to the article and section in the Constitution, and the controversy is closed; if not, why talk about such rights? What does it amount to? It proves nothing, only that those who do so are very poor reasoners.

To those who declaim so eloquently upon the "bad faith and bad conduct of the people of the North" toward their southern brethren, I

reply, suppose that it all is true that you say of the people of the North, is secession and rebellion the remedy prescribed by the principles of democracy? It may be that prescribed by modern democracy, but not that of the old-fashioned kind. That kind taught "that if the people erred they would in their sober second thoughts correct their errors;" "that the people are capable of self-government," and consequently will correct their errors. If this is not true, democracy is a delusion, and the people are incapable of self-government. Hence I argue that this whole theory of "State sovereignty," "reserved rights," "secession and rebellion," as a remedy for real or imaginary evils under a republican form of government is anti-democratic and wholly unjustifiable; and all those who resort to them or advocate them as such are unworthy of the right of franchise in a free Government.

But again, rebels universally claim that the Kentucky resolutions of 1798-99 teach the doctrine that States have the right to secede, and many Democratic conventions have lately indorsed those resolutions in their platforms. Let me state this case more clearly, as I regard it an important item in this controversy. First, all secessionists claim that those resolutions declare the right of States to secede from the General Government; second, the Democracy indorse them in their platforms; and many leading Democrats declare that it was the generally received doctrine of our principal statesmen up to a very late period that States had reserved to themselves the right to secede from the Union. This they do by way of palliation for the crime of rebellion. While they have not the boldness to advocate the doctrine themselves, they will say it was the doctrine of the country.

In reference to those Kentucky resolutions, I would remind gentlemen on the other side of the House that eleven States out of the thirteen then in the Union condemned and rejected them. This circumstance proves conclusively and beyond doubt that the right of secession was not the doctrine of our country at any period. A verdict so decisive as that of eleven to two ought to have forever buried the wicked heresy beyond the possibility of resurrection.

In reading the tenth section in the first article of the Constitution of the United States I am surprised that any man should ever talk about "State sovereignty," when the States have there surrendered to the General Government everything that has the semblance of sovereignty.

We all know that "all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The question again arises, what rights or powers did they reserve? Did they reserve the right to withdraw or secede from the Union? They delegated to the General Government, not only the enumerated powers in the Constitution, but the authority to make all laws necessary for carrying into execution the enumerated powers. Here opens a wide field of discretionary power to the General Government; all that is necessary to perpetuate its existence and defend itself against foreign invasion and domestic insurrection.

The idea of prescribing the means to be used by the Government in suppressing rebellion or insurrection seems never to have entered the minds of our ancestors in organizing the Government; they expected it to use means adapted to the end. In giving all power "necessary" to carry the enumerated powers of the Government into effect, they expected anything and everything that the exigency might require to be resorted to; and further, that Congress was to judge in the case. The idea of the Government taking care of rebel property, returning runaway slaves, &c., is most ridiculous. Some have argued, and do now argue, that the Government could only proceed in a constitutional way to suppress rebellion and restore order. Now, sir, I say that there is no constitutional way of fighting

rebels; or rather, I will say that all means are constitutional. Whoever heard of a constitutional and lawful way of defending a house and family against robbers? Or rather, who ever heard of an unconstitutional way of doing it. All or any measure is lawful in such a case.

He whose premises are attacked by thieves and murderers may use cold water or hot water, fire and brimstone, or anything else that is available: how ridiculous the idea of prescribing the means he should use! So in reference to the Government in putting down rebellion, any means and all means are constitutional. In short, there is no Constitution on the subject. The General Government was bound by no Constitution or law in the matter except the laws of war, but was at perfect liberty to do whatever was necessary. The rebels having renounced all constitutions and laws the General Government were at perfect liberty to meet them on their own ground without law. Here I take it on myself to say that after the rebels had renounced the Constitution and laws and made war upon the United States there were no laws between the parties. The rebels having forfeited both privileges and protection under this Government they are without either still except so far as they have been conceded to them by the law-making power of the Government since their surrender.

A State of this nation could not exist outside of the Union, as it could form no alliance with other Powers, make no treaties, coin no money; in short, do nothing that pertains to sovereignty. Having examined the question of constitutional secession and finding that no such right, either expressed or implied, exists, let us investigate the second question: had their rights been so far infringed as to justify or even palliate rebellion?

Rebels and their apologists, in the second place, attempt to justify or excuse rebellion on the ground that their rights have been so terribly invaded that they were almost compelled to secede.

When we inquire what right of those States that rebelled had ever been disregarded by the General Government, the answer is stammered out about as follows: "Well, I do not know that the General Government had ever invaded any of their rights; but the abolitionists and fanatics had said a great many hard things about slavery." Mr. Seward said there "existed an irrepressible conflict between slavery and freedom," and Mr. Lincoln said the "Union could not continue half free and half slave," and Mr. Sumner called the whole thing a barbarous institution." This, Mr. Speaker, constitutes the grounds upon which the Democratic party attempt to excuse and palliate rebellion, that of the bad treatment they had received.

And rebels and secessionists justify it on the principle of State sovereignty, in the face of the declaration that the Constitution, laws, and treaties of the United States are the "supreme law of the land," &c.

As far as constitutional right for rebellion is concerned, the rebels themselves knew they had none; therefore they renounced Constitution, Government, and all, and fell back upon that indescribable right or power that is over and above the Constitution, State sovereignty or State rights; which I understand to be nothing more nor less than the right to inaugurate State and national anarchy.

As to their justification upon the grounds of the bad treatment they had received, Alexander H. Stephens, by far the ablest man in rebellion, in his speech in the Georgia convention, demolishes, and I may say annihilates, the very idea of such a thing. He shows conclusively that their rights have always been respected, that they have always had far more than their proportional share in both the power and patronage of the Government; at the very moment of rebellion they were enjoying more than a due share of both.

Not only so in reference to the power and patronage of the Government, but that their pet institution, slavery, was never more secure



than at that time. That with a majority on the Supreme Bench, and also a majority in both Houses of Congress, the "abolition President" was powerless to harm them, even if he had ever so great a disposition to do so. President Lincoln also gave the most positive assurances that in the administration of the General Government he would most sacredly guard and protect their constitutional rights; that he had no disposition to act otherwise. And yet, sir, without even the shadow of an excuse for their conduct the people of those States rebelled against the best Government the world ever saw; plunged this nation into all the horrors of civil war, deluging the country in fraternal blood, filling the land with widows and orphans, mourning, poverty, desolation, and death; and also piling a debt upon the nation that the present generation will not live to see paid.

But having exhausted their resources, and being crushed by the power of the Government they had failed to destroy, they threw down their arms in despair and surrendered. We would now suppose there would have been no more trouble with them; having staked all and lost all they would now accept what is given them in a submissive and quiet manner. But no sir, they immediately turn upon their conquerors and demand equal rights and privileges and equal power in the Government with those who gave their property and shed their blood to maintain it. And not only so, but in regard to one class of loyalists they claim the right to disfranchise them altogether. Now, sir, the boldness and presumption of such demands are perfectly astounding! Of what crimes may men not be guilty and yet be entitled to all the rights of citizenship if such claims be recognized? I demand to know what they have done, or even said to atone for such crimes as they have committed, that they should make such demands on the Government?

Mr. Speaker, I feel perfectly satisfied that Congress has not only constitutional authority to institute for these Territories such governments as in its opinion will conduce to the general welfare of the United States, but all the circumstances of the case demand it, the condition of the loyal whites, the condition of the loyal blacks, and even that of the rebels themselves demands it. The general welfare of this nation demands it.

The gentleman from Kentucky [Mr. HISE] in his speech on this floor denied the right of Congress to govern Territories at all. It might survey the lands and provide for their disposal, but had no authority to make any rules to regulate the conduct of settlers upon them—"all laws made for such purpose are unwarranted assumptions." When reminded by the gentleman from Pennsylvania [Mr. KELLEY] of the ordinance of 1787, excluding slavery from the Territory, the old gentleman was cornered, and I believe would have wilted if the gentleman from Ohio [Mr. FINCK] had not come to the rescue by stating that this ordinance was passed before the formation of the Constitution. This suggestion placed my Kentucky friend again upon his legs.

The question arose in my mind whether the gentleman from Ohio [Mr. FINCK] knew that that ordinance was re-affirmed by the First Congress that sat under the national Constitution, or whether he was willing to make a false impression for the sake of relieving his friend. If the fact that the First Congress had re-affirmed that ordinance and thereby made it its own had been presented to him I presume the Kentucky gentleman would have felt the land slide from under him a second time; but in that case "ignorance was bliss." Now, Mr. Speaker, the idea that the gentlemen who composed the First Congress under the Constitution did not understand that instrument, as many of them sat in the Convention that formed it, or that they would willfully violate it, is too ridiculous to be entertained. And this is the position in which the gentleman from Kentucky [Mr. HISE] places himself, either that the members of that Congress did not under-

stand the Constitution that some of them helped to make and all had sworn to support, or that they willfully violated their oaths. Such are the straights to which modern Democrats are driven in support of false theories.

But to return to the people in those rebel States, or rather to the rebels themselves. Their conduct since their surrender has surprised me far more than their acts of rebellion. For that I was prepared to look. But, sir, that they should so soon be crawling around the capital of the nation they had labored so earnestly to destroy, pleading for pardons, amnesty, &c., is more than I was prepared to expect. Where now is their "high-toned chivalry"? Where that noble "Norman blood that coursed their aristocratic veins, rendering them the superior race"? Where now those noble "lords of the soil," upon whom the necessity to govern this nation was forced, they being the only statesmen competent to rule? Whining for representation in the Congress of the nation they so recently invoked the aid of foreigners to destroy; begging for seats in those Halls that they so indignantly and unceremoniously left a short time since. "How are the mighty fallen?" I confess, sir, that my estimate of southern chivalry and spirit has suffered a sad decline. Old Henry A. Wise is the only man among them that has sustained his manhood and that challenges my respect.

According to my information he lent his aid to destroy the Government, and being foiled in his attempt, heroically refuses to ask any favors at its hand, quietly accepting its offers without murmur or complaint. A mind of that mold, however much I may think it has erred, commands my respect. Had the rebels succeeded in replacing the stars and stripes with the confederate flag and establishing its power over this nation I should never have cast a vote under its folds nor asked representation in its councils, but, with old Henry Wise, accepted in silence what it gave, or remove my fortunes beyond the limits of its power.

The mad haste in which those rebels lifted up the heel against this Government and their instant waiting for the ballot when the sword was wrenched from their grasp prove them unworthy of the franchise and incompetent for self-government.

Mr. Speaker I am well persuaded that the prosperity and happiness of the inhabitants of those territories, the quiet and security of the country require the organization by Congress of territorial governments for each of those former States, under which the loyal inhabitants shall be fully protected and placed in the exercise of political power, while the rebellious are held in subjugation until subordination and good government be fully established.

I do not consider that any man has either a political or moral right to the elective franchise under this Government who is not truly loyal to it. I do not regard any man as loyal who is disposed to lionize rebel chiefs or drink to the "fallen flag." "Just so long as they justify or attempt to justify their rebellion against the Government of the United States they are unfit for representation in its Congress, and ought to be excluded therefrom." How can a man act with reference to the peace and prosperity of a Government that he believes to be unjust and ought to be destroyed? How could an honest man swear to support a Constitution and laws that he believed ought to be abolished?

I have intimated, Mr. Speaker, in what I have said that I would favor the extension of suffrage to colored persons in the rebel States. Permit me to state my position fairly upon this delicate question. Being a native of Kentucky and educated among slaveholders it is hardly to be expected that I would be altogether free from their prejudices.

In my early childhood I saw that the black people around me were slaves, and I supposed that to be right. I saw that the whites were free, and I supposed that to be right; but I saw also that there were many that were half white and half black. This class perplexed me much; but I ultimately came to the con-

clusion that they ought to be free half the time; and lest they should die before mid-life and not enjoy the sweets of liberty at all, I concluded they ought to be free the first half, and thereby secure to freedom its share. On reaching more mature years, however, I became satisfied that liberty was the God-given right of all men; that in point of natural rights all men are created equal.

Since the rejection of the Wilmot proviso, which proviso I then believed to be right, and still believe was so, I have uniformly cast my votes against the extension and spread of slavery. When General Cass "swung around the circle" and the Democratic party with him and landed on the pro-slavery side, I quit the Democracy, and cast my vote for Mr. Van Buren, the anti-slavery candidate for President in 1848, and to-day I am proud of the stand I then took.

But, Mr. Speaker, I have always believed that it would be better for both races that the whites and blacks should be separated, and that each should live in a country to themselves. I most heartily accord to the black man all the rights that I claim for myself, but I would greatly prefer that he should enjoy his in one country and I mine in another. I believe the white man is here by the providence of God. I believe that Columbus was guided and sustained by the Divine hand. The white man is here in accordance with his own voluntary agency. Therefore I conclude that this is his home according to the will of God.

Not so with the black man, he was dragged here by force and violence in opposition to his will. Hence, I conclude he is here by the providence of the devil and agency of wicked men, in opposition to natural law and the will of God. I do not wish him forced away, that would be almost as bad as forcing him here; but I do expect Providence, in unrolling the scroll of the future to him, to make such developments as will cause him to choose to emigrate.

But, sir, while he is here, God being my helper, I will do him justice. When President Lincoln proposed procuring territory in Central or South America as a home for colored people, and dispatched Senator POMEROY as the agent of our Government to procure it, I indorsed the idea, believing that its fulfillment would promote the welfare of both races; and about that time canvassing my State as a candidate for Congress, I took ground against giving the right of suffrage to colored men among us, and having taken in the canvass the ground I did I felt bound twelve months ago to vote against the suffrage bill for this District.

But Mr. Lincoln's plan of securing country in South America for a home for the people of color having vanished, and no prospect for their emigration in any other direction presenting itself, I feel that justice demands that he shall have the ballot. This is the only defense, of which I am informed, for the black or any other class of men against injustice and oppression. While I regret taking any step that can be construed by him into an invitation to make a permanent location among us, I still feel that as he is here without his own will or agency we are morally bound to extend to him the protection of the ballot.

But, sir, while I am disposed to extend impartial suffrage to all male citizens independent of color, I do not consider that consistency requires me to extend it to females of any color. Did I believe the happiness of females or the general welfare of society required it, I should be among the first to advocate its extension to them. I am unwilling, however, to admit that the interests of the sexes is so distinct as to demand a representation from both.

In legislating for my own happiness I necessarily secure that of my wife and daughters. The happiness of the husband is composed in so large a part in seeing his wife and daughters happy, that in promoting their happiness he necessarily promotes his own. In short, their interests are so intimately and inseparably joined, that I perceive not the necessity for authorizing both to do that which one can per-

form, I think, equally as well. In respect to the interests of widows and single ladies, it is not desirable or expected that they shall remain in that condition long, at any rate not longer than till they meet with a favorable opportunity to change their state.

"The strongest argument that I have read in support of female suffrage is that which claims that all persons brought before courts for criminal offenses 'should be tried by a jury of their peers,' and that females have never enjoyed this right. However plausible this may appear, it is altogether fallacious, as it is a well known fact that males are far more lenient to females, under such circumstances, than females are to each other.

Man, as I am, if I had to be brought before court I would not object to being tried by a jury of females; but were I a lady I should enter my solemn protest against being tried before a female court and jury.

Taking all things into consideration, I have no idea that the happiness of females or the general welfare of society would be promoted by placing the elective franchise in their hands, or even in making them equally eligible to position and power. I think, however, that I am unprejudiced on this subject, and ready to receive further light.

In designating who in the States lately in rebellion against the General Government should vote, I would admit the white man who has always been loyal, because he has never forfeited his rights. I would admit the loyal negro, because he is loyal and would study the welfare of the Government; I would reject the disloyal white man, because I think him an unsafe depository of power; and I would reject the disloyal negro for the same reasons.

I would admit the loyal man, white or black, to the rights of franchise because he is loyal, and consequently a safe depository of political power; and I would reject the disloyal, white or black, because he is disloyal, and therefore an unsafe depository of power. I do not, however, give the negro as much credit for what fighting he did during the late rebellion as many do. I have not thought that he fought so much to save the Government as to secure his own freedom. I have no doubt he would have fought just as bravely on the other side if he had thought that was the side to which he could look for freedom, and he would have been justified in so doing. But had he fought on the side of the rebels under then existing circumstances he would have showed himself unworthy of freedom; but as he knew which side to fight on, he has shown himself capable of judging which is the right side to vote on.

Before closing my remarks, I wish to pay my respects to a statement that has been often repeated by members of the so-called Democratic party, both in and out of this Hall; that is, the great prosperity of this country while under the administration of their party, and the war and devastation under Republican administration. Let me use a figure to illustrate the character of this boasting: a certain vessel was navigated by her crew for many leagues safely and speedily upon a calm sea, but all the time in the exact direction of a maelstrom until the vessel was caught and carried rapidly around in its circling waters. At this juncture the captain folded his hands and sat down, exclaiming at the same time, "No earthly power can save the ship; she is bound to go down in the vortex!" His under officials all forsake their posts and begin to rob and pillage the vessel. The owners of the ship have from the shore discovered the state of affairs and sent out a new crew, who step on board. The new commander grasps the helm, puts the ship about, spreads all sail, and heads for the open sea.

But she struggles and quivers in every beam under the war of elements; the contest is doubtful for a time; but ultimately the crisis is past, and the ship is sailing slowly into port. At this juncture the old crew gather around and chide the new officers for their slow progress and laborious navigation, telling them how

splendidly they had sailed and how prosperous the voyage while under their control. But, to cap the climax of their folly, the old crew ask to be again employed and put in command of the ship!

I admit, Mr. Speaker, that the Democratic party notified us that if we elected Abraham Lincoln for President they would dissolve the Union; and they now tell us that if the Republican party had let them continue to rule they would not have rebelled; and as that party could very easily have stayed at home and not voted for Mr. Lincoln, or have gone to the polls and voted for Breckinridge, and would not do so; therefore they are chargeable with all the blood and carnage, death and destruction of the war.

In conclusion, Mr. Speaker, their Democracy amounts to about this: if the people of this nation will just simply let them rule, whether they are in the majority or minority, they will then be loyal and peaceable; but if the people vote them out of power they will then haul down the national flag, seize the public property, deluge the land in fire and blood, and then charge it all on the Republicans. Such persons would more appropriately style themselves democrats.

But, sir, in this country we intend that the majority shall rule. And rather than surrender our right to elect the man of our choice to the Presidency we will see this continent swept as clean as the top of the Tyrean rock.

#### FINANCE, BANKS, AND CURRENCY.

Mr. CLARKE, of Ohio. Mr. Speaker, we hear much said about reducing the amount of money in circulation to a sum which shall answer the legitimate demands of trade. All assent to this. But the question arises; what is that sum; and by what process of reasoning do gentlemen arrive at their conclusions?

It is assumed that it must be so much and no more, as that upon demand of the holder every dollar bill shall be convertible into coin. If that is to be the standard, then the circulation is not regulated by the wants of the people, but by the quantity of coin to be used in its redemption. If there is no coin, there must be no currency. Is that the conclusion grave statesmen and financiers propose to adopt in the present crisis of our country?

#### HOW MUCH COIN HAVE WE?

Mr. McCulloch sets our coin down at eighty or one hundred millions. Will that amount supply our people with money sufficient for all the purposes of trade and traffic, whereby our produce of every character is to pass into the market by buying and selling? All men of reason know it will not. Eighty million dollars allow barely two dollars apiece to each individual. Will two dollars to each afford sufficient money to buy and sell \$6,000,000,000 worth of property each year; pay \$500,000,000 of national tax; \$250,000,000 of State and local taxes; \*run forty thousand miles of railroad, that cost \$1,500,000,000 in their structure; as many miles of canal, lake and river navigation; fill up the demand of trust funds, executors, administrators and guardians; supply merchants, mechanics, and tradesmen with money for their business purposes, amounting to hundreds of millions, to say nothing about the wants of the people engaged in the ten thousand other pursuits of legitimate productive industry requiring money? No man is so stupid, surely, as to suppose eighty or one hundred million dollars will answer.

#### HOW THEN?

Why, says one, bankers think it safe to issue three dollars in paper for one in coin, so we can have three times eighty millions of paper issued upon the eighty in coin, giving us \$240,000,000 for circulation. This is about Secretary McCul-

\* The tax levied in Ohio and collected in 1866 was rising \$20,500,000—three fourths of it for local purposes, a large portion of which must necessarily remain under lock and key during a great part of the year; if the other States raise taxes in proportion, then it cannot be doubted that from fifty to one hundred millions of money must lie constantly in the State, county, and township treasuries, withdrawn from circulation.

loch's view, and to this end the whole machinery of the Government under his control is drifting. So he promises to allow us six or seven dollars apiece, two thirds of it shadow, bank shadows at that, and thus he proposes to usher in the financial millennium of specie payment—specie payment! as if that was the only thing for which people were born or Governments made.

#### SUPPOSE A PANIC?

Suppose some rash statesman, or one even so prudent and thoughtful as our Secretary of the Treasury, (who thought it not impolitic in his annual communication to denounce his own greenback circulation as unconstitutional,) should assail the credit of the banks and denounce their money as irredeemable; a run is made upon them, and in less than ten days the \$80,000,000 of coin is drawn out. What is there left of substance to promise redemption of the remaining \$160,000,000 which the people have taken upon trust after the confiding assurances of the Secretary of the Treasury that it would all be right and so much better and safer than Governor Chase's greenbacks, that being unconstitutionally issued were of course illegal and void?

#### BROKERS OF WALL STREET.

The brokers of New York are always powerful enough to start a bank panic whenever they see a chance to make a speculation out of it. They now hold the gold market in their clutches, and Mr. McCulloch, with the whole Government at his back, and with seventy or eighty millions of coin in the Treasury, cannot move them nor affect the premium upon gold a farthing, except as they choose to have him do. If these money-mongers can thus besiege the Government, what may they not do with the unshielded banks of the country, that with \$80,000,000 of coin undertake to supply three times that amount in currency that shall be redeemable in coin at all times?

So much for the experiment of a circulation redeemable in specie. So much for putting away a safe, sound, reliable national currency, that has the confidence of the people, because it is the promise of their own Government, and a lien upon its resources, and adopting a theory that our country has again and again proved, by sad experience, within the memory of the present generation, as utterly visionary and ruinous.

#### WHAT THE PEOPLE WANT.

Gold and silver is the universal currency, and of course we desire it above all other; but we do not expect to be able, with \$80,000,000 of coin, if now in active circulation, to carry on our internal commerce, involving as it does the property of every kind and description of near forty millions of people, occupying so large and so productive a portion of the earth. We must have a currency adequate to the business wants of our people, whatever that may be. When the coin is insufficient we must have the next best, and greenbacks with so good an indorser as the Government, greenbacks that pay debts, pay taxes, buy land, buy bread and raiment, how better or safer could we provide ourselves with a currency? Suppose that even with greenbacks a panic were possible, who could be injured? There is no private bank to run down and bankrupt and leave bill-holders and depositors to suffer. No, it is the great Government that stands responsible to the people for every dollar; and when the panic has expended its fury and passed, the holder of a greenback has a reality, a certainty, a currency that panics and brokers and money gamblers cannot destroy, nor lessen the security that is pledged for its payment. A greenback is good to-day, to-morrow, or it may be laid away with your gold until next month or next year or next generation and like your gold still good for its face, good at home or abroad, good at all times, in all places, and for all purposes. Verily this is money, the people's money; to call it irredeemable is to libel both our Government and people. It is the promise of the people themselves to pay, and to make good that promise the collective and individual wealth

of the nation stands irrevocably pledged. Higher security could not be given.

#### OUR PRESENT CIRCULATION.

When men talk of reducing the circulation to \$300,000,000 do they consider the depressing effect of such reduction upon the people? Prices at this time are not unreasonable; beef, corn, pork—these cannot be afforded by the farmer at less than the present market value thereof, and yet at this time our currency, that which we use as such in one way or another, amounts to over \$1,600,000,000! Now, reduce this enormous sum to \$300,000,000, the amount claimed by the Secretary of the Treasury as sufficient, and where will the farmer be with his products? You propose a reduction of the currency for the express purpose of reducing prices, and if it be true that prices increase as you increase the quantity of money, then the present prices must fall to one fifth of their present rate.

That I may not mislead any person by my statement as to the amount of circulation now employed as money, let me give the facts upon which it is predicated. By the report of the Secretary of the Treasury of December 3, 1866, there was outstanding on the 31st October, 1866, of the public debt the following items:

Compound-interest notes.....	\$148,512,140
Seven-thirty bonds.....	724,014,300
Greenbacks.....	390,135,980
Fractional currency.....	27,588,010
Gold certificates.....	10,896,980
	<hr/>
	1,801,207,410
Add coin in Treasury, say.....	70,000,000
National bank bills.....	300,000,000
	<hr/>
Total.....	\$1,671,207,410

Now, each of these items is used in some way or other as a substitute for money in the varied and extensive business transactions of the country. The banks are required to keep a reserve fund of fifteen per cent. of their circulation and deposits, which may be set down at \$120,000,000, that lies dormant in their vaults and cannot be used without a violation of law; but instead of fifteen per cent. they will be found to have retired about twenty-five per cent., making in the aggregate some \$160,000,000. Of this reserved fund most of it is the compound-interest notes, not a dollar of which is permitted to go into general circulation. If bankers have not secured and retired it all, private individuals, having spare funds reserved for special use in the future, have appropriated it in the same way, because, unlike greenbacks or national bank bills, it is accumulating all the while, and when the holder wants to use it it is larger in quantity by the accumulation of interest than when stowed away.

So also of the seven-thirty bonds: they are issued in the similitude of bank bills, and almost as convenient as a circulation; they bear interest at seven and three tenths per cent., with coupons attached payable every six months. What better thing could a man lay away to meet a future call than a seven-thirty bond? If a man has \$1,000 not needed for present use, but expects to use it a year hence; he chooses not to loan it, for its return when needed may not be certain; he does not lay away greenbacks or national bank bills, because at the end of the year those bills remain of the same value as when retired; he converts his \$1,000 into seven-thirties, and these at the end of the year are just as good as greenbacks, and seventy-three dollars more in the bulk than when deposited by him. It requires very little argument to convince men who have an eye to thrift, what course to pursue in such cases, and therefore I shall be believed, I presume, when I assert that the seven-thirties, serving the purpose of money are largely engrossed, if not almost totally, in the reserved funds of moneyed institutions and moneyed men. So also of the gold certificates: these pay customs duty on foreign importations; the gold is never drawn from the Treasury; it lies there, and the certificates answer for the coin; take away the certificates and the coin must

move; the certificate is money just as much as one thing can be made a representative of another.

Our currency, then, amounts actually at this time to \$1,671,000,000! This is very large, indeed; but when we come to group up all the items of trade and traffic of this vast empire, the character of our people, their industry, their enterprise, the development of the resources of our country, its soil, its mines of gold, of silver, of copper, of iron, of coal, its rivers, its canals and railroads, its machinery, by which the labor of man is increased a hundredfold in productive efficiency, we can begin to realize that a country, stretching from ocean to ocean, with an active, enterprising population of near forty millions, busily employed everywhere upon its surface, developing its resources and piling up wealth almost beyond the conception of man—such a people, with such a country, to accomplish the work before them must necessarily require a currency of large capacity.

It is quite probable \$1,600,000,000 is too much: that is a question for the people to determine who use it. But suddenly to reduce this vast sum to one fifth its present amount would inevitably disturb the settled condition of our internal commercial traffic, and needlessly and wantonly bankrupt thousands of our active and enterprising people, who, rather than remain idle while politicians are arguing the currency question, have embarked in business, trusting to the good sense of those controlling the public affairs, for wise and prudent measures that whatever change may be resolved upon shall be brought about, not rashly, but by easy stages, that will give timely warning to all of coming events, and thus prepare all for the change.

#### EXTENT OF OUR BUSINESS.

To arrive at any safe conclusion as to the amount of money required for the business of the country we must know something of the extent of the country and the amount of the trade it affords. In 1850 the value of the real and personal property of the United States was \$7,000,000,000. In 1860 it was \$16,000,000,000. Taking the increase from 1850 to 1860 as a criterion to judge of the increase from that to the present time, say six years, during which time our people have been more than usually active in all industrial pursuits, and accumulated more rapidly than at any former period, and we may set down the wealth of the country (leaving out the valuation of slaves) at \$25,000,000,000.

Mr. McCulloch in his report says that the annual products of agriculture, manufactures, mining, mechanic arts, commerce, fisheries, and forests amount to one fourth of the entire wealth of the country. If he is correct then we have a yearly production in 1866 of over \$6,000,000,000 of property; all of this during the year is in some way or other measured by money; money to buy, money to sell, money to pay labor, money to buy food and clothing, money to carry to market, money for everything in the progress of production, in transportation, in selling in market—money at every step. Can \$3,000,000 of currency fill up the ten thousand reservoirs of retired money that is withdrawn entirely from circulation to await the convenience of the owners, and yet be adequate to supply the wants of near forty million people, whose labor adds to the wealth of the country annually, over \$6,000,000,000 worth of property?

#### OUR NATIONAL TAX.

The revenue collected into our national Treasury in 1866 amounted to the enormous sum of \$462,000,000. Now, with a currency of \$300,000,000 only, how does any financier imagine this vast Government tax is to be paid—yes, paid promptly—and yet leave a surplus sufficient to answer the demands of forty million people, with their \$6,000,000,000 of fresh productions, thrown annually upon the public market, to be bought and sold with money?

It cannot be done: and it is folly, it is madness to attempt it; nay, it would be a crime, involving in its consequences the general stagnation of business and universal bankruptcy. Who can contemplate such meditated folly without blushing for the manifest want of financial skill and foresight of the statesmen who advise such measures, at a time, too, when every interest in the land is prospering and the people never better satisfied, not only with the prices of labor and productions, but with the quantity and kind of money they are using?

Shall we blindly yield to such teaching that, with the syren song of specie payment, we shall give away the unrivaled prosperity of the present for a future of idleness, of poverty, of suffering! for without the incentive to industry—and nothing is more necessary for this than money—there will be no activity in the industrial pursuits of the country.

Who call for this restrictive system? who ask the currency to be dwarfed to \$300,000,000? Do the people clamor at the Halls of Congress by their petitions begging us to diminish the currency to \$300,000,000? Do the people ask the withdrawal of "greenbacks" and invoke specie in its stead, that prices may thereby be crushed down to the standard of hard money, when that hard money they are told by our Minister of Finance is less than \$100,000,000, and that he has to keep looked up as a safety-fund for the Government?

#### LOW PRICES DESIRED.

Mr. McCulloch says prices are too high, and by reducing the currency he hopes to bring down prices. The farmer of Ohio sells his pork at six dollars a hundred, his corn at fifty cents a bushel, and all other marketable commodities at like prices. Is he too well paid? Reduce the currency to a third or a fourth of its present volume, and where will the farmer be? No, Mr. Speaker, the farmer asks for no such policy; the people make no such request; they are all anxious for specie payment, but they are wise enough and patient enough to bide their time and be content with "well enough" until better can be had without incurring great risks or taking violent and dangerous medicine.

"Increased production and lower prices," says Secretary McCulloch, "will bring about specie payment." That means that the farmer who now sells one hog for twenty dollars must hereafter raise two or three hogs in order to get the sum of twenty dollars; that is increasing production and reducing price. But for whose benefit? Certainly not the farmer's. It will enable the Secretary, perhaps, to realize his favorite theory of specie payment; but it is an achievement that will cost the people a sacrifice that no man should exact, that he may glory in the success of a dogma that never promised anything but a curse to his country.

#### LOW PRICES AND HIGH TAXES.

While we are persuaded by the Secretary that low prices are essential to specie payment, we are also informed by him that large taxes will still be required. The people were not ignorant of this, and, in view of that fact, they have wisely concluded that liberal prices would be some compensation for high taxes. While a load of corn will pay a tax bill of forty dollars the farmer does not murmur at contributing liberally to relieve the Government; and hence the revenue runs up to a million a day without effort, without a murmur. But break down the prosperity of the producing interests of the country; bring pork and beef and corn down to a specie standard, and then a wail of woe will go up from every farmer in the land, and your collectors will be compelled to make beggarly returns of delinquents, and bankruptcy will become an epidemic extending from the people to the national Treasury.

#### BANKERS WANT MONEY SCARCEN.

Mr. McCulloch says:

"The conservative bankers of the country are quite unanimously in favor of a curtailment of the currency, with a view to an early return to specie payment."



That may be the feeling of the conservative bankers. Bankers, like other people, consult their own interests. The more contracted the currency the greater the demand for it, and of course the higher the rate of interest. That is not all. Men who have nothing but money, and who operate with money, are well pleased when that money will command the highest price. A twenty-dollar bill, with which a banker can now buy a fat hog of a farmer, will, in a few months, under a stringent currency, buy two or even three such fat hogs. Conservative bankers know that when money is tight they have their harvest; when money is abundant the money-monger has but half the bargain; let it become scarce and he is "master of the situation." All men of fixed salaries, all holders of public or private bonds, office-holders, bankers, brokers, men of large means and large leisure, all these will be advantaged by restricted circulation and specie payment; but the producing laboring classes readily perceive that their interests do not lie in that direction. They prefer a flush currency, reliable and trustworthy, that gives facility to trade in all its various forms; and which can be conveniently and cheaply obtained for use. Let it be a fixed stable currency, and if it cannot have a good word of indorsement from the Secretary who sends it out as money; let him at least forbear to brand it as unconstitutional, and let it grow into public favor and confidence by its own inherent virtues. Let the people use and trust it as the people's money, their own pledges of faith, to be redeemed by themselves in their own time and their own way. If the people are content with the currency as it is, why should the Government distress itself to change it? The currency and the Government are both made for the people; and when the people are satisfied who has a right to complain? who has a right to crowd upon them new schemes, full of peril if not calamitous beyond measure? The instincts of the people are safer to be trusted than the dogmas of a Secretary who has fallen in love with his own theory and can therefore see no fault in it. Public officers are but the servants of the people; they should follow, not dictate, public opinion. It will be time enough to employ the energies of the Government in the direction of specie payment when the voice of the people shall indicate their will on that subject. Until then all the disturbing efforts of influential men on that subject only increase the agitation in the circulation, and expose those whose property is thrown upon the market to all the evil consequences of that foolish and dangerous intermeddling.

#### HOW SPECIE PAYMENT WILL COME.

If gentlemen wish to know when we shall have specie payment I can tell them: whenever the people are ready to pay their taxes in specie, then the Government will be able to pay in specie, and then the long-desired blessing will have descended upon us. It cannot come at the other end of the line, as Mr. McCulloch proposes; it must begin with the people, and as they have to take the initiative, I propose that they shall be the judges of the time and the manner. When they are tired of greenbacks they will not be slow to say so. When they find they have too much money, they will speak out; when their produce is too high or their taxes too low, you will hear from them; when they shall desire to pay their taxes in coin rather than currency, they will give notice thereof, and then the Secretary may well prepare for the new order of things, and his base of operations will be reliable and fully justify any vigorous measures to that end. But until the people speak let their public servants keep silence. By constant agitation they give the money market a feverish uneasiness that unsettles values and exposes the owners of property of all kinds, but especially such as enter the market for sale, to injurious and depreciating fluctuations, merely to gratify the whims of a public officer, more ambitious than wise, more intent upon propagating a financial

dogma than to advance the great substantial interests of the people.

#### OUR NATIONAL BANKS.

I do not propose to make war upon our national banks. In many respects they are as well devised as could be desired to secure to the people who receive their circulation the ultimate redemption of every dollar, and being under the entire control of Congress to revise, modify, or in any manner and to any extent to change the law by which they are created, there is every possible security against abuses which have heretofore grown up in such institutions. Yet I can very readily discern that if we were now called upon to inaugurate such a system how we could improve upon the experience of the past. We pay these banks \$18,000,000 annually for the privilege of using their currency, whereas our Government has as good paper currency of its own that might just as well be used for the same purpose and cost us nothing.

Banks we shall always have; no one is bold enough to claim that this extensive country can carry on its business with the spirit of enterprise and industry that characterize our people without the aid of banks. But it would have been well if our Government had furnished the circulation and thus saved the interest upon \$300,000,000 of its public debt, which interest now goes to the banks as a compensation for the use of their paper money which is certainly no better, if so good, as the Government money, of which we have an abundance and the means of making more when it shall be needed.

#### SPECIE PAYMENT—HOW?

But here we are met by our Secretary, who, anxious for specie payment, insists upon withdrawing from circulation all greenbacks, and then make a run upon the national banks and force them to specie payment or to bankruptcy.

Let us look at this a moment. Imagine the greenbacks all retired and the national banks called on to redeem their notes in specie; can they do it? No, sir; they have no specie; how then? They must call upon their debtors to pay their bills in specie. There are \$400,000,000 due them from the people, who have borrowed of them—an ample sum to redeem every dollar of their issue. Can the people raise the specie? No, sir; it is not in the country. Mr. McCulloch says there is scarce \$100,000,000 in the United States, and he keeps from fifty to seventy millions of that locked up for fear it will leave us. Now impossibilities are required of no one: here is a thing insisted upon which every reasonable man must see is a bare absurdity and cannot be accomplished. Very well; the borrower cannot pay specie to the banks, and the banks cannot pay specie for their notes; what then? Why, the Secretary proceeds to wind them up; he puts their \$300,000,000 of registered bonds, which are deposited as surety for the redemption of their circulation, upon a forced market, to raise the gold to redeem the national currency. He may be successful, but if so it is a success full of calamities to the country; a financial crisis ensues, which bankrupts hundreds of thousands of enterprising, industrious citizens, paralyzes trade, deranges the finances of the Government, breaks down its revenues, and little less than universal ruin of Government and people is the result of this master-stroke of finance to bring forward premature specie payment.

It requires small foresight to see the tendency of this theory of Mr. McCulloch, and the only marvel is that of all men he alone refuses to be instructed.

#### STOP THIS WAR UPON THE CURRENCY.

With a continuation of this war upon our currency by high public functionaries no banking institution issuing paper for circulation could ever resume specie payment without providing itself with coin equal to dollar for dollar of circulation. The result would be an exclusive hard-money currency; and as we are assured that we have less than \$100,000,000

of coin, more than half of which is in the United States Treasury under lock and key, it presents a gloomy picture for our people to look upon and extract hopes for a prosperous future. It may suit bondholders and office-holders, but it will be ruin to the men of labor, who have a right to look to the Government for support for a currency the best possible, and in quantity sufficient for all the purposes of legitimate trade. If coin can be furnished adequate to the demand, that we ask first; failing that, then the next best; and whether the one or the other, give us enough.

#### HOW TO SECURE FOREIGN MARKET.

The Secretary says the currency must be reduced so that prices shall go down so low that we shall be compelled to send our produce to foreign markets. The best market for our people is the home market; and it will be a joyful day to us when, by the course of trade, our corn, pork, beef, and flour are not only bought at home, but consumed at home; when the iron and cloths and manufactured fabrics of all kinds, now imported, are produced at home. This may be done by encouraging labor, not by oppressing it.

But how does our foreign trade stand? Mr. McCulloch says it is largely against us. Let us see. By his own record we find the following:

Fiscal Year.	Value of Imports.	Value of Exports.
1859.....	\$338,765,130	\$356,789,432
1860.....	362,163,941	400,122,296
1861.....	350,775,835	410,856,812
1862.....	205,819,823	220,790,280
1863.....	252,187,587	331,809,459
1864.....	328,514,559	340,665,580
1865.....	234,434,167	336,697,123

"For the five years prior to and including 1861 the average annual value of imports was in excess of \$350,000,000; and for the three years next succeeding June 30, 1861, the annual average has been about \$332,000,000."

How is it that the advantages of foreign trade are only to be secured by a limited currency and low prices in this country? Before the war, and before prices were high here, when corn was forty cents a bushel, wheat one dollar, and pork \$3 50 per hundred, our imports of foreign goods were \$90,000,000 a year more than they were when prices arose to their highest point during the war. It is true, also, that our exports were larger before the war than since; but that alone depends upon the foreign demand. We can only sell abroad when there is a call for our products. Contracting the currency and cheapening the price will not always succeed, and if they did it would be poor economy to bankrupt our farmers for the privilege of selling their products in a foreign market.

#### MONEY OF OTHER COUNTRIES.

The money of England is about twenty-five dollars to each individual. England is compact, covering but a small surface, and the trade capable of being carried on with much greater facility and less money than ours. Give us twenty-five dollars of currency per head and we will have \$1,000,000,000 of circulation.

France has about thirty-six dollars per head of money. Even France requires much less currency for the business of trade than our country. Give us the same as France employs and we shall have over \$1,400,000,000 of circulation. England and France have not discovered that they had too much money. The ministers of finance in those countries have not discovered that prices were too high, or that labor was too well paid. By referring to those old and experienced countries we can realize how we have been able to employ as money with such splendid success the \$1,600,000,000 already noticed; and it may serve to caution us against that certain ruin that awaits us if we shall disregard the plainest dictates of reason and the experience of the most prosperous and stable Governments of the world upon this very subject.

#### THE PUBLIC DEBT.

The Secretary reports our present debt at \$2,681,636,966. He has a surplus in the Treasury of \$130,326,960, which he expects to in-

crease at the end of this year \$79,330,856. These two sums being applied to the payment of the debt will leave June 30, 1867, a balance of \$2,471,979,150; of which the following items bear no interest:

Greenbacks.....	\$390,195,980
Fractional currency.....	27,588,010
Gold certificates.....	10,896,980
Total.....	\$428,680,970

which sum being subtracted leaves \$2,043,298,180 of the public debt bearing interest.

The receipts for the next fiscal year, ending June 30, 1868, are estimated as follows:

From customs.....	\$145,000,000 00
From internal revenue.....	255,000,000 00
From lands.....	1,000,000 00
From miscellaneous sources.....	25,000,000 00
Total.....	\$426,000,000 00

The expenditures are estimated as follows:

For the civil service.....	\$50,067,342 08
For pensions and Indians.....	25,383,489 09
For the War Department, including \$34,000,000 for bounties.....	110,861,961 89
For the Navy Department.....	30,251,605 26
For interest on the public debt.....	133,678,243 00
Total.....	\$50,247,641 32

Leaving a surplus of estimated receipts over estimated expenditures of..... \$85,752,358 68

By the foregoing it will be seen that the interest item is over \$133,500,000, and that out of a revenue of \$426,000,000 to be collected only \$85,500,000 are left to be paid upon the principal of the debt.

#### A NEW POLICY—FIVE PER CENT. BONDS.

Now, sir, suppose we change the programme, and while we lessen the burden of taxation we at the same time accommodate our people with a currency, not only adequate to the demands of the country, but one that, all things considered, will be the most stable and uniform, and which has secured and will retain the confidence of the people. I propose to fix the circulation at \$1,000,000,000, exclusive of fractional currency and gold certificates; this to be done 1st July, 1867, the beginning of the next fiscal year. I propose, further, that five per cent. bonds be prepared, and that all the outstanding debts (except the ten-forties, which are five per cents.) be paid off at maturity, and that whatever indebtedness shall remain be in bonds, drawing five per cent. and no more.

By this method we shall save over thirty millions annually in interest. Our ten-forty bonds are now at par and no good reason can be assigned why we may not be able to make our entire debt a five per cent. The English debt bears but three per cent.; it is one half larger than ours, and not half so well secured nor the payment so certain or so soon; indeed it is doubted if the debt of England will ever be paid, while our debt is in process of rapid payment, with the prospect of its total extinction, if desirable, even by the generation that created it. The larger portion of the public debt of the leading nations of Europe bears but three per cent. The debt of France, about two thousand millions, and not a dollar of its principal has been paid for years, and which is constantly increasing, two thirds of it is at three per cent.

We may not be able to sell our bonds in a foreign market; it is not desirable if we could. It is part of our good fortune that in the time of our greatest necessities for money we were able to obtain it from our own people. The present ten-forty bonds are in the hands of our own people, and it will be an important achievement if by any plan to be adopted we can call back our bonds from foreign holders and place them permanently in the hands of our own citizens. To secure a home market for our bonds it is worth while to present some inducements, which I think may be done with advantage to Government and people. Let us consider that question a moment. Our national

banks have now about four hundred millions of our bonds; these are fixed and will not soon float upon the market. The whole South and part of the western States are unsupplied with banks, and it will become necessary in a short time to extend bank facilities to them, perhaps to the extent of \$200,000,000. Now, while I do not condemn the present banking system, and while I would advise the preservation of the utmost good faith to those institutions that have been created, I would not extend it. My objection to enlarging it arises chiefly from the fact that we are required to pay fifteen to eighteen millions of dollars a year in gold to them for the privilege of using \$300,000,000 of their paper money. Why not use that amount of greenbacks for the same purpose, and thereby save to the Government these fifteen to eighteen millions which are now paid out of the national Treasury to the banks?

#### GREENBACKS ONLY FOR CIRCULATION.

I would have banks; we cannot get along without them; but I would not allow them to issue a dollar for circulation. All the circulation required by the wants of the country should be furnished by the Government, and to be continued so long as the Government debt exists. If the people are willing to use greenbacks as a currency, and by so doing the Government saves some fifty or sixty millions in interest annually, who is so simple, so profligate, so criminally negligent of his duties to the Government as to counsel against the economy, more especially at a time when our debt is heaviest and the taxes are required to be most onerous?

Suppose, when our five per cent. bonds shall have been substituted for those bearing higher rates of interest, and the banks shall accede to the proposition, we remodel the whole system, putting the capital at say \$500,000,000, and distribute them equally over the entire country as far as practicable, the banks to deposit with the authorities at Washington five per cent. bonds to the amount of their capital and receive upon such pledge an equal amount in greenbacks for circulation, with the privilege of charging interest upon loans not exceeding one per cent. a month, and to be free from all other taxes or charges whatever by the General Government, while their bonds in pledge are to remain without interest. The privilege of charging the increased rate of interest will be a full compensation for the loss of interest on their deposited bonds and leave the trade for the use of money to an open market, where the lender and borrower are acting conformably to law, which will have a healthy influence upon the rate of interest and tend to bring it down. As it is, large interest is constantly exacted and paid because the trade is contraband, and is always carried on by an indirect routine to avoid open exposure, or upon such terms of peril to the banker that he charges for the risk he incurs by violating the law.

#### BANK PROFITS.

By this new order of things bank profits will be sufficiently remunerative in a country where money men ought to be satisfied with reasonable gains. Time was when bankers were satisfied with five per cent. semi-annual dividends. This will give more; and what is worthy of consideration with bankers and people, it will be banking with a currency on which no panics can make a run for redemption or specie payments. Banks can loan to the utmost dollar of their capital with as much of their deposits as is now done with safety, and the bills they circulate are their own pledges for redemption—they belong to the Government, and have the stamps of the nation for their value, as emphatic as when put upon coin, and are in form and in fact money, money at all times, in all places, and for all purposes.

#### THE PUBLIC DEBT BY THIS PLAN.

Let us now see how our finances will stand, June 30, 1867, if this plan could be adopted. Our total debt is supposed then to be \$2,471,979,150. Take from it the following items not bearing interest:

Greenbacks now issued.....	\$390,195,980
Greenbacks to be issued.....	\$69,804,020
Fractional currency.....	27,588,010
Gold certificates.....	10,896,980
Total.....	\$1,038,484,990

This sum subtracted from the total debt leaves \$1,433,494,160, which at five per cent. the interest will amount annually to \$71,674,708. The Secretary estimates the interest in his plan at \$133,678,243, showing a saving in interest annually by my plan of over \$62,000,000; so that at the close of that year, instead of having a surplus of \$86,500,000 to apply to the payment of the principal of the debt, as by the Secretary's estimate, we should have a surplus of over \$148,500,000. This would leave it in the power of Congress to liquidate the debt rapidly, if that should be deemed expedient, without increasing the taxes upon the people, and at the same time give them a currency sufficient for all the demands of trade, a currency not greater in quantity than England furnishes her people; a currency eleven dollars a head less than France provides for the wants of its people; a currency as reliable as our Government, and which, after years of trial, has secured and will retain the confidence of the country. If the authorities that issue it will cease to denounce it, but rather yield it the just commendation it deserves, it will soon approach the specie standard so closely that they will not materially differ in value.

#### DEBT PAID RAPIDLY AND TAX REDUCED.

It will substantially reduce our public debt so rapidly that it will no longer appear insurmountable, but inspire fresh hope in the people and increased confidence at home and abroad of our ability to pay every dollar, without ruining our citizens by taxation or pressing for loans in foreign countries.

I venture to assert that by the adoption of the plan proposed the customs alone will meet the accruing interest and leave a surplus of five or six millions monthly, to be applied in the redemption of the principal debt—a more rapid process of extinguishing it than the Secretary proposes, while he adds to the burden of taxation some seventy-four millions a year—leaving the ordinary expenses of the Government to be met by internal revenue, requiring, as by the Secretary's estimate, about two hundred and seventeen millions a year. The receipts into the Treasury for the past year exclusive of customs were:

Receipts from lands.....	\$665,031
Receipts from direct tax.....	1,974,754
Receipts from internal revenue.....	309,226,813
Receipts from miscellaneous sources.....	67,119,369
Total.....	\$378,985,967

Here we have a sum larger by \$160,000,000 than is needed for the expenses of Government, leaving that amount to be taken from the present burden of taxation, the effect of which would be that by a proper adjustment of the taxes all the hardships now imposed upon the producing classes could be removed, and only such objects taxed as would afford the greatest amount of revenue and not seriously burden the productive interest of the country.

The estimated expenses of the Government for 1868 are set down \$216,500,000. In this is included \$64,000,000 for extra bounty, which ought not to be counted as current expense of civil Government. Deduct it and we have \$152,500,000 to provide for by internal revenue in some form or other. That revenue can be raised by the present tax on whisky and cotton and have a surplus left of over \$7,000,000. The whisky manufactured annually is estimated at forty million gallons; the tax of two dollars per gallon makes \$80,000,000. Four million bales of cotton at the present tax would raise

\*Three hundred million dollars of this to be issued in the place of that amount of national bank circulation to be withdrawn.

\$80,000,000, making \$160,000,000 raised from those two articles alone.

But suppose it impossible to reach these figures by reason of frauds in the collection of the whisky tax and short cotton crops; making all reasonable deductions for these contingencies, I submit the following:

Revenue from whisky.....	\$60,000,000
Revenue from cotton.....	40,000,000
Revenue from tobacco.....	18,000,000
Revenue from fermented liquors.....	5,000,000
Revenue from license.....	15,000,000
Revenue from stamps.....	20,000,000
Revenue from salaries.....	2,000,000
Total.....	160,000,000
Expense.....	152,500,000
Balance over expenses.....	\$7,500,000

Thus we have an excess of revenue of \$7,500,000 over all the ordinary expenses of Government, and no internal tax whatever upon the industry of the country to annoy or oppress the people. I do not say that other items may not be properly added to the sources of revenue, my object being to demonstrate, by this exhibit, that there is a way to relieve the people from the burden of taxation and not disturb the credit of the Government or deprive it of the means of usefulness to the fullest extent possible.

#### PUBLIC DEBT—INTEREST AND PRINCIPAL.

The money derived from customs being in coin, after meeting the interest punctually as it falls due, the residue should be applied by the Secretary of the Treasury, by some well-devised plan, to the purchase in open market monthly of five or six millions of the public debt, or so much thereof as the receipts of customs may justify. By this process, the interest being punctually paid in coin, and a continued market for bonds occurring every month, it cannot be doubted that our five per cents. would become popular stocks in the country; so much so that it might even be practicable, in due time, to supersede them with others bearing a less interest. All depends upon public confidence. It could scarcely be attainable if one half of our people make war upon the bonds and insist upon taxing them out of credit, and the chief officers of the Government denounce our currency as unconstitutional and irredeemable, and the Congress that authorized them as an illegal body, hanging upon the verge of the Government, without competent authority to make any law to protect the people or bind the nation. We must have fidelity to the country in high places if we expect to prosper by the wisest measures that may be devised; men who can rise above the mere partisan, and whose devotion to their country is not overcome by their lust of power.

#### FINANCIAL CONDITION OF THE COUNTRY.

Mr. KUYKENDALL. Mr. Speaker, the bill which I introduced on the 7th of January, 1867, entitled "An act to provide a true national currency and to provide for the collection and disbursement of the revenue, and the liquidation of the national debt, and for other purposes," as will be seen by the title, relates to one of the most important subjects of legislation, a subject which has engaged the attention of our most profound statesmen from the earliest history of our Government, and has been more or less prominent before every Congress that has convened since the establishment of the Government, and which to-day is as much an open question as when first introduced into the Halls of legislation. Hardly a day passes without the introduction of some measure looking to a change in our monetary laws, or for the establishment of a new monetary system, indicating the universal opinion that the present system is imperfect, if not radically wrong. The latter I hold to be true, and the bill which I introduced contemplates a thorough change in the financial policy of the Government, as well as important alterations in our revenue system.

Among the chief objects for which Governments are instituted is that of protecting the rights of property and securing its equitable

distribution according to the labor or service performed in its production. And no Government, whether republican or not, that fails to effect these important ends can permanently secure the prosperity and happiness of the people.

It cannot be successfully denied that physical and intellectual labor employed in production, and in the distribution of the products of labor, is the true and only source of national wealth, and that laborers, as a whole, are poor. Look where you will upon society you will see those who build palatial residences living in hovels; those who manufacture the finest apparel clothed in the coarsest fabrics; and those who produce in abundance the most wholesome and delicate food subsisting upon the poorest diet; all deprived of the time and means necessary for social and intellectual culture, and to a great degree destitute of the ordinary comforts and conveniences of life—condemned to lives of unremunerated toil; while another class, few in number, not physically, intellectually, or morally better than the average of society, acquire the larger portion of the products of labor, live in comparative idleness, surrounded with all the comforts, conveniences, and luxuries of life. Besides this evil of centralizing wealth in the possession of the few, every few years our country is visited with a monetary crisis, prostrating all branches of productive industry and legitimate enterprise, deranging commercial operations, retarding the development of our natural resources, preventing us from becoming self-sustaining and independent as a nation. This disparity in the conditions of society, these monetary crises and commercial disasters are at one time attributed to overproduction, another time to short production; again they are assigned to the want of sufficient tariff on imports or duties on foreign manufactures. We have greatly increased production by the invention of labor-saving machines, have raised and lowered tariffs without producing any permanent beneficial effects, unless it be the building up a cotton-mill or iron aristocracy. The wealth continues to centralize in fewer hands; the number of industrious poor who own no real and little personal property continues to increase. None of the causes assigned have ever satisfactorily accounted for these wrongs or pointed to a remedy, because they do not reach the true source of the evil, which will be found in the unfair distribution of the products of labor between non-producing capital and producing labor caused by the institution of money on a wrong principle, and with too great power over labor and property.

Money is the medium of distribution between non-producing capital and labor; the rate of interest determining what proportion of the products of labor shall be awarded to capital for its use, and what to labor for its productions; and the law instituting it is the most important fundamental law in any nation; if established upon a wrong basis it cannot be rightly governed by subsequent laws.

I am aware that this measure, or any one proposing such a thorough change in the monetary system and financial policy of the Government, will meet with opposition; first from the prejudices that exist generally in the human mind against changes in the systems and usages to which they have been long accustomed; but these prejudices where honestly entertained will readily yield to conviction. Yet it will meet with opposition of another and different character, one having its root in avarice, founded on the personal and pecuniary interests of soulless usurers, the corporations and monopolies which have been fostered into gigantic proportions, endowed with dangerous powers over the property and liberties of men by the fraudulent monetary system, the overthrow of which the bill contemplates. I have no hope that this interest will yield to any arguments I may offer, or indeed to any that can be offered; it has a death grasp upon the nation, which, like the institution of slavery, it will not yield until

utterly destroyed. But relying upon the ultimate triumph of truth, this nor any other opposition shall deter me from the discharge of what I hold to be a sacred duty which I owe to my immediate constituents as well as to the American people generally, that of warning them of impending danger by pointing to the path of safety.

The bill provides for the reorganization of the Treasury Department of the United States by the establishment of a "Board of Management of the Currency and Revenue," consisting of the Secretary of the Treasury and four other members, who, in all matters relating to the currency and revenue, are to have an equal voice with the Secretary of the Treasury. The objects sought to be secured by this plan are: first, a more thorough supervision and personal inspection of the detail of the business belonging to this important branch of the public service, by competent and responsible officers than can possibly be given to it by any individual, however talented and capable he may be. Admitting that a single individual may have been able to discharge these important duties before the war, when the revenues were derived mainly from custom duties and the sale of the public domain, and when the Department was not charged with the duties of providing the currency, I think it will not be doubted that the war has increased the duties and responsibilities of the Department at least fourfold, and that they are too onerous to be discharged by any individual without detriment to the public interest.

Greater uniformity in the financial policy of the Government would be attained under the proposed system; there would always be three experienced members in the board, which would constitute a majority and prevent any sudden change in case of a change in the political sentiments of the Administration. This would give confidence to the business community.

Our country has become so extended and our interests so varied that it is impossible that any man or any set of men residing in one locality can have a full and clear knowledge of the business of all the other localities. In order to obviate this difficulty, and that all sections and interests may be fairly represented in the board, the bill provides for choosing the members by districts.

The bill contemplates the abolishment of all banks, State and national. It could therefore hardly be expected that any one who favors the continuance of that system of currency, or who is interested in those institutions, could so far control his prejudices and interests as to give the proposed plan a fair trial. Besides, this class of the community have controlled the financial policy of the Government and the currency of the nation for the past thirty years; and there is in the minds of the people very generally an idea that they have conducted them with an eye single to their own aggrandizement, without regard to the interests of the industrial classes. I have therefore thought it the wisest policy to exclude from the Board of Management of the Currency and Revenue all stockholders and bank officers.

As money exercises a wonderful power in every department of business and industrial occupation, and as its nature and regulation appear to have baffled the wisdom of political economists, and led them to the conclusion that its alternate abundance and scarcity and the fluctuating rates of interest are irremediable evils, a full and clear knowledge of its nature and properties, the functions it performs in business transactions, is an indispensable prerequisite in order to its institution upon true principles. Money is, then, the legal medium for the exchange of property and products, the legal-tender in the payment of all debts public and private, and a legal lien on all the property in the nation. To be fitted for the performance of these functions, it must be endowed with the following properties or powers, to wit: power to represent value, to measure value, to



exchange value, and to accumulate value by interest.

These properties or powers are inherent in no natural substance, and must be conferred on the material used for money by national law. Money has no material value; only an immaterial or legal value.

The material of money, gold, silver, paper, or any other substance, is a legalized agent made to express the form, properties, or powers of money and render them available in business transactions. Common usage has applied the term measure to the material by the means of which length, weight, &c., are ascertained. It matters not whether the yard-stick or pound weight be of wood, iron, or gold, length and weight are the only properties necessary to be expressed by them, and possessing the standard limits, their material is a matter of indifference. Of course some material is indispensable; but the only thing that makes one substance preferable to another is its superior convenience. So of money; it is a matter of indifference by what material the powers are expressed, for the material is merely a substance fixed upon by law; the natural powers of any material do not make it money. Its powers and agency, as money, are delegated to it by law, in addition to its natural capabilities. When gold is used, the powers conferred upon it make it an equivalent for every species of property. If gold had not been selected for the material of money, and a legal power given to it to exchange property and to accumulate interest for its use, a man would have as little need for more gold than he requires for utensils and ornaments, as he has for more clothes than he can wear, or more tools than he can use. But when it is made the agent of these legal powers, it becomes necessary to acquire the gold in order to discharge debts; and the quantity of the metal being limited its owners are enabled to extort from the necessitous a very high price for its use. The common opinion that the material of a currency must be something scarce and difficult to procure, that the limited amount may render it permanently valuable, arises from a misconception of the nature of money, the properties of which are entirely independent of the material. The value of money depends upon its powers to represent, measure, accumulate, and exchange value.

These powers given to any convenient material by congressional enactment will qualify it for a medium of exchange, and in every particular constitute it money. The power to make money and regulate its value is an essential attribute of sovereignty, carrying with it the power to control the value of all the property in the nation, regulate the division of the products between capital and labor, and fix the rewards of labor in every department of industry. While this power has been wisely and properly granted to Congress, there is no more authority granted to that body by the Constitution of the United States to delegate this sovereign power to any class of individuals or corporations than there is for the delegation of the judicial power. It is, therefore, the imperative duty of Congress to institute money upon such a wise and just basis that its value and powers may be uniform throughout the jurisdiction of the Government; and with the power vested in the sovereign people to regulate its value so that it may distribute products to producers according to the labor and service performed in their production.

Time will not permit me, on this occasion, to treat in detail the general nature and properties of money as fully as the importance of the subject demands, and I shall therefore confine myself to a few brief remarks on its accumulative power, and then proceed to show that the rate of interest is the governing power in the distribution between capital and labor, and that the present rates greatly exceed the increase by natural production. The rate or amount of interest that the dollar commands determines its value and makes it equal to a given amount of actual value, or property, as

much as the net proceeds of a farm determines its value—which consists in its value to produce. The value of the money is artificial, and depends on its legal power to represent actual value and to accumulate by interest. A farm that produces a net annual income of \$1,000 is more valuable than one that yields but \$500; so a dollar that can be loaned for twelve per cent. is more valuable than one that can be loaned for but six per cent. The value of money as much depends upon its legal power to be loaned for an income as the value of a farm does upon its power to produce. Any increase or diminution of the power of money to accumulate by interest increases or diminishes proportionately its value, and consequently its power over labor and property. To keep the value of money uniform, the rate of interest must be kept uniform. Doubling the power of the dollar to accumulate doubles the value of the dollar. It may still retain the name of dollar, but it will possess twice its former power over property and labor.

It may be objected that, while what has been said of money is true, so far as our home business is concerned, yet the adoption of such a monetary system would operate injuriously upon our foreign trade; that as all commercial nations have legalized the so-called precious metals as money we cannot maintain commercial relations with them unless we also legalize them as money. A sufficient answer to this objection is, that our coin is not current or legal money, at the standard fixed by our laws, in any foreign nation. They only receive it at the standard fixed by their laws, and greatly prefer our bullion to our coin. Besides, legitimate commerce is the exchange of the products of the territory and labor of one nation for those of another. All beyond mere barter is a matter of debt, and if we imported \$300,000,000 (that being about the amount of our coinage) in excess of the exports of our production, we would have to part with all our coin, which would derange the entire industrial interests of the nation. Again, if we did not use these metals for a circulating medium, we would have more of them to ship abroad as bullion to settle balances or to exchange for articles of real value. We could take up \$300,000,000 of our national bonds now held abroad, and thereby save \$18,000,000 of interest annually, which would be a great relief to a people overburdened with taxes.

The advocates of a specie currency argue that the so-called precious metals require about an equal amount of labor for their production the world over, and therefore they are the true measures of all values; that it is the labor incorporated into them that gives them their value as money. If this be true of these metals, it should be true of all the productions of labor. If A produces, by one hundred days' mining, gold to the value of \$200, the Government will stamp it as money for him; and if B produces, by one hundred days' labor, two hundred bushels of wheat, which the Government purchases of him for \$200, and he is willing to take a piece of paper stamped as money by the Government "\$200," there can surely be no valid objection against the Government doing so. It would represent the same amount of labor; and if it had the same legal powers as the gold it would perform all the functions of money equally as well, coextensive with the jurisdiction of the law. We have a practical illustration of this in the first series of Treasury notes issued, which was \$50,000,000, payable in coin on demand. These notes passed at par with coin until the banks and the Government suspended specie payments, when they began to depreciate in value, as compared with coin, and continued to decline until they were made receivable for duties on foreign imports, or in other words, were made legally equal to coin, when they immediately rose to par, and have remained so ever since. Or if D be the holder of a bond for \$1,000, which he wishes to convert into money, and is willing to exchange it for a legal-tender Treasury note, it is

difficult to conceive of any valid reason why the Government should not make the exchange, rather than to subject him to heavy discount, for the benefit of some banker.

This erroneous idea that the value of money inheres in its material, and that gold and silver possess some indefinable property or qualification that fits them above all other substances for the material of money is at the bottom of the false theories respecting the nature of money and its rightful institution. It is the cause of its alternate abundance and scarcity, of the high and fluctuating rates of interest, and has led to the adoption of the many false systems of banking by which the legitimate business of the country has been so often deranged and the industrial, wealth-producing classes robbed of the products of their labor. And while this mistaken notion is entertained by the people and their law-makers these evils must continue. But when the nature and properties of money are clearly understood, and there is a willingness on the part of all to be governed by the precepts of the golden rule, the chief difficulty in the way of its institution on true principles will be removed; and its institution on correct principles will do more to lift the weight from the back of the industrial classes, and encourage the development of our resources than all the bankrupt and tariff laws that have been enacted since the formation of the Government.

I come now to show that the rate of interest on money is the governing power in the distribution of the products of labor between non-producing capital and producing labor. There are but two purposes to which the yearly products of labor can be applied. One is the payment of the yearly rent or interest on the capital employed, and the other is the payment of labor. The rate of interest maintained on loans of money determines what proportion of the earnings of labor shall be paid for the use of capital, and what proportion shall be paid to the laborers for their productions. If laborers pay to capital as rent or interest for the year their whole surplus products, the laborers as a body work for a mere subsistence of food, clothing, and shelter. To give an idea to what extent the power of interest operates it is only necessary to say that all the money lent on bonds and mortgages by individuals, by insurance and trust companies, all lent for United States, State, county, city, railroad, canal, and other bonds, to make public improvements, whether these improvements be made by corporations, by the State, or by individuals, also all the money lent by banks, brokers, and individuals on promissory notes—all these loans are operating with a like centralizing power against the producer and distributors of the national wealth and in favor of the money-lenders.

This power also establishes a like rate per cent. rent to be paid for the use of all property, real and personal. All the goods on hand in the nation, and in process of being manufactured, are under tribute to this centralizing power. It is an unavoidable power, because it is instituted and enforced by the national laws, and is the basis upon which all market values are founded. It may be proper to remark in this connection that in the calculations that follow I have compounded the interest annually, which is the national law governing increase by percentage. The lowest rate of interest upon money established by any State is six per cent. per annum, and the rate has fluctuated between six and twenty per cent. since the formation of the Government. If we take into the account the rates authorized on the bonds of the United States, States, &c., and the price at which these bonds have been sold and the exorbitant rates in many cases charged in business transactions, I think it will not be doubted that the rate has averaged as much as ten per cent. per annum since the earliest settlement of the country.

To get a clear idea of the accumulative power of money and its influence in the distribution of the wealth of the nation we must

take the longest possible period in our history. The first permanent settlement on our territory was made at Jamestown, in Virginia, in 1607, or two hundred and sixty years ago; now, if these settlers had purchased of the mother country the entire territory of the United States for one dollar, and given their obligations bearing ten per cent. interest, payable two hundred and sixty years after date, their obligations would fall due the present year, and I doubt not it would be considered by many to have been a good financial operation, and all that would be necessary to discharge this obligation would be for the Secretary of the Treasury to part with a portion of the gold now lying idle in the Treasury, or to make a draft for the money deposited with the national banks. But the result will, I think, convince the most strenuous advocate for high rates of interest that no nation or people can pay ten per cent. without robbing labor and centralizing the wealth in the hands of the very few. This one dollar with interest at ten per cent. compounded annually for two hundred and sixty years, will amount to \$59,650,000,000, or over three times the present value of all the property real and personal of the United States.

There are in the United States at the present time about seven million two hundred thousand male inhabitants over the age of twenty years, and allowing each of them to work three hundred days in the year, the number of days' work performed annually would be two billion one hundred and sixty million. To pay the annual interest on the above sum would require \$2 76 for each day's labor performed in the nation. Now, let us see what the result would have been with the honest and well-regulated dollar; with money so instituted as to be the servant and not the master of labor. Had the obligations for the payment of the one dollar been made to bear three per cent. per annum, the amount would be \$2,180. But it may be objected that the resources of the country were not developed as rapidly during her colonial condition as since the establishment of her independence, and that the per cent. is above the average rate of interest. I will therefore compare the increase in the national wealth by natural production with the accumulative power of money at seven per cent. interest since the Declaration of Independence.

There are in the thirteen original colonies or States three hundred and forty-seven thousand square miles, or two billion ninety-five million seven hundred and sixty thousand acres, which I will suppose our ancestors to have purchased in 1776 at fifty cents per acre; including improvements and personal property, the amount would have been \$1,047,888,000. This would have been but little over \$250 *per capita*, which I think will not be considered an overestimate of the then value of the property of the nation; for allowing it to have increased at the rate of increase during the decade from 1850 to 1860, which was three and one third per cent. per annum, the amount on the 4th of July, 1867, would, in round numbers, be \$20,723,320,000, which is a little in excess of the present value of the national wealth; which is, in round numbers, \$20,330,000,000. Now, had the then estimated value of the wealth of the nation, \$1,047,880,000, increased at the rate of seven per cent. per annum for the same time, the amount would, in round numbers, be \$506,100,000,000, or nearly twenty-five times the value of the national wealth on 4th of July, 1867, including the Territories since acquired.

Again, to present this subject in still stronger light, I will estimate the revolutionary war to have cost the nation \$362,120,000, which I think all will admit a very moderate estimate: suppose our ancestors at the time of the Declaration of Independence to have purchased the country of England for this sum, and given their obligations, bearing seven per cent. interest, payable ninety-one years after date, with interest compounded annually; this I doubt not would be considered to have been a good financial operation; and so it would if money

were worth seven per cent. per annum, or the increase in the national wealth had equaled seven per cent. per annum. Such a negotiation would have saved the cost of the revolutionary war. I will therefore add it to the then estimated value of the national wealth, which would make the value of the national wealth at that time \$1,400,000,000. Had this sum increased at the rate of three and one third per cent. per annum the amount would be \$27,683,000,000, while the increase on the \$362,120,000 for the same time at seven per cent. would be \$174,930,000,000, or over six times the amount of what the entire national wealth would have been, and over eight times the amount of the present value of the national wealth.

There is a class of financiers, claiming to be honest and intelligent, who argue that money is worth more in new and undeveloped than in old and improved countries. I have heard hundreds of them contend that it was worth ten per cent. in the State of Illinois. For the benefit of this class I will exhibit the following facts: I will take the State of Illinois, which contains fifty-five thousand square miles, or thirty-five million two hundred thousand acres, and which, considering fertility of soil, mineral wealth, commercial advantages, and variety and salubrity of climate, I think is not surpassed by any other contiguous territory of equal extent on this continent or elsewhere. I think it quite safe to assume that the rate of interest on money there has averaged ten per cent. per annum since the first settlement of the territory, which I will assume was on the 4th of July, 1816, or fifty-one years ago. Now, had the present settlers or their ancestors purchased the entire territory of the State at the Government price of \$1 25 per acre, and given their notes or obligations therefor, bearing ten per cent. interest per annum, these obligations would fall due the present year, and would amount to the enormous sum of \$5,718,044,444, or \$162 44 per acre for each and every acre of land within the limits of the State. The interest on the total sum for one year would be \$571,804,444; to pay the interest would require an annual rental of \$16 24 per acre on all the lands in the State, or probably as much as thirty dollars per acre for that portion under cultivation, while the value of the State as per census of 1860 was but \$871,860,280. If you double this amount it will not amount to one third of the accumulations of the interest on the purchase at \$1 25 per acre. There is not one of my colleagues that does not know that the lands, with all the cities, towns, railroads, and other improvements, would not sell for half the amount of the accumulations by interest on the first purchases; this, too, notwithstanding that population and wealth has poured into the State beyond any parallel.

Kellogg, who has given this subject of the accumulative power of money and the distribution of money as much attention and treated it more ably than any man of the age, says that before the war as much as one half of all the wealth of the nation was owned by five per cent. of the population, and these for the most part the non-producers, who loaned their money or rented their property to the wealth-producing classes. The effect of the war has been to diminish production, increase the rate of interest on money, and to centralize the wealth more rapidly. I therefore think it quite safe to estimate that as much as sixty per cent. of the wealth is now owned by five per cent. of the population. If any one doubts this let him take any city or town the population of which is ten thousand and see if he cannot find one hundred of the most wealthy citizens who own at least sixty per cent. of the property, and allowing five to the family this would make five hundred, which is five per cent. on ten thousand. Taking the national wealth at \$20,000,000,000, it would give to the non-producing class \$12,000,000,000 of the national wealth, which they loan or rent to the industrial classes, and the rate of interest will average at least eight per cent. per annum, mak-

ing the yearly burden imposed upon labor \$960,000,000, while the increase on \$20,000,000,000 of national wealth at three and one third per cent. per annum will amount to but \$667,000,000, leaving the wealth-producing classes indebted to capital or the non-producers \$293,000,000 at the end of the year.

But the question naturally arises how we are to ascertain the just rate of interest on money. Happily we are not without sufficiently reliable data to approximate the true rate nearly enough for all practical purposes. Agriculture is the leading interest and foundation of the national wealth; and the increase in this important branch of industry may be taken as the true index in all other departments; and the division between landlord and tenant may be safely adopted as the rule of distribution between capital and labor in all other branches of productive industry. And I find, by careful examination and critical analysis, that during the decade from 1850 to 1860, which was as prosperous a one as we have had since the establishment of the Government, the increase in improved lands and unimproved lands was forty per cent.; the increase in wheat, rye, corn, and oats, forty-four per cent.; and the increase in all kinds of live stock, thirty-four per cent. Taking, then, the increase in lands, all kinds of grain and live stock, the total increase in these staple productions of agriculture for the last ten years was thirty-nine per cent., or three and one third per cent. per annum nearly; and a renter cannot afford to pay over one third of the net proceeds and keep up all repair of a good and well-improved farm. If, then, the division of products between capital and labor in the most important branch of productive industry be adopted as the standard of distribution between capital and labor in all other departments of useful industry, it will be seen that the true rate of interest on money should be but one and one ninth per cent. per annum. Now, let us see how the account would stand between labor and capital with the rate of interest on money at one and one ninth per cent. per annum. Twelve billion dollars at this rate would be \$138,000,000, while the increase on \$20,000,000,000 of national wealth at three and one third per cent. would be \$666,000,000, leaving a balance in favor of the wealth-producing classes at the end of the year of \$533,000,000; with interest at two and a half per cent., the balance in favor of the industrial classes at the end of the year would be \$366,000,000; and with interest at three per cent. the balance in favor of the laborer would be \$306,000,000 annually—a result in either case more encouraging to the industrial wealth-producing classes, and one very much more to be desired by all patriots, philanthropists, and Christians, than the former one, which will leave labor indebted to non-producing capital \$293,000,000 annually.

I come next to consider the fitness or rather the unfitness of the present monetary and revenue systems and the financial policy to meet the wants of the Government and business interests of the country. Time on this occasion will not permit me to examine in detail the laws creating the so-called national banks and establishing the revenue system, and I must content myself with the notice of only a few of their most important provisions, which will serve to indicate their general character and show that they are calculated to promote the interest of non-producing capital and to impose unnecessary and grievous burdens on the enterprising industrial classes.

We have contracted an enormous national debt, one more onerous than that of any civilized or Christian nation on the globe. The annual interest on the national debt of Great Britain is but \$121,000,000. When the patriotic bankers and financiers get the "greenbacks" withdrawn from circulation, and the whole national debt converted into gold interest-bearing bonds, and we add to the national debt proper that of townships, counties, cities, and States, contracted for war purposes, our annual interest will amount to at least \$240,000,000 in

the money of trade. Every dollar of this debt, interest as well as principal, must be paid by the labor of the nation. It makes no difference whether it is collected from duties on foreign imports, excise on whisky, tobacco, and other luxuries. I care not how cunningly taxes may be laid, the burden must, as surely as death will come to all the living, in the end all be borne by labor. It is therefore the interest, nay the imperative duty of every Christian, philanthropist, patriot, and lover of justice, as well as of the entire industrial classes, to see that these burdens are made as light as possible and equally distributed on all classes and interests.

The first question that arises is: will the financial policy adopted and being pursued by the Government lead to these results? I think a thorough investigation and careful examination of the subject will convince any intelligent, impartial mind that it will not. The reasons upon which this opinion is founded are as follows: the same parties who have controlled the money interests of the nation in the past are to conduct it in the future, and by means somewhat similar, to wit: a bank currency purporting to be redeemable in money. Under the former system this currency was issued under the authority of the several States; sectional interests and jealousies prevented a consolidation and lessened the power of the bankers for mischief. The currency issued by these institutions was never any better apology for money than falsehood for truth. The necessity for money to conduct business operations, and the absence of anything better, compelled the people to accept their notes in exchange for their property and products, which gave the bankers the control of the moneyed interest of the whole country, with power to regulate the value of all the property in the nation and fix the rewards of labor in every department of industry; and they wielded this power with an eye single to their own benefit. They expanded and contracted the currency, raised and lowered the rate of interest, encouraged or prostrated all legitimate enterprise and productive industry, set the laws at defiance, and suspended and resumed specie payments at pleasure, and in every possible way made the public interest subservient to their cupidity.

The so-called national banking system is founded on the same principle, with greatly multiplied powers for mischief. A change of base, while the principle remains the same, can at best be but the exchange of one evil for another. To get a clear understanding of the practical workings of this system and its powers for oppressing the wealth-producing classes we must consider it in connection with the laws authorizing the national loans and establishing the revenue system, for they are inseparably connected. Time on this occasion will not permit a general review of those laws, and I will therefore confine myself to the consideration of a few of their most important provisions, which I think will serve to show that they are founded on a wrong principle and inimical to and subversive of the principles of freedom and equality upon which our democratic institutions are founded, and must work great injustice to the wealth-producing classes.

The law enacting the national banking system clothes the Secretary of the Treasury of the United States with unprecedented and dangerous power; his control over the Bureau of the Currency is absolute, without check or restraint from any other department of the Government. Indeed, so far as the interest of the people is concerned, with but few and unimportant exceptions, these unrestricted powers prevail throughout the whole law. Thus the whole moneyed interest of the nation is under the control of a single man; the banks are only the medium through which this centralized power operates. And when these despotic powers (for such they surely are) are wielded by one whose life has been devoted, not to encouraging the development of the national resources by aiding honest industry and fostering legitimate enterprise, but to sacrificing public and private

interests and filching from honest toil the last farthing when necessary to pay large dividends to the stockholders in the banks with which he may have been connected or over which he may have been called to preside. This is the character of the man these bankers will insist shall fill the office of Secretary of the Treasury of the United States, and they will permit no other character to occupy that place for any length of time, for through Congress they have the power to remove him; and should this system be continued we will not have many elections before a majority of that body will be stockholders in these banks, if indeed that be not the case already. I venture the prediction that if you should interrogate the Secretary as to the wisdom and justice of his plan, he would tell you it was the wisest and best that could possibly be devised, for he had consulted with the leading bankers and most intelligent business men of Wall street, New York, Third street, Philadelphia, and State street, Boston, by all of whom it was most heartily approved, and well it might be; because if you could go back and get at the paternity of the measure you would find it originated with them, was presented by them to the Secretary for his approval, and not by the Secretary to them for their indorsement.

This is the history of every financial measure adopted by the Government since the commencement of the rebellion, excepting alone the issue of the legal-tender Treasury notes, and this was the measure that sustained the credit of the Government and carried us through the darkest hours of our troubles, and which was opposed by these bankers and intelligent business men at every step, and which they now demand shall be blotted from our statutes. It is entirely unnecessary for me to say anything in this connection in relation to the business and interest of the bankers; these are understood by all; but a word in reference to the business and interests of these intelligent business men, of whose wisdom and patriotism newspapers have so much to say, and who have so much influence in molding the financial legislation of the Government, may not be amiss; for it would be very natural to suppose that they were the energetic, enterprising portion of our business community, who are engaged in the development of our resources; but not a bit of it. They are the speculators in stocks, food, clothing, and all the products of labor, standing between the producers and consumers—amassing fortunes by a species of the very worst kind of gambling; and while they are permitted to exercise such a powerful influence over the financial policy of the Government as they now do, we can be nothing but a nation of gamblers; useful enterprise cannot be undertaken, nor can the legitimate commercial operations of the nation be conducted other than as gambling operations. These banks are authorized to be located in every city and village throughout the length and breadth of the land, forming a complete system of financial espionage. Under the revenue system they will have their thousands of agents in every part of the country, clothed with authority to pry into the affairs of each individual. I say their agents, because they will control the Government, and no officer or agent of the Government who is not in the interest and the willing tool of this moneyed aristocracy can hold any office or place under the Government. Through these means they will have a full knowledge of the business of every miner, farmer, mechanic, merchant, manufacturer, railroad company, and other enterprises in the nation. This will enable them to operate understandingly; and with their unrestricted power over the currency of the nation they can make every other interest, however great, subservient to their cupidity, and tax the industrial classes until they become as helpless as the fly in the spider's web—tax their manhood out of them.

Their circulation is to be apportioned among the States and Territories by the Secretary of the Treasury, having due regard to the existing

banking capital, resources, and business of such States and Territories. The effect of this will be to give a few of the eastern cities and villages the control of the currency of the nation, they having a major part of the existing banking capital. The law provides that three fifths of the amount, to be kept on hand in lawful money to redeem their circulation, may consist of clearing-house certificates and balances due from other associations. The effect of this will be to require the banks in our large cities to keep on hand but ten cents, and those located in all other places but six cents on the dollar in lawful money for the redemption of their circulation, or an average of about eight per cent. It would be quite natural to conclude that the banks gave the Government some valuable considerations for the grant of those sovereign principles and powers, but they do not. They are to have the use of the public money (except receipts from customs) for banking purposes. They draw the interest in gold on the bonds deposited to secure the redemption of their circulating notes, and receive ninety per cent. of the value of the bonds so deposited, which they loan to the people at from seven to ten per cent.; and to reimburse the Treasury for printing their notes and all other expenses incurred under the law, and in lieu of all taxes on their circulation and the bonds deposited to secure the redemption thereof, they are required to pay into the national Treasury only one half of one per cent. semi-annually, which will not probably more than defray the expenses incurred by the Government under the law. Thus, instead of the bankers paying a liberal bonus to the Government for these unheard-of privileges and powers, as claimed by the bankers and their allies, the law virtually exonerates them from taxation. Let us now look at the profits these bankers derive from this system. To put in circulation \$300,000,000 currency will require the deposit of \$333,333,333 in bonds, on which they draw six per cent. in gold, equal to at least eight and one half per cent. in the money of trade, but which, when we take into account the exemption from taxes, will equal full ten per cent. They have the \$300,000,000 of currency received from the Government, which they loan to the people at an average of nine per cent. per annum; add to this the Government deposits, which they will loan to the people, and which I think will average as much as \$100,000,000, from which must be deducted the interest on eight per cent. of their circulation, kept on hand for the redemption of their notes.

Interest on bonds deposited (\$333,333,333) at 10 per cent.	\$33,333,333
Interest on circulation (\$300,000,000) at 9 per cent.	27,000,000
Interest on Government deposits (\$100,000,000) at 9 per cent.	9,000,000
Total income.	69,333,333
Deduct interest on \$24,000,000 kept on hand to redeem circulation at 9 per cent.	2,160,000

Net income.....\$67,173,333  
or a fraction over twenty per cent. per annum.

Another, and not the least mischievous and dangerous provision of this scheme is that it will be a close corporation. The only channel through which the people, who are compelled to exchange their labor, products, and property for these bank promises, can obtain any knowledge of the solvency of the different institutions issuing this currency is through the Secretary of the Treasury, for he has the sole power of choosing the time and appointing the agents to examine the association. When one of these institutions fails the Secretary of the Treasury will without doubt protect the interests of his friends, the bankers and intelligent business men, by giving them timely notice, and the Government and those engaged in legitimate business will become the victims of their villainies.

It is true that for the present the circulation of the banks is limited to \$300,000,000; but, having secured these unwarranted powers and privileges, the bankers and usurers will either demand the withdrawal of the legal-tender



Treasury notes, which cost the people nothing, and an increase of their circulation, which really cost the tax-payers nine per cent. in the money of trade, or that the currency shall be contracted under the delusive plea of a return to specie payments. If the former policy be adopted, just as fast as the legal-tenders are withdrawn from circulation their place will be filled with the notes of the banks, and we shall soon have as much as \$700,000,000 of the notes of the banks in circulation, from which the banks will derive an annual income of \$156,700,000, while the interest at three per cent. per annum on the amount of capital necessary to put this amount of notes in circulation will only amount to \$23,333,000, leaving to the bankers a net annual profit of \$133,367,000, every dollar of which is an unnecessary and unjust burden imposed on the industrial wealth-producing class for the benefit of the bankers. The adoption of the latter policy would, if possible, be more unjust and oppressive to the industrial wealth-producing classes or tax-payers than the former in the present condition of the nation.

It must be remembered that the banks never have and never will, under any system, pay specie, unless by so doing they can promote their own selfish interest. Let us then look at the effects of an attempt to return to specie payments in the present condition of the country. It would increase the value of money or non-producing capital and augment its power over labor and property. Reducing prices by raising the rate of interest and increasing the power of money is simply robbing labor for the benefit of non-producing capital. If, by contracting the currency, the bushel of grain, yard of cloth, pair of boots, coat, hat, and all other productions of labor be reduced to one half their present price the price of labor must fall in a like proportion; while if the rate of interest on the Government bonds and other moneyed obligations, as well as bank dividends, remain unchanged the value of money will be doubled; for the interest and dividends, when earned and paid, will buy double the amount of the products of labor and hire twice the number of days' work. It will also practically double the pay of every assessor, tax-gatherer, postmaster, member of Congress, and other officer or agent of the national Government, as well as those of the States, counties, and cities, for their pay will buy double the amount of the products of labor. It will readily be seen that the practical effect of this policy will be to double the taxes as well as the obligations of every debtor in the nation, increase the value of all money obligations, and render all public offices more desirable.

It is not, then, at all surprising that brokers, bankers, bond-holders, and the non-producing classes generally should be the advocates for its adoption, or that there should be such otherwise unaccountable unanimity on the part of the leading journals (without regard to their political sentiment) in favor of it, for most of them are either directly or indirectly largely benefited by it; nor is it by any means wonderful that our law-makers and Government officers and agents should be susceptible to these potent influences. But it is a matter of astonishment that farmers, miners, artisans, mechanics, merchants, and all who are employed in any branch of useful industry or engaged in legitimate enterprise or any of the useful callings and professions, as well as patriots, philanthropists, and Christians, have so long silently permitted the enemies of freedom and justice to usurp the sovereign power to make money and regulate its value—one of the most essential attributes of sovereignty—by which they secure the power to control the value of all the property in the nation and fix the rewards of labor in every department of useful industry, to subvert the principles of justice and freedom upon which our noble temple of liberty was founded, to violate with impunity every right of humanity, and to reduce to a state of vassalage or slavery the whole enterprising, wealth-producing classes of the nation.

Having secured exemption from State and municipal taxes, they will next demand exemption from taxes on the incomes arising from bank dividends and interest on the Government bonds. They will then have a legalized money aristocracy. The farmers, mechanics, merchants, and wealth-producing classes generally might with equal justice ask that their property, products, and labor should be exempt from all taxes. But, should they make this demand, what a howl the bankers, brokers, usurers, and the professional politicians and sensation newspapers in the interest of this money aristocracy would raise! They would brand it as repudiation. And what is the exemption from taxes of your bonds, bearing bankrupting rates of interest, and your twenty per cent. bank dividends but legalized repudiation? These laws or schemes, taken together, give the one twentieth the power to rob the other nineteen twentieths of the surplus products of all their labor and talents; and any system that authorizes and empowers one class to take from another class the fruits of their labor and talents without equivalent is practical slavery. I care not what it is called. When you deprive a man of the right to the enjoyment of the fruits of his labor and talents, there is no other right which he can long maintain. The continual and pressing wants of his physical nature will soon reduce him to abject slavery; and what is true of the individual is true of the nation. I find in the "American Conflict," by Horace Greeley, Esq., the following extract from Roman history, which I think worthy of being repeated in this connection:

"The first man who ever imbibed the delusion that it was more advantageous for him or any human being to procure whatever his necessities or appetite required by address and scheming than by honest work, by the unrequited rather than the fairly and faithfully recompensed toil of his fellow-creatures, was in essence and at heart a slaveholder, and only awaited opportunity to become one in deed and practice. It is none the less true, however, that ancient civilization, in its various national developments, was habitually corrupted, debauched, and ultimately ruined by slavery, which divided society horizontally into a small caste of the wealthy, educated, refined, and independent, and a hungry, sensual, thriftless, and worthless populace, rendered impossible the preservation of republican liberty and civilized equality, even among the nominally free. Diogenes with his lantern might have vainly looked through many a long day among the followers of Marius or Cataline or Caesar for a specimen of the poor, but virtuous and self-respecting Roman citizens of the days of Cincinnatus or even of Regulus."

I am persuaded that a thorough investigation and a careful examination into all the provisions of these laws will convince any intelligent, disinterested mind that, under their operation, labor cannot be properly rewarded; that the well-to-do farmers, mechanics, merchants, and others will soon be reduced to the present status of common laborers, and those who now earn their bread by daily toil to a state of positive servitude. I assert, without fear of successful contradiction, that an investment of a \$1,000,000 under these laws will yield a larger net income than a like amount invested in lands and slaves, employed in raising cotton or sugar, did in the South in the palmiest days of the oligarchy; and it was its commercial or economical value, in other words its profitability, that maintained the institution of slavery in the South. Thus, instead of materially bettering the condition of the poor African, we propose to nationalize slavery by unwise and unjust legislation in the institution of money, and imposing on the industrial, wealth-producing classes onerous and unnecessary burdens for the benefit of a privileged class.

Prominent among the objects for which Governments are instituted is the protection of life and property; it is then but even justice that each should share its rightful proportion of the burdens and sacrifices necessary for its support. Labor has, in the late struggle for the maintenance of the Government, fought the battles, furnished the food, clothing, arms, and munitions of war, with the means of transportation. In a word, the industrial classes performed their whole duty to the Government.

Now, let us see how money or non-producing capital, which is protected by the laws

equally with labor, fulfilled its obligations to the Government. At the commencement of the rebellion money was abundant in our large commercial centers at from four to five per cent. on first-class securities. The first demand made by the Government was for a loan of some \$8,000,000, for which it offered its bonds, bearing six per cent. interest, which, if my memory serves me right, was bid for at about eighty cents on the dollar, equal to seven and one half per cent. And the so-called capitalists went on increasing in their demands and warring on the credit of the Government until they got the rate of interest up to nine per cent. on the money of trade on the Government securities, and the bonds exempt from State and municipal taxes; and when in its extremity the Government was compelled to resort to the issue of Treasury notes, even this necessary and just measure met with their opposition. They forbade Congress making the Treasury notes a legal tender for the payment of the interest on the bonds, and nothing but their fears prevented the entire defeat of the measure.

Thus it will be seen that money has not only been exempt from the sacrifices that labor and human life have been subjected to, but, on the contrary, its value, and consequently its power, over property and labor has been doubled by the rebellion. And this, too, without rendering the Government or people any service whatever. If there had not been a bank note or gold dollar in the nation at the commencement of the war we should have got along infinitely better financially than we have. Gold and its worshipers have waged a continual war against the credit of the Government during all our troubles, and it is to-day of no more use to us as money than if every ounce of it was still in the California mines. And as for bank notes, they have been and are a fraud upon the rights of labor; no matter whether issued under State or national authority, their character is the same; and every true and loyal man prefers the plighted faith of the nation in the shape of legal-tender Treasury notes. This is the only money which has been truly loyal, and to it we are entirely indebted for our financial success. The soldiers and producers have always been willing to accept it for their services and supplies, and these are the classes that have defended and sustained the Government and upon whom the future hopes of the Republic depend. It is then the duty of the Government to protect the rights of these, its real supporters, rather than become an instrument in the hands of a few bankers and usurers for their oppression and degradation. If we add to the Government expenditures proper the payment of the debts incurred by States, counties, cities, and towns for war purposes, the sum will not fall below \$400,000,000 annually, which will equal two per cent. on the entire national wealth. And the taxes for State and municipal purposes will be equal to at least three per cent. more; and it is but just that, as the Government bonds are not subject to tax for State and municipal purposes, they should be subjected to a higher tax by the Government than other property not so exempt; and the bill only contemplates for this purpose the imposition of what would be equal to one per cent. of the principal of the bond, which is only one third of the amount paid on other property.

Much, very much, remains to be said upon these very important subjects of legislation. But sufficient, I think, has been presented to convince any mind open to conviction that our monetary and revenue systems are founded on a wrong basis and work great injustice to the wealth-producing classes; that our falsely constituted monetary system is the monopoly of all monopolies; that railroad and other kindred monopolies are but a means by which this power despoils the industrial classes of their productions; that it is this which renders necessary our so-called protective, but in reality oppressive, tariff laws; that emancipation itself will be shorn of one of the principal benefits it

should have conferred on the freedman, that of enjoying the product of his labor and talents; that the exemption of the Government securities, or any other species of productive property, from its equitable proportion of the burdens necessary for the maintenance of the Government, is at best but legalized repudiation and a step toward the establishment of a legal aristocracy; that if this chief of monopolies be stricken down these and all other systems of oppression will fall with it.

Money being necessary to facilitate the exchange of property, and the collection of the revenue being indispensable to the maintenance of the Government, it is not enough to show that the present systems are wrong, but it becomes equally important to present a better plan for the attainment of these ends, which I will now proceed to do.

Having shown the true nature of money and the functions it performs in the exchange of property and the payment of debts, and provided for the removal of the obstructions in the way of its institution on true principles, I come now to present what seems to be the true American monetary system, and to point out some of the more important advantages that would result to the Government and wealth-producing classes from its adoption. I will state in general way what is claimed for this system:

1. The circulating medium furnished by it will be adapted to the genius of our democratic republican institutions, in harmony with the letter and spirit of the Constitution, and suited to the wants of the Government and business interests of the nation.

2. It will be under the direct control of the sovereign people, who produce the values it is designed to represent, measure, and exchange, with the power vested in Congress to control its value, and consequently its power over labor and property, by regulating the rate of interest in the Government bonds into which it is made convertible at the option of the holder. With a just rate of interest established on the Government bonds sufficiently below the rate of increase in the national wealth as to make a fair distribution of the product of labor between non-producing capital and producing labor, laborers will receive an equitable proportion of their productions, and capital will likewise receive a just reward for its use.

3. It will be self-adjusting, for should money at any time become scarce and the rate of interest in legitimate transactions rise above the rate paid on the Government securities the bonds will be converted into money. On the contrary, should it become too abundant and the rate of interest fall below the rate paid on the Government bonds, the money would be converted into interest-bearing bonds to the extent necessary to restore the proper equilibrium; thus preventing the high and fluctuating rates of interest and the violent expansions and contractions of the currency that have been the cause of the monetary crises and commercial revolutions which have heretofore so frequently prostrated all branches of productive industry and paralyzed legitimate enterprise, deranged the commercial operations of the nation, lowered the standard of commercial integrity, and made us little less than a nation of gamblers. These revolutions are but the protest of labor against demands it cannot meet and burdens too grievous to be borne.

4. It will have equal legal powers, a uniform value, and perform all the functions of money throughout the entire jurisdiction of the Government.

5. It will discharge the national debt, interest and principal, in twenty-four years without the imposition of one farthing of taxes of any kind or nature whatever; and in addition thereto it will relieve the wealth-producing classes or tax-payers of an annual burden of over \$600,000,000, now unnecessarily imposed on them by the present iniquitous system.

6. It will encourage and foster legitimate enterprise and productive industry in all departments of useful occupation more than all

the so-called protective tariff laws that have ever been enacted. Under its operation commercial transactions can be conducted on an honorable and safe basis.

7. It will be simple in its workings, just in its bearings on all classes and interests. Each individual will have an interest in it proportionate to the amount of the products of his labor and talents, and a commensurate influence in its control. Requiring no aid from the bankers and financiers for its establishment or conduct, it will be emphatically the people's plan.

If the fifth and sixth propositions can be demonstrated, I think it will be admitted that the first, second, third, fourth, and seventh, must follow as a logical consequence.

I will, then, first exhibit the effects of its practical workings in the payment of the national debt. In determining this question, it becomes necessary to fix upon the probable amount of money required to make the exchanges and transact the business of the nation.

It must be borne in mind that it will take a much larger amount of money, in which all would have the fullest confidence, than of the miserable apology we have had, and always must have, under any system of banking, in the shape of bank notes or fallacious promises to pay money, in which none ever had or ought to have confidence.

1. A much larger amount of this legal money will be retained by farmers, mechanics, and others to meet future obligations than of a bank currency issued under any system.

2. Under this system, labor will receive a better compensation, and most of the ordinary business transactions would be for cash.

3. The intelligence and enterprise of the people, our unbounded natural resources in all that pertains to individual prosperity and national independence, and the extent of territory over which the money would circulate, must create a demand for a larger amount of circulation, *per capita*, than in any of the commercial nations of Europe.

I have the authority of H. C. Carey, Esq., who is among our ablest political economists, for saying that the circulation of England is about twenty-five dollars *per capita* and that of France over thirty dollars *per capita*.

I think it therefore safe to conclude that we would require as much as forty dollars *per capita*. The population of the United States is at this time as much as thirty-six millions, which, at forty dollars each, would require a circulation of \$1,440,000,000. Estimating the national debt at \$2,600,000,000, and deducting the amount that would circulate as money and bear no interest, would leave, as the interest-bearing portion of the debt, \$1,160,000,000.

I have already shown that if agriculture be taken as the basis of the national wealth, and the division of products between landlord and tenant adopted as the standard of distribution between non-producing capital and labor, in all other departments of legitimate business the rate of interest on money should be but one and one ninth per cent. per annum. The adoption of this rate at once might be thought too violent a change from the present enormous rate. I will therefore show the result by computing the interest on the debt at the two several rates of two and a half and three per cent. per annum. The former rate would only give to the wealth-producing classes one fourth of their surplus products, and the latter but one tenth; and it is the highest rate that can be paid without taking from the industrial classes the property they already possess.

In order that money may be a true measure of values and distribute productions to producers equitably and uniformly it must be increased in volume in a like ratio with the increase in the population, wealth, and business of the nation. I have shown that the increase in the national wealth has averaged three and one third per cent. per annum, and will estimate the increase in the circulating medium at this rate.

RESULT WITH INTEREST COMPUTED AT TWO AND A HALF PER CENT.

According to the premises assumed the interest-bearing portion of the national debt, after deducting the amount that would circulate as money, would be \$1,160,000,000. Interest first year \$29,000,000; total principal and interest at the end of the first year, \$1,189,000,000. Increase on \$1,140,000,000 currency for first year \$48,000,000, which, deducted from the total debt, would leave \$1,141,000,000, the interest on which for the second year would be \$28,525,000; total interest and principal at the end of second year \$1,169,525,000. Add to the currency the increase for the first year, and the amount will be \$1,488,000,000; the increase upon which for the second year would be \$49,600,000; this deducted from the amount of the debt at the end of the second year would leave to bear interest for the third year \$1,119,925,000. Add to the currency the increase for the second year, and the amount will be \$1,537,600. This operation continued will in twenty-two years and eight months (very nearly) absorb the entire interest-bearing debt, and leave at the end of that period in circulation \$3,023,290,000 of currency, which will bear the same proportion to the population, wealth, and business of the nation that the \$1,440,000,000 does at the present time, and to keep values uniform will always be wanted for a circulating medium, and require to be increased thereafter in a like ratio with the increase in national wealth.

RESULT WITH INTEREST ON THE NATIONAL DEBT COMPUTED AT THREE PER CENT. PER ANNUM.

The increase in the currency will be the same as in the former case. Interest on the debt for first year, \$34,800,000; total interest and principal at the end of first year \$1,194,800,000; deduct the increase in the currency for first year \$48,000,000, will leave interest-bearing debt at end of first year \$1,146,800,000; interest on this sum for second year \$34,404,000; total interest and principal of debt at the end of second year \$1,181,204,000; deduct increase in currency for second year \$49,600,000, leaving the interest-bearing debt at the end of the second year \$1,131,604,000.

If this operation be continued as in the former case, the interest-bearing debt will be absorbed into the circulating medium of the country in twenty-four years, (nearly,) and will leave as the circulating medium \$3,101,243,000, at the end of that time, which will bear the same proportion to the population, wealth, and business of the nation that \$1,440,000,000 does at the present time; and which, in order to maintain the proper relation of the currency to the population and business, must be increased thereafter in a like ratio with the increase in the national wealth.

This increase for the first year after the liquidation of the debt would amount to \$105,868,000, a sum sufficient to defray the major part of the ordinary current expenditures of the Government.

Thus it is demonstrated that the national debt, which under the present policy is bearing so heavily on the wealth-producing classes, and which threatens to hang like an incubus on them for generations to come, would by the system presented in the bill at once cease to be a charge, and would be liquidated without the imposition of one farthing of tax in less than a quarter of a century.

I come now to present some of the additional advantages the adoption of this system would confer on the wealth-producing classes or tax-payers. I have estimated that these classes were, under the present system, paying to non-producing capital rent or interest on three fifths of the national wealth or \$12,000,000,000, and that the rate of interest averaged as much as eight per cent. annually. If the system here proposed be adopted, the \$2,600,000,000 would cease to be a charge on the tax-payers, and must therefore be deducted from the \$12,000,000,000 upon which the industrial classes are now paying interest or rent, which would leave \$9,400,000,000 upon which they would have to

pay interest or rent. Now, if this system be adopted, and the rate of interest on the Government indebtedness be fixed at three per cent., the account between non-producing capital and productive industry would stand thus:

\$12,000,000,000 at 8 per cent.....	\$960,000,000
9,400,000,000 at 3 per cent.....	282,000,000

Net annual saving to the tax-payers.....	678,000,000
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With the rate of interest on the Government bonds at two and a half per cent., the result would be thus:

\$12,000,000,000 at 8 per cent.....	960,000,000
9,400,000,000 at 2½ per cent.....	235,000,000

Net annual saving to the industrial wealth-producing class.....	\$725,000,000
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With the rate of interest at three per cent. the daily saving would amount to \$1,857,534, and at two and a half per cent. it would be \$1,986,300. The smallest of these annual savings would, in a few years, build the necessary furnaces, mills, and factories, to supply our wants as well as to construct all needful lines of transit. The wisdom of the policy of giving to labor all necessary protection in the development of our natural resources to the extent, at least, of supplying our own wants, is too manifest to admit of argument. But I think a greater delusion never entered the mind of man than that the effect of our so-called protective tariff laws is to encourage productive industry and protect our labor against the pauper-labor of Europe. Their effect is directly the opposite. They protect our aristocratic capital in the shape of fallacious bank promises against the capital of Europe, support a shoddy banking system, and build up a cotton and iron-mill aristocracy, and burden and oppress the wealth-producing classes.

The English Government securities bear three per cent. interest per annum, and with money instituted on true principles no sound reason can be given why it should bear a higher rate in the United States.

I have good authority for saying that with capital at three per cent., iron (an article of prime necessity) can be manufactured for the supply of the Northwest, at least from the ores of Lake Superior, Wisconsin, and Missouri, with the coals of Illinois, Chicago, St. Louis, and intermediate points in the coal basin in the valley of the Illinois river, without a fraction of protection beyond that afforded by the cost of transportation from Europe. And this I believe will be found true in other localities as well as other articles. We boast of our inexhaustible deposits of coal, iron, and other minerals, and their easiness of access; of our water-power and other advantages and facilities for manufacturing; and such indeed is the quality, abundance, and accessibility of our ores and coal that in the localities named it does not require over two thirds of the labor to produce a ton of iron that it does in England, where it is manufactured from lean ores dug from thin veins hundreds of feet below the earth's surface. Yet, with all these advantages we are told that labor cannot be employed in this important branch of industry without increased rates of protection.

The foregoing figures will, I think, explain this anomaly. I think they also show very clearly that the wrongs and oppressions which the industrial classes are suffering are caused by the unfair distribution of the productions of labor between non-producing capital and productive labor, resulting from the institution of money with such power over labor and property that even a prohibitory tariff could not afford them any general, permanent relief, for the reason that it would not reach and remove the cause. But with money instituted upon true principles and a just rate per cent. established for its use, laborers would receive an equitable proportion of their productions and capital a just reward for its use. All branches of productive industry would be quickened; capital would seek investment wherever there was a reasonable prospect of a fair return for its use. Instead of shipping the raw material across the continent, and even across the ocean, as we now do, manufactories of all kinds would

be established wherever natural advantages and facilities offer, and the producer and the consumer brought side by side, and their exchanges made without the aid of middle men and extortionate carriers. New and competing lines of transit would be constructed wherever there was a prospect for a fair return on the investment. Thus the carrying monopolies, which are literally robbing the producing classes, would be destroyed.

The people could regulate the currency to suit themselves, and so few would be the articles needed, and so small the amount of protection required, that no serious objection would ever be made to it by any section or party. The vexed questions of the currency and protection would be very nearly entirely removed from our national councils, and the business of the nation would not, as under the present system, be subject to the control of a few avaricious bankers and the whims of some utopian financier who may chance to be called to the Secretaryship of the Treasury of the United States.

Here I propose to rest the argument, believing that sufficient has been presented to convince the most strenuous advocate of protection that the adoption of the monetary system proposed in the bill will do more to protect labor, foster and encourage productive industry and legitimate enterprises in the development of our natural resources than all the protective tariff laws that ever have or can be enacted; that the present wrongly constituted monetary system is the chief of monopolies, and its overthrow will cause the downfall of all railroad and other kindred monopolies.

I will now present and point out the fallacies of some of the objections that may be made to the proposed plan.

It may be objected that I have estimated the amount of the circulating medium necessary to make the exchanges of the property and products of the nation too high. To this I reply, the amount of currency needed by a nation is in proportion to its production; and as the adoption of this system would take away the occupation of the bankers, brokers, and speculators, they would be compelled to earn their living by honest industry, which would add them to the industrial classes, the direct effect of which would be to increase production; and the impetus given to enterprise by the establishment of a just rate of interest on money would require a much larger amount *per capita* than when, as under the present system, it is controlled and doled out to the people by a few selfish bankers. To this addition to the wealth-producing classes must be added the army of clerks, assessors, collectors, inspectors, and other officers and agents employed by the Government in the collection of the internal revenue; for under the operation of this system the Government expenditures would be so reduced that the funds necessary to defray the current expenses could be collected mainly from custom duties and the sale of the public domain. Any deficit that might occur could be assessed on the several States and collected by them with the employment of but little additional force beyond that required in the collection of the revenue for State purposes. Besides, the emancipation of labor from the thralldom imposed by the present false system, with the inducements offered by our agricultural and mineral resources and other advantages and facilities, would draw from the old world thousands of skilled miners, artisans, and others, which, I think, would soon create a demand for a greater rather than a less amount than I have estimated, and our debt would be absorbed into the currency in a shorter time than I have named.

It may, and probably will, be said that if interest is reduced to a just rate capitalists will emigrate and take their capital with them. Suppose all the bankers, usurers, and other drones, who live upon the proceeds of the industrial classes, should leave and take with them every gold dollar and bank in the nation, it would not injure the Government or wealth-producing

classes. The Government could issue legal-tender Treasury notes to make the necessary exchanges of property and for the performance of all the other functions of money. Be it remembered that these mis-called capitalists cannot take with them the houses labor has built, the furnaces and factories it has created, the farms it has cleared, the mines it has opened, the railroads and canals it has constructed, and the other improvements it has made. Instead of a calamity, their departure would prove a positive blessing to the industrial classes, for it would relieve them from the cost of their maintenance.

It may be argued that if this system is adopted money will become so plenty that it will be valueless. This argument has no foundation in fact, for the money issued under it, being convertible into Government stocks, bearing a just rate of interest, will have a permanent and uniform value.

Again, it may be said that to lower the rate of interest on money will raise the price of all the products of labor, and consequently will be oppressive to labor.

This argument is equally groundless; for if the products of labor are high labor will be high also. To keep down prices by raising the rate of interest on money is simply to rob labor for the benefit of capital. By raising the rate of interest on money you increase the gains of the capitalists and decrease the value of labor.

Another and favorite objection that the bankers and their allies will make to this or any measure looking to the emancipation of labor from the thralldom imposed upon it by their false system is, that since money never has been instituted on a just principle it never can be. This is the argument used by kings and despots to prove that they have a divine right to rule, and that a democratic or republican Government is a trespass against divine authority, and never will be permitted to stand except for a brief period of time.

It has just as much force and reason in the former case as in the latter.

To say that the people will not accept in exchange for the products of their labor legal-tender Treasury notes, issued as provided in the bill, is to say that they will repudiate the Government; and to say they have not the intelligence and virtue necessary to properly regulate the currency, under the provisions of the bill, is to deny that they have the capacity for self-government.

I have shown, and I think clearly proven—

1. That the powers of money are legal and entirely independent of its material—its powers as money being derived from the law instituting it and making it a legal tender; that the power to make money and regulate its value is an essential attribute of sovereignty; and that it is the medium of distribution to non-producing capital and producing labor, the rate of interest determining what proportion of the products of labor shall be awarded to laborers for their productions and what to capital for its use.

2. That our present monetary system is founded on the aristocratic idea of government, and is inimical to and subversive of our democratic republican institutions. If continued in operation the wealth must be rapidly centralized in the hands of the few non-producers; the wealth-producing classes oppressed, degraded, and ultimately reduced to a state of positive servitude, democracy prove a failure, and universal suffrage a sham.

3. That it has been demonstrated with equal clearness that the monetary system contemplated by the bill is founded on the democratic idea of government, adapted to the genius of our free institutions, and in harmony with the letter and spirit of the Constitution; that under its operation labor would be properly compensated, the wealth diffused and distributed according to the labor or service performed in its production, democracy maintained, and universal suffrage rendered a universal blessing.

Having pointed out and, as I believe, fully sustained its superiority in all respects in an



economical point of view, it only remains to show its advantages in a political point of view.

It would restore commercial relations between all parts of our common country; develop and harmonize that mutuality of interest which naturally exists between the different sections of our extended domain, growing out of varieties of climate and productions which by unwise legislation has been made to appear adverse and conflicting; it would interest each citizen pecuniarily in the preservation and perpetuity of the Government. Dispensing its blessings impartially to all, it would make us a homogeneous family of States—one in interest, one in sympathy, and one in purpose. United by these strong ties, our Union would stand proof alike against the machinations of enemies within and the assault of foes from without.

Pass the bill, adopt this system, separate the races, colonize the African, elect General Grant President in 1868, then peace, prosperity, and happiness will reign over our glorious country.

Mr. KOONTZ obtained the floor, but gave way to

Mr. HENDERSON, who moved that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ASHLEY, of Ohio: The memorial of V. Dell, Esq., chairman Republican State Committee of Arkansas, and J. M. Johnson and M. L. Stephenson, delegates from Republican State convention of Arkansas, praying Congress for the passage of an act authorizing the loyal citizens of Arkansas to organize a constitutional State government in said State.

By Mr. BALDWIN: The petition of Buck Brothers, and others, for relief from the five per cent. tax on edge tools and hardware.

By Mr. BANKS: The memorial of Anthony P. Zimandy, for compensation for military services rendered during the years of 1863 and 1864 in the West and Southwest, with the certificates of superior officers and evidences of service.

Also, the memorial of J. & R. Murphy, employes and manufacturers of cutlery and skates, Mansfield, Massachusetts; F. J. Alexander, and others, of Waltham, Massachusetts, manufacturers of clothes-wringers; George Lamb, and others, hardware manufacturers, Lawrence, Massachusetts, for the repeal of the five per cent. tax on sales of manufactures.

Also, the memorial of James Riddle, a private in the eighth regiment United States infantry, respecting his discharge, to be included within an act directing the Commissioner of Pensions to place his name on the roll of invalid pensions.

Also, the petition of John Fales, company E, third regiment artillery, for the passage of act granting him the benefit of the bounty law, of which he is deprived by a difference of three days in the time of his enlistment from the time when it was carried.

By Mr. BERGEN: Five several memorials of miscellaneous hardware manufacturers and operators of Brooklyn and Williamsburg, New York, asking for the repeal of the internal tax on such manufacture.

By Mr. BROMWELL: Two petitions of citizens of Onarga, Illinois; also one of citizens of Decatur, Illinois, praying Congress not to pass any law diminishing the volume of the currency, or any law compelling banks wherever located to redeem their notes in New York.

By Mr. CLARKE, of Ohio: The petition of S. D. Rice, and others, citizens of Brown county, Ohio, praying for the passage of the bill allowing extra bounty of eight and one third dollars per month to soldiers.

By Mr. CONKLING: The memorial of George H. Cramer, president of Rensselaer and Saratoga Railroad Company, asking reduction of duty on railroad iron.

By Mr. CULLOM: A petition signed by numerous citizens of Springfield, Illinois, asking Congress to change the law in relation to tax on cigars, so that the tax shall be specific and not more than five dollars per thousand on all domestic cigars, &c.

By Mr. DAWES: The memorial of E. T. Perry & Co., and employes, manufacturers of tacks in Massachusetts, for a repeal of the manufacturers' tax.

By Mr. DEMING: The memorial of the hardware manufacturers of Talsville, Connecticut, and of the William Rogers manufacturing company of Hartford, Connecticut, for the repeal of the tax of five per cent. upon the gross amount of the sales of manufactures.

By Mr. DRIGGS: The memorial of R. E. Harris, Benjamin Lentz, and others, of Limestone county, Alabama, praying Congress to impeach Andrew Johnson; also, of citizens of Matagorda, Texas, for the same object.

Also, the petition of T. D. Davery, and 40 others, citizens of Shiawassee county, Michigan, praying Congress not to pass any law for the curtailment of the national currency.

Also, the petition of William Henderson, and 38

others, citizens of Flint, Michigan, for the same object.

By Mr. ELIOT: The petition of Simeon Jones, and others, late officers of the Army and Navy of the United States, praying for an amendment of the act of June 21, 1866, concerning homesteads.

By Mr. FARNSWORTH: The petition of Charles Taylor, collector of customs at Indianola, Texas, for relief.

By Mr. HALE: Five petitions of officers of the United States Army, praying the restoration of the commutation value of the Army ration to fifty cents.

Also, the petition of Hon. Orange Ferriss, and others, citizens of Warren county, New York, praying for the establishment of duties on wool and woolsens at the rates proposed by the bill which passed the House of Representatives at its last session.

By Mr. HAYES: The petition of 30 business men, citizens of Cincinnati and Hamilton county, against further curtailment of the currency, and also against compelling the national banks to redeem their notes in New York.

Also, the petition of 400 journeymen cigar-makers, and manufacturers of cigars of Cincinnati, Ohio, in favor of a change in the present system of taxation on cigars; in favor of a specific tax of five per cent. per thousand on domestic cigars, retaining the present tariff on imported cigars, and selling stamps at five dollars per thousand.

By Mr. HUBBARD, of Connecticut: The memorial of Hotchkiss's Sons, and employes, manufacturers of hardware at Bridgeport, Connecticut.

Also, the memorial of the Greenwood Sythe Company of New Hartford, Connecticut.

Also, the memorial of American Shovel Company and Connecticut File Works, and operatives, of Bridgeport, Connecticut.

By Mr. HUNTER: The memorial of William G. Wren, in regard to the manufacture of gas from crude petroleum.

Also, the petition and memorial of Walter A. Peck, for relief for damage to his property and business at New Orleans by Major General B. F. Butler.

By Mr. MOORHEAD: The petition of citizens of Pittsburg, Pennsylvania, against any curtailment of the currency.

By Mr. PAINE: The petition of N. Simon, and others, manufacturers of cigars in Milwaukee, Wisconsin, for a modification of tax on cigars.

By Mr. RADFORD: The memorial of S. G. Howe & Co., and employes and others, file manufacturers of Sing Sing, New York, for repeal of five per cent. manufacturers' tax.

By Mr. RICE, of Massachusetts: The memorial of the hardware manufacturers of Roxbury, Massachusetts, for relief from the five per cent. tax on their manufactures.

By Mr. STOKES: The petition of Joseph W. Peace and 9 others, of Pikeville, Bledsoe county, East Tennessee, and 83 from other counties, for a constitutional amendment securing equality of political rights without distinction of race or color.

#### NOTICE OF A JOINT RESOLUTION.

By Mr. HILL: A joint resolution suspending the further retirement or cancellation of United States legal-tender Treasury notes for two years.

#### IN SENATE.

SATURDAY, January 19, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the requirements of the fifth section of the act of April 21, 1868, a list of the contracts made by the officers and agents of the engineer department during the year 1866. The communication and accompanying papers were referred to the Committee on Military Affairs and the Militia.

#### PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented resolutions of the Windsor County Farmers' Club of Vermont, setting forth the interests of the American wool-growers, and asking Congress to furnish to them, as one of the great interests of the country, adequate and reasonable protection; which were referred to the Committee on Finance.

He also presented a petition of citizens of Hinesburg, Vermont, praying for further legislation in favor of the wool-growing interests of the country; which was referred to the Committee on Finance.

Mr. MORGAN presented a petition of property-holders on I street north, between Fourteenth and Sixteenth streets west, Washington, District of Columbia, praying for an amendment of the law in relation to sewerage, so that

property fronting on street improvements may be moderately taxed, and the payment of all such taxes be made in installments at reasonable periods within two years; which was referred to the Committee on the District of Columbia.

He also presented a memorial of underwriters, merchants, manufacturers, and ship-owners of the city of New York, remonstrating against the section in the new tariff bill authorizing the sale at auction of merchandise damaged on the voyage over twenty-five per cent.; which was ordered to lie on the table.

He also presented six petitions of citizens of New York, praying for the imposition of an increased duty on all foreign wool; which were ordered to lie on the table.

Mr. HARRIS presented five petitions of citizens of New York, praying for the imposition of an increased duty on all foreign wool; which were ordered to lie on the table.

Mr. LANE presented a memorial of citizens of Indiana, remonstrating against any reduction in the national currency, and praying for a change in the national banking law so that the law of each State on the subject of interest and usury shall apply to national banks; which was referred to the Committee on Finance.

Mr. BROWN presented a petition of citizens of Missouri, remonstrating against any reduction of the national currency, and against compelling national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. BROWN. I also present a petition from certain ladies respectfully asking for an amendment of the Constitution that shall prohibit the several States from disfranchising any of their citizens on the ground of sex. In making their demand for suffrage, they say that they wish to call the attention of Congress to the fact that they represent fifteen million people—one half the entire population of the country—intelligent, virtuous, native-born American citizens, and yet stand outside the pale of political recognition. The petitioners further state that the Constitution classes them as "free people," and counts them whole persons in the basis of representation; and yet they are governed without their consent, compelled to pay taxes without appeal, and punished for violations of law without choice of judge or juror. They further declare that the experience of all ages, the declarations of the fathers, the statute laws of our own day, and the fearful revolution through which we have just passed, all prove the uncertain tenure of life, liberty, and property so long as the ballot, the only weapon of self-protection, is not in the hand of every citizen. Therefore, as we are now amending the Constitution, and, in harmony with advancing civilization, placing new safeguards around the individual rights of four million emancipated slaves, the petitioners ask Congress to extend the right of suffrage to woman—the only class of disfranchised citizens—and thus fulfill our constitutional obligation "to guaranty to every State in the Union a republican form of government." As all partial application of republican principles must ever breed a complicated legislation as well as a discontented people, the petitioners further pray Congress, in order to simplify the machinery of Government and insure domestic tranquility, to legislate hereafter for persons, citizens, tax-payers, and not for class or caste. I ask that this petition be laid upon the table. It was so ordered.

Mr. ANTHONY presented a memorial of citizens of Rhode Island, remonstrating against any curtailment of the national currency, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. COWAN presented a memorial of citizens of Pennsylvania, remonstrating against any curtailment of the national currency, and against compelling all national banks to redeem their notes in New York, or prohibiting

them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

He also presented a petition of manufacturers of cotton and woolen fabrics, praying for certain modifications of the internal revenue laws by removing the five per cent. tax on goods, the allowance of a drawback of three cents per pound on cotton to be refunded to the manufacturer, and the imposition of a tax on all luxuries which are not produced in the United States; which was referred to the Committee on Finance.

Mr. WILSON presented three petitions of officers of the Army and the Marine corps of the United States, praying for an increase of their pay by restoring the commutation of the Army ration to fifty cents; which were referred to the Committee on Military Affairs and the Militia.

Mr. EDMUNDS presented a petition of William Joslin, praying that he may be remunerated for certain United States bonds destroyed by fire on the 10th of February, 1866; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was recommitting the bill (S. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia, reported it without amendment.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred the resolution of the House of Representatives proposing an additional joint rule for the appointment of a joint Committee on Public Buildings and Grounds, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Buildings and Grounds; which was agreed to.

Mr. LANE, from the Committee on Pensions, to whom was referred the petition of Kennedy O'Brien, late a private in company K, fifth Indiana volunteers, praying for an increase of pension, submitted a report accompanied by a bill (S. No. 513) for the relief of Kennedy O'Brien. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Patrick Meehan, of Decatur, Indiana, praying to be allowed a pension, submitted a report accompanied by a bill (S. No. 513) granting a pension to Patrick Meehan. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles Appleton, late of the United States Army, praying for an increase of pension, submitted a report accompanied by a bill (S. No. 514) for the relief of Charles Appleton. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Ernestine Becker, widow of Leopold Becker, late captain of company D, twenty-fourth regiment Illinois infantry, praying to be allowed a pension, submitted a report accompanied by a bill (S. No. 515) granting a pension to Mrs. Ernestine Becker. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jacob C. Wentworth, of Somersworth, New Hampshire, praying that a pension may be granted him on account of a disability incurred while a landsman on board the United States frigate Colorado, submitted an adverse report, and asked to be discharged from the further consideration of the subject; which was agreed to.

MRS. MARY E. FINNEY.

Mr. EDMUNDS. I am instructed by the Committee on Pensions, to whom was referred

the petition of Mrs. Mary E. Finney, praying to be allowed the three months' extra pay due her late husband, Solon H. Finney, a lieutenant in the sixth regiment Michigan cavalry, to report a bill for her relief; and I ask that the bill may be considered at this time and put upon its passage, if there be no objection.

By unanimous consent the bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of first lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry, was read twice and considered as in Committee of the Whole. It directs the payment to her of the three months' extra pay proper which her husband by law would have been entitled to receive had he been mustered out of service after April 9, 1865, he having died of wounds received in battle on the 9th of April, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 516) additional to an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast, by the northern route; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 517) to reimburse S. B. Wallace and others expenses incurred by them for the suppression of Indian hostilities; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. STEWART. I desire also to present certain vouchers and papers explanatory of that bill, and ask to have them referred to the same committee.

They were so referred.

#### COLORED SCHOOLS IN THE DISTRICT.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire whether or not the corporation of Washington has conformed to the requirements of the several acts of Congress in relation to the support of colored schools in the cities of Washington and Georgetown, District of Columbia; and that said committee be instructed to report the facts, and recommend such action as may be deemed necessary and proper; also, that said committee have authority to call for persons and papers.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 140) to restore Lieutenant Joseph P. Fyffe to his grade in the active service of the Navy;

A bill (H. R. No. 710) to pay and discharge certain debts and expenditures to the corporation of the city of Washington;

A bill (H. R. No. 843) for the relief of Rufus C. Spalding, paymaster in the United States Navy;

A joint resolution (H. R. No. 175) to audit and pay the claim of Tuller & Fisher; and

A joint resolution (H. R. No. 216) for the restoration of Lieutenant Commander S. L. Breese, United States Navy, to the active list from the retired list.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 311) for the relief of James Pool; and it was thereupon signed by the President *pro tempore* of the Senate.

#### ORDER OF BUSINESS.

Mr. HARRIS. I move that the Senate proceed to the consideration of Senate bill, No. 438.

Mr. WADE. I hope not. I hope we shall proceed to the consideration of the unfinished

business of yesterday; that is, the bill to authorize the extension of a branch of the Baltimore and Potomac railroad into this city. I suppose it will not take long to dispose of it, and there is a reason why it should be acted upon at once. It is the unfinished business. I do not know what bill the Senator proposes to call up; but there is a reason why this one should be considered and disposed of.

Mr. HARRIS. I have a small bill that I have been desirous of having action upon all this session, but still I will not press it against the Senator's wishes.

Mr. SUMNER. I should like to call up the resolution that I offered yesterday, which is merely asking for information, and have it acted upon.

Mr. HARRIS. The bill that I have moved to take up is a bill for the relief of the heirs of John E. Bouligny. However, I will waive my motion until the bill of the Senator from Ohio is disposed of.

The PRESIDENT *pro tempore*. The motion of the Senator from New York is withdrawn.

Mr. WADE. I move to proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is House bill No. 598, being the bankrupt bill. Senators in favor of the motion to proceed to the consideration of the unfinished business, being the bankrupt bill, will say "ay;" those opposed, "no."

The motion was agreed to.

The Secretary read the title of the bill as follows: A bill to establish a uniform system of bankruptcy throughout the United States.

Mr. WADE. I do not know how that bill comes up in preference to this other bill; but I will move to postpone all prior orders and take up House bill No. 388. I do not suppose it will take long to dispose of it.

Mr. SHEEMAN. I suppose the misapprehension grew out of my colleague moving to take up the unfinished business of yesterday instead of the unfinished business of yesterday's morning hour.

Mr. WADE. The unfinished business of the morning hour, as I understand, is the bill which I have in my hand, House bill No. 388.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio was, that the Senate proceed to the consideration of the unfinished business of yesterday, and the Chair put the motion. That bill is House bill No. 598, to establish a uniform system of bankruptcy throughout the United States.

Mr. WADE. Then, if there is anything in that point, I will move to amend the motion so as to proceed to the consideration of the unfinished business of the morning hour of yesterday.

The PRESIDENT *pro tempore*. Both motions were in order.

Mr. POLAND. I shall not object to the gentleman occupying the time until one o'clock.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate proceed to the consideration of the bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

Mr. LANE. I understood that the unfinished business of the morning hour was the bill in regard to the appointment of pension agents. The morning hour certainly expired when we were about to vote upon that bill.

Mr. WADE. The gentleman is mistaken. This bill was up last in the morning hour.

Mr. LANE. The morning hour expired when we were upon that pension bill according to my recollection.

The PRESIDENT *pro tempore*. The Senator from Ohio names this bill House bill No. 388, and the Chair states the question to the Senate as being the motion to take up this bill. Whether it be the unfinished business of the morning hour or not, the Senator from Ohio

makes the motion that the Senate proceed to its consideration. The motion is in order.

Mr. POLAND. I should like to inquire whether if this motion prevails and this bill is now taken up, it will interfere with the regular order at one o'clock, the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The unfinished business will come up under the rule at one o'clock.

Mr. POLAND. I have no objection, then.

#### BALTIMORE AND POTOMAC RAILROAD.

The motion of Mr. WADE was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

Mr. JOHNSON. Mr. President, I have not looked at the charter of this company granted by Maryland. I do not know that I ever saw it; if I did I certainly have not refreshed my recollection of its character lately; but I have been advised by some members of the Legislature that that charter was not intended to authorize the company incorporated under it to come into the District of Columbia at all. The purpose of the charter, as stated to me, was to give the company merely the power to make a road through the peninsula of Maryland, so as to connect with the southern route through Virginia, at Aquia creek or some adjoining place. The subject is now, I am told, under deliberation in the Legislature of Maryland.

Personally I have certainly no objection to grant every facility to enterprises of this description, particularly such as may benefit the regions of country of my own State through which the particular road will pass; but under the circumstances I submit to the honorable member from Ohio whether it will not be advisable to let the bill upon the table remain unacted upon until Maryland shall have acted upon the question of the charter which she has heretofore granted; for this bill, if we shall pass it, will be inoperative entirely, provided it shall turn out that the company which it authorizes to come into the District of Columbia, after striking the line which divides the District of Columbia from Maryland, has no authority to come up to that line. The bill does not propose, and I suppose the Senate would not authorize such a step if it was projected, to make the road throughout any portion of the Maryland territory.

Now, I repeat in the hearing of my friend from Ohio that I have not seen the charter of the Baltimore and Potomac Railroad Company, and in what I have said therefore I am acting upon the information which I have received from some members of the Legislature. Whether that information is well founded, I of course am not prepared to say. I should prefer, if the honorable member has no objection to it, that the matter should be postponed until Maryland shall have had an opportunity of being heard through her Legislature, or at any rate until I shall have an opportunity of looking at the charter. Maryland has an interest which may in her judgment render it improper to authorize this particular improvement. She has a very large interest as a stockholder in the Baltimore and Ohio Railroad Company, the main road: she has I believe an interest as a stockholder in the Washington Branch; but she has a deeper interest in the branch road, because she is entitled to a certain proportion of the passage money which that road may earn. If she refuses to authorize this company to come to the line of the District of Columbia, she may be governed by the opinion that it would very much interfere with the interest which she has in the two roads which I have mentioned.

The receipts into the Maryland treasury from the main stem of the Baltimore and Ohio road as a stockholder and from the branch amount to some two hundred and fifty or three hun-

dred thousand dollars, I forget the exact amount, but it is very considerable; and in the present state of her finances it is a matter of moment to her that she should not lose any portion of that revenue; and it may be that, however valuable this improvement shall turn out to be to the section through which it passes or to the country generally, she may not think this the time to authorize it if it has not been already authorized. If it has been authorized by the charter which she has passed, as the company has organized itself under that charter I believe, there will be then as between Maryland and the company a contract which no legislation upon her part could in any way affect; but whether that be the case or not is, as I am told, a subject under consideration in the Legislature now in session.

And in closing I merely repeat what I have said, that upon every ground of former association as well as of present association, speaking now only as a citizen of Maryland, I should rejoice in seeing the people of that part of the State who are to be benefited by this road receive that benefit if it can be done consistently with the interests of the entire State. I am not prepared to say whether that can be accomplished or not. If therefore my friend will permit the bill to lie on the table for a day or two, I shall offer no opposition to it unless I receive something in the nature of instruction, which in a case like this perhaps might govern me, although perhaps as instructions merely I should never be governed by the opinion of the Legislature. Except upon that contingency I shall offer no objection to the passage of this bill. I have always thought that the more those improvements are multiplied to any reasonable extent the better it is for the whole country.

Mr. WADE. Mr. President, this question has been long pending before Congress. I believe that during most of the long session last year it was pending before the Committee on the District of Columbia. The various interests concerned were heard before that committee on several occasions, and I believe that everything that can be said on the subject *pro and con* was said to the committee. The bill has been greatly delayed, and there are reasons why it should be passed upon as expeditiously as possible. There was a dispute before the committee, as is very natural in such cases. Those that represent and are interested in the Baltimore and Ohio Railroad Company of course do not wish to have another branch road, coming in competition with theirs, enter the city of Washington.

In 1853 the Legislature of Maryland granted a charter to this company to construct a railroad from Baltimore to some point on the Potomac river not far from Port Tobacco, but not defining exactly where it should run, and only prescribing the route in a general way; and they authorized that company to establish lateral branches of the road thus provided for, and gave them four years within which to commence and finish the road. The company did not commence the road within the time mentioned, and then the Legislature of Maryland granted them a further term of four years. Still the road was not constructed, and the Legislature lengthened out the time until 1869, and gave them until that period to establish this road with these lateral branches.

That is what the Legislature of Maryland has done upon the subject. I have before me the act granting the charter and authorizing the company to build the road and the other acts by which the time has been lengthened out, and how it can be said that there can be any question before the Maryland Legislature in regard to this road at this time I can hardly see, because not less than twice after granting the charter, after full deliberation, the Legislature have continued the rights of this company and for the best of all reasons. They were to construct a railroad from Baltimore to the Potomac river for the purpose of connecting with and continuing the great southern line of travel and communication. Then the Legis-

lature gave the company the right to establish lateral branches, not saying where they should run. Of course they wanted to run a branch into this city. I suppose the line of the main railroad of this company will pass not far from the town of Marlboro', in Prince George's county, and they propose, I believe, to run a branch from somewhere there into the city; and the only question before Congress now is whether we shall authorize the company to bring their branch into the District of Columbia and into the city of Washington; and if anybody can show me a reason why we should not do it he will do more than in my judgment has yet been shown.

We have now but one railroad entering into this city, and it is a monopoly without a rival. I do not say that that company do not use their privileges reasonably. I am not going to contend now about that, although a good deal of complaint has been made that they do exact unreasonable tolls on those who come over their road; but at all events the public will not suffer if a railroad should be made in some measure in competition with it. I am sure the citizens of this District and the public generally will lose nothing by opening communication from that very garden of Maryland into this city by which marketing can be brought in here much cheaper than in other ways.

I do not propose at this time to prolong the argument, because I see no reason why any gentleman should be opposed to permitting a railroad company, having their charter from Maryland to run in that State, to have the privilege of bringing a branch of their road into this city; and that is the only question here.

It is said that the Legislature of Maryland are acting upon some question about it. I understand that the corporation have entered upon the construction of this road within the time limited in the charter and the acts of the Legislature giving further time, and with three or four years to spare they are now working on the road; so that what the Legislature of Maryland can do in that behalf I am not able to see. I know the right of the company is strenuously contended against, and it is natural enough that it should be, for undoubtedly it is somewhat opposed to the interests of those who hold the monopoly of the other road; and that is all there is in the case. Shall the people of this District and the public at large give up their interest to this private incorporation; or shall we, for the public interest, permit another road to come in there? Unless somebody can suggest some reason why it should not be done, I will not prolong the argument on the subject, but hope that every gentleman will see that the interests of the public and of this District require that this corporation should be authorized to construct this road.

Mr. JOHNSON. My friend from Ohio did not understand me correctly if he supposed that I disputed the validity of the charter of the Baltimore and Potomac Company. The State had, of course, the power to charter that company, and although she exacted from them an obligation to begin and complete the road within a certain time it was for her to say whether she would enforce that obligation. She has extended the time very properly; but that is not the difficulty as I understand. It is true that the charter gives, as I am told and as my friend from Ohio states, to the company the right to make lateral roads; but the opinion entertained in Maryland is, as I understand, that that was not intended to authorize the company to come to the District of Columbia so as to enable the company to construct a road nearly parallel with, and therefore antagonistic to the present road from the city of Baltimore to the city of Washington. Whether that is the construction of the charter, or whether it is what Maryland intended but has failed to provide for, I am not prepared to say. All that I suggested was that that impression prevailed and that the subject is now under consideration in the Legislature.

But I will state to the honorable member from Ohio and to the Senate, what I think will



induce him and the Senate to agree to postpone the bill, that my colleague [Mr. CRESWELL] is very anxious to be present when this bill is disposed of. He is not here now, but I have reason to believe that he will be here in a day or two; and I think it has always been—and I am sure no one would be more likely than the honorable member to consider it as due as a courtesy to him if he was placed in that situation—it has always been customary to postpone any measure that affects a particular State if the Senator or Senators from that State are absent and it is known that he or they desire to be heard upon the subject. My colleague went to his home upon professional business, the court being in session. I presume the court will close to-day, and he will be here on Monday or Tuesday. I submit, therefore, whether, looking to the courtesy which we observe toward each other, it is not better to let the matter stand until he shall be here. I certainly have no desire to make any objection to the passage of this bill for the simple purposes of delay.

Mr. WADE. I have never heard that the colleague of the Senator from Maryland took any particular interest in this matter.

Mr. JOHNSON. He told me so; but it was at the last session, it is true.

Mr. WADE. I do not deny that; but I never heard anything of it before, and certainly that gentleman's colleague here is a very able advocate for any interest that Maryland may have. There are reasons why this bill should be passed as soon as it may be; but I should not like to be guilty of any act of discourtesy. It does seem to me that the opposition to the bill is hardly capable of any very strenuous advocacy from any quarter, however able it may be. I can only say that there are many interests affected anxious for the passage of this bill, and it has already been greatly delayed.

Mr. HENDRICKS. I should like to ask the Senator where this road is to run; what road it is.

Mr. WADE. The main road is to run from Baltimore to the Potomac river in the neighborhood of Port Tobacco, passing near the county seat of Prince George's county, Marlboro'. That is the direction of the main line of the road according to the charter, with power in the company to establish lateral branches without any limitation. That is the power granted in the charter and passed upon twice by the State of Maryland. The company have commenced operations on the road and are very anxious, as they naturally would be, to know whether they are to be permitted to run a branch of their road into this District or not; and the only question now before Congress is whether or not they shall be authorized to do that. Of course they can make their other road because Maryland has said they might; but they cannot come into the District unless Congress gives them leave to do so, and that is the only question here.

Mr. HENDRICKS. I wish to ask the Senator another question, whether this branch was contemplated by the Legislature. Is it provided for in the act of incorporation?

Mr. WADE. I do not know. The language of the statute is general, without any restriction. I suppose they can run branches where they please, provided they can get authority from the proper jurisdiction, and Maryland cannot stop them. The twelfth section of their charter—I will not read the whole of it, it is too long—provides that the company—

"May make and construct all works whatever which may be necessary and expedient in order to the proper completion and maintenance of said road, and they may make or cause to be made lateral railways in any direction whatever from the said railroad, and for the construction, repair, and maintenance thereof."

It seems to be as large a power as could be given, without any limitation.

Mr. HENDRICKS. I do not think the subject is much understood in the Senate; I know I do not understand it, and therefore I ask the Senator these questions. I ask him

now how much of this road will be in the State of Maryland and how much in the District of Columbia?

Mr. WADE. I do not know exactly; but I suppose some ten or twelve miles of it will be in Maryland and the remainder in the District, some three miles perhaps; but that I only guess at.

Mr. JOHNSON. Ten or twelve miles.

Mr. WADE. And about three miles in the District, I am told.

Mr. JOHNSON. I do not know where the main stem will run. If the main stem runs from Marlboro'—

Mr. WADE. Near Marlboro'.

Mr. JOHNSON. If that is the point from which the lateral road is to be made, it would be twelve or thirteen miles I think till it would reach the District line.

Mr. WADE. I do not know the distance which the route of this road will be, but I believe Marlboro' is sixteen or eighteen miles from here.

Mr. JOHNSON. It cannot run more than four or five miles in the District if it comes in on that side of the District.

Mr. WADE. It runs near Marlboro' and is to come from there into the District.

Mr. JOHNSON. The distance from the District line to Marlboro' is about ten or twelve miles in Maryland; but the whole length of the road will be I suppose thirty miles from there to Baltimore; and then they have to run to the Potomac river also.

Mr. GRIMES. Will it go to Annapolis or near it?

Mr. JOHNSON. That depends on the route.

Mr. HENDRICKS. I want to know—the Senator from Maryland I suppose can inform me—how far from the point where this branch leaves the main line it runs in Maryland and how far in the District of Columbia.

Mr. JOHNSON. I cannot tell.

Mr. WADE. Both parties were before the committee and the route was marked out and mapped. It was said by one of the parties that this would be a shorter road to Baltimore than the present road. The other contended that it would not be much shorter. On actual survey it was claimed by the advocates of this new road that the distance to Baltimore by the route proposed would be four miles shorter than by the present road; but I suppose it makes no great difference whether they were precisely accurate or not in that.

Mr. FRELINGHUYSEN. I should like to inquire whether the road this bill authorizes is entirely within the District of Columbia, so far as the bill which is now before the Senate is concerned, or whether any part of it is in Maryland.

Mr. WADE. This bill proposes to give authority to construct the road in the District and to bring it to the city. That is exactly what this bill is for, and all there is in it. I do not think there is any reason why we should not pass it at once.

Mr. HENDRICKS. With the information I have on this subject, I cannot vote for this road. The commercial and traveling interests of the country do not seem to require another road between this city and Baltimore. At the commencement of the war there was a difficulty because the Baltimore and Ohio branch had but one track; but during the war, for the purpose of accommodating the increased business of transportation of munitions of war and commerce and passengers, a second track was laid down by that company between this city and Baltimore, making a very admirable road, as far as I have observed and heard; and that road is well managed, well conducted. A very large capital has been put into that road and into the main Baltimore and Ohio road—a road of great importance to the western country—a road that competes well with the Pennsylvania Central in transporting our western productions; and I would not wish to construct, for the purpose of speculation, a competing road, that is not called for by the business of the country.

With the information I now have on the subject I cannot vote for this bill. I regard the Baltimore and Ohio road as of very great importance to the western country, especially that commerce and business that goes into Cincinnati from our State and from other western States. I should be reluctant to vote for any road that would cripple it to any extent.

Mr. YATES. Having been on the committee—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. WADE. I move that the unfinished business be informally passed over, that the Senate may proceed with the consideration of this bill.

Mr. POLAND. I have yielded to the gentleman and to almost every other gentleman, and if I could be satisfied that nothing remained to be done but simply to take a vote on this bill I should be quite content to have that done; but I see very strong indications that that is not to be the case. I cannot consent to let the regular order go by.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business, which is House bill No. 598, the bankrupt bill; that bill is before the Senate and will be read.

Mr. WADE. I move to postpone that bill for the purpose of continuing the consideration of the bill which has been before the Senate.

Mr. JOHNSON. I hope that will not be done in the absence of my colleague. I know last session he was very anxious to be here when this bill should be considered; and he will be here on Monday no doubt, or on Tuesday anyhow.

Mr. YATES. Having been on the committee where this matter has had very thorough consideration, and where we heard the colleague of the honorable Senator from Maryland, I arose to state that from the investigation before the committee I understand that this road in its entire length is seventy-one miles, and the branch is ten miles; and the only privilege the company ask is to come into Washington with their branch. I cannot appreciate the argument of my friend from Indiana that another road from Baltimore to Washington will be any crippling of the enterprise or business of the great West. I hope that the motion to postpone will prevail, so that we may go on with the bill.

Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 21; as follows:

YEAS—Messrs. Buckalew, Fogg, Fowler, Morrill, Sherman, Sprague, Stewart, Wade, Wilson, and Yates—10.

NAYS—Messrs. Anthony, Brown, Dixon, Doolittle, Fessenden, Foster, Frelinghuysen, Grimes, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Norton, Patterson, Poland, and Williams—21.

ABSENT—Messrs. Cattell, Chandler, Conness, Cowan, Cragin, Creswell, Davis, Edmunds, Guthrie, McDougall, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sumner, Trumbull, Van Winkle, and Willey—21.

So the motion of Mr. WADE was not agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 140) to restore Lieutenant Joseph F. Fyffe to his grade in the active service of the Navy—to the Committee on Naval Affairs.

A bill (H. R. No. 710) to pay and discharge certain debts and expenditures to the corporation of the city of Washington—to the Committee on the District of Columbia.

A bill (H. R. No. 843) for the relief of Rufus C. Spalding, paymaster in the United States Navy—to the Committee on Naval Affairs.

A joint resolution (H. R. No. 175) to audit and pay the claim of Tuller & Fisher, of Missouri—to the Committee on Claims.

A joint resolution (H. R. No. 216) for the restoration of Lieutenant Commander S. L. Breeze, of the United States Navy, to the active list from the retired list—to the Committee on Naval Affairs.

#### BANKRUPT BILL.

The PRESIDENT, *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States, which is now before the Senate as in Committee of the Whole. It will be read.

The Secretary read the bill at length.

The first amendment reported by the Committee on the Judiciary was in section three, line two, to strike out the word "circuit" and insert "district;" so as to read:

That it shall be the duty of the judges of the district courts of the United States within and for the several districts, &c.

Mr. GRIMES. I beg to inquire of the Senator who has charge of this bill why it is proposed to take this power away from the circuit judges and to confer it upon the district judges.

Mr. POLAND. Perhaps, Mr. President, I ought to say in the outset in reference to this bankrupt bill that it is one which originated in the House of Representatives, and one for which I am in no particular way responsible; it was in consequence of some peculiar circumstances that the bill fell in my charge in the Senate; and therefore I can hardly be called upon to give all the reasons in reference to why it is drawn in the particular way that it is, as if I had been the author of the bill. But in reference to this amendment I can state the reasons that actuated the committee in proposing it.

The bill provides that there shall be certain officers called registers appointed, one at least in each congressional district throughout the country. The duty of these officers is merely ministerial and clerical. They have no judicial duty whatever to perform. They are to go around and perform clerical and ministerial duty, gathering the proof of debts, settling the estates of bankrupts. It is important that the appointing power of those officers should be given to somebody who has the means of knowing who are the proper men to appoint, and who will be likely to appoint suitable, good men for that purpose. The bill as it was originally drawn provided that these appointments should be made by the judges of the circuit court; it was amended, and as it passed the House of Representatives it provided that the appointment should be made by the judges of the several circuit courts upon the nomination of the Chief Justice of the United States. Substantially it gave the appointment of these local officers, comparatively insignificant officers, throughout the entire country to the Chief Justice of the United States. The Chief Justice of the United States I regard as a very excellent man and a very suitable man to perform the duties that properly pertain to the office of Chief Justice of the United States; but it seemed to the committee that this was a very unsuitable provision for the appointment of these local officers about over the whole country. The Chief Justice of the United States of course could have no personal knowledge in relation to the class of men from whom these officers are to be selected, except in the particular portion of the country where he may have himself resided. If the duties that were to be performed by this class of officers were such that eminent legal men would be required, if that was the class of men from whom these appointments were to be made, then they might perhaps be made properly by the Chief Justice of the United States; but lawyers who are eminent in their profession, men of high legal attainments, high legal credit, are not the class of men who could accept or would accept these appointments. They are to be made from respectable men, but a lower class of lawyers as to professional standing. The committee thought that the proper place to deposit this power of appointment was in the district

judges, who, of course, know the entire bar within their district.

The same objection would obtain although in less degree to having the circuit judge have anything to do with the appointment. Take the circuit in which I live; our circuit is composed of the three districts in the State of New York, the district of Vermont, and the district of Connecticut. Mr. Justice Nelson is the circuit judge. It is a very rare thing that he comes to the State of Vermont at all to hold a circuit court. But very few times for several years has the circuit court been held by the circuit judge of that circuit; he knows nothing in relation to the bar of Vermont except a very few of the leading lawyers, men who would not be selected at all to perform this office and duty of register, while the district judge, who is a resident of the State and always has been, knows the entire bar of the State who would be suitable and proper men; and in my judgment, and that I believe was the unanimous judgment of the committee, the appointment of these officers we regard as altogether better and safer to be given to the district judge who personally knows all that class of men from whom the selections are to be made, rather than to give it to perhaps a more eminent man who knows nothing at all on that subject.

The question being put on the amendment, a division was called for.

Mr. HOWE. If there is to be a division I shall vote against this amendment proposed by the committee. It seems to me the ground upon which it is urged is a mistaken one, and will be found so practically. I do not think, let those appointments be made by either the district or the circuit judge or the Chief Justice of the Supreme Court, he will ever be guided by what he knows personally of the fitness or unfitness of his appointees; he will be guided by the opinions of the bar practicing in his court, let who will make the appointment.

Mr. POLAND. Then what difference does it make who appoints them?

Mr. HOWE. It does make a decided difference who appoints them in some States. There is no more reason either why the judge should personally know the individual to be appointed than there is why the President of the United States should know the individuals whom he is called upon to appoint. I think the circuit judge can be trusted with the selection of these officers, by and with the advice and consent of the bar of his circuit; and it seems to me to be a reflection upon the character of the circuit judges that they should be stricken out of the bill, and the district judges substituted in their place; I shall therefore vote against the amendment.

Mr. GRIMES. I am not prepared to say that the proposition in the bill which comes from the House of Representatives is the wisest that could be devised. I do not pretend to say that it would be expedient to let in the last instance all these appointments be made by the Chief Justice of the Supreme Court; but what I would like to get, if I could, would be an opportunity to vote in favor of conferring this power on the circuit judges of the respective circuits, instead of conferring it upon the local district judges.

In the first place, it seems to me that is where it ought to be lodged from various considerations, and I have heard no reason assigned by the Senator from Vermont why it should not be lodged there except that it is presumed that the district judges are better informed of the personal and professional qualifications of the people within their districts than the members of the Supreme Court are when performing circuit duty; and he illustrates it by reference to the case of his own particular State. That is not the case generally I think. I think that as a general thing the circuit judges, certainly in the northwestern country, perform all the duties imposed upon them by the laws of the United States and hold their respective circuit courts; and I apprehend that they are almost, if not quite, as familiar with the per-

sonal characteristics and qualifications of the citizens who would be competent to perform the duties that are required of these officers as the judges of the district courts are. I shall therefore vote against this amendment, and if it does not carry, I hope we shall so frame the section as to confer the power upon the circuit judges entirely.

Mr. WILLIAMS. My vote on this amendment reported by the committee would be influenced by the action the Senate may take on the other amendment which is to follow it, if I could know what that action would be. I think it is not very important whether these appointments are made by the circuit or the district judges if they are made upon the nomination or recommendation of the Chief Justice of the Supreme Court of the United States. I believe that that clause of the section ought to be retained. I think that under existing circumstances the amendment which has been recommended by the committee to strike out that clause ought not to be adopted; and if that clause which the committee move to strike out is retained in the bill, I do not care whether the district or circuit judges make the appointments. If that clause be retained, I have nothing further to say; but I have some choice, so far as my State is concerned, between the district and circuit judges in the making of these appointments.

Mr. GRIMES. I desire to say that that would entirely satisfy me and those few gentlemen who think as I do upon this subject. I am perfectly content that the word "circuit" should be stricken out and the word "district" inserted in its place, provided the other clause is retained which the committee have proposed to strike out.

Mr. POLAND. It would not make much difference how this was arranged if that was left in.

Mr. FESSENDEN. I suppose, Mr. President we may just as well speak out and let everybody understand what all this means. The provision as it now stands in the House bill, I take it, was a sort of compromise on this question between the circuit and district judges. In some of the districts, district judges have been recently appointed who are Republicans, of the prevailing party of the present time; but in many of the districts they are otherwise, being judges who were appointed in former times; but owing to the change of circuits the circuit judges in some of those districts are of a different political faith.

Now, the contest seems to be who shall have these little registerships, whether they shall all go to the dominant party or whether they shall not. Those in favor of having the appointments given to the district judges I suppose are those residing in districts where the district judges are of their way of thinking, and those who want to give them to the circuit judges are those residing in districts where the circuit and not the district judges are of their way of thinking. Thus arises a controversy over a very small matter.

I shall vote for the amendment, not particularly because it would suit my case exactly, for I do not think it of consequence enough one way or the other, (though I have no objection to having the section stand as it is by way of compromise if a difficulty is to be made about it,) but I shall vote for it for this simple reason: this bill places about all the power with reference to bankruptcy in the hands of the district judge. He is the judge of the court of bankruptcy; he does the business; he supervises the whole matter. These registers are under his direction, operate with him and under him. If I read the bill rightly, the circuit judge has substantially only appellate jurisdiction in cases to be submitted to him on a bill in equity or otherwise.

The whole principle on which our small judiciary appointments have been conducted heretofore is that the judges of the courts who do the business should have the appointment of the inferior officers. It is proper that a judge should have in his court such persons as

are satisfactory to him and in harmony with him; and I should be in favor of adhering to that principle. I am not so much afraid of these matters, however, because it is true in regard to judges as in regard to other people that they sometimes die. They do not always die soon enough, perhaps, but their time comes at last, and there may be a change; and in the course of a few years the change may be directly the other way from what some gentlemen apprehend. We cannot tell what will happen in relation to the districts. But in framing a bill of this kind I think it should be framed upon some sort of principle, and not be constructed with particular reference to who is to appoint half a dozen registers in a State for a court of bankruptcy, who may be turned out when their time comes or when the judge is changed. I have noticed, however, as a general rule, that judges, after they get safely on the bench in a position which they hold for life, do not trouble themselves much about these small matters. They are very apt rather to be disposed to make friends with the bar, and make such appointments as will be satisfactory to the bar in the different parts of their district. They become in a measure conservative and do not trouble themselves so much about these small appointments. I think this rule applies just as well to the district judges who may happen to be Democrats at the present time as it does to the circuit judges who may happen to be Democrats. I do not think either of them regards this as a very material matter, and that all of them will be more anxious to get good men, good officers who will make the discharge of their own duties easy, quiet, and comfortable, than they will be to get particular partisans of anybody. I think that applies pretty much to all of them, and arises from the nature of the office they hold.

Therefore if one or the other is to be selected I shall vote in favor of selecting the district judges, because they are the head of the bankruptcy court; but if it is to make a controversy, perhaps the better way would be to stick to the compromise which seems to have been agreed upon in the House of Representatives, and that is to provide that the registers shall be appointed on the nomination of the Chief Justice. I suppose that would work, because he would be instructed as to the right men who should be appointed in the different States by the circuit and district judges. They would probably agree in such a case upon who should be the registers, and submit the names to the Chief Justice, and he would nominate.

There is another reason why, if the appointment is to be given either to the district or the circuit judge, it should rather belong to the district judge. The circuit judge may know as much about the bar in the State in which he resides as the district judge; but where there are half a dozen States in the circuit, some of those States having two district judges, he certainly cannot be so well acquainted with the qualifications of the men and the right kind of men to appoint as the district judge of the particular district. Take, for instance, the first circuit, which includes the States of Maine, Massachusetts, Rhode Island, and New Hampshire. I dare say the circuit judge would appoint in the State of Maine perhaps as judiciously as the district judge; but I do not think he could appoint as judiciously in the other States where he does not reside and where he only goes occasionally to hold the circuit court. For that reason, also, I think it should belong to the district rather than the circuit judges. But if there is to be any contest to see whether it shall be according to the prevailing politics of the circuit judges at the West or the district judges at the East, I think we had better compromise on that important matter and have it fixed accordingly.

Mr. HOWE. Mr. President, I rise to try and express my sense of obligation to the Senator from Maine for having stated the actual reasons which control my vote on this amendment. I should have stated them myself if I had felt at liberty to introduce political topics into the

Senate; but after the voting we have had for a few days past I did not feel authorized to indulge in any such line of argument. But it is true, as is very frankly and considerably stated by the Senator from Maine, that there happens to be a judge presiding in the circuit in which I live who, at the last dates, was a Republican; and it is true that there happens to be presiding in the district a judge who, both at the last and the earliest dates which I have ever consulted, was not a Republican; and I did not like, under those circumstances, to agree to an amendment which proposed to strike out the circuit judge and put in the district judge. As I said before, I should have stated that reason in the outset if I had not felt hereafter called upon to go to some church for political discussions, and leave the Senate.

Mr. JOHNSON. Mr. President, I hear for the first time that party considerations enter into this provision of the bill. Certainly, if I am permitted to refer to the deliberations of the committee, I can say that no such considerations influenced them, and I speak with positive certainty that no such influence me then or can influence me ever in relation to appointments of this description. I did not know, therefore, that it was supposed, or that the fact was so, that the bill as it came from the House in this respect was the result of a compromise—a compromise founded upon some doubt as to the integrity or the ability or the party fealty of the judges of the circuit or district courts, and a greater confidence in the integrity and party fealty of the Chief Justice of the United States. But I suppose that that is one of the "existing circumstances" to which my friend from Oregon adverted.

Now, sir, in concurring with the committee in rejecting that part of the bill, as it came from the House, which required the appointments to be made upon the nomination of the Chief Justice, I was governed solely by this consideration; I thought it altogether unfit for that officer. I have no doubt whatever that he would, if the law should pass in that form, discharge the duty which would be imposed upon him with perfect integrity and with perfect fairness; but I do not think that the Chief Justice of the United States should be required to appoint inferior officers, scattered all over the Union. I should just as soon think of devolving upon him the duty of appointing the messengers of the courts or the clerks of the courts throughout the Union. As Chief Justice of the United States his duties should be confined in my opinion—and I am sure he would wish to have them so confined—to the high matters of constitutional law which are often brought before that tribunal, and to the legal questions, other than constitutional ones, which arise in disputes between parties whose cases are brought into that forum. And if this provision be retained I should consider it a degradation of the office—I have no fear that it will be so degraded by him—if in making these appointments he should be governed by any such party considerations. To be so governed is to make him a party man in the strongest sense in which that term can be used. It tends, however, he may incline against that tendency, to make him hold uneven the balance of justice; and it does what is quite as pernicious; it will create a belief in the mind of the country that the administration of that high office is more or less to depend upon party considerations.

I agreed substantially for the reasons stated by the honorable member from Vermont, that it was better to leave the appointment to the district judges; but in doing so, and in agreeing to change the bill as it came from the House in that particular, I certainly had no idea of reflecting upon the circuit judges of the United States. I did not understand my friend from Iowa as stating that that was the purpose of the committee. I understood him merely as saying that it might be so construed. It was very far from my purpose, and I am equally certain it was entirely foreign to any purpose of any member of the committee. I have com-

paratively little choice—I have a choice, as I have stated—whether the appointments are submitted to the district judges or to the circuit judges; but I have an insuperable objection to requiring the appointments to depend upon the nomination of the Chief Justice of the United States, both because I think it is an unfit duty to impose upon him, and which, I presume, he would be very unwilling to have imposed upon him, and because I believe that the reason for imposing it upon him, which, if the bill should pass in that form, will be considered to be the reason for imposing it upon him, is calculated very materially to diminish the influence which he ought to have in the judgment of all the country—not of a party, but of all.

However great may have been the perils through which we have passed or are now passing owing to sectional differences giving rise to party politics, I believe as I believe in my existence that the Supreme Court of the United States has never lent itself to any such considerations in the least particular. If there be a tribunal in the world, in the past or in the present, which discharges its high judicial functions from a pure sense of what the laws and the Constitution of their country require, I believe it to be the present tribunal and the past tribunal of the Supreme Court of the United States. Errors of judgment I think they have fallen into; errors upon questions of constitutional law I think they have fallen into; but that is inseparable from the fact that they are at last but men; but that any such errors, if errors they be, have been brought about by any such motive as that to which I have alluded I do not believe; and if I could believe it, or should be brought in the future to believe it, I should conclude that the destinies of our country are not to be what we should all hope.

Mr. GRIMES. I desire to say to the Senator from Maryland that I believe I did not attribute any motive whatever to the Committee on the Judiciary in proposing this amendment.

Mr. JOHNSON. I understood that.

Mr. POLAND. Mr. President, I desire to say a word more in reference to this matter of appointments. I do not regard it as of the very greatest consequence that the amendment which the committee have proposed to this section should be adopted, but it certainly seems to me that there would be more likelihood, more probability of our having the proper men appointed to fill these places if they are appointed by the district judge than in any other way.

These officers are perhaps about as important in rank as deputy sheriffs, and it certainly seems to me to be very small business to be belittling the office of the Chief Justice of the United States to set him to appointing deputy sheriffs or officers of that rank all over the United States. It has usually been permitted to the judges of every court to appoint their own officers. These registers are officers of the district court. They are even officers of the circuit court. Their duty is to aid in the administration of this jurisdiction that we are creating and conferring upon the district courts. I do not know personally every district judge in the United States, but I doubt very much whether there is one who will be governed in the selection of these men by any other motive than that of having the business properly conducted.

I had supposed, when I was fortunate enough to get this bill before the Senate for consideration, that this talk and scramble about appointments and about offices would be laid aside for one day at least, that we should not hear it in any discussion upon this bill; but it has come forward. Now, sir, in my own State we have a district judge, who was appointed while the Democratic party held power in this country. He was a Democrat, and a prominent Democrat; a man who stood at the head of the political organization of the Democratic party. He was chairman of the national committee of that party for some years, a prominent and active politician. The State is per-



haps as strongly the other way politically as any State in the Union; but we have no fear, so far as my State is concerned, in leaving the appointment of these registers in the hands of the district judge, where it seems naturally and properly to belong.

If it was left to the judges of the circuit court instead of as the bill stands, the absurdity would not be so glaring as it seems to me to be practically devolving the appointment of these officers upon the Chief Justice of the Supreme Court of the United States, who can of course personally know very few of the men who will ask to be appointed in any one of the States. He must act upon the representations of others. Although these officers are comparatively insignificant, it does not follow that there may not be a very great scramble for them. The contest for a place does not depend at all upon the importance of it. Although these places are comparatively humble in an official sense, there may be a very great number of persons who will aspire to hold them, and that the Chief Justice of the United States should be set to considering and weighing the claims of perhaps half a dozen men that he never heard of before, upon written recommendations and personal recommendations from lawyers and politicians, throughout each congressional district in the United States, seems to me to be an absolute, perfect absurdity. So far as that feature of the House bill is concerned I certainly could never consent myself to its adoption. As to the other portions of it, whether the appointment is left to the district judge or given to the judges of the circuit court, is not a matter of so very much importance, because one of those judges at least would have personal knowledge in relation to that class of persons from whom these appointments are to be made in his own district. The circuit judge would be likely to have some knowledge upon the subject; in that portion of the circuit in which he himself resided he might know as well as the district judge of that district; but it seems to me that the amendment which has been proposed by the Committee is the true, just ground upon which these appointments ought to stand.

Mr. HOWARD. Mr. President, I do not concur at all with the Senator from Vermont as to the importance and dignity of the office of register of bankruptcy provided for in this bill. If Senators will look into the bill, especially into the fourth section, it will be discovered that this office of register is one of great importance and very great responsibility. The Senator from Vermont compares it with that of a deputy sheriff, and speaks of it as being an insignificant office. I do not so regard it. According to the bill which he has reported to the Senate "no person shall be eligible" to the appointment of register "unless he be a counselor of said court or of some one of the courts of record of the State in which he resides." In addition, he is required to give bond for the faithful performance of his duty and to take an oath. His general powers are described in the fourth section, which declares:

"That every register in bankruptcy, so appointed and qualified, shall have power, and it shall be his duty to make adjudication of bankruptcy, to receive the surrender of any bankrupt, to administer oaths in all proceedings before him, to hold and preside at meetings of creditors, to take proof of debts, to make all computations of dividends, and all orders of distribution, and to furnish the assignee with a certified copy of such orders, and of the schedules of creditors and assets filed in each case, to audit and pass accounts of assignees, to grant protection, to pass the last examination of any bankrupt in cases whenever the assignee or a creditor do not oppose, and to sit in chambers and dispatch there such part of the administrative business of the court and such uncontested matters as shall be defined in general rules and orders, or as the district judge shall in any particular matter direct; and he shall also make short memoranda of his proceedings in each case in which he shall act in a docket to be kept by him for that purpose."

The office is plainly one of great importance, and it is in its very nature and functions a judicial office, one to which appointments may very properly be made by a court, and even by the Chief Justice of the Supreme Court of the United States as it seems to me. I do not

see any ground for the allegation of the honorable Senator from Maryland, that the appointment of such officers all over the United States, as will be the case if this bill shall pass, is any degradation to the Chief Justice of the United States; it is a matter as properly coming before him in his judicial capacity, is it not, as the appointment of a clerk of the Supreme Court or any judicial officer over whom he has control?

And these registers will be very numerous inevitably throughout the country. Through their hands in some form will doubtless pass a very large proportion of the property of the people of the United States, and in the rebel States especially I think it will turn out that these registers will have the handling in some form or other of the property of almost every man in those States; for this bill, if it shall pass and become a law, will doubtless be regarded as a bill of relief to a large portion of that community, and will operate as such, according to my ideas, far more than towards the relief of the people of the loyal States. It is a bill for the relief, if I may be allowed so to speak, of southern debtors, of men and women in the rebel States, and they will be the parties who will most readily hasten to embrace its benefits.

Now, sir, as to the appointment of these registers by the courts, so far as I am concerned, and so far as the district in which I reside is concerned, it is almost immaterial to me whether the final appointment is made by the circuit court or by the district court; but I shall feel much safer, and I think the public will generally feel much more secure, if the right of nominating the registers is placed in the hands of the Chief Justice of the United States. It will certainly give the whole proceeding an air and character of dignity and respectability which it would not possess without it. People are in the habit of looking with the highest degree of respect and reverence upon the chief judicial officer of the Government, and if that clause is retained giving to him the right of nomination it will be immaterial to me whether the word "circuit" be stricken out and the word "district" be inserted or not. I think the great security consists in placing the nomination in the hands of the Chief Justice.

Mr. HENDRICKS. On this question I vote with entire impartiality. Both the circuit and the district judge of Indiana were appointed by Mr. Lincoln and are both of the party to which I do not belong. But independently of that, I am very sorry to hear a reference to political considerations in the appointment of these registers, men appointed to discharge judicial duties. Is it possible that any Senator here wants a man to be appointed to the discharge of judicial duties so that it may be a political act on his part? Is it possible that party politics are to enter into the adjudication of these men, that one man is to be discharged because he is of one party and another not to be discharged because he is of the other party? or is the register expected to allow claims because they are presented by partisans? Is that the understanding? It is a thing I would not have thought of; it would never have occurred to my mind; but upon what principle is it? This register is to discharge part of the duties that belong to the district court, and ought he not to discharge these subordinate duties of that court in subordination to the judgment of the district judge?

Suppose he undertakes to administer the law in his district in a manner not agreeable to the judge, is he not to be removed by that judge? Who is to remove these men if upon questions of fact or questions of law their adjudications shall be such as the court disapproves? Is another court to take jurisdiction of a register's removal, and is a judge having no connection with the business that is transacted by this man to remove him? Suppose the Chief Justice should appoint him and he should allow claims that ought not to be allowed, or disallow claims that ought to be allowed, or in any other re-

spect his judgments should be wrong. The judge of the circuit court knows nothing about it; much less does the Chief Justice know anything about it. He certainly ought to be under the control of the district judge. Every reason is in favor of that and none against it.

I believe the district judge of Indiana, Judge MacDonald, would appoint good men. I have a better opinion of him, however, than to suppose that he would pronounce every member of the Democratic party in Indiana and all the lawyers that believe in the doctrines of that party to be personally dishonest. I have not so much contempt for him as to imagine such a thing. I was anxious for his appointment because I thought he was an eminent lawyer and pure-minded man; but if I thought he was so mean as to suppose that the Democratic lawyers of Indiana were a corrupt set of scoundrels and would not discharge the duties of a little office like this honestly, I would not speak to him. I would not entertain such an opinion of the Republican lawyers of Indiana for any consideration, and I would not go to any judge asking him to appoint to offices like these upon party considerations, because I should consider myself degraded by doing it.

Mr. WILLIAMS. I should like to ask the Senator if he supposes that because a President or a judge makes appointments from among his own political friends, therefore he assumes that all the men in the opposite party are dishonest and disqualified for office. Does not the Senator know that every President we have ever had, in appointing supreme judges, has made appointments from among his political friends; and does not the Senator know that in those States where judges are elected they are elected from among those who have the political majority in the State? I think it is entirely unjust to assume that because these appointments are made from among the friends of the appointing power, therefore those on the other side of the political question are assumed to be dishonest or disqualified. It is human nature. The honorable Senator can stand up and profess to be entirely disinterested, entirely free from any party bias or party feeling; but every man who has had any experience knows that it is human nature for a man who has the appointing power to prefer his political friends to his political enemies, all other things being equal; and I do not know, but I should suppose from the generous nature of the honorable Senator, that he would frankly avow that he would rather prefer, as a usual thing, his political friends to his political enemies.

Mr. HENDRICKS. The gentleman's memory is not very reliable. He asks me if all Presidents have not appointed to the judicial offices of the country men of their own political party. Why, sir, one of the last acts President Johnson did at the last session was to appoint a brother Senator who was one of the leaders of this body against him, Senator Clark, to be district judge in the State of New Hampshire, a gentleman known to be a leader against him. Do you suppose that was disagreeable to me? I was very glad when that Senator failed to be endorsed by his political party at home by a reelection that the President of the United States could find it right to give him that high and honorable office, and I voted for his confirmation with the greatest pleasure in the world. That is a case in point; is it not? But I cannot go back through all the appointments that have been made. But here is a duty to be performed under the judge of the district court; and because there are a few men on some of the district benches that are not Republicans, perhaps, you will not allow them to make these appointments that properly belong to the court. If it belongs to the court, let the court appoint.

But, sir, I am not going to discuss this matter. These duties are to be discharged under the judgment of the court, and the court ought to have power to remove the officers on principle. I did not rise, however, to discuss the question, but just to express my views about carrying parties into everything. Of course

I am a very fair specimen of a party man. I never pretended anything else. There is no concealment so far as I am concerned on that point. But party politics never influence my personal relations and personal feelings. Because I differ with gentlemen of the other party, I do not believe they are all scoundrels; and I should despise myself if I did not have warm personal friends where I live among gentlemen that would not vote for me; friends who would do me a kindness, and who would believe in my integrity in the discharge of any official duty. I have been disgusted a good deal of late by seeing jurors brought into the box simply because they were party men. I want to know if the Senator from Oregon believes in that kind of business, selecting a man as a juror because he is of a particular political party.

Mr. WILLIAMS. I do not believe in it, but I can name a place in the United States where the Senator's political friends do adopt that expedient.

Mr. HENDRICKS. If this Senator's political friends do that, this Senator condemns it most emphatically.

Mr. WILLIAMS. Then it is not peculiar to any political party.

Mr. HENDRICKS. I do not care where it is done, or by whom it is done, it is a mean thing, it is a dirty thing, it is below even the dignity of party warfare and ought to disgrace the man who does it among honorable men.

Mr. WILLIAMS. We agree to all that.

Mr. HENDRICKS. I am glad the honorable Senator from Oregon agrees to all that. Upon one subject, then, we are agreed. Now, sir, this is a simple question whether in the discharge of some minor duties under the district judge, the appointment of the officers to discharge them shall be made by him. I am satisfied in my State which ever way you fix it, because it does not make any difference. I am willing to trust Mr. Justice Davis to appoint any nominee that belongs to his court; and so of Judge MacDonald, both of them gentlemen of high standing in their profession, and of integrity, as I believe.

Mr. FRELINGHUYSEN. Mr. President, while listening to the remarks of my friend from Maryland, [Mr. JOHNSON,] I concurred with his view; but on reflection it seems to me that there are advantages in having these officers appointed upon the nomination of the Chief Justice. I can see that there may be a good deal of strife for this office of register among the bar, and that the district judge may be placed in very unpleasant circumstances in being called upon to decide it, and that therefore it would be better if the nomination was made by the Chief Justice. The Chief Justice would of course confer with the district judge and not act in opposition to his views.

Then, again, in some of our Federal courts there has grown up the practice of appointing sons and nephews and brothers, which would be avoided if the appointment were made by the Chief Justice. It is a very important office, one not beneath the dignity of the Chief Justice to take into consideration. I have no doubt that everybody agrees with the remarks made by the Senator who last addressed us, that all partisan feelings should be excluded from this subject, but there are substantial reasons why it would be better that the appointment should be made by the Chief Justice, who no doubt would act with the concurrence of the district judge.

Mr. JOHNSON. I call for the yeas and nays on this question.

Mr. GRIMES. The question I believe is on striking out the word "circuit" in the second line of the third section.

The PRESIDING OFFICER, [Mr. MORRILL.] And inserting the word "district" in its place.

Mr. GRIMES. I am perfectly willing that that amendment shall be concurred in. I believe I was the one who made the objection and called for a division upon it; but I withdraw the objection. I am content that the

word "district" shall be substituted for the word "circuit."

The PRESIDING OFFICER. The Senator from Maryland called for the yeas and nays upon the amendment.

Mr. JOHNSON. I withdraw the call if the objection is not insisted upon.

The PRESIDING OFFICER. The question, then, is on agreeing to this amendment, reported by the Committee on the Judiciary. The amendment was agreed to.

The next amendment was in section three, lines four, five, and six, to strike out the words, "upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States," so as to read:

That it shall be the duty of the judges of the district courts of the United States within and for the several districts to appoint in each congressional district in said districts, one or more registers in bankruptcy, to assist the judge of the district court in the performance of his duties under this act.

Mr. GRIMES. That amendment I hope will not be concurred in.

Mr. JOHNSON. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. I should like to inquire how that would operate; whether it is sufficiently expressed: "shall be made by the district judge upon the nomination." Does that mean that the nomination is to be conclusive, and that when that nomination is made the district judge is to appoint?

Mr. JOHNSON. Certainly it does.

Mr. POLAND. As the inquiry is directed to me, I will state that it was not drawn by me. It is a question upon the construction of the language. My honorable friend from Maine would be a better judge of that than I should be myself. It seems to me that it is substantially giving the appointment to the Chief Justice of the United States.

Mr. FESSENDEN. I have no objection to that.

The question being taken by yeas and nays, resulted—yeas 14, nays 16; as follows:

YEAS—Messrs. Buckalew, Dixon, Doolittle, Edmunds, Foster, Harris, Henderson, Hendricks, Johnson, Norton, Patterson, Poland, Sherman, and Wiley—14.

NAYS—Messrs. Fessenden, Fowler, Frelinghuysen, Grimes, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Ramsey, Sprague, Sumner, Wade, Williams, and Wilson—16.

ABSENT—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cowan, Cragin, Creswell, Davis, Fogg, Guthrie, McDougall, Nesmith, Nye, Pomeroy, Riddle, Ross, Saulsbury, Stewart, Trumbull, Van Winkle, and Yates—22.

So the amendment was rejected.

The next amendment was to strike out the following clause in section three, lines eight, nine, ten, eleven, and twelve:

In case of disagreement between the judges of said court as to such appointments, or in case of vacancy in the office of district judge, the presiding judge of the circuit court shall determine the number of appointments to be made, and make such appointments.

Mr. POLAND. This amendment must be made of course. This portion of the section went upon the ground that this appointment was to be committed to two persons, and provided in case of difference who should have the casting vote, the choice; but inasmuch as we have confined it to one, of course this portion must be struck out.

Mr. FESSENDEN. It struck me on the reading that that clause referred to the number of appointments instead of the appointees. "In case of disagreement between the judges of said court as to such appointments." Does not that apply to the number of appointments to be made?

Mr. POLAND. It is not material to what it does refer. This whole matter is now left to a single judge instead of two, and therefore there is no necessity for any provision about a difference of opinion.

Mr. FESSENDEN. Of course it should go out, then.

The amendment was agreed to.

The next amendment was in section five, to

insert after "court," in line ten, the words "in accordance with the rules prescribed under the tenth section of this act;" so as to make the section read:

Sec. 5. And be it further enacted, That the judge of the district court may direct a register to attend at any place within the district for the purpose of hearing such voluntary applications under this act as may not be opposed, of attending any meeting of creditors or receiving any proof of debts, and generally for the prosecution of any bankruptcy or other proceedings under this act; and the traveling and incidental expenses of such register, and of any clerk or other officer attending him, incurred in so acting, shall be settled by said court in accordance with the rules prescribed under the tenth section of this act, and paid out of the assets of the estate in respect of which such register has so acted; or if there be no such assets, or if the assets shall be insufficient, then such expenses shall form a part of the costs, &c.

The amendment was agreed to.

Mr. POLAND. In the twenty-fifth line of this same section there is an amendment which ought to be made to make it conform to the present condition of the bill in relation to the appointment of these registers. It now reads: "Such register shall be subject to removal by the judges of the circuit court." It should read, "judge of the district court."

Mr. HOWARD. How will it read then?

Mr. POLAND. "Such register shall be subject to removal by the judge of the district court," &c. I move that amendment.

The PRESIDENT *pro tempore*. That amendment will be made in order to make the bill consistent with what has previously been done.

The next amendment was in section ten, line three, to strike out the words "five commissioners" and insert "any two of the associate justices of the Supreme Court;" and in line four to strike out "appointed" and insert "selection;" so as to read:

Sec. 10. And be it further enacted, That the Chief Justice of the Supreme Court of the United States, with the assistance of any two of the associate justices of the Supreme Court, to be selected by said justice, and subject to the provisions of this act, shall frame general orders for the following purposes, &c.

The amendment was agreed to.

Mr. POLAND. There are two or three corrections necessary in order to make this section correspond with the amendment that has been made. I move in line twenty-six after the word "time," to strike out the words "when approved by the Justice of the Supreme Court so designated;" in line twenty-eight to add the letter "g" to the word "justice;" and to strike out all after the word "approve" in the twenty-ninth line, in the following words:

The district judges shall be eligible to act as such commissioners. No pay or compensation shall be allowed to such commissioners for services under this section.

So that that portion of the section will read:

After such general orders shall have been so framed, they, or any of them, may be rescinded or varied, and other general orders may be framed in manner aforesaid, and all such general orders so framed shall, from time to time, be reported to Congress, with such suggestions as said justices may approve.

The amendment was agreed to.

Mr. POLAND. The word "approve" in the twenty-ninth line, the last word in that section, should be stricken out, and the words "think proper" substituted.

The PRESIDENT *pro tempore*. That amendment will be made, as it is merely a verbal correction.

The next amendment was in section fourteen, to strike out the following clause in lines twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, and thirty-three:

"And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864;" so as to make the first proviso to that section read:

Provided, however, That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessities of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case the sum of \$500; and also the wearing apparel of such bankrupt and that of his wife and children, and the uniform, arms, and equip-

ments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment, or seizure, or levy on execution by the laws of the United States.

Mr. POLAND. This amendment, although proposed by the committee, was not reported by the unanimous vote of the committee, but by a majority, and although the bill was reported from the committee by myself, I did not, in committee, concur in this amendment. I do not myself think that the amendment should be adopted. I am very certain that if it is adopted it will very seriously jeopardize the passage; but if it is required that it should be adopted in order to make the system that this bill establishes a uniform system of bankruptcy within the meaning of the Constitution of the United States, then of course we must adopt it, whatever effect it may have upon the fate of the bill.

We all understand that the provisions under the laws of the different States in relation to exemptions from attachment and execution, both of real and personal—estate homestead laws as they are termed as applied to real estate—vary in the different States. Nearly all, and I do not know but quite all, the New England States have now an existing homestead law. The New England rule in reference to homesteads is \$500—a homestead not exceeding in value \$500; in the State of New York it is \$1,000. In some of the western States they exempt a certain number of acres of land. In the Pacific States I believe they go by value, but have a still higher one than we have in New England or even in New York.

The general wisdom of these homestead laws as passed by the different States is not questioned by anybody; but it is said that when we come to administer upon the estates of insolvent and bankrupt debtors, to make a national system as applied to that subject, we are not at liberty to leave any of these State laws in force in relation to these exemptions; that we must cut them all up, or else, if we leave any exemption at all, we must make one of our own and one that shall be uniform in the several States. It does not appear to me to be necessary to do any such thing; I think we may well enough leave in force all the laws of the various States protecting such necessary portion of the insolvent's property as is necessary for the use of his family, as has been declared by the several States; that we do not thereby make an inequality, preventing the system of bankruptcy that we thereby establish from being "uniform," in the sense of the Constitution and the laws. If we leave this section to stand as it was passed by the House, and leave these State exemptions to remain and be operative still, notwithstanding the passage of this bankrupt law, we do just this: we lay hold upon all the property of insolvents and bankrupts in all the States that by the existing laws is liable to the payment of their debts; and that is a uniform rule, a uniform law throughout the entire Government, throughout every State; and because in consequence of the difference in the State laws there may be some inequality, it is nothing more than what happens in a great variety of instances under this and under the preceding laws.

Quite a notable example of this arose under the law that was passed in 1841. In all the New England States, I believe, we have a proceeding for attaching property upon mesne process. When a man commences a suit he prays out a writ and he goes and seizes property enough to secure the payment of his debt if he recovers judgment finally—what we call an attachment lien. It hardly exists anywhere out of New England, I believe, in the United States. Such a lien could not exist under the law of any other State. Under the bankrupt law that was passed in 1841 existing liens upon property were to stand against any title acquired by the assignee under that law. A very great controversy arose in the State of New Hampshire whether an attachment lien, where a creditor had brought suit and attached property prior to the commencement of proceedings in

bankruptcy, whether that was a lien within the meaning of the bankrupt law; and a very notable controversy—notable as among lawyers—sprang up between Judge Parker, the chief justice of New Hampshire, and Judge Story, the circuit judge of that district; Judge Story insisting that this lien was not available, and Judge Parker insisting that it was. The controversy resulted in Judge Parker's view being sustained. Now, if no statute lien by the laws of the State could be upheld unless a similar statute lien could be upheld throughout the entire country, then that must have gone by, because it was only in New England that that kind of statute law existed.

As I said to begin with, Mr. President, the adoption of this amendment will undoubtedly seriously jeopardize the fate of this bill; and I state this as a reason for asking every Senator to examine it with great care, and to be quite certain that the retention of this clause will render the bankrupt system which we are about to inaugurate so uniform as to be unavailing in consequence of allowing these homestead exemptions to remain untouched by our bankrupt law before they adopt the amendment reported by the committee.

Mr. HOWARD. I move that the Senate adjourn. I want time to consider this subject. The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, January 19, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ALEXANDER H. COFFROTH.

Mr. BENJAMIN. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, authorized and directed to pay to Alexander H. Coffroth the amount of increased pay of member of this House provided by law, from the commencement of the Thirty-Ninth Congress to the period when he ceased to be a member.

Mr. KOONTZ. Mr. Speaker, there is a legal question involved in this resolution, and I move to refer it to the Committee on the Judiciary.

Mr. WOODBRIDGE. There is another question of that kind before the Committee on the Judiciary, and I hope it will be referred to that committee.

The resolution was accordingly so referred.

Subsequently Mr. BENJAMIN entered a motion to reconsider the vote by which the resolution was referred.

## PUBLICATION OF CONGRESSIONAL GLOBE.

Mr. WILSON, of Iowa, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of providing for the publication of the Congressional Globe in the form and style of the debates of the British Parliament.

## DAKOTA GEOLOGICAL SURVEY.

The SPEAKER laid before the House a memorial of the Legislature of the Territory of Dakota relative to a geological survey of the Black Hill country; which was referred to the Committee on Appropriations, and ordered to be printed.

## FIRE AND MARINE INSURANCE COMPANY.

Mr. BRANDEGEE. I call for the regular order of business.

The SPEAKER. This being private bill day, the first business in the morning hour is the consideration of Senate bill No. 98, to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia; which was reported from the Committee for the District of Columbia, and pending at the expiration of the morning hour on yesterday.

Mr. MERCUR. I move to further amend the bill by adding to section five the following: Said corporation shall have power to reinsure any

risk which may be taken by them or any part thereof, in the discretion of the officers or directors of the company.

The amendment was agreed to.

Mr. PRICE. I wish to offer one or two amendments to this bill before it is put upon its passage. In the reading of the bill yesterday I noticed that it provides that no larger dividends than six per cent. shall be declared unless the surplus profits of the company shall exceed \$20,000. The bill, however, does not restrict the company from declaring a dividend at any time of six per cent. or less, though they may have no profits at all. Now, it will be readily perceived by members that under this provision this company may divide the capital stock up in dividends when there is no surplus of profits from which to pay dividends. In my opinion such a provision as that ought not to be allowed to go into any bill of this character, for it is perfectly ruinous, allowing the stockholders or directors for the stockholders to do that which certainly has never been allowed to be done in this country. Now, I would suggest to the gentleman who has charge of the bill [Mr. MERCUR] that it should be so amended that no dividends shall be declared unless the company shall have on hand at the time a certain amount of surplus profits.

Mr. MERCUR. I have no objection to such an amendment.

Mr. PRICE. Then I move to amend the bill in the section providing for the declaration of dividends so as to provide that no dividends shall be declared unless the company shall have on hand at least \$20,000 of net profits.

Mr. DAVIS. I would suggest to the gentleman from Iowa [Mr. PRICE] that he better frame his amendment so as to provide that no dividends shall be declared by the company except from the profits of the company.

Mr. PRICE. I think the amendment I have suggested will cover the whole ground. I desire to provide that no dividends shall be declared unless the company shall be in possession of at least \$20,000 of net profits.

Mr. DAVIS. The gentleman will excuse me, I hope, if I still urge upon his attention the fact that the language which he has employed does not fully accomplish the purpose he states he has in view. According to the amendment which the gentleman suggests the company are not to declare any dividends of any amount unless they have at least \$20,000 of net profits on hand. But there is nothing to prevent the company, after they shall have accumulated \$20,000 of net profits, from going on and making their dividends from the capital. I suppose the purpose of the gentleman is to have the dividends declared from the profits, and the profits alone.

Mr. PRICE. That is what I seek to accomplish.

Mr. DAVIS. The language employed by the gentleman in his amendment does not do that.

Mr. PRICE. My intention is that the company, after the declaration of any dividends, shall have on hand at least \$20,000 of net profits; that no declaration of dividends shall reduce the surplus profits below that amount.

Mr. DAVIS. I would suggest to the gentleman to modify his amendment so that it shall provide that no dividends shall be declared except from the profits of the company, nor unless there shall be a surplus of at least \$20,000 net profits after the payment of the dividend.

Mr. PRICE. I will accept that modification.

The amendment, as modified, was agreed to.

Mr. PRICE. I wish to make another suggestion. If I understood the bill correctly as it was read, it provides that any number of directors may be a quorum for the transaction of business. Now, I do not know whether the gentleman from Pennsylvania [Mr. MERCUR] has noticed that provision of the bill; but he must see at once the propriety of making it read that any number not less than so many,



which ought to be not less than one-half, shall constitute a quorum to transact business.

Mr. MERCUR. The bill provides that the directors shall determine what number of their body shall constitute a quorum.

Mr. PRICE. Precisely; and they may determine that one member shall constitute a quorum, and thus place the entire business of the company under the control of one man, which would be ruinous to the interests of the company and of the public. I move to amend by inserting the words "not less than two thirds of the entire number."

Mr. MERCUR. I will agree to an amendment saying "one half."

Mr. PRICE. Very well; I will move that amendment.

The amendment was agreed to.

The bill, as amended, was then read the third time.

The question was upon the passage of the bill.

Mr. PAINE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

Mr. WILSON, of Iowa. I move that the bill be laid on the table.

On the motion there were—yeas 46, nays 30; no quorum voting.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 54, not voting 68; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Benjamin, Boutwell, Brandegee, Brownell, Campbell, Chanler, Cobb, Cook, Cullom, Dawes, Deming, Donnelly, Eldridge, Eliot, Garfield, Glossbrenner, Goodyear, Grinnell, Hale, Aaron Harding, Abner C. Harding, Henderson, Hill, Hise, Hooper, Demas Hubbard, Edwin N. Hubbell, Humphrey, Hunter, Julian, Kerr, Ketcham, Longyear, Marston, Melndoe, Moorhead, Morrill, Moulton, Niblack, Nicholson, Orth, Paine, Plants, Price, Samuel J. Randall, Rogers, Rollins, Ross, Sawyer, Shehabarger, Sloan, Stevens, Stokes, Taber, Thornton, Trimble, Upton, Van Arman, Burt Van Horn, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, and James F. Wilson—69.

NAYS—Messrs. Ancona, Baldwin, Bidwell, Bingham, Blaine, Boyer, Bundy, Reader W. Clarke, Cooper, Davis, Dawson, Deftrees, Dixon, Dodge, Driggs, Eckley, Ferry, Griswold, Hart, Hayes, Higby, Holmes, John H. Hubbard, Ingersoll, Jencks, Kelley, Kelso, Koontz, Kuykendall, Ladin, Leftwich, Marshall, Marvin, Maynard, McClurg, McKee, Meruer, Mercer, Miller, Patterson, Perham, Pike, Ritter, Sitgreaves, Spaulding, Nelson Taylor, Trowbridge, Warner, Henry D. Washburn, Welker, Wentworth, Stephen F. Wilson, Windom, and Woodbridge—54.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baxter, Beaman, Bergen, Blow, Broomall, Buckland, Sidney Clarke, Conkling, Culver, Darling, Delano, Denison, Dumont, Eggleston, Farnsworth, Farquhar, Finck, Harris, Hawkins, Hogan, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Hulburd, Johnson, Jones, Knasson, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Lynch, McCullough, Morris, Myers, Newell, Neill, O'Neill, Phelps, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Schenck, Scofield, Shanklin, Starr, Stillwell, Strouse, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Hamilton Ward, Whaley, Williams, Winfield, and Wright—68.

So the bill was laid on the table.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The time allowed to the Committee for the District of Columbia for private business has expired. The call of committees for private business will now be resumed where it was arrested on the 12th instant.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 453) entitled "An act to regulate the tenure of offices," in which the concurrence of the House was requested.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 311) entitled "An act for the relief of James Pool;" whereupon the Speaker signed the same.

#### RUFUS C. SPALDING.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with a recommendation that it pass, a bill (H. R. No. 843) for the relief of Rufus C. Spaulding, a paymaster in the United States Navy.

The bill, which was read, proposes to authorize and require the Secretary of the Treasury, in adjusting the accounts of Rufus C. Spaulding, as paymaster in the Navy of the United States, to credit Spaulding with \$14,563 73, being the amount stolen from the quartermaster's safe at the naval station at Mound City, Illinois, on the night of December 21, 1865; which sum stands charged to his account as paymaster.

Mr. DRIGGS. I would like to hear some explanation of this bill.

Mr. RICE, of Massachusetts. It appears from the evidence before the committee that Paymaster Spaulding was ordered to Mound City, Illinois, and entered upon the discharge of his duties as paymaster of that station on the 23d of February, 1865. At that time there were connected with said station a fleet paymaster, a purchasing paymaster and navy agent, a paymaster in charge of provisions and clothing, and paymaster of the receiving ship, making in all five paymasters, including Paymaster Spaulding. In process of time the duties performed by all these paymasters were cast upon Paymaster Spaulding alone, and he continued to perform them till October, 1865. On the 21st of August, 1865, finding his duties too onerous, Paymaster Spaulding, with the approbation of his commanding officer, Commodore J. W. Livingston, applied to the Navy Department at Washington for an assistant. On the 6th day of October, 1865, Acting Assistant Paymaster J. S. Harvey, a bonded officer of the Navy, reported for duty, by order of the Department, to Paymaster Spaulding at Mound City, and was by him placed in charge of the office and the accounts of the station.

On the 21st of December, 1865, Paymaster Spaulding had received at that station, from sales of Government property and other sources, nearly three million dollars. This money was deposited in the national banks at Cairo, some eight miles from Mound City.

On the night of the 21st of December, 1865, before alluded to, there was in the possession of Paymaster Spaulding at Mound City \$54,000. That money was left in charge of Paymaster Harvey, sent out by the Navy Department to assist Paymaster Spaulding, in whose charge also the keys of the safe were when this money was taken. The keys of that safe Paymaster Harvey placed in his private desk, locked with his own key, which he put inside of his pocket. During the night the premises were entered by some person unknown, and the amount of money in the safe, about fifty-four thousand dollars, was abstracted. On sweeping out the room the following morning the porter found a parcel of money amounting to \$39,700, leaving about fourteen thousand dollars missing, which had been stolen and carried away. Paymaster Spaulding immediately asked Commodore Schenck, in charge of the station, that there should be an investigation into the loss of this money, and the responsibility of the person upon whom the custody of the money devolved. That examination was made, and subsequently a court of inquiry, at the request of Commodore Schenck, was ordered by the Navy Department, which court investigated the loss and reported that Paymaster Spaulding was in no manner to blame in the premises.

It appears in the testimony before the committee that Paymaster Spaulding was a man of integrity and entire competency for the situation. The person immediately responsible was a bonded officer, sent by the Navy Department and placed under him. In the opinion of the committee and of the court of inquiry and the Fourth Auditor of the Treasury no responsibility attached to Paymaster Spaulding in the premises, but belonged to Paymaster Harvey, his assistant. In support of this it may be stated that the Navy Department has recog-

nized the ability and integrity of Paymaster Spaulding since then by appointing him to an important and responsible position, in which he is at present serving.

But, sir, there is no law which will permit the Fourth Auditor to relieve Paymaster Spaulding, and therefore it becomes necessary that Congress shall pass an act for his relief; and such an act is the one proposed in the pending bill.

Mr. WILSON, of Iowa. I wish to know the facts concerning the leaving of the safe-keys in a desk in the same room. I think we ought to have a more particular statement than the gentleman has yet given.

Mr. RICE, of Massachusetts. As I have stated already, Paymaster Harvey was sent out by the Navy Department to be the assistant of Paymaster Spaulding. Paymaster Harvey himself was a bonded officer of the Government, and responsible for the correct discharge of his duties. He had charge of this small sum at Mound City. I may say this sum of \$54,000, which I call a small sum, was small in comparison with the amount in the custody of Paymaster Spaulding. He had \$475,000 at Cairo and other places of safe keeping. The disbursements at Mound City amounted to from twenty to fifty thousand dollars a day, and therefore he had at Mound City the sum of \$54,000, and that at the time of the robbery was in the possession of Paymaster Harvey, who made payments from the safe. He had the keys of the safe, and put them into his own desk.

Mr. WILSON, of Iowa. I wish to ask the gentleman from Massachusetts whether the committee considered this question: whether the relief proposed to be extended to Paymaster Spaulding will not also extend to Paymaster Harvey; and whether it is the intention of the committee to relieve Paymaster Harvey as well as Paymaster Spaulding.

Mr. RICE, of Massachusetts. I will answer the gentleman by saying it is not the intention of the committee anybody should be relieved from responsibility under this bill except Paymaster Spaulding. It appears from the evidence in the case that Paymaster Spaulding was not responsible, and that Paymaster Harvey will be left to settle his own accounts as well as he may.

Mr. WILSON, of Iowa. Paymaster Spaulding is held responsible because Paymaster Harvey was acting under his orders. Paymaster Spaulding, as I understand the case, in consequence becomes responsible to the Government for the loss of this property, and that responsibility will not attach to Paymaster Harvey except through Paymaster Spaulding. Hence in relieving Paymaster Spaulding we relieve Paymaster Harvey, who was negligent in the discharge of his duties in leaving the keys of a safe containing \$54,000 in a desk in his office, so any person could take it, as some person did.

Mr. RICE, of Massachusetts. I reply to the gentleman by saying that the statement would undoubtedly be true if Harvey had simply been the clerk of Paymaster Spaulding. But the fact was that Harvey was himself assistant paymaster in the Navy and a bonded officer, responsible to the Government for the proper discharge of his duty.

Mr. WILSON, of Iowa. If the responsibility then rests upon Paymaster Harvey, I do not see the necessity of relieving Paymaster Spaulding. But if the responsibility is upon Paymaster Spaulding, and it is necessary to relieve him, then it occurs to me this may extend to Paymaster Harvey.

Mr. RICE, of Massachusetts. In answer to that I will state that the custom of the Navy Department is to charge all the money sent to the chief paymaster in charge. Paymaster Spaulding was there in charge; the accounts were opened with him alone before this assistant was sent to him. The assistant went to him by the Department, but went in the capacity of a bonded officer. I will state to the gentleman and to the House that the Navy Department have relieved Paymaster Spaulding, as far as it was in their power, and that

the additional responsibility under which he is held is merely technical, but still of a character that Congress should be asked to relieve. I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. Having had some acquaintance with the Department, and having had a special opportunity to know something about this matter, I will say a word about it. My brother, being in command at the naval station at the time, had correspondence with me in relation to the misfortune that had befallen this young gentleman, Paymaster Spalding. This led me to inquire into the facts, and the result of it, I may say in a word, is a conviction that this bill for his relief ought to pass. And with the utmost respect for the Department and for the gentlemen who may have been members of the court which investigated the case, I must say that it was a most extraordinary finding that they should have implicated Paymaster Spalding upon all the facts before them.

Now, the gentleman from Iowa, [Mr. WILSON,] as has been remarked by the chairman of the Committee on Naval Affairs, entirely misapprehended him when he put the relation between Spalding and Harvey as if it were a relation between principal and clerk or agent employed by himself. Harvey was himself an assistant paymaster in the Navy, ordered by the Department to report at Mound City to the officer in command there, to serve as an assistant to Spalding. But he is or was himself a bonded officer, and Spalding had nothing to do with his selection. He was, therefore, no more responsible for the acts of Harvey than I am responsible as a Representative here for the action of my friend from Iowa. It is true that Spalding ranked him, and he being the assistant of Spalding must have got his orders through him; but he was like Spalding himself a paymaster, holding a commission, having given bonds and being liable for his acts when ordered to serve as such assistant. Spalding had no more control over the selection and knew no more who was to be sent to him as his assistant than you or I. Nor had he a right to object to Harvey. Harvey went there under the order of the Navy Department, and acted upon his responsibility as a bonded officer, and it was not in the power of Spalding either to select or to reject him, but he had to take whatever officer was sent by the Department.

Now, what is the proof in this state of facts? Why, that Spalding was performing not only duties at the naval station as paymaster, but acting as paymaster for a receiving ship and in various other capacities, which led him away from time to time from the yard. In his absence there was no one who could act for him except a second officer of the staff. The other paymaster with him was necessarily intrusted, therefore, with the charge of the safe containing whatever money had been placed on deposit there. The keys were necessarily intrusted to this officer, who was sent there as assistant paymaster. The proof submitted on this subject in the first inquiry that was made, when the whole matter was fresh with all the facts, entirely exonerated Paymaster Spalding and threw the blame on Harvey. I desire only to add that I think there might be a propriety perhaps in suggesting to the gentleman from Indiana and to the chairman of the committee of inserting a clause in this bill that it should not be so construed as to exempt Harvey from any personal liability.

Mr. RICE, of Massachusetts. The gentleman can move that amendment.

Mr. SCHENCK. I will do so, but I do not wish to be understood as stating that even Paymaster Harvey should be responsible for the loss of this money. But if anybody should be held responsible it should be Harvey. I move to amend the bill by adding the words "that nothing herein contained shall be so construed as to exempt from official or personal liability upon his bond Assistant Paymaster Harvey."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SPALDING. I ask to be excused from voting on this bill.

No objection was made, and Mr. SPALDING was accordingly excused from voting.

The bill was then passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOSEPH P. FYFFE.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with a substitute, House bill No. 140, to restore Lieutenant Joseph Fyffe to his grade in active service in the Navy.

The substitute was read. It authorizes the President of the United States to nominate, and, by and with the advice and consent of the Senate, to appoint Lieutenant Joseph P. Fyffe to the active list of the Navy, and to restore him to the rank to which he may be entitled therein.

The substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

S. L. BREESE.

Mr. BRANDEGEE, from the Committee on Naval Affairs, reported back House joint resolution No. 216, for the restoration of Lieutenant Commander S. L. Breesee, United States Navy, to the active list from the retired list.

The joint resolution was read. It authorizes the President of the United States to nominate and by and with the advice and consent of the Senate to appoint, Lieutenant Commander S. L. Breesee to the active list of the Navy, with the rank to which he may be entitled thereon.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRANDEGEE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PAUL S. FORBES.

Mr. KELLEY, from the Committee on Naval Affairs, reported back, with amendments, Senate joint resolution No. 99, for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho.

The bill was read. It authorizes the Secretary of the Navy, as in his judgment he deems best, either to accept the steam screw sloop-of-war Idaho of the contractor, Paul S. Forbes, at the contract price of \$600,000, or to transfer the said sloop to said contractor, on the latter giving bond with good and sufficient security, to be approved by the Secretary of the Navy, to refund to the Department within six months of the date of such transfer all advances of money made by Government on account of the construction and equipment of said vessel.

The committee recommend that the bill be so amended as to instruct the Secretary of the Navy to accept the steam screw sloop-of-war Idaho from the contractor, Paul S. Forbes, at the contract price of \$600,000.

Mr. WASHBURN, of Illinois. I understand that the amendment recommended by the Committee on Naval Affairs proposes to take away from the Secretary of the Navy all discretion in this matter, and directly instructs him to accept this vessel and pay the contract price.

Mr. KELLEY. That is what the committee propose.

Mr. WASHBURN, of Illinois. I hope the amendments of the committee will not be agreed to by the House.

Mr. KELLEY. I do not know that I can more briefly and clearly state the facts involved in this case than by asking that the petition of Mr. Forbes be read.

The SPEAKER. The morning hour has expired, and this bill will go over to the morning hour of the next private bill day.

ENGINEER CONTRACTS FOR 1866.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting in compliance with the act of April 21, 1868, a list of the contracts made by the officers of the engineer department during the year 1866; which was laid upon the table and ordered to be printed.

PATAPSCO SHIP-CHANNEL.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in answer to a resolution of the House of January 8, 1867, a report by the chief of engineers relative to the ship-channel of the Patapsco river; which was referred to the Committee on Commerce, and ordered to be printed.

AFFAIRS IN UTAH.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in answer to a resolution of the House of January 8, 1867, reports of the tours of inspection made by General Rushing and General Hazen; which, with the accompanying documents, was laid upon the table, and ordered to be printed.

TENURE OF OFFICE.

Mr. HALE. I ask unanimous consent that a bill now on the Speaker's table be ordered to be printed; I refer to Senate bill No. 453, to regulate the tenure of offices.

No objection being made, the bill was accordingly ordered to be printed.

Mr. WILLIAMS. Would it be in order at this time to move the reference of that bill to the Committee on the Judiciary?

The SPEAKER. That would require unanimous consent.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of first lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry; in which the concurrence of the House was requested.

MILITARY ROAD.

Mr. PAINE, by unanimous consent, introduced a bill to amend an act entitled "An act granting land to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green bay, in the State of Wisconsin," approved March 3, 1863; which was read a first and second time, and referred to the Committee on Public Lands.

TRADE-MARKS.

Mr. MOORHEAD, by unanimous consent, introduced a bill relating to trade-marks; which was read a first and second time, and referred to the Committee on Patents.

GEORGE W. FISH.

Mr. BANKS. I desire unanimous consent to move that the Committee of Claims be discharged from the further consideration of the bill (S. No. 446) for the relief of George W. Fish, and that the bill be referred to the Committee on Foreign Affairs.

Mr. WASHBURN, of Illinois. I would like to hear the bill read, so that we may determine to which committee it should properly go.

Mr. BANKS. The Committee on Foreign Affairs has had the subject under consideration.

The bill, which was read, proposes to direct the Secretary of the Treasury to pay to George W. Fish \$1,825 04, in full pay for consular services as United States consul at Ning Po, China, and for exchange due him.

Mr. WASHBURN, of Illinois. This bill should properly go to the Committee on Commerce; but I will not object to the proposition of the gentleman from Massachusetts, [Mr. BANKS.]

There being no objection, the motion of Mr. BANKS was agreed to.

#### BOUNTIES OF CALIFORNIA TROOPS.

Mr. BIDWELL, by unanimous consent, submitted the following resolution:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the propriety and justice of securing to the troops raised in California during the late rebellion, who enlisted for three years or during the war, but who were honorably discharged, by reason of the termination of the war, before their term of service had expired, the bounties promised to them at the time of their enlistment; and that the committee have leave to report at any time by bill or otherwise.

The SPEAKER. The clause of this resolution authorizing the Committee on Military Affairs to report at any time, requires unanimous consent for its adoption.

Mr. GRINNELL. I object to that clause.

Mr. BIDWELL. I modify the resolution by striking out that clause.

The resolution, as modified, was adopted.

#### PAGE'S PICTURE OF FARRAGUT.

Mr. RICE, of Massachusetts, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the joint Committee on the Library be instructed to inquire into the expediency of purchasing Page's picture of Admiral Farragut, now hanging in the Rotunda of the Capitol, with leave to report by bill or otherwise.

#### RECONSTRUCTION.

The House then resumed the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights.

Mr. SPALDING. Mr. Speaker, I desire to say that I am now, as I have been for some months past, of the opinion that if the constitutional amendment should not be accepted by the disloyal States it would become the duty of Congress to intervene, and so legislate as to reconstruct those rebellious communities upon the votes of their loyal citizens without respect to class or color. But, sir, if the amendment of the gentleman from Pennsylvania [Mr. STEVENS] to this bill should be adopted and become a law, it will, it seems to me, be found defective in this important particular; that it does not afford any protection to that loyal class of the inhabitants of those communities who are to perform these high functions. Why, sir, these colored men who are now recognized by the Government as possessing the rights of freemen, and who are to be called upon to assert the elective franchise, are to be in jeopardy of being shot down like so many dogs when they attempt to visit the polls. Now, I propose to have that class of citizens armed with power for their protection; and to that end I desire to offer an amendment, which I hope my friend from Pennsylvania will accept. It is to add a new section, as follows:

*And be it further enacted*, That from and after the passage of this act, and until said States in rebellion shall be admitted to representation in Congress as aforesaid, the privilege of the writ of *habeas corpus* shall be suspended in Virginia, North Carolina, South Carolina, Georgia, Florida, Texas, Alabama, Louisiana, Mississippi, and Arkansas; and said districts of country are hereby placed under martial law for and during the whole term aforesaid.

Mr. STEVENS. I think that is all right. I accept it as a modification of my amendment.

Mr. KOONTZ. Mr. Speaker, I do not propose to examine in detail the bill now under discussion, but will occupy a portion of the time allotted me in discussing the general principles involved therein. When the late civil war closed with the overthrow of the military power of the southern confederacy the first questions that were presented to the considera-

tion of the loyal people of the country were, what penalties shall be imposed upon the persons who brought so direful a calamity upon the nation? and what shall be done to restore civil governments to those communities, and once more bring them into harmonious action with the General Government? For over four years the nation had engaged in a desperate struggle for its life. Ten States had by solemn legislative enactment separated the ties that bound them to the Union, organized a separate government, seized the forts, arsenals, navy-yards, mints, custom-houses, and other property of the Government, raised large armies and waged one of the fiercest wars known in history, to establish their independence. After an immense expenditure of blood and treasure the whole fabric of treason fell crumbling to the earth, and the great fact established thereby was the ability of the nation to maintain itself against domestic foes.

A stern sense of justice demanded that some punishment should be inflicted upon the guilty criminals who had lighted the fires of civil war, desolated so large a portion of our fair land, and robbed the country in mourning for the precious dead whose lives had been sacrificed through their mad ambition. At the same time a proper regard for the future peace and security of the country required that there should be some conditions imposed upon them before they could again be permitted to participate in the privileges pertaining to the true and loyal people of the country. These things were looked for by the friends of the Government, not through a spirit of hatred or revenge toward the rebels, but because they were consistent with not only the fundamental law of the land but with that great principle of self-preservation which lies at the foundation of all Governments, and belongs to nations as well as to individuals. The crime of treason is defined by the Constitution as follows:

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."—Article 3, section 3.

And the punishment provided therefor is, by act of Congress, 30th April, 1790, as follows:

"If any person owing allegiance to the United States of America shall levy war against them, or shall adhere to their enemies, giving them aid and comfort, within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death."

It requires no argument here to prove that they were guilty of this monstrous crime. That they waged a fierce and relentless war against the United States we have but to look at the numberless widows and orphans, who remind us that three hundred thousand precious lives were lost to resist their attacks upon the Government; and to remember that a national debt of \$3,000,000,000, which will tax the energies of our people for generations to come, was contracted to overthrow the work of treason. Manifestly guilty, therefore, of this high crime it would have only been in accordance with the dictates of justice had they suffered its penalty. The principle that there must be punishment for crime pervades both human and divine law, and as they were guilty of the very highest crime known to the law, as well as of all the crimes that follow in the train of civil war, it was but a reasonable expectation on the part of the loyal people that they should expiate their crimes by suffering the penalties of the law. I do not claim, nor do I believe it to be the sense of the people, that these plain provisions of the law should have been enforced upon the great mass who were deluded into the ranks of treason; but I do most sincerely believe it to be the deliberate judgment of the great body of the American people that the guilty leaders ought to have suffered condign punishment. Instead, however, of carrying out his previous threats that "traitors must be punished," the accidental occupant of the White House showers upon them executive clemency, and instead of "treason being made odious"

it basks in the smiles of presidential favor. Think of Alexander H. Stephens, the vice president of the rebel confederacy, with the pardon of Andrew Johnson in one hand and a commission from the State of Georgia in the other, waiting for "my policy" to be carried out to take his seat as a Senator in the Senate of the United States, and you have a striking illustration of the way in which the highest crime against the nation has been dealt with. Treason vanquished upon the battle-field has succeeded through the treachery of Andrew Johnson in escaping the blows of justice. It remains for the Congress of the United States to see to it that the people are not robbed of the fruits of the great victory won by the sword; and that before these communities can be restored to their former position they must comply with such conditions as may be deemed necessary for the future peace of the country.

In a Government where there is the widest latitude given to the expression of individual opinion, and where opinion is formed into law through the instrumentality of the ballot-box, it is but natural that there should be great diversity of sentiment upon a question so important as that of deciding upon the true relation of those States to the Government which they had attempted to destroy and whose authority they were compelled to acknowledge after a bloody and destructive war. The public sentiment of the country is divided upon this question. Upon the one side are the whole of the people lately in rebellion, that entire class of people in the North who, if they did not sympathize with rebellion, constantly opposed every measure used for its overthrow, together with a few renegade Unionists, among whom is the President of the United States. On the other side are the truly loyal men of the South, both white and black, and that great and patriotic body of people in the North who were true to the Government through its long and trying struggle with red-handed treason. The sentiments of the people upon this question began to be developed with the events immediately following the overthrow of the rebellion, and have continued to be molded by successive events until now, when they have assumed a decided form, and are expressed either in advocacy of, or bitter hostility to, what is known as the President's policy of reconstruction.

When Andrew Johnson was elevated to the Presidency through the assassination of Abraham Lincoln the Thirty-Eighth Congress had expired by constitutional limitation. Without summoning together the legislative branch of the Government he at once began the work of reconstruction. He appointed provisional governors for these States, directed the calling of conventions in them for the purpose of starting the machinery of State government, demanded from them compliance with certain conditions which he imposed, and then pronounced them in a fit condition to be admitted into the Union, provided they sent loyal representatives to Congress. Before discussing the policy of the President relative to the admission of the representatives from the States lately in rebellion, permit me to say, sir, that, in my judgment, since the formation of this Government there never was a more glaring and notorious usurpation of power than that committed by Andrew Johnson in his attempt to direct the work of reconstruction. The most important question that ever came before the American people for consideration and action was that of the adjustment of the difficulties growing out of the war. The people in ten States had for four years been in rebellion against the constituted authorities of the country, a vast amount of blood and treasure was expended on both sides, the passions and prejudices of the people were excited to a degree common only to such great conflicts; in short, the throes of one of the mightiest revolutions ever enacted in the great drama of human life had developed such a condition of public affairs as required the combined efforts and the collective skill and wisdom of all the departments of the Government.



And yet in the midst of this condition of things Andrew Johnson—one man, and a rash, obstinate, impulsive man at that, in a Government where the people rule through their representatives, and under a Constitution which expressly defines the powers and limits the duties of the Chief Magistrate, whose duty it is to execute the laws, and who has no part in making them except to make suggestions to Congress from time to time and to interpose his veto in such matters as he may see proper—assumed the direction and control of the most momentous questions that may ever occur in the life of this nation. His work of restoration was therefore a work of usurpation, wholly unwarranted and unauthorized by the Constitution. But his plan for the readmission of the rebel States was as wrong as his assumption of jurisdiction over the question was illegal and unconstitutional. What was it, and what is it still? It is briefly this: that the act of secession on the part of those States being illegal, and the rebellion having been put down, the people in those States occupy the same position they did before the war, and are at once entitled to immediate representation in the Congress of the United States. And in vindication of this position we are triumphantly asked by the President and his supporters, Did you not say that a State cannot secede; that you were only fighting to preserve the Union? And now, having succeeded in overthrowing the rebellion, you are not willing to have the Union, but insist on its disruption. True, we did say and still believe that a State cannot secede, and that we were contending solely for the preservation of the Union, and thus far we shall have no difference of opinion with you; but as to the question whether States that have rebelled, set up a foreign government, tried to destroy the old Government, waged a wicked war, and been vanquished after a long and bloody struggle, are entitled to stand precisely where they did before the war, and participate in the Government without any limitation or restriction imposed upon them, we do differ most widely.

It is contended by the supporters of the President's policy that this is a government of States, and that as no State has a right to secede that it cannot after an unsuccessful war against the General Government be prohibited from exercising the rights of a State in the Union. And further, that as ours is a representative form of government, we are doing violence to our institutions by preventing any part of the people from being represented in the Government. These I believe are the main arguments relied upon by them for the correctness of their position. Let us examine them and see how far they have been true to these principles. In the first place, the argument that this is a Government of States, and that the Union was only a confederacy of States subject to be broken at the will of any State, was the one used by the secessionists for twenty-five years for the purpose of destroying the Union. They held that the State was sovereign, that the Union was only a temporary convenience, and that the State might dissolve it at pleasure, and is it not singular that now, having tried secession and failed, they endeavored to avail themselves of the very opposite doctrine? I hold that this doctrine is incorrect in principle and utterly pernicious and destructive of the very ends of government if carried out. It is not true that this is simply a Government of States. That was the basis upon which the old Union was formed and held together under the Articles of Confederation, but the system was found to be so defective that it was soon done away with. The States, acting upon the principle of their independence, disregarded the power of the General Government, and the latter was soon without power or authority among the States and without respect among other nations. The very weakness of the General Government was what occasioned the subsequent formation of the Federal Government under which we live. And, sir, while it is true that the Constitution of the United States is the fundamental chart

by which we are to be governed, I contend that our fathers did more than to limit by express words what the Government could or could not do. When they created the Government of the United States they created a nation which from the very necessities of its creation and existence was entitled to powers and rights as such which are not defined in the Constitution. Among these is the right to do all things necessary for its preservation as such.

Had we not acted upon this principle we would have been destroyed at the very outset of the war, for we were then told that there was no power and authority under the Constitution to coerce a State. Is it not singular that this doctrine of the power of the States and the want of power in the Constitution to coerce them was used both to destroy and to create? By this sophistry they would have permitted the States to destroy the Union without molestation, because they told us there was no power in the Constitution to coerce them, and then when the States have been vanquished after a severe struggle, we are told that they still maintain their status under the Constitution, and charge us with being disunionists because we do not at once admit them. To show not only the utter absurdity but absolute danger there is in this wicked doctrine of State rights, it is necessary to inquire what constitutes a State and wherein is the power for evil. A State is composed of three things: first, a given area of territory; second, a certain number of people; and third, local municipal law. It is manifest that the territory can do no harm, except in so far as it may serve by natural defenses to aid the people in their work of rebellion. The local municipal law is the creature of the people, and can only be made an instrument of danger to the Government provided the people so will it. It follows, then, that of these three necessary elements that form a State, the only danger to be apprehended by the Government is from the people that constitute the State.

But we are told that no matter what the mind and heart of the people may be, no matter how hostile they are, and how ready they may be to destroy the General Government, and how much they may have done to destroy it, through the instrumentality of these lifeless corporations called the States, they are entitled to hold all the rights and privileges of the peaceable and loyal citizens of the Government. The whole people of a State may rebel, the people of ten States may rebel, and you have no power under the Constitution of the United States to coerce them because these indestructible things called the States dare not be interfered with. The people of those States after a long and desolating war may be overcome, and they are immediately invested with all the rights of American citizens by the aid of these immutable corporations called the States. Sir, that is the doctrine of national ruin, of national death. The people indignantly repudiated that doctrine at the beginning of the war; they repudiated it all through the war; and since the war is over they have repudiated it by one of the most sublime national verdicts ever recorded. And although a plan for the restoration of those States was agreed upon in the last session of this Congress by the representatives of the people, and was, together with the policy of the President, submitted to the people for their action in the late campaign, I look upon the decision of the people rather as a condemnation of the President's policy than an expression of opinion in favor of the plan proposed by Congress as the only way to settle our national difficulties.

We have, therefore, this all-important question before us, and are charged with the responsibility of deciding it, enlightened and guided, as we must be, by the overwhelming voice of those who sent us here. The policy of the President having been completely repudiated by the people we are compelled to look for some other mode of settlement that will be consistent with the wishes of the great body

of the American people, and in harmony with those great principles of equal and exact justice that lie at the foundation of our Government. And I do not propose, sir, to embarrass myself with the consideration of the nice and subtle distinctions that are now being made in regard to whether those communities are still States, or whether, having taken up the sword and appealed to arms and been vanquished, they are reduced to the condition of Territories. For whether they are States or Territories, I maintain that the jurisdiction of the loyal States is full, ample, and complete over the question of their admission into the Union. If the doctrine as laid down by Vattel be correct, that—

“A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of these parties may have been to blame, in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or wrong lies? On earth they have no common superior. They stand, therefore, precisely in the same predicament as two nations who engage in a contest, and, being unable to come to an agreement, have recourse to arms.”—*Vattel's Law of Nations*, p. 425.

Then there can be no doubt as to our power over the question. On the other hand, if that rule does not apply, then I hold that the people of these States, having overthrown their institutions and placed them in an attitude of hostility to the Government, we as the conquering party have the right under that clause of the Constitution which requires that each State shall be guaranteed a republican form of government, to examine their forms of government and determine whether they are in conformity to the Constitution. If we do not possess this right, then all we did during the war was wrong, and the rebel States would have had the right to be represented in Congress during the war, embarrassing us by their votes in council as well as their guns in the field. But President Johnson (if indeed a person who has so completely swung around the circle of opinion that he may be quoted upon either side is entitled to be quoted at all as authority) has distinctly recognized this right when he demanded from them compliance with certain conditions, before even he would recognize their right to admission, and provided they sent loyal representatives. I may inquire here by what authority he imposes the last condition? If they are entitled as States to representation what power has he to limit their selection to loyal representatives? Does not the fact that he does so limit them upset his whole doctrine of restoration? Whether as States or Territories, then, as we have the power to direct upon what terms they shall be admitted, it remains to be determined what is the safe way out of the difficulties that now surround us.

In view of the great struggle that the nation has passed through two things seem to be necessary: first, to enact such legislation as will best provide against like difficulties in the future; and second, to protect in every possible way the people in the South who have been true to the Union, without regard to their race or color. Had the people in those States signified their willingness to accept the amendments to the Constitution by this Congress, we would have been bound in good faith to accept them, but having rejected them it now becomes our duty to enact such further legislation as will thoroughly protect all classes of people. The amendments are necessary as part of the work of reconstruction, declaring as they do who are citizens of the United States, providing against an undue exercise of political power on the part of any State by prohibiting it from including in the basis of representation any class of people who may be denied the right of suffrage, excluding certain rebels from the right to hold office, and declaring the national debt binding upon the nation, while forever prohibiting the payment of any portion of the debt contracted by the rebels. These pro-

visions are all wise and necessary; and as they have been so fully discussed and sanctioned by the great body of the American people I will not dwell upon them here. But in addition to them one thing more is needed, and that is, to confer the elective franchise upon all loyal men in those States as provided in the fourth section of the bill.

I believe that this should be done both as a matter of right and expediency. In declaring it to be a matter of right I am aware that I come in conflict with that class of people who believe that this Government was erected exclusively for the benefit of the white man. Sir, there never was a more unsound, pernicious doctrine proclaimed than that this is a white man's Government. When the fathers of the Revolution proclaimed the great principles enumerated in the Declaration of Independence, that all men were created free, that they were entitled to certain inalienable rights, among which were life, liberty, and the pursuit of happiness, and that "Governments derive their just powers from the consent of the governed," they spoke the voice of humanity, asserting its rights in bold and manly terms after centuries of cruelty, oppression and misgovernment. Their platform was no narrow, circumscribed one, but broad enough to cover all creeds, all classes and conditions of men, and whether thoroughly understood by them and acted up to by them or not, or whether understood and acted up to by us in this generation or not, it will ever continue to inspire fresh hope in the heart of mankind, and will serve as the shibboleth of the party of progress in its conflicts with error, until every wrong done to humanity shall be effaced, and the whole family of man be governed by the same broad and generous principles of justice, equality, and fraternity.

But if we are to be governed in our opinions by the action of our fathers, then we should extend the ballot to the freedmen; for I believe it to be a fact that after the formation of the Government, in every State except one the ballot was given to all free men of color, thus showing that they recognized the right of the colored man to the elective franchise. I hold, however, that in a Government where the people rule, every man who has a stake in the Government should have the ballot for his own protection. His property is liable to taxation for the purpose of defraying the expenses of the Government, his personal services are demanded by the Government in time of war; he is affected by the public legislation of the country in his person and property, then why should he be prohibited from having a voice in the selection of his rulers? The great cry now raised by the advocates for the immediate admission of the rebel representatives is, that we are imposing taxation upon them without representation, but they are not willing to apply this principle to the four million blacks who will now have to bear their share of the burden of the Government. On the contrary, they would have representation without taxation, for they seem exceedingly anxious to represent these same four million blacks whose taxes they do not pay. I claim it further as a right to the black man because he has been true to the Government in her late struggle with treason, while his master, with all the advantages of education, intellectual culture, the right of the ballot, and unlimited political power in a country that had known him only to bestow benefactions upon him, proved a traitor, the poor, untutored, illiterate slave, proved true to the country in which he apparently had little to expect, its highest judicial tribunal having declared that he had no rights in the Government which a white man was bound to respect.

But the black man is entitled to the ballot as a matter of protection against the very men who for four years have been in arms to destroy the Government. While you may disfranchise leading traitors, the great body of them will still be permitted to exercise the elective franchise, and as time rolls on and the passions and feelings of this generation are

tempered by lapse of time they, too, may be restored to that right. We have seen enough to satisfy even the most skeptical that there exists in the minds of the rebels a deep-seated hatred against the colored race because they would not identify themselves with the cause of their masters. They have shown it in the legislation enacted since the overthrow of the rebellion, by which they have introduced slavery in everything except the name. Sir, it is a solemn, imperative duty that this nation owes to its colored people to protect them against their and the country's foes. It would be a burning, lasting disgrace to the nation were it to hand them over to their enemies. I know of no way in which this protection can be better given than by extending to them the elective franchise. Civil rights bills, Freedmen's Bureau bills, and all kindred measures will fail so long as they can be evaded by local legislation; but place the ballot in the hands of the black man and you give him that which insures him respect as well as protection. You send him forth armed with the panoply of the American citizen, wielding that most powerful of all weapons, the ballot—

"Which falls  
Like snow-flakes fall upon the sod,  
Yet executes a freeman's will,  
As lightning does the will of God."

Sir, thus much for the right involved in the question of extending the ballot to freedmen. A few suggestions as to the expediency of it and I am done. I may suggest that in that vast population so lately in armed hostility to the Union it could scarcely be expected that in heart and mind they could for many years to come be friendly to the Government which they have just tried to destroy. As a counterpoise to this hostile element introduced into the Government, will be the infusion into it of the steady patriotism and blind faith of the black population, balancing so much loyalty against so much disloyalty. The bestowal of the elective franchise to the freedman would have a tendency to elevate him and raise him above the condition that his recent release from slavery has left him in. And should we not rather strive to elevate than depress so large a number of people, constituting, as they do, nearly one seventh of the entire population of the country? Will not the nation be more benefited by the moral, religious, and political improvement of this large class of people than by permitting them to remain in a state of ignorance and helplessness? And what can be better calculated to infuse hope into the mind, elevate the understanding, and enlighten the conscience of the freedman, than to invest him with all the rights, duties, and responsibilities of an American citizen? I am not willing to believe, sir, that the elevation of this poor, unfortunate race of people will tend to degrade the white race, but am rather inclined to think that as they rise in the scale of intelligence so will the white race advance to a greater degree of improvement.

But it is expedient in another point of view, and that is as a final and complete settlement of the negro question. Since the formation of the Government the condition of the negro has been the vexed question in our politics. The war worked his release from bondage, and with it came the question of his right to citizenship and the ballot. It has been truly said that unsettled questions leave no repose, and especially is this the case in a Government where all questions must stand the test of public discussion. And with the negro asserting his rights, with the mighty intellectual power in the North arrayed upon his side, and with public sentiment fast drifting in that direction, its settlement cannot long be deferred. Sir, confer this right, and not only does the agitation of the question cease, but you approximate nearer to the great fundamental principles upon which our Government rests; the great disturbing element is removed from our body-politic, and our institutions will be in harmony with the ideas and principles upon which they were founded. I have no fears in extending this privilege to the black man. I would infinitely rather trust the ballot to the black man who

shouldered a musket to defend his Government than to the white traitor who tried to destroy it. The enfranchisement of black loyalists and disfranchisement of certain rebels, or rather suffrage upon a loyal basis, will be the surest protection to the loyal whites of the South. Unless they are reinforced by the addition of the loyal black element it is perfectly manifest that they will be subjected to rebel rule. In fact, that whole section is almost as completely dominated over by rebel authority as when Lee's battalions held undisputed sway over it. There to have been loyal to the Government is to be subjected to the scorn and hatred of the rebels, and in many sections life itself is endangered by reason of their intense hatred against Unionists.

The voice of the loyal whites of the South, who have suffered every conceivable wrong on account of their fidelity to the Union, comes to us demanding in thunder tones that we shall so reconstruct this Government that its friends, and not its enemies, shall rule. We would be untrue to them, untrue to the martyred dead, untrue to ourselves and to posterity, if we disregard their admonitions. Sir, the great duty rests upon us to finish the work which was not completed by warfare. The shackles of four million slaves were melted by the fierce fires of civil war; but the animus of slavery, its passions and prejudices, yet remain. It is our duty so to legislate as to remove the last relic of a barbarism that would have suited the dark ages, and to conform our institutions to the advanced condition to which we have been brought by the mighty revolution just ended. And when this shall have been done the great Republic, freed from the dark stain of human slavery, will start upon her mission to promulgate, by precept and example, the immutable and eternal truth of the equality of man, and before whose resistless march kingdoms and empires, principalities and powers, and all the systems built upon caste and creed for the oppression of man, will be swept from the face of the earth, and be known no more forever.

Mr. SCOTFIELD. Mr. Speaker, as the confederate population, five or six million in numbers, is to remain in this country and to some extent shape its destiny, it is all-important that we so reconstruct the Union that this population may become an element of strength rather than of weakness to the Republic. Powerful as we are we can hardly afford to allow a population so large, brave, and reckless to settle down into chronic discontent—forever to be to America what Ireland is to Great Britain, Poland to Russia, or Hungary to Austria—an ever-ready element of revolution. To avoid this result is the avowed purpose of both political parties; but strange to say, with the same professed end in view, they start out upon paths leading in quite opposite directions. The Republicans claim that the Union can be best preserved by removing the causes of discontent and thus extinguishing the motives to disunion, while the Democrats think the Union can be best preserved by tolerating, conciliating, and fostering the errors and wrongs from which disunion sprang.

For instance, the preservation of slavery was the original motive for secession. To destroy this motive the Republicans propose to abolish and the Democrats to foster slavery. Acting upon their theory, and anticipating the final overthrow of the rebellion, the Republicans began early in the war the removal of its cause. They prohibited the extension of slavery, abolished it in the District of Columbia, forbade the return of slaves by the Army, repealed the fugitive slave law, supported Fremont's, Hunter's, and Phelps' partial and Mr. Lincoln's more general proclamation of freedom, and finally by an amendment of the Constitution prohibited it everywhere and forever. Thus it was hoped that when the rebellion should be suppressed no conflicting interest would be left, about which the North and South could quarrel. There appeared, however, to be a lingering hope in the minds of the late masters

that in a separate republic the institution might still be revived in some modified form and something at least of their large investment saved, and to this extent the motive to renew the struggle in more propitious times survived. This hope and motive for disunion would grow weaker and weaker as the subject-race become more and more intelligent, thrifty, and self-reliant.

To facilitate this result the civil rights and Freedmen's Bureau, the franchise, and many other minor bills of like import were passed by Congress. The advancement of the negro was thought to be a greater hindrance to the revival of the disunion institution and a greater discouragement of confederate outbreaks than repealable laws or amendable constitutions. This was the Republican plan of reunion. The Democrats, acting on their theory of fostering and thus conciliating the disturbing elements, opposed all measures for emancipation, and are still opposing bills for the improving the colored race. I do not question their sincerity. Quite likely they sincerely thought that the best way to unite the North and South was to yield to, extend, cherish, and propitiate the cause of disagreement. But this is passed. The great work is nearly accomplished, and I refer to the course of the two parties upon it only to illustrate my position, that they seek the preservation of the Union in diametrically opposite directions.

The Republicans had hoped that by the removal of this original cause of quarrel all incentives to disunion would disappear; but on the threshold of reconstruction another and to some extent an unexpected trouble presents itself. The confederacy had four and a quarter years of nationality. During this time vast interests, passions, and resentments grew up under and centered in it. She contracted many debts, a debt in bonds and currency to her capitalists, of damages to her property-holders, of honor to her soldiers, memory to her fallen, and alms to the suffering. The dead claim homage; the maimed, widowed and orphans, pensions; the impoverished, payment; and the leaders, historic honors. These interests and passions embrace all classes and appeal to all hearts within the circumference of confederate power. This makes a cause stronger than slavery. There is more money in it by half, and quite as much to awaken resentment or provoke resistance.

If these people come back with these interests unbarred by a constitutional amendment, how can they avoid struggling to save in the Union all that was risked in the confederacy? If they do not, they must be worse than men or better than angels. But these interests are in direct conflict with the corresponding interests of the Federal Government. The reunited nation cannot honor Grant for preserving the Union and Lee for attempting to destroy it. We cannot mourn for the three hundred thousand Union dead and pension the men at whose hands they fell. It will be another war of sectional interests to be fought over in the Halls of Congress, the State Legislatures, on the hustings, and then again if opportunity presents on the field of blood. The "lost cause will take the place of the slave power" with a larger investment to back it, and a less repulsive face to defend.

What shall be done with this new element of disintegration and strife? The Republicans propose to dispose of it as they did slavery—bury it by another amendment of the Constitution. And why shall not this be done, and the Union thus purified and harmonized restored at once? Does Congress stand in the way? No, sir; for eight months the two policies—Republican surgery and Democratic opiates—were discussed and contrasted in these Halls, and almost everybody here came to the conclusion that it was better to cure than palliate the disorder. The amendment was agreed to four to one. Do the people neglect their duty? No, sir; the amendment was sent out to them and for three or four months rediscussed. They approved it, and in twenty-three

of the twenty-six States elected Legislatures instructed to adopt it. Do these legislative servants disobey instructions? No, sir; they are now assembling, and State after State is recording its verdict. Very soon these twenty-three States, having a population in 1860 of twenty-one million five hundred thousand, and not less than twenty-seven millions now, will send to a perfidious Secretary the official evidence of the people's will. Delaware, three counties large, Maryland, betrayed to the confederates by a servant less treacherous than weak, and Kentucky, whose patriotism in the great struggle hardly rose above a dissembling neutrality, alone give a negative answer.

By the census of 1860 the entire population of these three States, white and black, was only 1,955,000, and cannot much exceed those figures now. Who then stands in the way? Not the Democratic party; the amendment was beyond their reach when it passed Congress and was indorsed by the people: not the President; the Constitution withholds from him any authority over the question of amendment. Who, then, stands in the way? One old man who is charged by law with the duty of proclaiming the adoption of the amendment, but who (the Chicago defeat being still unavenged) has determined to incorporate into the Union the *debris* of the late confederacy; to be in place of the "irrepressible conflict" the breeder of present broils and future rebellions—he stands in the way. He has contrived a theory of estoppel. The amendment, he tells us, is void without confederate sanction. The will of the people of twenty-three States, nay, the whole twenty-six if they had been unanimous, must go for nothing unless approved by a few million rebels scattered through the confederate States. Having set up his theory, he undertakes to procure from these "misguided people"—never more misguided than when led by him—an expression of dissent. His machinations are likely to be successful.

In 1861 the southern heart was fired by the taunts and promises of northern Democrats. "The election of Lincoln," they would say, "is an assault upon your institutions and an insult to the South." They promised in case of trouble to take care of the abolitionists. There should be no coercion; but when the trouble came they shrunk away from the people they had thus prompted, perhaps unintentionally, to resist. A good deal of half-treasonable criticism on the action of the Government when deeply embarrassed and struggling for life, a little secret encouragement and silent sympathy for the foe, were the only noticeable departures from a strict neutrality. Their promise was broken. Let me warn these confederates who have abandoned their scheme of separation in good faith to beware of their old advisers and their new leader.

Here, then, arises an intermediate question. It is not whether confederate assets shall be buried in the same grave with slavery as the Republicans propose, nor whether they shall be tenderly taken up and warmed into venomous life in the bosom of the Union as the Democrats propose; but whether this question shall be determined by the States in the Union or by the confederate States.

What then is the status of the ten confederate States? Are they States or Territories in the Union? If States, they can control the other twenty-six on a question of amendment; if not, not. They must be one or the other. Some suppose they strike intermediate ground by calling them overthrown, disorganized, or suspended States. But certainly a State overthrown or suspended is not at present an existing State, nor is a disorganized an organized State. If they have no present existence as States they are only at the most theoretic States, which are no States; or prospective States, which are Territories. They have certainly not been acting as States during the last six years, and they are only claimed to be so because no way for the severance of a State from the Union is provided in the Constitution. Once a State therefore always a State. If

they are States now they have been so for the last six years. Look at the consequences. By article one, section five of the Constitution, no business can be done in the absence of a quorum, and a quorum is there declared to be a majority of all the members. Now, if the confederate States were also States in the Union for the last six years this House consisted of two hundred and forty-two members, and no business could be constitutionally done without the presence of one hundred and twenty-two members. But for all this time we have acted on the hypothesis that the House was composed of only one hundred and eighty-four members, deducting fifty-eight for the rebel States and that ninety-three made a quorum. The Senate has acted on a similar presumption, counting twenty-six instead of thirty-seven as the constitutional quorum. Probably more than half of our legislation has been enacted, as will appear of record, when either the House had less than one hundred and twenty-two, or the Senate less than thirty-seven members present. All this must therefore be unconstitutional and void.

Again, a presidential election occurred during the war. If the confederate States had not forfeited their privileges as States in the Union they were entitled to cast eighty electoral votes. These eighty votes might have decided the contest, and they might thus have chosen the Commander-in-Chief of our Army and Navy to conduct the war against them; or by casting their votes for Jefferson Davis they might have defeated an election by the people and thrown it into this House. What then? We vote by States, (article two, section seven,) and two thirds of all the States must be represented. If Kentucky and Missouri had joined the confederacy as they attempted to do—and they actually were represented in it during the entire war—more than one third of the States would have been absent, and the election of President would have become impossible. The Senate would have encountered the same difficulty in the election of Vice President. To perform this duty two thirds of all the Senators must be present. That number could not be had in the case supposed, and so we must go without executive officers until the rebel States choose to relieve us by sending representatives to aid in choosing them for us.

Suppose, again, that pending the war it had become absolutely necessary to amend the Constitution, that all parties concurred in its propriety, and the loyal States were unanimous upon the subject, it could not have been done without the consent of the confederate States. Though formed into a separate republic and conducting a war with this, not the slightest change in our fundamental law, however necessary to our salvation, could be had without their consent. And this state of things would have continued as long as the war continued, even if it were a quarter of a century; worse than that, sir, in the light of this theory they were States in the Union until released or expelled by an amendment of the Constitution. Such an amendment required the consent of all the States. No matter, then, how the war should terminate or whether it terminated at all, their power over us could never be severed without their consent. Seceding and fighting would not do, you say, because these were unconstitutional acts. But whipping us, I would suppose, would be quite as unconstitutional as fighting. If they had succeeded in the war and maintained a separate republic they could then have run their own government and in part controlled ours in spite of us. The absurdity of this hypothesis proves the truth of the other. When a State rebels and levies war against the Union, it thereby forfeits its privileges as a State, and can only be restored by Congress.

Absurd as the other theory is, upon it the Secretary of State has undertaken to bring back to the Union the confederate population, freighted with all the belligerent interest collected by four and a quarter years of nationality and war. How? Not by convincing the



people; that has been tried and failed. Not by executive patronage, that has failed also. Not by corrupting Congress, for his old lobbyist is powerless here. No, sir; he meditates the seduction of another old man who happens to hold the balance of power in the Supreme Court; vague rumors of a mission to England are afloat. The Secretary seems to think that a man who can betray his constituents and misrepresent his State will make a good misrepresentative of the nation abroad; and why not send a second champion of his theory to flaunt his spoiled ermine at the court of St. James and negotiate treaties for the payment of confederate cotton bonds or a release of claims for the piracies of the Alabama?

But his judge must have something to stand upon. The courts follow precedents and the Rhode Island case stands in the way. This question is there held to be a political one, to be decided by the political department of the Government. Eventually he will insist that this decision has been made and made in his favor. To meet this emergency he is now and has been for some time preparing his facts. The emancipation amendment was agreed to by twenty-three States out of the twenty-five then in the Union—many more than the number required for its adoption; but in his proclamation he chose to omit from his count a portion of these States and add seven confederate communities to make the number required by his construction. There is a precedent for his judge. So he submitted without authority to these same communities the amendment now under consideration to be acted on by them in the capacity of States. There is another precedent. The Interior is prompted to issue agricultural land scrip which can only be given to States in the Union, and the Treasury and Post-Office Departments are ordered out of their line of duties to make some small recognition of these communities as States. These will make so many more precedents for his judge.

The Secretary first declares they are States, treats them as States, procures other Executive Departments to do likewise, and then cites his acts and declarations to enable a willing judge to decide that they are States, and thus launch into the heart of the Republic a confederate shell with fuse still burning by a single twitch of his gown.

Mr. COOPER. Mr. Speaker, I simply wish to ask the honorable gentleman from Pennsylvania, whether this House did not adopt a resolution making it the duty of Mr. McPHERSON, its Clerk, to forward the very constitutional amendment about which he is arguing to the different States lately in rebellion before he knew the Secretary of State had forwarded it?

Mr. SCOFIELD. I do not recollect any such action of the House. But if sent to them by us it was only to allow them an opportunity to prove their loyalty by giving it their assent. In the preamble to the bill readmitting Tennessee their assent to this amendment is recited, among other things, as evidence of the loyalty of the government *de facto*, and as a reason for legitimatizing it and admitting it into the Union. For this purpose we of course desired them to have a copy, but, unlike the Secretary of State, we did not expect that the assent of these communities would fasten this amendment upon the country without the concurrence of three fourths of the adhering States, nor that their dissent would defeat it if that concurrence was had.

The Secretary is clever in work of this kind. An English nobleman was at one time exhibiting his kennel to an American friend, and passing by many of his showiest bloods they came upon one that seemed nearly used up. "This," said the nobleman, "is the most valuable animal in the pack although he is old, lame, blind, and deaf." "How is that?" inquired the visitor. The nobleman explained: "His education was good, to begin with, and his wonderful sense of smell is still unimpaired. We only take him out to catch the scent and put the puppies on the track and then return

him to the kennel." Do not suppose that I intend any comparison between the Secretary of State and that veteran hunter. Such a comparison would be neither dignified nor truthful, because the Englishman went on to say: "I have owned that dog for thirteen years, and hard as he looks he never bit the hand that fed him, nor barked on a false trail." [Laughter and applause on the floor and in the galleries, promptly checked by the Speaker.]

I would inquire of the Chair if my time has expired.

The SPEAKER. It has not.

Mr. STEVENS, (in his seat.) The Chair called you to order for doing injustice to the dog. [Renewed laughter.]

Mr. SCOFIELD. I mistook the fall of the hammer for a notice to quit. However, I have but little more to add. The charge is often made here and elsewhere that the Republican policy of reconstruction leads to disintegration rather than reunion. In reply to that charge I am endeavoring to show that its tendency is to harmonize and cement the Union. I follow this narrow line of argument because it has fallen to others to discuss that policy in connection with the abstract principles of republican government, justice, religion, humanity, and civilization already.

When interrupted I was going on to say that the Secretary, in his efforts to baffle the Union policy of the Republican party, will even claim that his guerrilla governments have the implied sanction of Congress. For more than a year these organizations have usurped the control of public affairs in their several localities and systematically oppressed and persecuted the Union people there. For more than a year we have been inactive, if not silent witnesses of these usurpations. We have taken no steps to suppress them nor to provide the people with constitutional governments. The existing ones are only the confederate governments revived—more oppressive, malignant, and resentful, under the feeble restraints of a cowed opponent, than under the iron rule of the confederate president himself. The despotism and barbarities of Davis were not wanton. They had a purpose—the success of the confederate cause. The "stern statesman" allowed no further license; but under the Seward dynasty lynching and murder has become a pastime. Better by far for the Union men of the South if their governments were again placed under the restraining despotism of Jefferson Davis. At least he would not allow helpless and unoffending people to be mobbed and murdered for no confederate or public purpose.

How much longer shall we turn a deaf ear to the cry of the oppressed? How much longer shall we stand here and see the brave men who for four years, amid obloquy, persecution, imprisonment, and torture, refused to forswear the flag, now when that flag is triumphant, in part through their sufferings, driven from their homes or shot down in the streets like dogs? If we thus meanly desert our friends the rebels themselves will despise us. But how about the Secretary, his cunning, his precedents, and his judges? They are not to be feared. They may protract our national trouble and delay the restoration of the Union a little longer; but that is all. The people have concluded that the best way to harmonize and cement the Union is to bury whatever is left of slavery and confederate nationality in a common grave; and it will be done. The Nile may be dammed with bulrushes, but the just, benignant, and well-considered purpose of a forty-million nation cannot be turned aside by the tinkle of one old man's bell nor the rustle of another's gown. For one I am ready for the vote.

Mr. WARD addressed the House. [His remarks will be found in the Appendix.] At the conclusion of his remarks he said: I yield, as I have promised, the remaining portion of my time to the gentleman from Ohio.

Mr. LE BLOND. Mr. Speaker, I have changed my purpose, and now conclude not to make any remarks on this subject, but will

defer what I have to say till the bill in reference to the Electoral Colleges, introduced by the chairman of the Judiciary Committee, is taken up.

Mr. PLANTS. Mr. Speaker, I have not trespassed upon the time of the House with much speaking since I have had the honor of a seat here; but in view of the transcendent importance of the questions now under consideration I propose to state briefly some of the reasons for the votes I am about to give.

When, at the last session, Congress adopted and sent to the States for their ratification the proposed amendment to the Constitution of the United States, I understood it to be done in good faith, as a basis of reconstruction; and that when ratified in like good faith by the disorganized States, Representatives from such States having the qualifications required by said amendment should be admitted. Upon that understanding I voted for the amendment, and also for the admission of Tennessee, she having complied with the terms. That, sir, was my understanding at the time. That it was likewise the understanding of my State is proved by the fact that the Union convention of Ohio adopted that amendment as the sole platform of the party upon that subject. Upon that platform, so adopted and indorsed, I accepted a renomination to the Fortieth Congress, and in a very full canvass before the people of my district it was made the text of every speech during the campaign. Upon that issue, fairly and distinctly made, the people rendered their verdict. I do not assume to speak for others, but I do know that the people of my district, and I believe of my State, did emphatically indorse that amendment as the basis of reconstruction, conditioned, of course, upon its acceptance by the unrepresented States and the conforming of their constitutions and laws to its provisions. And, sir, I stand by that platform to-day, and so far as I am advised I believe the people of my district and State are yet willing to abide by that understanding.

Mr. Speaker, that amendment may not, in all respects, be all that the people would have desired, or the best plan that could have been devised. But satisfied that it was the very best thing practicable, as being the only scheme upon which all the Union members could be brought to unite, and good in itself as far as it went, I accepted and supported it in good faith, both here and before the people. But I everywhere stated that if the people of the rebel States should madly refuse to accept the terms thus offered—terms of unparalleled magnanimity—that then I would feel myself released from all express or implied obligation created thereby, and free to adopt such other measures as the exigencies of the country might demand.

Mr. Speaker, the action of the controlling element of those States has made it manifest that they have not only refused to accept the more than generous terms proposed, but have rejected them with contumely, and with the haughty and insulting bravado of assumed superiority demand that the nation shall submit to such terms as they shall dictate. I am prepared, therefore, to take the step in advance. But in doing so I do not repudiate the amendment or intend to supersede it by the action about to be taken. For while by the action of the rebels themselves it has ceased to be practicable, as the basis of settlement, it is still of vital importance to our future security as conforming our Constitution to the changed circumstances of the country resulting from the rebellion. I therefore hope and trust that that amendment will yet be ratified by the States having a right to act upon it, and thus become a part of our fundamental law, not now as the only basis of reconstruction, but as right and important when reconstruction shall have been consummated. And I am now ready for further action.

But, sir, while I sympathize fully with the purpose sought to be accomplished by the authors of the bill and the substitute now under consideration, I am free to say that I am not fully satisfied with either. I shall, therefore,

vote to refer them both, with the proposed amendments, to the joint Committee on Reconstruction, with the hope that something approaching nearer to my views may be devised. But in saying this I do not wish to be understood as indicating a purpose to vote against either of the bills as they are if the judgment of the House should differ from mine in this respect. I have learned in my short experience here that in practical legislation it is the part of wisdom to accept the attainable good, although imperfect, rather than to strive in vain for the supposed perfection which is unattainable. I shall therefore vote for the proposition in that shape in which it shall be finally presented for our votes, unless encumbered with features such as I have no right to suppose will be given to it by the committee or the House. I take this stand because I believe that the end proposed will be in a good degree reached by embodying the main propositions of either bill into a law. That end, as I suppose, is to give the country repose from the terrors of the anarchy which now reigns in one section of it and the apprehension of financial ruin which paralyzes the energies of the other. Believing that the enactment of such a measure into a law, and its due enforcement, will give such repose, I shall give it my vote.

Sir, if history teaches any lesson with an unbroken series of examples, it is that material prosperity and social progress are only possible where life and person, and property are secured by laws approaching at least toward justice; and administered with some degree of impartiality. It might, perhaps, be possible to have all these in large measure, if men would be so contented, without political liberty. But unfortunately for the advocates of class legislation the aspirations of all men are toward freedom; and wherever this is not enjoyed the relations between the rulers and the ruled become those of irreconcilable antagonism. And hence, ever-brewing revolutions are suppressed by the bloody instrumentalities of despotism, or despots are unseated by successful revolution. And, alas! too often anarchy lies between, making even despotism itself a relief from the greater horrors of contending and unrestrained factions. And the no longer concealed thought that here and there finds expression indicates that there are those in the country now who dream of a monarchy as an escape from the rule of the people, which they esteem as the reign of the mob. But that thought is insanity. Whatever else may come, it will not be a king securely enthroned upon the ruins of this Republic.

But, sir, the country must have repose; it will have freedom; not the quiet of despotism, not the license of the mob, but that peace which comes from the full enjoyment of rational liberty secured by the enforcement of impartial law. This the people in their majesty have decreed, and that decree will be executed; and if accidental Presidents and fossilized judges and whipped insurgents and pardoned and unpardoned rebels and their sympathizers throw themselves in the way, why, then, Mr. Speaker—the decree will be executed nevertheless; for the will of the people in this country is and will continue to be, in political matters, omnipotent! Those who attempt to thwart that will may be as brave as the bull that fought the locomotive, but they partake of his discretion likewise.

Sir, every interest, every section, and every class of our people demand at our hands the settlement of this question. Four million freedmen, black although they be and degraded by oppression, send up their mute appeal to us for protection—an appeal which we may not disregard. With a sublime trust in God and the pledged faith of the nation in its day of mortal peril they gave themselves to our cause in every way in which they could aid us; and with a patience and endurance without a parallel they have suffered and waited, and still suffer and wait for the fulfillment of that promise and the fruition of their hopes. By every

sentiment of honor, by every dictate of duty, by every motive of self-interest, we are bound to give them security in their lives, their persons, and the fruits of their labors. It needs no citation of evidence to show that no such protection is now accorded to them. Left in the power of those who formerly enslaved them no one at all acquainted with human nature had any right to look for results differing from those that come to us in every day's report of wrong and outrage.

For generations the slaveholders, in absolute disregard of every idea of right, lived in luxurious idleness upon the unpaid toil of these people. Not only revelling in the wealth produced by the labor of the slaves, many used them for vile purposes; and to gratify their avarice or their ostentation, sent their own dusky children to the auction-block and the shambles. This state of things bred up another class there such as can only exist in a slave-cursed land—a class too poor to own slaves, too lazy to work, and too ignorant to comprehend their own utter degradation. Without one redeeming quality they were more servile to the master class than the slaves themselves, having no other idea of liberty than to "kick a nigger" with impunity, or of patriotism than to curse the Union. Between these two classes there were hundreds, and I have no doubt thousands, who, in the midst of the surrounding pollutions, kept themselves free from the prevailing vices of their section, and in whose hearts burned unquenchably the fires of a true patriotism and the sentiments of honor and right. But they were either in the minority or were overawed by the other classes, which, like the upper and the nether millstones, ground them as well as the negroes to powder.

To perpetuate their rule these slaveholders and their stupid dupes struck with traitor's arms at the nation's life! I need not recite the history of the rebellion. More than three hundred thousand graves, sanctified by the remains of martyred heroes, make up one chapter! Fifty thousand empty sleeves and bootless limbs another! The land filled with widows and orphaned children, and homes draped in mourning, still another! And a mountain of debt and burdensome taxation continues the story! But, sir, while the record is mainly written in blood and can only be read with melancholy reflections, there is, thank God! one bright chapter—that which chronicles the eternal overthrow of the whole infernal system! And shall we blot out that only fair chapter by permitting these same conquered traitors to seize again these millions of freedmen and hurl them back to the condition of slaves? How shall we answer at the bar of God and the righteous opinion of the civilized world if we suffer this great wrong? No, our duty to this wronged and patient people demands at our hands the passage of some measure of reconstruction.

And, sir, the Union men of the South—and I have said there are thousands of them there—demand this action at our hands. Nobler and truer men never lived than are the Union men of the South; and living men never suffered and endured as many of them did for their fidelity to their country. They were fully entitled to the protection of the Government they loved and to the extent of their ability upheld. But the Government during all the bloody years of the rebellion was unable to give them that protection. The war has closed; the Government lives, and these noble men, ruined in fortune, are still its friends, but hated, despised, and persecuted by the conquered traitors. Will that Government, dare it, now in the day of its triumph and its power, with ingratitude unexampled, with folly inconceivable, refuse them that protection, and turn them over, fettered and unarmed to the merciless vengeance of their unrelenting enemies? Sir, for one I will never consent to so inexcusable a wrong. For the protection of the Union men of the South, therefore, I will sustain in some form this measure.

Again, sir, the true interests of the rebels themselves, although in their madness they will not see it, require the settlement of this great question. So long as they retain the slightest hope of defeating the will of the people and again reveling in the spoils of their victims it will be impossible to restore security and prosperity to the South. Having heretofore lived in idleness upon the labor of the negroes, they will not resort to any honest means of procuring a livelihood until their last hope of further plundering them is blotted out forever. The only source of national or even individual wealth and prosperity is the products in some form of human labor. But the rebels will not labor so long as there is any hope of making the negroes work for them. And the negro is, at least, so far "a man and a brother,"—that he is not over-zealous to work for nothing. The result is even now a poverty approaching to absolute starvation for both. And this state of things will not only continue but must grow worse if the relations between these classes are not definitely settled. But let it be settled once for all that these rebels shall not defy all law and outrage every sentiment of justice with impunity and they will be compelled either to resort to some more honest calling where they are or remove to some other section where they will be absorbed into a better population. As the true friend of the rebels themselves, therefore, I shall vote for this measure. In short, sir, the interests of the whole people of the country require this settlement.

As I have just said, national wealth and prosperity depend upon labor. Agriculture, manufactures, and commerce—the production of the raw material, its conversion into fabrics, and their interchange—constitute the wealth of the world; and they all depend upon labor. Where labor is best respected, encouraged, protected, and aided by machinery, there will be the largest measure of national wealth, prosperity, and progress. But here we have a state of things that utterly paralyzes the energies and prostrates the labor of a population of twelve millions, and excludes the use of machinery that would make them equal, in the production of wealth, to one hundred millions. The consequence is, that outside of the disturbed districts every class of the people are affected injuriously in their business. But the people of the loyal States are not only injured in their business, but they are also seriously affected by the onerous burden of taxation imposed upon them in consequence. The credit of the nation must be sustained; the interest on the public debt must be paid; the expenses of the Government must be provided; and all this must be done by the levy and collection of taxes in some form; but these taxes at last are but a per cent. upon the products of the labor of the country. While, then, the condition of the South remains such that the labor of her people—one third of the whole population of the country—is unproductive, the whole burden of taxation is necessarily thrown upon the labor of the other two thirds. I have not time to exhibit the various forms in which the loyal States are interested in this settlement. Suffice it to say that we shall have failed most signally in the performance of our duty if we do not "exhaust the resources of statesmanship" in securing a speedy and permanent settlement. In the hope that it may be so reached I shall vote for this measure.

But, sir, if I am asked if I expect the rebels in the South to accept the provisions of this or whatever measure we may adopt and to become reconciled to the new era which it proposes to inaugurate, if, in short, they will cordially fraternize with loyal men, I very frankly answer that I do not. I never expect them to be any less the enemies of loyal men than they are now. Nor do I expect them ever to cease plotting against the Union and fraternizing with its enemies wherever found. I have not studied human nature so imperfectly as to hope for

any such absurdities. If asked again if I expect a perpetual sectional antagonism between the North and the South, I answer unhesitatingly that I do not. I do expect the antagonism between the loyal and disloyal elements to continue, but not that between the sections. If the South was as densely populated as Ireland—if an overcrowded population was forcing emigrants out of the country, instead of its vast unoccupied territory inviting immigration to it—I say frankly I would have no hope of the future. It is, sir, because there is abundant room for a population of two hundred millions in the section which now contains but twelve, and nearly one half of them loyal, that I look not only with hope but with confidence to the future. Settle this question of reconstruction; take the murderous weapons from the hands and the local governments from the control of the rebels; make it safe to do so, and there will be such an immigration to the South as the world never saw. And it is on this immigration I build all my hopes.

Of the ten millions in the unrepresented States nearly four millions are negroes, and all loyal. Of the whites I think it is safe to assume that two millions are friendly to the Government, leaving but four millions of the disloyal element; and a considerable fraction of these, for the sake of peace and security, would quietly acquiesce and gradually come to a tacit if not cordial support of the Union and the Constitution. This would leave not more than three millions of a hostile, rebellious, and dangerous population. But of this number not more probably than four hundred thousand are males of mature age. Settle the question permanently, and not one will ever be added to their present number. On the contrary, with the extinction of all hope of ruling the nation or of disrupting it the number will rapidly diminish. The old will die, and the ambitious will leave the scene of their humiliation, and left without their leaders the great mass of the remainder will give no serious trouble. This is one side of the picture. Let us look a moment at the other side.

These States embrace the garden-spot of this continent, if not of the world. The sun shines upon no equal area so favored in every respect as this. It has a climate varied, salubrious, genial, and healthy beyond comparison with any other, and suited to all tastes and all conditions. It has a soil as varied, and prolific in all the agricultural products which give sustenance, luxury, and wealth to its cultivators. It has mineral resources of unimaginable richness waiting development. It has mountains pillared up with copper and iron and coal, while they are underflowed with salt and petroleum and covered with forests of valuable timber. It has broad valleys watered by beautiful rivers, and water-power which if properly employed might weave and forge for the world. It has thousands of miles of ocean and gulf coast indented with bays and harbors, the inevitable seats of an undreamed-of commerce. And this natural Eden invites to its bowers the immigrants from all lands.

In looking back to the settlement of our western Territories and their erection into States and incorporation into the Union, the imagination itself becomes staggered at the result. Ohio, Indiana, Illinois, Michigan, Missouri, Iowa, Wisconsin, Minnesota, Kansas, California, Oregon, Nevada, Nebraska, Colorado, and our free Territories, have all, within the memory of living men, been redeemed from the wilderness, clothed with cultivation, dotted over with cities, and checkered with railroads. The very air has become tremulous with the music of machinery, and every avenue is crowded with commerce. The busy millions of the ever-increasing population occupy homes of comfort and elegance, while churches, schools, academies, and colleges mark as mile-stones the very by-paths of the land. Whence, sir, this miracle of population and development? Immigration and its natural increase answers the question. Have the sources of this mighty

immigration been dried up? No! they are increasing, and the condition of the Old World, as well as portions of the New, make it certain that these streams will be greatly augmented in the future.

Hitherto this immigration has been diverted from the South by the curse of slavery before the war and by the "reign of terror" that has been kept up by the rebels since. Give the pledge of security and it will flow to the South as it never did to the West. Give them assured protection, and from the farms and workshops and manufactories and marts of trade and commerce of the old States and of Europe I will guaranty in five years an addition of five millions to the loyal population of those States—a number quite sufficient to overshadow the disloyal element and reconstruct, not the political institutions alone, but the social life of the South. With this immigration will come the capital, the intelligence, the enterprise which have characterized the like class in the East, the North, and the West. Social intercourse, commercial and business relations, and varied reciprocal interests will thus be established. A free press, free speech, and free schools will necessarily follow. These will assimilate the society there to that of the loyal States, and thus blotting out forever the insane sectionalism that, fostered by slavery, has hitherto been the bane and curse of our country, we will become in fact a homogeneous people. And here, sir, opens to the imagination a vision of future glory that from want of time I leave with some regret. Each one, however, can fill up the picture for himself. But with the hope that its realization may not be prevented by our want of concert, I shall vote for this measure.

A word, Mr. Speaker, upon another element of this great problem, and I have done. It need not be denied that many good and true men are greatly embarrassed in their action in view of what is to be the future of the African race in this country. It would not be candid to say that this problem is of easy solution from the stand-point of many gentlemen. But it is a problem that I do not intend to discuss at any length in this connection. Time, if nothing else, forbids it. The unsettled question of the equality of races may, for a thousand years to come, form the theme of the philosopher in his study, as it has for a thousand years in the past; but legislation can hardly wait for its settlement. Whether the negro is physically or mentally equal to the white race is not the question here. But the real question which I affirm, is, that each race, and each individual, has a natural, inherent, and equal right to the full and free exercise of whatever faculties he may possess, restrained only so far as to prevent the violation of the equal right of every other person, and that by impartial law. I would establish such a law, and let every one work out his own destiny. I would strike "black" and "white" alike from all laws, making our legislation to descend, like the dews and the rains and the sunshine of our common Father, upon all, and with a like impartiality. This I honestly believe would in a very short time solve all difficulties. But for the sake of those who honestly fear a contest between the races or the possible supremacy of the negro, I will but suggest the fact that of the thirty-six millions of our population, not more than four millions at most belong to this long-oppressed race. Admit their inferiority to the dominant race if it be so, and what is the danger of throwing over them the mantle of impartial law? Weak in numbers, wholly without wealth, devoid of influence, where is the danger? But the disparity in numbers will increase from year to year. The negroes will have no accession to their number by immigration; while the white race, like a great reservoir, is receiving such accessions by millions. In the struggle of life the natural increase of the whites will far exceed the ratio of the blacks. Indeed many, and especially those whose prejudices are strongest against them,

believe that the colored race will die out; that it is in fact now in the process of extinction. I do not myself look for such a result, but I do not look for any rapid increase of the race in this country.

We have to-day a white population of at least thirty millions. That number will be doubled in less than twenty-five years, while the increase of the negroes will be in no such ratio. With absolute confidence in the result I here predict and place it upon the record that twenty-five years hence the white race in the United States will number sixty millions, with a corresponding increase in wealth and power, while the colored race will not exceed six millions. Why then disturb ourselves with apprehensions which must, in the very nature of the case, be purely imaginary?

If I am asked why I so contend for the rights of this race if it is to bear so insignificant a part in the future of our country, I reply that it is not because they are negroes nor wholly for their sake that I so contend. It is because I believe there is an all-embracing and superintending Providence over the concerns of men and nations who looks with the same paternal regard upon all His children; and that no individual or class or race can, under His government, disregard the rights of others but upon the irreversible condition in some form, "With whatsoever measure ye mete it shall be measured to you again."

I now yield the residue of my time to the gentleman from Pennsylvania, [Mr. MILLER.] Mr. MILLER. The gentleman from Ohio yields to me the remaining portion of his time.

Mr. GRINNELL. I move the House do now adjourn.

The SPEAKER. There are other members who wish to speak, and the gentleman from Pennsylvania is speaking in the time of the gentleman from Ohio.

Mr. GRINNELL. Does anybody want to go on now?

The SPEAKER. The Chair knows of four or five who wish to speak on Monday. [Laughter.]

Mr. BINGHAM. The gentleman from Pennsylvania gives notice he will ask for a vote on Monday.

The SPEAKER. For that reason the Chair desires to hear as many made to-day as possible.

Mr. GRINNELL. I withdraw the motion to adjourn.

Mr. MILLER. I offer this amendment:

*And be it further enacted,* That no such State shall be admitted to a representation in Congress until it also ratifies the amendment to the Constitution of the United States which has been proposed by two-thirds of both Houses of the Thirty-Ninth Congress and submitted to the respective States for ratification.

The SPEAKER. The motion to refer prevents any amendment being now offered.

Mr. MILLER. I understand the gentleman who has charge of the bill does not object to the amendment.

The SPEAKER. It will be in order when the motion to refer is withdrawn if the previous question be not called.

Mr. MILLER addressed the House. [His speech will be found in the Appendix.]

Mr. KERR obtained the floor.

CLERKSHIP OF A COMMITTEE.

Mr. BLAINE. With the permission of the gentleman from Indiana [Mr. KERR] I wish to submit a question for the consideration of the Speaker. In the early part of the last session the House adopted the following resolution:

*"Resolved,* That the select committee of seven on the War Debts of Loyal States be allowed to employ a clerk during the present session, or until the committee is discharged, at the usual compensation."

On May 30, 1866, it was

*"Ordered,* That the bill be recommitted to the select Committee on the War Debts of the Loyal States, and that the same be continued as now organized, with leave to report during the next session by bill or otherwise."

What I desire to ask, Mr. Speaker, is whether, in view of this action of the House, the Committee on the War Debts of the Loyal States is entitled to a clerk at the present session.



The SPEAKER. The Chair thinks that, under the two orders of the House which have been read, there can be no argument upon the question which the gentleman submits.

The resolution adopted December 14, 1865, provides:

"That the select committee of seven on the War Debt of Loyal States be allowed to employ a clerk during the present session, or until the committee is discharged, at the usual compensation."

This would indicate that the House contemplated the probability that the committee might be extended beyond the session. Afterward, and before the session expired, the House ordered that select committee be "continued as now organized, with leave to report at the next session by bill or otherwise." The committee was authorized to employ a clerk until it was discharged. It has not been discharged, and hence it is entitled to employ a clerk, the committee for the time being upon the same footing as one of the standing committees.

And then, on motion of Mr. KOONTZ, (at four o'clock and thirty minutes p. m.), the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: Additional papers in the case of Madison Newton, of Indiana.

By Mr. CONKLING: The memorial of W. C. Pierrepont, president, and Addison Day, superintendent, of the Rome, Watertown and Ogdensburg Railroad Company, asking a reduction of impost duty on railroad iron.

Also, the petition of Salina Cale, widow of S. V. B. Cale, deceased, for the passage of a law to enable her to receive moneys equitably due for services of her husband as a lieutenant in the ninth regiment New York heavy artillery.

By Mr. HALE: The petition of Abraham Weldin, and others, citizens of Willsboro', Essex county, New York, praying for adoption of rates of duty on wool and woollens proposed by House tariff bill of last session.

By Mr. HUNTER: The memorial and prospectus of the National Petroleum Gas Company, asking for a comparative test of gas made from crude petroleum.

By Mr. LONGYEAR: The petition of D. M. Bagley, and others, citizens of Lansing, Michigan, asking that certain alleged acts and doings of Andrew Johnson, acting as President of the United States, may be inquired into, and if proven that he may be impeached.

By Mr. LYNCH: The petition of Alfred B. Winslow and Eben M. Tibbets, asking the enactment of a law authorizing the Secretary of the Treasury to issue new United States securities for others destroyed.

By Mr. NIBLACK: The remonstrance of John Ross, and others, of Vincennes, Indiana, against a further contraction of the currency and some of the proposed amendments to the national banking law.

By Mr. PAINE: The memorial of Lieutenant Charles Lorenzen, and others, volunteer officers of the State of Wisconsin, praying that the provisions of the act granting three months extra pay to officers discharged since the 5th of March, 1865, may be extended to those who served two years during the war and received their commissions after March 5, 1865.

By Mr. RANDALL, of Pennsylvania: The petition of manufacturers of cotton and woolen fabrics, asking, first, the removal of the five per cent. tax on goods manufactured; second, a drawback of three cents per pound in cotton, to be refunded to the manufacturer; third, to tax all articles of luxury not produced in the United States, and to relieve in due proportion necessities of life, and for other purposes.

By Mr. SCHENCK: The petition of manufacturers of and dealers in cigars and of growers of tobacco, for a change in the tax on cigars.

Also, the petition of soldiers of the sixty-third regiment Ohio volunteer infantry, for additional bounty.

By Mr. WARD, of New York: The memorial of Robert L. May, asking restoration to the Navy.

By Mr. WARD, of Kentucky: The petition of L. Broadway, praying for compensation for two horses and equipage.

#### IN SENATE.

MONDAY, January 21, 1867.

Prayer by Rev. J. N. MURDOCK, D. D., of Boston, Massachusetts.

The Journal of Saturday last was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented four petitions of citizens of Ohio, praying for the passage of House bill No. 178, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which were referred to the Committee on Finance.

Mr. MORGAN presented the petition and

accompanying documents of Charles J. Jock, of Brooklyn, New York, praying for compensation for services rendered as counsel in defending certain officers, sailors, and marines before a general court-martial at the navy-yard in Brooklyn, New York, in 1864 and 1865; which were referred to the Committee on Claims.

He also presented two petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie upon the table.

Mr. SUMNER presented a petition of citizens of the United States, praying for such an amendment to the Constitution of the United States as will prohibit any inequality among citizens on account of birth, race, or color, and also asking Congress to remove, by immediate legislation, any such inequality from the District of Columbia, the Territories, and the unreturned States; which was referred to the joint Committee on Reconstruction.

Mr. TRUMBULL presented a memorial of citizens of Illinois, remonstrating against the passage of any act authorizing the curtailment of the national currency, or having in view the return, within a limited time to specie payments, and against any law compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

He also presented a petition of the Northwestern Photographic Society, praying for the abrogation of the five per cent. tax on the gross receipts of photographers; which was referred to the Committee on Finance.

Mr. COWAN presented two memorials from citizens of Pennsylvania, remonstrating against the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against any law compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which were referred to the Committee on Finance.

He also presented a petition of citizens of Pennsylvania, representing that they labor under great disadvantages from the frequent violations of trade-marks, and that the present laws do not give sufficient protection against such violations, and praying Congress for relief by extending the law of copy-right to trade-marks; which was referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY. I present a petition of cigar manufacturers, journeymen cigar-makers, dealers in cigars, and growers of and dealers in seed-leaf tobacco, resident in Minnesota, respectfully representing that the present internal revenue tax on cigars has proved to be utterly impracticable, as demonstrated by the present depressed condition of every branch of industry and trade connected therewith. They further state that the present law, being both specific and *ad valorem*, affords such opportunities for fraud that their business will soon pass entirely into the hands of irresponsible men and fraudulent combinations unless a radical change is soon effected. I ask its reference to the Committee on Finance.

It was so referred.

Mr. HARRIS presented a petition of residents of the town of Clarence, Erie county, New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. ANTHONY presented additional papers in support of the claim of Benjamin Tilley for rent for land in Washington occupied by the Government; which were referred to the Committee on Claims.

#### REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 848) to amend an act entitled "An act to incorporate the Na-

tional Soldiers' and Sailors' Orphans' Home," approved July 25, 1866, reported it with amendments.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad, reported it with an amendment in the nature of a substitute.

#### ASYLUM FOR DISABLED VOLUNTEERS.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 227) authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers, have directed me to report it back to the Senate without amendment, and as it is very brief I ask that it be put upon its passage.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the joint resolution on the day it is reported.

Mr. GRIMES. I ask for the reading of it for information.

The Secretary read the joint resolution. The National Asylum for Disabled Volunteer Soldiers not having obtained title to land at Point Lookout, in Maryland, as contemplated in the twelfth section of the act approved March 21, 1866, establishing that institution, the joint resolution authorizes the Secretary of War, at his discretion, to transfer to the National Asylum any of the property of the United States still remaining at Point Lookout which may be considered appropriate and useful for the objects of that corporation.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. WILSON. I will simply state that there is some property belonging to the United States at Point Lookout that will be of service to the home for soldiers, and this resolution authorizes the Secretary of War at his discretion to give to the institution that kind of property. It is not of any value to anybody else, and may be of great service to them.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 518) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific ocean," approved July 27, 1866, and to facilitate the early construction of the Atlantic and Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 519) to incorporate the Metropolitan Fire and Marine Insurance Company of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 520) to aid in the construction of the Kansas and Neosho Valley railroad, connecting the great lakes, Iowa, Missouri, and Kansas, with Texas, the Gulf of Mexico, and the Southwest with the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### MINISTER AT VIENNA.

On motion of Mr. SUMNER, the following resolution submitted by him on the 18th instant was taken up and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not inconsistent with the public interest, any correspondence between the Department of State and Mr. Motley, envoy extraordinary and minister plenipotentiary at Vienna, relating to his reported resignation of this post.

## INDIAN MASSACRES AND HOSTILITIES.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Indian Affairs be instructed to inquire into and report as to the circumstances of the late massacre of the United States troops near Fort Phil. Kearney, and as to what further, if any, legislation is necessary to protect immigrants and settlers, and for the suppression of Indian hostilities in our western States and Territories.

## ILLEGAL VOTING IN THE DISTRICT.

Mr. MORRILL. I move to take up for consideration Senate bill No. 479.

The motion was agreed to; and the bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes, was considered as in Committee of the Whole.

The first section of the bill, which was introduced by Mr. EDMUNDS, provided that any person not duly qualified to vote in the District of Columbia, who, knowing that he is not so qualified, shall vote or offer to vote therein, or who shall procure or attempt to procure himself to be registered therein as a voter, shall be punished by imprisonment not exceeding six months, and not less than two months; and the second section declared that if any person, being a qualified voter in the District, should knowingly vote or attempt to vote in any other ward or election precinct than that in which he shall be lawfully entitled to vote, or should unlawfully and knowingly vote or attempt to vote more than once, or in more than one ward or election precinct, or should so vote double therein, he should be punished by imprisonment not exceeding six months and not less than two months, and be disqualified from voting thereafter in the District.

An amendment was reported by the Committee on the District of Columbia, to add the following additional sections:

SEC. 3. *And be it further enacted*, That there shall be five judges of elections within and for the city of Washington, and three within and for the city of Georgetown, the same to be appointed by the supreme court of the District of Columbia, whose duty it shall be, biennially and prior to each election, to prepare a list of the persons qualified to vote in the several wards of said cities in any election; and said judges shall be in open session in their respective cities to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said lists, on two days, biennially, not exceeding five days prior to each election for the choice of city officers, giving prior notice of the time and place of each session in some newspaper.

SEC. 4. *And be it further enacted*, That prior to said election the said judges in the respective cities shall post up a list of voters thus prepared in one or more public places in said cities, and at least ten days prior thereto.

SEC. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The amendment was agreed to.

Mr. JOHNSON. I should like to know of my friend, the chairman of the committee, what the law is now on the subject to which this bill applies. I thought by the present law there were some penalties attached to illegal voting.

Mr. MORRILL. There are none that I know of. I am sure there are none such as are covered by this bill, and I think none at all. This bill, without the amendments, was introduced by the Senator from Vermont, [Mr. EDMUNDS.] There are no penalties that I know of for illegal voting provided by the present laws. I would not like to assert that positively, because I am not sufficiently familiar with the laws which may be in force in this District, as the laws of Maryland were when the District was organized upon the subject; but to my knowledge there is no provision on this subject.

I inquire whether it is in order to move an amendment to the amendment of the committee already adopted in Committee of the Whole.

The PRESIDENT *pro tempore*. The Chair thinks that any additions can be made to that amendment. It would be in the nature of an amendment to the bill. The amendment having been adopted, it is a part of the text of the bill, and any amendment may now be made to it as a part of the bill.

Mr. MORRILL. I move, then, to amend in section three, line five, by striking out the words "biennially and."

The PRESIDENT *pro tempore*. The Chair stated, perhaps a little too broadly, that any addition could be made. This amendment, having been adopted in committee, cannot be amended by striking out what has already been adopted, at least in committee; it will be in order when the bill comes into the Senate.

Mr. MORRILL. I thought we were in the Senate. I withdraw the motion, then, for the present.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendment made as in Committee of the Whole? The amendment suggested by the Senator from Maine would now be in order.

Mr. MORRILL. I move, then, in section three, line five, to strike out the words "biennially and," and in line eleven to strike out the word "biennially;" so that the section will read:

That there shall be five judges of elections within and for the city of Washington, and three within and for the city of Georgetown, the same to be appointed by the supreme court of the District of Columbia, whose duty it shall be, prior to each election, to prepare a list of the persons qualified to vote in the several wards of said cities in any election; and said judges shall be in open session in their respective cities to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said lists, on two days, not exceeding five days prior to each election for the choice of city officers, giving prior notice of the time and place of each session in some newspaper.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move to amend the amendment agreed to in Committee of the Whole by inserting after the word "Columbia" in line five of section three these words, "who shall hold their office for two years and until their successors shall be appointed and qualified, and;" so that it will read:

That there shall be five judges of elections within and for the city of Washington, and three within and for the city of Georgetown, the same to be appointed by the supreme court of the District of Columbia, who shall hold their office for two years and until their successors shall be appointed and qualified, and whose duty it shall be prior to each election, &c.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is, Will the Senate concur in the amendment made as in Committee of the Whole as amended?

Mr. BUCKALEW. I have no objection of course to this bill so far as it seeks to prevent frauds at elections in this District. If the chairman of the Committee on the District of Columbia is correct in his statement, it may be necessary that there should be further provision of law on that subject. I desire, however, to say a word questioning the propriety of the amendment, which is the immediate question before the Senate. In the District suffrage bill it was provided that a registry of voters should be made in the District by the particular officers named—I believe by the mayors of the cities of Washington and Georgetown and perhaps other officers united with them. That bill contained all the provisions necessary for the purpose of having a correct registry made and for having it put up at proper places within the District, and for having the act given in charge to the grand jury immediately preceding each general or city election. The objection I see to this amendment is that it creates a number of new officers. There are to be five new officers created for the city of Washington and three for the city of Georgetown, upon whom is to be charged the duty of making this registry of voters. The bill does not provide how these officers shall be paid or what shall be their compensation, but as a matter of course they are to be charged upon the Treasury and to constitute a part of the expenses of this District. Now, sir, I perceive no good reason for transferring these duties, which are now charged upon officers of the

District of Columbia and to be discharged by them without any expense whatever, to two sets of new officers, who of course must be paid and who, as far as I can perceive, will be no better qualified to the discharge of this duty than were those officers named in the former law. For that reason I feel inclined to vote against the amendment.

Mr. MORRILL. It is perhaps necessary that I should reply to the Senator from Pennsylvania in a single word. This amendment was suggested to the committee by a discussion which is going on in the papers of the District, that the execution of the law as it passed the other day on the question of suffrage is impracticable. It provides for a registry on or before the 1st day of March before each election, and the publication of the list for ten days before that election. The election in Georgetown takes place in February next, and it is said that the city authorities of Georgetown construe the law to mean that they are not obliged to make this list on or before the election in February, because the terms of the law are on or before the 1st of March, and therefore they have a right to go to the extreme limit of the law and say they shall make it on the 1st of March next, and thus comply with the law, and thereby postpone the registry for two years. The committee thought it was perhaps reasonable to relieve these authorities from any complication of that sort; that they ought not to be embarrassed certainly by any doubtful construction of the law; and while upon that subject the committee supposed that it might be quite as safe to all concerned to confer the duty which had thus been devolved upon them, and which they showed so little inclination to perform, upon some parties who might perhaps be disinterested; and therefore this amendment is provided to make the thing certain that the registry is to be made prior to each election without reference to any particular month; and that there may be no mistake about its execution it takes the duty from the mayor and aldermen and devolves it upon the judges, whose duty it is to make the registry in conformity with the act passed by the Senate the other day.

Mr. CONNESS. In addition to what the chairman of the Committee on the District of Columbia has said, I desire to call attention to the fifth section of the District suffrage bill as it passed. I have it in my hand. It reads:

That the mayors and aldermen of the cities of Washington and Georgetown, respectively, on or before the 1st day of March in each year, shall prepare a list of the persons they judge to be qualified to vote in the several wards of said cities in any election.

I do not see but that, under this provision, they may exclude whoever they deem not qualified to vote. I do not see but that the language of the fifth section—and I noticed it when the bill was pending, but it was thought by gentlemen not well then to amend it in the stage in which it was—puts it in the power of the mayors and aldermen of Washington and Georgetown to exclude the very persons enfranchised by the District bill if they see fit so to do.

Mr. MORRILL. If my friend will allow me, this bill repeals so much of that act as is inconsistent with this.

Mr. CONNESS. I so understand it.

Mr. MORRILL. And the language here obviates the difficulty: "to prepare a list of the persons qualified to vote."

Mr. CONNESS. I so understand it, and I regard that as the essential value of this bill.

Mr. MORRILL. I misunderstood the Senator.

Mr. CONNESS. But it was a point to which attention had not been called. I noticed it, and was about to offer an amendment when the suffrage bill was pending in the Senate, but, as I before observed, it was suggested to me that it might be amended in the future, and it passed in this questionable shape, putting it entirely in the power of the mayors and aldermen of these two cities to exclude every person from the franchise whom the act intended to

enfranchise; and therefore the greater necessity for passing the bill now before us.

Mr. BUCKALEW. I have no objection to the correction of the former law in both the particulars which have been mentioned; and if the amendment proposed by the committee was confined to the correction of those points I should interpose no single word by way of debate. The Senator from California objects to the particular phraseology employed in the former law. Well, sir, I would be as little disposed as he is to leave the privilege of voting to the mere discretion of the officers of registry. It ought to be a fixed right; their duties ought to be defined; and a provision making the language of the law express in that particular point would not only not be open to objection, but would be highly appropriate.

In regard to the other point, the question of time suggested by the chairman, who says, if I understand him, that under a possible construction of the former law this registry may not be made in time for the election of the present year, and consequently that the law may be postponed in its practical application for the period of two years, of course there is no objection to the correction of that feature, also, of the existing statute, and to saying that this registry shall be made in such time that it can take effect and go into operation at the next ensuing election in the city of Georgetown.

But, sir, the reasoning which we have had from the two members who have spoken indicates an amendment confined to those two points, whereas my objection to the amendment before the Senate was directed to quite a different point, to wit: the creation of five unnecessary officers in the city of Washington and three unnecessary officers in the city of Georgetown. I think that there has been no reason shown for this multiplication of local offices. In the former law these duties of registry were charged upon the mayor and councils of the respective cities, persons already in office, and it charged them with an appropriate duty, one that they are competent to discharge. They are more competent perhaps than any other persons, and they come also from the people; and in this respect our legislation would be analogous to the legislation which takes place in the States. If the chairman of the committee desires the correction of the former law in the two points to which he has referred, he will have my hearty concurrence; but so long as his amendment extends to the point upon which I have spoken, the creation of unnecessary offices without any reason in the world shown for it, I must vote against it.

Mr. MORRILL. My friend is quite at fault about his facts. These are never duties devolved on the mayor and aldermen except by the law to which this bill is amendatory.

Mr. BUCKALEW. The Senator will allow me to explain. What I mean is that duties of this description, duties of assessment and of making out a registry of voters, in the States are charged upon officers selected by the people and responsible to them. That is what I mean.

Mr. MORRILL. I think that is so, ordinarily; but the reason why I think this duty ought not to be imposed perhaps upon the mayors and aldermen in these cities is that they are unaccustomed to anything of the kind, and it may be onerous upon them, and beside I think it would be distasteful to them. Those two reasons put together lead me to suppose that it would be more agreeable, perhaps, to the authorities that it might be devolved on these other parties.

Mr. HENDRICKS. I have an objection to this amendment not suggested by my friend from Pennsylvania. It is that these officers are to be appointed by a court, although they in no way have any connection with the court itself. This is the first bill in which it is proposed, I believe, to confer the appointment of a political officer upon a court. I shall regret to see it done. This court, in the discharge

of its official duties, has no connection with duties of this sort, and is not necessarily brought in contact with the people so as to qualify it specially for the appointment of a board such as is provided for in this amendment.

The first and second sections of this bill are unobjectionable to me, if the matter is not already provided for, except that I think the punishment prescribed is too severe. I think you will fail to execute a law with a penalty so severe as this. I think in our western States, at least, the punishment for illegal voting is not so severe, and even then it is somewhat difficult to execute the law. By this bill the punishment of necessity must be imprisonment for not less than two months. I regard the offense of illegal voting as a very grave one; but I think it will be found impossible to execute so severe a law as this against that particular offense. I suggest, therefore, to the chairman that he had better leave it in the discretion of the court to impose a fine or to add imprisonment at its discretion. It often occurs that persons of very weak mind and having little consideration of these subjects are induced to cast a vote by the act of others, and juries are not willing to impose such a severe punishment in all cases. There may be cases in which the punishment of imprisonment ought to be imposed; but in many cases I think it will be found impossible to get juries to execute so severe a law. I suggest to the gentleman having this bill in charge to punish illegal voting by fine, to which the court in its discretion may add imprisonment. I believe that in the code of the District of Columbia the punishment is decided by the court and not by the jury. In the State in which I live the punishment is always decided upon by the jury. I think it would be better to provide in these two sections a fine not exceeding \$1,000, to which the court may add imprisonment not exceeding six months.

I am opposed to the third section for the reasons suggested by the Senator from Pennsylvania, and the further reason that it gives to the court the appointment of officers not of the court itself. I think we ought to have the yeas and nays on that amendment.

The PRESIDENT *pro tempore*. The yeas and nays are demanded on the question of concurring in the amendment made as in Committee of the Whole, as amended.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Grimes, Harris, Howe, Lane, Morgan, Morrill, Poland, Sherman, Stewart, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—25.

NAYS—Messrs. Buckalew, Cowan, Hendricks, Johnson, Nesmith, Norton, Patterson, Saulsbury, and Wiley—9.

ABSENT—Messrs. Cattell, Creswell Davis, Dixon, Doolittle, Fowler, Guthrie, Henderson, Howard, Kirkwood, McDougall, Nye, Pomeroy, Ramsey, Riddle, Ross, Sprague, and Van Winkle—18.

So the amendment, as amended, was concurred in.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. FESSENDEN. I move that all prior orders be postponed, and that the Senate proceed to the consideration of the tariff bill.

Mr. POLAND. I should be very glad to proceed with the bankrupt bill, which was under consideration on Saturday, but I do not desire to antagonize that against the consideration of the bill which my friend from Maine has in charge. The tariff bill, perhaps, is regarded by my constituents as far the more important measure of the two. I will not, therefore, attempt to keep it in the way of the consideration of the tariff bill, and I consent that the bankrupt bill may be laid aside informally for the purpose of allowing the tariff bill to be taken up and proceeded with, which will obviate the necessity of any motion to lay it aside.

Mr. FESSENDEN. I am willing to make any motion that will effect the gentleman's object if there is any that I can make. The

bankrupt bill can be laid aside informally, I suppose, and we can proceed with the tariff bill. I move that that bill be taken up.

The PRESIDENT *pro tempore*. The unfinished business of Saturday is the bankrupt bill, and the morning hour having expired that bill is legitimately before the Senate. The Senator from Maine moves to postpone that and all prior orders and to proceed to the consideration of the tariff bill. The Senator from Vermont suggests that the bankrupt bill be laid aside informally by common consent, and that the tariff bill come up for discussion. That course will be pursued if there be no objection, and the bankrupt bill by common consent will be laid aside, and the tariff bill will be considered as the bill before the Senate.

#### INDIAN AFFAIRS.

Mr. WADE. Before the bill of the Senator from Maine is proceeded with I desire, with his consent, to offer a resolution of inquiry:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to transmit copies of all reports, written or printed, which may be in his possession regarding the investigation made by a committee of the Senate, in the year 1865, into the condition of Indian affairs in the western States and Territories.

Mr. NESMITH. As the chairman of the committee alluded to is not present it is perhaps proper that I should make an explanation in relation to the subject. The committee were sent out in 1865 for the purpose of making an investigation into the condition of Indian affairs, and of course, being assigned to duty in all the Territories and States where Indians could be found, their labors extended over a vast extent of country. The Presiding Officer of the Senate, having been a member of that committee, is cognizant of some of the embarrassments under which the committee labored. They have collected all the testimony taken and the various sub-reports and have them printed, now ready for distribution; and it is a matter of which the Secretary of the Interior has not a particle of control, this committee being authorized to make their report direct to Congress. The testimony and sub-reports are printed and have been for six or eight months; but the final report has not yet been made up by the committee, and they have deemed it proper to withhold the other reports until they could make up the final report of their investigations.

I see in a paper which has been sent to me a statement that these reports and the testimony have been suppressed by the committee for some improper reason. I beg leave to say to the Senate that no such reason actuated the committee. The report has not been submitted because we have not yet had time during this session to get together to complete the final report. The statement which has appeared in the papers that the report is lying at the printing office and is intended to be suppressed by the committee is entirely untrue. There is no foundation for any such statement; and without the passage of this resolution the report will be submitted to Congress in a few days, as soon as we have time to complete the examination of the papers and make up the final report.

Mr. WADE. That is satisfactory to me, I was only anxious to see the report because it is a matter of a good deal of interest. The resolution may lie on the table for the present.

The PRESIDENT *pro tempore*. The resolution will lie over.

Mr. WADE. I have another resolution to offer:

*Resolved*, That the Secretary of War be, and he is hereby, directed to transmit to the Senate a copy of the report of Major General A. D. McCook, concerning the Chivington or Sand Creek massacre, and other matters concerning the condition of Indian affairs upon which General McCook may have reported.

Mr. SHERMAN. I should like to amend that by adding to it—

Mr. FESSENDEN. I think I must insist upon going on with the tariff bill, as there is evidently going to be discussion on the resolution; let it lie over.

Mr. WADE. I supposed there would be no objection to it.



Mr. SHERMAN. I simply want to add another matter to it.

Mr. FESSENDEN. It can be done to-morrow morning.

The PRESIDENT *pro tempore*. Objection being made to the present consideration of the resolution, it will lie over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHEE, its Clerk, announced that the House had passed a bill (H. R. No. 1030) to regulate the sale of gold by the Secretary of the Treasury.

#### THE TARIFF BILL.

The Senate, as in Committee of the Whole) proceeded to consider the bill (H. R. No. 718), to provide increased revenue from imports, and for other purposes.

The PRESIDENT *pro tempore*. The Committee on Finance have reported an amendment to this bill, which is to strike out all of the bill after the enacting clause and insert a substitute. The substitute will be read.

Mr. FESSENDEN. I propose to suggest such amendments as have been agreed on by the committee, and verbal amendments as the reading is proceeded with.

The Secretary read the first section of the substitute, as follows:

That on and after the — day of —, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On teas of all kinds, twenty-five cents per pound.  
On coffee of all kinds, five cents per pound.  
On chicory and succory roots, five cents per pound.  
On chicory and succory roots, ground, burnt, or prepared, six cents per pound.

On acorn coffee and dandelion root, raw or prepared, and on all substitutes for coffee, five cents per pound.

On all extracts or essences of coffee, one dollar per pound.

On all sugar not above No. 12 Dutch standard in color, three cents per pound.

On all sugar above No. 12 and not above No. 15 Dutch standard in color, three and one half cents per pound.

On all sugar above No. 15 and not above No. 20 Dutch standard in color, four cents per pound.

On all sugar above No. 20 Dutch standard in color, five cents per pound: *Provided*, That the standard by which the color and grades of sugar are to be regulated shall be selected and furnished to the collectors of such ports of entry as may be necessary by the Secretary of the Treasury from time to time, and in such manner as he may deem expedient.

On sugar candy, not colored, ten cents per pound.  
On confectionery, made wholly or in part of sugar, and on sugars, after being refined, when tinted, colored, or in any way adulterated, valued at thirty cents per pound or less, fifteen cents per pound.

On confectionery valued at above thirty cents per pound, or when sold by the box, package, or otherwise than by the pound, fifty per cent. *ad valorem*.

On molasses, eight cents per gallon.

On tank bottoms and on sirup of sugar-cane juice, melado, concentrated melado, or concentrated molasses, two and three fourths cents per pound: *Provided*, That all tank bottoms, sirups of sugar, or sugar-cane, cane juice, concentrated molasses, or concentrated melado, entered under the name of molasses, or any other name than tank bottoms, sirup of sugar or of sugar-cane, cane juice, concentrated molasses, or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited.

On pimento, fifteen cents per pound.

On ground pimento, eighteen cents per pound.

On black, white, and red or Cayenne pepper, fifteen cents per pound.

On ground pepper of all kinds, eighteen cents per pound.

On ginger root, five cents per pound.

On ginger, ground, eight cents per pound.

On cinnamon, thirty cents per pound.

On mace, forty cents per pound.

On nutmegs, fifty cents per pound.

On cloves, twenty cents per pound.

On clove stems, twenty cents per pound.

On cassia and cassia vera, twenty cents per pound.

On cassia buds and ground cassia, twenty-five cents per pound.

On all other spices, twenty cents per pound; ground or prepared, thirty cents per pound.

On cacao, or cocoa, three cents per pound.

On cocoa leaves or shells, two cents per pound.

On ground cacao, or cocoa, and on prepared cocoa and chocolate, six cents per pound.

On mustard, ground, in glass or tin, sixteen cents per pound.

On mustard, ground, dry or wet, twelve cents per pound.

On brandy, containing fifty per cent. or less of alcohol, Tralle's hydrometer, three dollars per gallon.

On other spirits manufactured or distilled from grain or other materials, containing fifty per cent. or less, of alcohol, \$2.50 per gallon.

On cordials, liqueurs, and bitters containing spirits, of all kinds, and on arrack, absynthe, Kirschenwasser, ratifia, and other similar spirituous beverages not otherwise provided for in this act, \$2.50 per gallon.

On bay rum or bay water, \$1.50 per proof gallon.

On coloring for brandy, sixty per cent. *ad valorem*.

On wines of all kinds, irrespective of value, cost of cask included, containing not more than twenty per cent. of alcohol, Tralle's hydrometer, fifty cents per gallon: *Provided*, That any liquors containing more than thirty per cent. of alcohol, which shall be entered under the name of wines, shall be liable to forfeiture to the United States, and shall be so forfeited: *And provided further*, That upon bottled wines no allowance shall be made for breakage, unless the same shall be shown to be in excess of ten per cent. of the invoice value of the wines: *And provided further*, That no champagne or other sparkling wines in bottles shall pay a less duty than six dollars per dozen bottles, each bottle containing not more than one quart and more than one pint; or six dollars per two dozen bottles, each containing not more than one pint: *And provided further*, That wines, and other spirituous liquors except brandies, may be imported in bottles when the package shall contain not less than one dozen; and all bottles shall pay a separate and additional duty of three cents each, whether containing wines, brandies, or other spirituous liquors subject to duty as hereinbefore provided: and any spirituous liquors may be imported in casks of any capacity containing not less than fifteen gallons: *And provided further*, That any wines, brandies, or other spirituous liquors imported on and after the 1st day of —, 1867, in any less quantities than herein provided for shall be forfeited to the United States.

On all spirituous liquors not otherwise provided for in this act, \$2.50 per gallon: *Provided*, That no lower rate or amount of duty shall be paid on brandy, spirits, and spirituous beverages than that fixed in this act for spirits containing fifty per cent. of alcohol, Tralle's standard; but the rate or amount shall be increased in proportion to the amount of alcohol contained for any greater alcoholic strength than that of fifty per cent. of alcohol: *And provided further*, That all imitations of brandies, spirits, or wines, imported by any names whatever, shall be subject to the highest rate of duty provided for the genuine article respectively intended to be represented, and on all compounds or preparations of which distilled spirits are a component part of chief value, there shall be levied a duty not less than that imposed upon distilled spirits of like strength.

On ale, porter, and beer in bottles, thirty-five cents per gallon; otherwise than in bottles, twenty cents per gallon.

On mineral or medicinal waters or waters from springs impregnated with minerals, seventy-five cents for each dozen bottles or jugs, containing not more than one pint each; and \$1.25 cents for each dozen bottles or jugs containing more than one pint, and not over one quart.

On tobacco in leaf, unmanufactured and not stemmed, thirty-five cents per pound.

On tobacco manufactured, of all descriptions, and stemmed tobacco not otherwise provided for, fifty cents per pound.

On snuff and snuff flour, manufactured of tobacco, ground, dry or damp, and pickled, scented, or otherwise, of all descriptions, fifty cents per pound.

On cigars, cigarettes, and cheroots of all kinds, two dollars per pound, and, in addition thereto, fifty per cent. *ad valorem*: *Provided*, That paper cigars and cigarettes, including wrappers, shall be subject to the same duties as are herein imposed upon cigars: *And provided further*, That from and after the passage of this act no cigars shall be imported unless the same are packed in boxes of not less than five hundred cigars in each box; and no entry of any imported cigars shall be allowed of less quantity than three thousand in a single package; and all cigars on importation shall be placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected and a stamp affixed to each box, indicating such inspection, with the date thereof. And the Secretary of the Treasury is hereby authorized, to provide the requisite stamps and to make all necessary regulations for carrying the above provisions of law into effect.

Mr. FESSENDEN. The word "kirschenwasser," in line eighty of section one, should be "kirschwasser."

The PRESIDING OFFICER, (Mr. EDMUNDS.) That modification will be made, no objection being interposed.

Mr. FESSENDEN. In line eighty, after "kirschwasser," I move to insert "bermuth."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In lines eighty-six and eighty-seven I move to strike out the words "irrespective of value, cask included," and insert "imported in casks;" so as to make the clause read:

On wines of all kinds, imported in casks, containing not more than twenty per cent. of alcohol, Tralle's hydrometer, fifty cents per gallon.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line eighty-eight I move to insert:

On all wines imported in bottles, not otherwise herein provided, two dollars per dozen bottles, each bottle containing not more than one quart and more than one pint, or two dollars per two dozen bottles, each containing not more than one pint.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line eighty-nine I move to strike out "thirty" and insert "twenty;" so as to read:

*Provided*, That any liquors containing more than twenty per cent. of alcohol which shall be entered under the name of wines shall be liable to forfeiture, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line ninety-five I move to strike out the words "value of the wines," and insert "quantity; and so much in the fifty-ninth section of an act approved March 2, 1799, as provided for allowances for leakage and breakage is hereby repealed;" so as to make the proviso read:

*And provided further*, That upon bottled wines no allowance shall be made for breakage, unless the same shall be shown to be in excess of ten per cent. of the invoice quantity; and so much of the fifty-ninth section of an act approved March 2, 1799, as provided for allowances for leakage and breakage, is hereby repealed.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and one I move to strike out the word "other" before "spirituous," and after the word "dozen," in line one hundred and three, to insert "each bottle containing not less than one and a half pints;" so as to make that proviso read:

*And provided further*, That wines and spirituous liquors, except brandies, may be imported in bottles when the package shall contain not less than one dozen, each bottle containing not less than one and a half pints.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and five I move to strike out the word "brandies," and also the word "other;" so as to read:

And all bottles shall pay a separate and additional duty of three cents each, whether containing wines or spirituous liquors subject to duty, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and seven I move to strike out the words "in capacity containing," and to insert "a capacity of;" so as to read:

And any spirituous liquors may be imported in casks of a capacity of not less than fifteen gallons.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and fifty-one I move to strike out the words "the passage of," and after the word "act," in the same line, to insert "shall take effect;" then in lines one hundred and fifty-two and one hundred and fifty-three to strike out the words "of not less than five hundred cigars in each box;" in line one hundred and fifty-three to strike out "entry," and insert "importation;" in line one hundred and fifty-four to strike out "imported" before "cigars;" and in line one hundred and fifty-five to strike out the word "package," and insert "case, on pain of forfeiture;" so as to make the clause read:

*And provided further*, That from and after this act shall take effect no cigars shall be imported unless the same are packed in boxes; and no importation of any cigars shall be allowed of less quantity than three thousand in a single case, on pain of forfeiture.

The amendment to the amendment was agreed to.

Section two of the substitute was next read, as follows:

SEC. 2. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of cotton, and the manufactures of cotton, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On cotton, raw or unmanufactured, three cents per pound.

On all manufactures of cotton, as follows, to wit:

## CLASS 1.

On all plain woven manufactures of cotton, and on drills, jeans, silesias, and other tweeled or twilled fabrics, not more than four-leaved twill, in the brown, gray, or unbleached condition, not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, four cents per square yard; if bleached, four and one half cents per square yard; if colored, stained, painted, or printed, four and one half cents per square yard, and, in addition thereto, ten per cent. *ad valorem*.

## CLASS 2.

On finer or lighter goods of like description, not exceeding two hundred threads to the square inch, counting the warp and filling, in the brown, gray, or unbleached condition, five cents per square yard; if bleached, five and one half cents per square yard; if colored, stained, painted, or printed, five and one half cents per square yard, and, in addition thereto, fifteen per cent. *ad valorem*.

## CLASS 3.

On finer or lighter goods of like description, exceeding two hundred threads to the square inch, counting the warp and filling, in brown, gray, or unbleached condition, seven cents per square yard; if bleached, seven and one half cents per square yard; if colored, stained, painted, or printed, seven and one half cents per square yard; and, in addition thereto, twenty per cent. *ad valorem*.

## CLASS 4.

On all other manufactures of cotton commonly sold or purchased by the yard or other lineal measure or by the piece, comprising twills over four-leaved, satteen, jeans, nets, lappet and jacquard-made fabrics, damasked and figured fabrics, cords, beavertees, velvets, velveteens, and fabrics embroidered or tambooured in the loom, not otherwise provided for, in the brown, gray, or unbleached condition, six cents per square yard; if bleached, colored, stained, painted, or printed, six cents per square yard, and, in addition thereto, twenty per cent. *ad valorem*: *Provided*, That if the duties imposed upon manufactures of cotton, included in the four foregoing classes, shall amount upon brown, gray, or unbleached fabrics to less than thirty per cent. *ad valorem*, then the duty shall be assessed at thirty per cent. *ad valorem*: upon bleached fabrics to less than thirty-three and one third per cent. *ad valorem* then the duty shall be assessed at thirty-three and one third per cent. *ad valorem*; upon colored, stained, painted, or printed fabrics to less than thirty-five per cent. *ad valorem*, then the duty shall be assessed at thirty-five per cent. *ad valorem*.

## CLASS 5.

On spool thread of cotton, ten cents per dozen spools, containing on each spool two hundred yards or less; and, in addition thereto, thirty per cent. *ad valorem*; and for every additional one hundred yards on each spool, or fractional part thereof, five cents per dozen spools, and, in addition thereto, thirty per cent. *ad valorem*.

On cotton yarns in any form, when not advanced beyond singles, in numbers coarser than number fifty, twenty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; when not coarser than number fifty, nor finer than number seventy, thirty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; when finer than number seventy, forty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On cotton thread when not wound upon spools, and on cotton yarns for warps or other purposes, when two or more strands are twisted together, whether on beams, in bundles, skeins, hanks, cops, or in any other form, if composed of single yarns of numbers coarser than number fifty, twenty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; if composed of single yarns not coarser than number fifty, nor finer than number seventy, thirty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; if composed of single yarns of numbers finer than number seventy, forty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On all cotton hosiery, comprising shirts, drawers, stockings, socks, gloves, and all other goods knitted or made on frames or by hand, ten cents per pound, and, in addition thereto, forty per cent. *ad valorem*.

On cotton webbing, tapes, galloons, bindings, gimps, trimmings, and braids, plain or otherwise, sixty per cent. *ad valorem*.

On cotton edgings, insertings, and embroideries, and on all embroideries of every material (except silk) of which the embroidering is the chief value, not otherwise provided for, forty per cent. *ad valorem*.

On all manufactures of cotton not herein otherwise provided for, forty per cent. *ad valorem*.

On all manufactures of cotton mixed with other material, in which cotton is the material of chief value, and not herein otherwise provided for, there shall be levied, collected, and paid the same duties as are herein provided for similar manufactures composed wholly of cotton.

Mr. FESSENDEN. In lines ninety-one and ninety-two I move to strike out the words "and on all embroideries of every material (except silk)" after "embroidery" in line ninety-one, so as to make the item read:

On cotton edgings, insertings, and embroideries, of which the embroidering is the chief value, not otherwise provided for, forty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to insert after line ninety-four this paragraph:

On manufactures of cotton, known as book-binders' cloths, twenty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The Secretary read the next section of the substitute, as follows:

SEC. 3. *And be it further enacted*, That in lieu of the duties heretofore imposed by law (on the articles mentioned and embraced in this section) there shall be levied, collected, and paid, on all manufactured wool, hair of the alpaca, goat, camel, and other like animals, imported from foreign countries, the duties hereinafter provided.

All wools, hair of the alpaca, goat, and other like animals, as aforesaid, shall be divided, for the purpose of fixing the duties to be charged thereon, into three classes, to wit:

## CLASS 1.

Clothing wools: that is to say, merino, mestiza, mets, or metis wools, or other wools of merino blood, immediate or remote; Down clothing wools; and wools of like character, with any of the preceding, including such as have been heretofore usually imported into the United States from Buenos Ayres, New Zealand, Australia, Cape of Good Hope, Russia, Great Britain, Canada, and elsewhere, and also including all wools not hereinafter described or designated in class two or three.

## CLASS 2.

Combing: that is to say, Leicester, Cotswold, Lincolnshire, Down combing wools, Canada long wools, or other like combing wools of English blood, and usually known by the terms herein used; and also all hair of the alpaca, goat, and other like animals.

## CLASS 3.

Carpet wools and other similar wools, such as Don-sko, native South American, Cardova, Valparaiso, native Smyrna, and including all such wools of like character as have been heretofore usually imported into the United States from Turkey, Greece, Egypt, Syria, and elsewhere.

For the purpose of carrying into effect the classification herein provided, a sufficient number of distinctive samples of the various kinds of wool or hair embraced in each of the three classes above-named, selected and prepared under the direction of the Secretary of the Treasury, and duly verified by him, (the standard samples being retained in the Treasury Department,) shall be deposited in the custom-houses and elsewhere, as he may direct, which samples shall be used by the proper officers of the customs to determine the classes above-specified, to which all imported wools belong. And upon wools of the first class, imported unwashed, the value whereof, at the last port or place whence exported to the United States, excluding charges in such port, shall be thirty-two cents or less per pound, the duty shall be ten cents per pound, and in addition thereto ten per cent. *ad valorem*; upon wools of the same class, unwashed, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed thirty-two cents per pound, the duty shall be twelve cents per pound, and, in addition thereto, ten per cent. *ad valorem*. Upon wools of the second class, and upon all hair of the alpaca, goat, camel, and other like animals, and upon noils, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall be thirty-two cents or less per pound, the duty shall be ten cents per pound, and, in addition thereto, ten per cent. *ad valorem*; upon wools of the same class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed thirty-two cents per pound, the duty shall be twelve cents per pound, and in addition thereto, ten per cent. *ad valorem*. Upon wools of the third class, the value whereof at the last port or place whence exported into the United States, excluding charges in such port, shall be twelve cents or less per pound, the duty shall be three cents per pound. Upon wools of the same class, the value whereof at the last port or place whence exported to the United States, excluding charges in such port, shall exceed twelve cents per pound, the duty shall be six cents per pound: *Provided*, That any wool of the sheep, or hair of the alpaca, goat, camel, and other like animals, which shall be imported in any other than the ordinary condition as now and heretofore practiced, or which shall be changed in its character or condition, for the purpose of evading the duty, or which shall be reduced in value by the admixture of dirt or any other foreign substance, shall be subject to pay twice the amount of duty to which it would otherwise be subjected, anything in this act to the contrary notwithstanding: *Provided further*, That when wool of different qualities is imported in the same bale, bag, or package, it shall be appraised, by the appraiser, to determine the rate of duty to which it shall be subjected, at the average aggregate value of the contents of the bale, bag, or package; and when bales of different qualities are embraced in the same invoice at the same price, whereby the average price shall be reduced more than ten per cent. below the value of the bale of the best quality, the value of the whole shall be appraised according to the value of the bale of the best quality; and no bale, bag, or package shall be liable to a less rate of duty in consequence of being invoiced with wool of lower value: *And provided further*, That the duty upon wool of the first class which shall be imported washed shall be twice the amount of the duty to which it would be subjected if imported unwashed, and that the duty

upon wool of all classes which shall be imported scoured shall be three times the amount of the duty to which it would be subjected if imported unwashed.

On sheep-skins and Angora goat-skins, raw or un-manufactured, imported with the wool on, washed or unwashed, the duty shall be thirty per cent. *ad valorem*; and on woolen rags, shoddy, mungo, extract of wool, and waste, the duty shall be twelve cents per pound; and on woolen flocks the duty shall be three cents per pound.

Mr. FESSENDEN. After the word "flocks," in line one hundred and five, I move to insert "or shearings of new fulled cloth," so as to read:

And on woolen flocks or shearings of new fulled cloth the duty shall be three cents per pound.

The amendment to the amendment was agreed to.

Section four of the substitute was next read, as follows:

SEC. 4. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on manufactures of wool and similar materials, there shall be levied, collected, and paid on the goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On woolen cloths, comprising broadcloths, cloakings, cassimeres, ladies' cloths, doeskins, tricots, and all other fulled or felted goods or fabrics, woolen shawls, flannels, and all manufactures of wool of every description made wholly or in part of wool, not herein otherwise specified, forty-five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

On blankets and woolen or worsted yarns composed wholly or in part of wool, the hair of the alpaca, goat, camel, or other like animals, valued at not exceeding forty cents per pound, twenty cents per pound; valued at above forty cents per pound, and not exceeding sixty cents per pound, thirty cents per pound; valued at above sixty cents per pound, and not exceeding eighty cents per pound, forty cents per pound; valued at above eighty cents per pound, fifty cents per pound; and, in addition thereto, upon all the above-named articles, thirty per cent. *ad valorem*.

On bunting, twenty cents per square yard, and, in addition thereto, thirty per cent. *ad valorem*.

On women's and children's dress goods, and real or imitation Italian cloths, and lastings, and all other similar fabrics, either in the gray or of uniform color, or in various colors or figures produced in the process of weaving, or by coloring, staining, painting, printing, or otherwise, commonly sold or purchased by the yard or other lineal measure, or by the piece, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, camel, or other like animals, valued at not exceeding twenty cents the square yard, six cents per square yard; and, in addition thereto, thirty-five per cent. *ad valorem*; valued at above twenty cents per square yard, eight cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*: *Provided*, That on all such goods weighing four ounces and over per square yard, the duty shall be fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

On hosiery, composed wholly or in part of wool, comprising shirts, drawers, stockings, socks, gloves, mittens, and all other goods knitted or made on frames or by hand, and cloth gloves, forty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On hats and caps of wool, and clothing readymade, and wearing apparel of every description, and bal-moral skirts, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, camel, or other like animals, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

On webbings, beltings, cords, bindings, braids, and galloons, composed wholly or in part of wool, worsted, the hair of the alpaca, goat, camel, or other like animals, fifty cents per pound, and, in addition thereto, forty-five per cent. *ad valorem*.

On fringes, gimps, tassels, dress trimmings, head nets, buttons or tassel buttons, or buttons of other forms for tassels or ornaments, wrought by hand or braided by machinery, made of wool, worsted, the hair of the alpaca, goat, camel, or other like animals, or of which the above-named materials are the component parts of chief value, seventy per cent. *ad valorem*.

On Aubusson and Axminster carpets and carpets woven whole for rooms, fifty per cent. *ad valorem*.

On Saxony, Wilton, and Tournay velvet carpets, wrought by the Jacquard machine, eighty cents per square yard; on Brussels carpets, wrought by the Jacquard machine, seventy cents per square yard; on patent velvet and tapestry velvet carpets, printed on the warp or otherwise, fifty cents per square yard.

On Brussels and tapestry Brussels carpets, printed on the warp or otherwise, fifty cents per square yard.

On treble ingrain, three-ply, and worsted chain Venetian carpets, forty cents per square yard.

On yarn Venetian and two-ply ingrain carpets, thirty-five cents per square yard.

On druggets, baizes, and bookings, printed, colored, or otherwise, twenty-five cents per square yard, and, in addition thereto, thirty per cent. *ad valorem*; on carpets and carpetings of wool, flax, or cotton, or parts of either, or other materials not otherwise herein specified, forty per cent. *ad valorem*: *Provided*, That mats, rugs, screens, covers, hassocks, bed-sides, and other portions of carpets or carpeting shall be subjected to the rate of duty herein imposed on carpets or carpeting of like character or description,

and that the duty on all other mats (not exclusively of vegetable material,) screens, hassocks, and carpet, and door-rugs, shall be forty per cent. *ad valorem*.

On oilcloths for floors, stamped, painted, or printed, valued at fifty cents or less per square yard, thirty-five per cent. *ad valorem*; valued at over fifty cents per square yard, and all other oilcloths, (except silk oilcloth,) and on water-proof cloth, not otherwise provided for, forty-five per cent. *ad valorem*; on oil silk cloth, sixty per cent. *ad valorem*.

On lastings, mohair cloth, silk twist, or other manufactures of cloth, woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for use in the manufacture of shoes, boots, and booties exclusively, not combined with India-rubber, and upon lastings in the piece, fifty per cent. *ad valorem*.

On all manufactures of cloth, woven, made, or cut in patterns of such size, shape, and form, as to be fit for use in the manufacture of buttons, exclusively, not combined with India-rubber, ten per cent. *ad valorem*.

On roofing felt, twenty per cent. *ad valorem*.

On all manufactures of wool, worsted, the hair of the alpaca, goat, or other like animal, mixed with other material, in which wool, worsted, the hair of the alpaca, goat, camel, or other like animal is the material of chief value, not herein otherwise specified, there shall be levied, collected, and paid the same duties as are herein provided for similar manufactures, composed wholly of wool, worsted, the hair of the alpaca, goat, or other like animals: *Provided*, That all manufactures of worsted, the hair of the alpaca, goat, or any other animal, and of shoddy, mungo, waste, or flocks, not herein specified, shall be known as manufactures of wool, and the same rate of duties shall be levied, collected, and paid on them as are herein imposed on similar fabrics composed wholly of wool.

Mr. FESSENDEN. In the proviso in lines thirty-eight and thirty-nine I move to strike out "all such goods," and to insert "skirtings, upholstery fabrics, and all other worsted goods;" so as to make the proviso read:

*Provided*, That on skirtings, upholstery fabrics, and all other worsted goods weighing four ounces and over per square yard, the duty shall be fifty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out from lines sixty-six to seventy-seven inclusive, and in lieu of them to insert:

On Wilton, Saxony, Aubusson, Axminster, patent velvet, Tournay velvet, and tapestry velvet carpets and carpeting, Brussels carpet wrought by the Jacquard machine, and all medallion or whole carpets, valued at \$1.25 or under per square yard, eighty cents per square yard; valued at over \$1.25 per square yard, ninety cents per square yard: *Provided*, That no carpeting, carpets, or rugs of the foregoing description shall pay a duty of less than fifty per cent. *ad valorem*.

On Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, sixty cents per square yard.

On all treble ingrain, three-ply, and worsted chain Venetian carpets and carpeting, forty-five cents per square yard.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line seventy-eight, after "carpets," the words "or carpeting" should be inserted.

The PRESIDING OFFICER. That modification will be made.

Mr. FESSENDEN. In line eighty, after "bocking," I move to insert "and felt carpets and carpeting."

The amendment to the amendment was agreed to.

The Secretary next read section five of the substitute, as follows:

SEC. 5. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of silk and the manufactures of silk there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On spun silk for filling, in skeins or cops, not more advanced than singles, thirty-five per cent. *ad valorem*; on silk in the gum not more advanced than singles, tram, thrown, or orgazine, and on floss silks, thirty-five per cent. *ad valorem*.

On sewing silk or silk twist in the gum or purified, fifty per cent. *ad valorem*.

On all ribbons, beltings, galloons, hat-bands, bindings, braids, fringes, gimps, gloves, cloak and dress trimmings, fancy buttons, cords, dress cords, cords and tassels, head nets, head-dresses, neckties, collars, and scarfs, made of silk, seventy per cent. *ad valorem*.

On each and every other description of manufactures of silk, whether produced by the loom or frame, or in any other way, or further advanced by the needle, whether by hand or machinery, sixty per cent. *ad valorem*.

On all other manufactures of silk mixed with other materials, comprised as above, in which silk is the material of chief value, sixty per cent. *ad valorem*.

Mr. FESSENDEN. In line sixteen, after "silk," I move to insert "or of which silk is

the component material of chief value;" so as to read:

On all ribbons, beltings, galloons, &c., made of silk or of which silk is the component material of chief value.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line sixteen I move to insert as a new paragraph:

On silk plush for the manufacture of hats, thirty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The Secretary next read section six of the substitute, as follows:

SEC. 6. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of flax, hemp, jute, or similar vegetable materials, or on manufactures of the same, there shall be hereafter levied, collected, and paid the following duties and rates of duties, that is to say:

On flax unmanufactured, fifteen dollars per ton. On flax hackled, known as dressed line, twenty dollars per ton.

On Russia, Manila, Italian, and all other hemps, unmanufactured, twenty-five dollars per ton.

On flax straw, one dollar per ton.

On the tow of flax or hemp, five dollars per ton.

On jute, unmanufactured, and Sisal grass, and other vegetable fibers, not otherwise provided for, five dollars per ton.

On all manufactures of Sisal grass, thirty per cent. *ad valorem*.

On all brown or bleached linens, ducks, canvas paddings, cot-bottoms, burlaps, drills, coatings, brown Hollands, blay linens, Spanish linens, diaper, damasks, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, hemp, or jute, or of which flax, hemp, or jute is the component material of chief value, not herein otherwise specified, three cents per square yard, and, in addition thereto, thirty per cent. *ad valorem*.

On cordage and rope, of whatever vegetable material composed, three cents per pound.

On gunny-cloth, gunny-bags, cotton bagging, or other manufactures not otherwise herein provided for, suitable for the uses to which cotton bagging is applied, composed wholly or in part of hemp, jute, flax, or other material valued at ten cents or less per square yard, three cents per pound; valued at over ten cents per square yard, four cents per pound.

On jute, hemp, or cocoa-nut matting and carpeting, three cents per square yard, and, in addition thereto, thirty per cent. *ad valorem*.

On mats and on matting not otherwise specified, of the same and other exclusively vegetable materials, thirty per cent. *ad valorem*.

On matting made of bass or linden wood bark, fifteen per cent. *ad valorem*.

On threads, patent threads, saddlers' thread, shoe thread, gill-net thread or gill-net twine, and pack thread and sewing-machine thread, and all other threads and twines and yarn, when advanced beyond single, made of flax, hemp, or jute, or of the tow of flax, hemp, or jute, valued at fifty cents or less per pound, five cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; valued at over fifty cents and not over one dollar per pound, ten cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; valued at over one dollar per pound, fifteen cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On seines or nets made of flax or hemp thread, yarn, or twine, completed or in parts, valued at not over seventy-five cents per pound, ten cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; valued at over seventy-five cents per pound, fifteen cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On fish lines of linen, or twines of lins suitable for fish lines, valued at \$2.50 or less per pound, thirty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; valued at over \$2.50 per pound, forty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On yarns of flax or hemp, single, or the tow of flax or hemp, single, valued at seventy-five cents or less per pound, five cents per pound; valued at over seventy-five cents and not over \$1.50 per pound, ten cents per pound; valued at over \$1.50 per pound, fifteen cents per pound, and, in addition thereto, in each case, thirty per cent. *ad valorem*.

On jute yarns, single, thirty per cent. *ad valorem*.

On coir yarn, one cent and a half per pound.

On webbing, tapes, galloons, bindings, gimps, trimmings, braids, plain or otherwise, made of flax, hemp, or jute, or of parts of either, or of which hemp, flax, or jute shall be the component material of chief value, fifty per cent. *ad valorem*.

On all other manufactures of flax, hemp, or jute, or other similar fibers not herein otherwise specified, forty per cent. *ad valorem*.

On all manufactures of flax, hemp, or jute, in which flax, hemp, or jute shall be the component material of chief value, there shall be levied, collected, and paid the same duties as those herein assessed on similar articles composed wholly of the above-named materials.

Mr. FESSENDEN. In line seven I move to strike out "twenty" and insert "thirty;" so as to read:

On flax hackled, known as dressed line, thirty dollars per ton.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In lines twenty-two and twenty-three I move to strike out "three cents per square yard, and in addition thereto," and after "thirty," in line twenty-three, to insert "five;" so as to read:

Manufactures of flax, hemp, or jute, or of which flax, hemp, or jute is the component material of chief value, not herein otherwise specified, thirty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In lines forty-seven, forty-nine, fifty-one, fifty-five, and fifty-seven, respectively, I move to insert "five" after "thirty," so as to make the *ad valorem* rate in those cases thirty-five per cent. instead of thirty.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line sixty-five I move to strike out "seventy-five" and insert "fifty;" in line sixty-six to strike out "seventy-five" and insert "fifty;" in line sixty-seven to strike out "and fifty cents" after "dollar;" in line sixty-eight to strike out "and fifty cents" after "dollar;" and in line seventy to insert "five" after "thirty;" so as to make the clause read:

On yarns of flax or hemp, single, or the tow of flax or hemp, single, valued at fifty cents or less per pound, five cents per pound; valued at over fifty cents and not over one dollar per pound, ten cents per pound; valued at over one dollar per pound, fifteen cents per pound, and, in addition thereto, in each case, thirty-five per cent. *ad valorem*.

The amendments to the amendment were agreed to.

Section seven of the substitute was next read, as follows:

SEC. 7. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter enumerated there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On iron in pigs, nine dollars per ton.

On old metal scrap iron, three dollars per ton.

On old wrought scrap iron, eight dollars per ton: *Provided*, That nothing shall be deemed wrought or scrap iron which can be used as piles or billets in the manufacture of iron.

On all iron in slabs, blooms, loops, or other forms, less finished than bars and more advanced than pig iron, except castings, one and one fourth cents per pound.

On iron bars for railroads or inclined planes, made to order, ready to lay down, seventy cents per one hundred pounds.

On iron bars, rolled or hammered, comprising flat bars not less than one and a half nor more than four inches wide, nor less than half an inch nor more than two inches thick, one and one fourth cent per pound.

On iron bars, rolled or hammered, comprising flat bars less than one and a half inch and more than four inches wide, and less than one half of an inch and not less than three eighths of an inch thick, and on iron bars, rolled or hammered, more than two inches thick, one and one half cent per pound.

On all sizes of flats, rolled or hammered, less than three eighths of an inch in thickness and not thinner than No. 8, wire gauge, one and three fourths cent per pound.

On iron bars or rods, round or square, not less than seven eighths of an inch, nor more than two inches diameter or square, one and one fourth cent per pound.

On iron bars or rods less than seven eighths of an inch round or square and more than two inches diameter or square and not less than nine sixteenths of an inch round or square, one and three fourths cent per pound.

On bars or rods round or square, less than nine sixteenths of an inch diameter or square, and not less than five sixteenths of an inch diameter or square, two cents per pound.

On rods less than five sixteenths of an inch diameter or square, and not less than No. 9 wire gauge, two and one half cents per pound.

On iron rods and wire rods, less than No. 9 wire gauge, two and one half cents per pound.

On all sizes nail rods, slit or rolled, and on all slit iron, two and one fourth cents per pound.

On all sizes of oval, half oval, and half round iron, two and one fourth cents per pound.

On all sizes hoop, band, and scroll iron, thinner than No. 8 and not thinner than No. 14 wire gauge, two and one fourth cents per pound.

On all sizes hoop, band, and scroll iron, thinner than No. 14 wire gauge, two and three fourths cents per pound.

On all sizes of plate iron, not thinner than No. 10 wire gauge, one and three fourths cent per pound.

On sheet or plate iron thinner than No. 10, and not thinner than No. 18, wire gauge, two cents per pound.

On sheet or plate iron thinner than No. 18 wire gauge, and not thinner than No. 22 wire gauge, two and one fourth cents per pound.

On sheet or plate iron thinner than No. 22, and not thinner than No. 24 wire gauge, two and a half cents per pound.

On sheet or plate iron thinner than No. 24 wire



gauge, not including tagger's iron, two and three fourths cents per pound.

On tagger's iron, not exceeding fourteen inches in width by twenty inches in length, thirty per cent. *ad valorem*.

On glazed or polished sheet iron of all descriptions, four cents per pound.

On iron hoops, cut to uniform length or lengths, fit for use, all sizes and descriptions, three and one fourth cents per pound.

On all iron rolled or hammered in shapes, and on iron known as angle iron, whether in forms of T, L, and H, or any other forms than round, square, or flat, not herein otherwise specified, two and three fourths cents per pound.

On locomotive tire of iron, or bars rolled and cut for such uses, of whatever lengths, three cents per pound.

On locomotive tire, or bars rolled for such uses, of steel, or of iron refined by the Bessemer process, three cents per pound.

On railroad splice-bars or chairs, punched or unpunched, two and one fourth cents per pound.

On railway frogs, frog points, side bars, and finger bars of iron, three cents per pound.

On iron wire, bright, coppered, galvanized, or tinned, drawn and finished, not more than one fourth of an inch in diameter nor less than No. 16 wire gauge, three cents per pound, and, in addition thereto, fifteen per cent. *ad valorem*; less in size than No. 16, and not less than No. 25 wire gauge, four cents per pound, and, in addition thereto, fifteen per cent. *ad valorem*; less than No. 25 wire gauge, five cents per pound, and, in addition thereto, fifteen per cent. *ad valorem*.

On iron or steel wire rope, made of wire over No. 16 wire gauge in size, six cents per pound; made of wire less in size than No. 16 and not less than No. 25, seven cents per pound; made of wire less in size than No. 25 wire gauge, eight cents per pound; *Provided*, That iron wire rope, galvanized, shall pay one fourth of one cent per pound in addition to the foregoing rates: *And provided*, That all iron wire covered with silk, cotton, or other material shall pay five cents per pound in addition to the rates of duty herein imposed on iron wire not covered.

On iron wire cloth, forty per cent. *ad valorem*.

On wire spiral furniture springs, five cents per pound.

On machinery forgings, mill irons and mill cranks, of wrought iron, and wrought iron pieces or parts, of any weight, for ships, steam-engines, or locomotives, two cents per pound.

On iron of any size or description not included, embraced, or enumerated in this act, one and three fourths cents per pound.

On anchors, or parts thereof, two and one fourth cents per pound.

On iron cables or cable chains, or parts thereof, two and one half cents per pound: *Provided*, That no chains made of wire or rods of a diameter less than one half of one inch shall be considered a chain cable.

On chains, trace chains, halter chains, and fence chains, made of wire or rods not less than one fourth of an inch in diameter, two and one half cents per pound; less than one fourth of an inch in diameter, and not less than No. 9 wire gauge, four cents per pound; less than No. 9 wire gauge, six cents per pound.

On anvils of all descriptions, two and one half cents per pound.

On blacksmiths' hammers, stone hammers, and sledges of all descriptions, wholly or partially finished, two and one half cents per pound.

On wrought-iron washers, nuts, bolts, or rivets, wholly or partially finished, of all descriptions, punched or unpunched, two and a half cents per pound.

On wrought-iron tubes and flues, of all descriptions, three and one half cents per pound.

On wrought-iron hinges of all descriptions, and bed-screws, three cents per pound.

On galvanized iron, tin plates galvanized, and iron coated with zinc, of all descriptions, three and one half cents per pound.

On wrought-iron board nails and spikes, and nails made of wire, three cents per pound.

On horse and mule shoes, two cents per pound.

On cut nails and spikes of all descriptions, one and a half cents per pound.

On horse-shoe nails, all kinds, five cents per pound.

On cut tacks, brads, or sprigs, not exceeding sixteen ounces to the thousand, two and a half cents per thousand; exceeding sixteen ounces to the thousand, three cents per thousand.

On screws, commonly called wood screws, two inches or over in length, eight cents per pound; less than two inches in length, eleven cents per pound.

On all other screws of iron, not herein enumerated, and on screws of any other metal than iron, forty per cent. *ad valorem*.

On vessels of cast-iron, not herein otherwise provided for, and on and-irons, sad-irons, tailors' and hatters' irons, stoves and stove-plates of cast-iron, one and three fourths cent per pound.

On glazed, tinned, or enameled cast-iron hollow ware, four and a half cents per pound.

On tinned and enameled wrought-iron hollow ware, six and a half cents per pound.

On cast-iron steam-gas water-pipe, one and three fourth cent per pound.

On cast-iron butts and hinges, two and one half cents per pound.

On all other castings of iron, not herein otherwise provided for, thirty-five per cent. *ad valorem*.

On all puddled and blistered steel, and on all steel other than cast or shear steel, in bars, sheets, slabs, plates, coils composed of rods or bars above three eighths of an inch in diameter, axles, tire, and parts of machinery forgings, a duty of three cents per pound.

On all cast and shear steel in bars, ingots, sheets, slabs, plates, coils composed of rods or bars above three eighths of an inch in diameter, axles, tire, and parts of machinery forgings, valued at seven cents per pound or less, a duty of four cents per pound.

On all cast and shear steel, in bars, ingots, sheets, slabs, plates, coils, composed of rods or bars above three eighths of an inch in diameter, axles, tire, and parts of machinery forgings, and steel-wire rods exceeding three eighths of an inch in diameter, valued at above seven cents per pound, a duty of four and a half cents per pound, and, in addition thereto, ten per cent. *ad valorem*.

On steel rods and steel-wire rods not exceeding three eighths of an inch in diameter, and not less than one eighth of an inch in diameter, a duty of three and a half cents per pound, and in addition thereto, ten per cent. *ad valorem*; less than one eighth of an inch in diameter, four cents per pound, and, in addition thereto, ten per cent. *ad valorem*.

On steel wire not less than No. 16 wire gauge, a duty of five cents per pound, and, in addition thereto, twenty per cent. *ad valorem*.

On steel wire, less or finer than No. 16 wire gauge, six cents per pound, and, in addition thereto, twenty per cent. *ad valorem*.

On metal, converted, cast, or made from iron by the Bessemer or pneumatic process, of whatever form or description, except railway bars, whether invoiced as steel, or iron, or otherwise, three cents per pound.

On railway bars, made in whole or in part by the Bessemer or pneumatic process, and steel railway bars, made in whole or in part by any other process, two cents per pound.

On cast-steel car-wheels, a duty of three cents per pound.

On steel carriage springs, six cents per pound.

On steel railway frogs, frog-points, fish-bars, side-bars, splice bars, cutter-bars, finger-bars, crowbars, and sledge-molds, three and one half cents per pound.

On crinoline and hat steel-wire, flattened, whether covered or otherwise, nine cents per pound, and, in addition thereto, ten per cent. *ad valorem*.

On cross-cut saws, twelve cents per lineal foot; on mill, pit, and drag saws, not over nine inches wide, fifteen cents per lineal foot; over nine inches wide, twenty-five cents per lineal foot.

On all hand-saws, not over twenty-four inches in length, \$1 35 cents per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over twenty-four inches in length, two dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

On all back-saws not exceeding ten inches in length, one dollar per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length, \$1 50 per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

On files, file-blanks, rasps, and floats of every description, not exceeding ten inches in length, twelve cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length, six cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On squares of steel or iron, marked for measuring, nine cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

On needles of all kinds for sewing, darning, knitting, and crocheting, thirty per cent. *ad valorem*; on needles for knitting or sewing machines, one dollar per thousand, and, in addition thereto, thirty-five per cent. *ad valorem*.

On table cutlery, valued at not over five dollars per gross, forty per cent. *ad valorem*.

On table cutlery, with other than ivory, pearl, or metal handles, valued at over five dollars per gross, forty-five per cent. *ad valorem*.

On butcher-knives, cooks', and shoe-knives, and spatulas and palettes, forty-five per cent. *ad valorem*.

On cutlery of all kinds, not including pocket cutlery, not herein otherwise provided for, forty-five per cent. *ad valorem*.

On pocket knives and pocket cutlery of all kinds, fifty-five per cent. *ad valorem*.

On swords and sword-blades, fifty per cent. *ad valorem*.

On planters' or other hoes, wholly or in part of steel or iron, \$1 50 per dozen.

On steel skates, costing twenty cents or less per pair, eight cents per pair; costing over twenty cents per pair, forty-five per cent. *ad valorem*.

On padlocks and curryscombs of every description, and of whatever material composed, fifteen cents per dozen, and, in addition thereto, forty-five per cent. *ad valorem*.

On chest, drawer, till, cupboard, trunk, and wardrobe locks of every description, and on door and shutter bolts and wrought-iron drawer handles, forty-five per cent. *ad valorem*.

On hardware, tools, implements, carpenters' tools, vices, braces, bits, fire-tongs, and shovels, house building hardware not otherwise herein provided for, sheaves, scales, instruments for surgical and medical uses, and all like finished articles of steel wholly or in part, or of iron, brass, copper, or other metal, and whether washed, plated, or gilt, forty-five per cent. *ad valorem*.

On all harness and saddlery hardware, forty-five per cent. *ad valorem*.

On muskets, rifles, fowling pieces, pistols, and all other fire-arms, forty-five per cent. *ad valorem*.

On all machinery composed in part of iron or steel for the manufacture of flax or hemp, and for the manufacture of combing wools or worsted, silk and worsted, twenty per cent. *ad valorem*.

On all machinery for other purposes, composed in part of iron or steel, or of any other metal or material, complete or in parts, forty-five per cent. *ad valorem*.

On steel in any form, and on manufactures of steel of every description not otherwise herein provided for, fifty per cent. *ad valorem*.

On trays and waiters, and all other articles of japanned, gilt, or plated-ware, not herein otherwise provided for, fifty per cent. *ad valorem*.

On machine cards, or card clothing, for use in covering carding engines, or parts of the same, composed of leather and wire, or cloth and wire, whether the cloth be composed wholly of wool, flax, or cotton, or of the same materials mixed with India-rubber, or combined with each other, and India-rubber in any way, forty per cent. *ad valorem*.

Mr. FESSENDEN. I move to strike out from lines seven to eleven inclusive, and to insert instead thereof:

On old iron, cast or wrought, three dollars per ton: *Provided*, That nothing shall be deemed old iron except waste or refuse material or iron that has been in actual use and is fit only to be remanufactured by melting or reheating and rolling or welding.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-three I move to strike out "and" and insert "or," and to make the same change in line twenty-four after the word "wide."

The PRESIDING OFFICER. Those modifications will be made, no objections being interposed.

Mr. FESSENDEN. In line thirty I move to strike out "eight" and insert "five," so as to read "No. 5 wire gauge."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After "rods," in line forty-three, I move to insert "and wire-rods;" so as to read:

On rods and wire-rods less than five sixteenths of an inch diameter, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After the word "band," in line fifty-two, I move to insert "strip, scalp, tube;" and in line fifty-three, to change "eight" to "five;" so as to read:

On all sizes of hoop, band, strip, scalp, tube, and scroll iron, thinner than No. 5 and not thinner than No. 14 wire gauge, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. At the end of line eighty the word "on" should be "or."

The PRESIDING OFFICER. That modification will be made.

Mr. FESSENDEN. In line eighty-three I move to strike out "and cut" and insert "or hammered;" and in line eighty-five, after "rolled" to insert "or hammered."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line one hundred and twenty I move to insert this proviso:

*Provided*, That no iron, except railroad iron and old scrap-iron, on which a specified duty is fixed by this act, shall pay a less rate of duty than thirty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and seventy I move to insert "glazed" after "on;" and after "tinned" to strike out "and" and insert "or;" so as to read:

On glazed, tinned, or enameled wrought-iron hollow-ware, &c.

Mr. FESSENDEN. In line one hundred and seventy-two "steam-gas" should be "steam, gas," and "or" should be inserted after "gas;" so as to read "on cast-iron steam, gas, or water pipe," &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line two hundred and twelve I move to strike out "steel" before "railway," and in line two hundred and thirteen after "part" to insert "of steel;" so as to read "railway bars made in whole or in part of steel."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line two hundred and eighty-one I move to strike out "forty-five" and insert "fifty;" so as to make fifty per

cent. *ad valorem* the rate of duty on "hardware, tools, implements," &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out lines two hundred and eighty-seven, two hundred and eighty-eight, two hundred and eighty-nine, and two hundred and ninety, and then in line two hundred and ninety-one to insert "on" before "all," and after "machinery" in that line to strike out "for other purposes" and insert "not herein otherwise provided for."

The amendment to the amendment was agreed to.

The eighth section of the substitute was next read, as follows:

SEC. 8. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter enumerated there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On manufactures and wares of gold or silver, or of which either shall be the component material of chief value, forty per cent. *ad valorem*.

On all manufactures of platinum, twenty per cent. *ad valorem*; *Provided*, That platinum in sheets and plates and vases or retorts of platinum for chemical uses shall be admitted free of duty.

On copper ore, ten per cent. *ad valorem*.

On regulus of copper, fifteen per cent. *ad valorem*.

On copper in pigs, ingots, or bars, four cents per pound.

On copper sheathing for vessels, forty-eight inches long, fourteen inches wide, and weighing from fourteen ounces to thirty-four ounces per square foot, and yellow metal sheathing, five cents per pound.

On old copper, two cents per pound.

On copper in plates, sheets, rods, pipes, and copper bottoms, and on all manufactures of copper, or of which copper shall be a component material of chief value, not otherwise herein provided for, forty-five per cent. *ad valorem*.

On copper or brass wire-cloth finer than thirty-six wire to the running inch, fifty-five per cent. *ad valorem*.

On brass in pigs and bars, twenty-five per cent. *ad valorem*.

On brass, old, and fit only to be remanufactured, fifteen per cent. *ad valorem*.

On brass in plates, sheets, or wire, thirty-five per cent. *ad valorem*.

On castings of brass or bronze, and on all manufactures of or articles of brass or bronze, or of which brass or bronze shall be a component material of chief value, not otherwise herein provided for, forty per cent. *ad valorem*.

On lead in pigs or bars, two and one half cents per pound.

On lead ore, one and one half cent per pound.

On old scrap-lead, one and one half cent per pound.

On lead in sheets, pipe, and shot, three cents per pound.

On all manufactures of lead, not otherwise herein provided for, forty per cent. *ad valorem*.

On pewter, britannia, and all like mixed metals, of lead or tin, five cents per pound.

On all articles of pewter or britannia, not otherwise herein provided for, forty per cent. *ad valorem*.

On ore of antimony, natural, five dollars per ton.

On regulus of antimony, two cents per pound.

On nickel, fifteen per cent. *ad valorem*.

On alloy of nickel with copper, thirty-five per cent. *ad valorem*.

On nickel matte, speiss, or oxide, ten per cent. *ad valorem*.

On ores of nickel and on cobalt ores, ten per cent. *ad valorem*.

On manufactures of nickel, thirty-five per cent. *ad valorem*.

On tinned iron, known as tin plates, twenty-five per cent. *ad valorem*.

On manufactures or articles of tin or of tinned iron, not otherwise herein provided for, forty per cent. *ad valorem*.

On albata or white metal, argentine, German silver, and the like mixed metals, forty per cent. *ad valorem*.

On all manufactures of albata, argentine, German silver, and the like mixed metals, forty-five per cent. *ad valorem*.

On zinc spelter or teutenague, in block or pigs, two cents per pound.

On zinc in sheets, three cents per pound.

On all articles of zinc, not otherwise herein provided for, forty per cent. *ad valorem*.

On all native ores of zinc, ten per cent. *ad valorem*.

On gold leaf, \$1 50 per package of five hundred leaves; on silver leaf, seventy-five cents per package of five hundred leaves.

On types and type metal, thirty per cent. *ad valorem*.

On old type fit only to be remanufactured, two cents per pound.

Mr. FESSENDEN. At the bottom of page 39, line fifty-one of that section, I move to strike out "fifty per cent. *ad valorem*" and to insert "thirty cents per pound;" so that it will read:

On nickel, thirty cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line fifty-nine I

move to insert the following as a new paragraph:

On tin in pigs, bars, or blocks, fifteen per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line sixty, after the word "tin," I move to insert the words "or terne;" so that it will read:

On tinned iron, known as tin or terne plates, twenty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The ninth section of the substitute was next read, as follows:

SEC. 9. *And be it further enacted*, That from and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on drugs, dyes, chemicals, paints, oils, chemical and medicinal preparations, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On acetate of alumina, five cents per pound; acetate of ammonia, fifty cents per pound; acetate of baryta, forty cents per pound; sub-acetate of copper, or verdigris, ten cents per pound; crystals of copper, or distilled verdigris, twenty cents per pound; acetate of iron, or red liquor, ten cents per pound; acetate of lead, or sugar of lead, ten cents per pound; acetate of lime, one and a quarter cent per pound; acetate of magnesia, fifty cents per pound; acetate of potassa, fifty cents per pound; acetate of soda, of strontia, and of zinc, fifty cents per pound.

On acids, namely: on acetic or pyroligneous acid exceeding the specific gravity of 1.040, twenty-five cents per pound; not exceeding the specific gravity of 1.040, ten cents per pound; on glacial acetic acid, solid at temperatures above thirty-two degrees Fahrenheit, twenty-five cents per pound; on arsenious acid, a half cent per pound; on benzoic acid, one dollar per pound; on boracic acid, crude, five cents per pound; on carbolic acid or phenic acid, crude, twenty per cent. *ad valorem*; on carbolio acid or phenic acid, refined, and on cresote, twenty cents per pound; on chromic acid, crystallized, sixty cents per pound; on citric acid, white or yellow, ten cents per pound; on gallic acid and pyrogallio acid, \$1 50 per pound; on muriatic acid, three cents per pound; on nitric acid, three cents per pound; on oxalic acid, four cents per pound; on phosphoric acid and on prussic acid, twenty per cent. *ad valorem*; on picric and nitro-picric acids, and on all dyes and colors made from coal tar, naphtha, benzole, or similar products, or of which such products form a part, and not otherwise herein provided for, thirty-five per cent. *ad valorem*; on sulphuric acid or oil of vitriol, one cent per pound; on fuming sulphuric acid, two cents per pound; on succinic acid, twenty per cent. *ad valorem*; on tannic acid, \$1 50 per pound; on tartaric acid, fifteen cents per pound.

On aconite root, and aconite leaf, ten cents per pound.

On aconitia and salts of aconitia, \$2 50 per ounce.

On albumen, as egg albumen, blood albumen, or of whatever kind; and on fibrin of whatever kind, five cents per pound.

On aldehyde, one dollar per pound.

On alkekengi, thirty per cent. *ad valorem*.

On agaric, twenty per cent. *ad valorem*.

On alkanet root, two cents per pound.

On aloes, four cents per pound.

On all medicinal preparations of aloes, thirty per cent. *ad valorem*.

On alum, alum substitute, and aluminous cake, sixty cents per one hundred pounds.

On maber, twenty per cent. *ad valorem*.

On carbonate of ammonia, two cents per pound.

On sal ammoniac or muriate of ammonia, one and a half cent per pound.

On sulphate of ammonia, one cent per pound.

On alcoholic spirits of ammonia, fifty cents per pound.

On aqua ammonia and all salts of ammonia not otherwise herein provided for, thirty per cent. *ad valorem*.

On aniline dyes and colors, by whatever name known, and on aniline, thirty-five per cent. *ad valorem*.

On anise seed, six cents per pound.

On star anise seed, ten cents per pound.

On extract of annatto seed, five cents per pound.

On Hoffman's anodyne and on spirits of nitrous ether, when of the strength indicated in the United States Pharmacopoeia, fifty cents per pound.

On anthemis or chamomile, in flowers or otherwise, three cents per pound.

On crude sulphide of antimony, or crude antimony, one cent per pound.

On purified sulphide of antimony, and on alkermes and kermes mineral, thirty cents per pound.

On antimonium, or metallic antimony, two cents per pound.

On tartrate of antimony and potassa, or tartar emetic, twenty cents per pound.

On all antimonial preparations not otherwise herein provided for, thirty per cent. *ad valorem*.

On argols or crude tartar, and on brown, gray, or red tartar, four cents per pound.

On argols, white, or partially refined tartar, six cents per pound.

On cream of tartar, purified argols, or bitartrate of potassa, seven cents per pound.

On Armenian bole, fifty per cent. *ad valorem*.

On arrowroot, six cents per pound.

On arsenic, a half cent per pound.

On all other forms of arsenic, and all arsenical

preparations, not otherwise herein provided for, forty per cent. *ad valorem*.

On assafetida, five cents per pound.

On atropia and salts of atropia, \$2 50 per ounce.

On belladonna root and belladonna leaf, ten cents per pound.

On balsam copaiba or copaiba, twenty cents per pound.

On balsam tolu, thirty cents per pound.

On Peruvian balsam, and balsams of every description not otherwise herein provided for, fifty cents per pound.

On Canadian balsam, ten cents per pound.

[For Peruvian barks, see free list.]

On canella alba, or Winter's bark, pomegranate bark, and all medicinal barks, crude, not otherwise herein provided for, ten per cent. *ad valorem*.

On croton cascarilla bark, and all other barks not medicinal, crude, and not otherwise herein provided for, ten per cent. *ad valorem*.

On baryta, native carbonate and sulphate, or heavy spar, crude, five dollars per ton.

On sulphate of baryta, prepared, as blanco-fixe, enamel white, satin white, or by whatever name designated, three cents per pound.

On nitrate of baryta and muriate of baryta, six cents per pound.

On all salts of baryta not otherwise herein provided for, thirty per cent. *ad valorem*.

On oxide of bismuth, carbonate, subnitrate, and oxychloride of bismuth, one dollar per pound.

On bitter apples, colocynth, or colocintida, ten cents per pound.

On blues, namely, on fig or wash blue, and on all other blues used for similar purposes, and not otherwise herein provided for, twenty-five per cent. *ad valorem*.

On bone black and on animal charcoal of every description when of ordinary grade and value, one cent per pound.

On ivory drop black, in cones or in powder, six cents per pound.

On Frankfort black, six cents per pound.

On spirit black and lampblack, two cents per pound.

On borax, crude or tincal, and on crude borates not otherwise herein provided for, three cents per pound.

On borax, refined, seven cents per pound.

On boracic acid, crude, three cents per pound.

On boracic acid, refined, hydrated, eight cents per pound; anhydrous, fifteen cents per pound.

On borate of lime, crude, one cent per pound.

On bronze metal or Dutch metal in leaf, and clippings, and on bronze liquid, thirty per cent. *ad valorem*.

On metallic bronze powder and frosting, of all colors, and of whatever material composed, \$1 20 per pound.

On bromine, forty cents per pound.

On bromide of potassium and of sodium, sixty-five cents per pound.

On all salts and preparations of bromine not otherwise herein provided for, thirty per cent. *ad valorem*.

On calamus, or flag-root, five cents per pound.

On calomel, twenty cents per pound.

On corrosivesublimat, cyanide and iodide of mercury, red oxide of mercury, red precipitate, and all salts and preparations of mercury not otherwise herein provided for, twenty per cent. *ad valorem*.

On mercury or quicksilver, eight cents per pound.

On vermilion or prepared cinnabar, and other prepared sulphides of mercury, twenty cents per pound.

On cinnabar ore, or other native ores of mercury, ten per cent. *ad valorem*.

On camphor, crude, fifteen cents per pound.

On camphor, refined, twenty-three cents per pound.

On cantharides, or Spanish flies, fifty cents per pound.

On carmine, in all forms, and carmine lake, dry or liquid, thirty-five per cent. *ad valorem*.

On all prepared or manufactured chalk, as whitening, Paris white, or under whatever name or form, dry, one cent per pound; ground in oil, five cents per pound.

On red chalk, and French chalk or talc, three cents per pound.

On Vienna chalk and on Vienna lime, twenty per cent. *ad valorem*.

On all native ores of cobalt, ten per cent. *ad valorem*.

On cobalt and on oxide of cobalt, twenty per cent. *ad valorem*.

On smalts, zaffre, cobalt blue, and all like preparations of cobalt, twenty per cent. *ad valorem*.

On coeculus indicus, ten cents per pound.

On conium, cicuta, or hemlock, seed and leaf, ten cents per pound.

On cubebs, ten cents per pound.

On cuttle-fish bone, five cents per pound.

On crocus powder, crocus martis, colcothar, purple, brown, Indian red, and all like oxides of iron, five cents per pound.

On cumin or cumin-seed, five cents per pound.

On clay, China clay, pipe clay, fire clay, and kaoline, five dollars per ton.

On Fuller's earth, three dollars per ton.

On clay prepared as satin white or lily white, five cents per pound.

On chloroform, or chloric ether, fifty cents per pound.

On collodion, liquid or solid, and on gun-cotton, \$1 50 per pound.

On colombo root, four cents per pound.

On Cologne water, or other perfumery of which alcohol forms the ingredient of chief value, three dollars per gallon, and, in addition thereto, fifty per cent. *ad valorem*.

On copperas, or sulphate of iron, a half of a cent per pound.

On sulphate of copper, blue or Roman vitriol, or blue stone, three cents per pound.

On dextrine or British gum, and on gum substitute, four cents per pound.

On emery, ore or rock, twelve dollars per ton.

On emery, ground or pulverized, two cents per pound.

On emery cloth and emery paper, thirty-five per cent. *ad valorem*.

On ergot, twenty cents per pound.

On ergotine, one dollar per ounce.

On essences, so-called, not properly designated as essential oils, and on cosmetics, hair oils, pomades, hair dressings and hair dyes, dentifrices, and all tooth washes and tooth pastes, aromatic cachous, or other perfumes and cosmetics, by whatever name or names known, used or applied as perfumes, or applications to the hair, mouth, or skin, and not otherwise herein provided for, fifty per cent. *ad valorem*.

On all essences or compounds distilled or expressed, and on all compounds or preparations of which distilled spirits is a component part of chief value, three dollars per gallon, and, in addition thereto, fifty per cent. *ad valorem*.

On medicinal extracts, namely: on extracts of aconite, chamomile or anemism, digitalis or fox-glove, humulus or hops, ipecacuanha, quassia, and valerian, fifty-five cents per pound; on extracts of arnica, colchicum, colocynth, simple or compound, nuxvomica, rhatany, and stramonium, one dollar per pound; on extracts of belladonna, hyoscyamus, and lettuce, forty cents per pound; on lactucarium, two dollars per pound; on extracts of cannabis indica, or Indian hemp, or gunjah, and opium, when strictly an official extract for medical uses, \$2 50 per pound; on extracts of conium, cicuta, or hemlock, gentium; papaver, or poppy; and taraxacum, or dandelion, fifteen cents per pound; on extracts of cinchona, or Peruvian barks, and calumba, or columbo, \$3 30 per pound; on extract of elaterium, or elaterum, sixty cents per ounce; on extract of hellebore, sixty-five cents per pound; on extracts of jalap and rhubarb, \$1 35 per pound; on all medicinal extracts not otherwise herein provided for, forty per cent. *ad valorem*; on extract of madder, as garancine, or in any other form, ten per cent. *ad valorem*; on extract of indigo, acid or neutral, twenty per cent. *ad valorem*; on carmined indigo, and on all preparations of indigo not otherwise provided for, twenty per cent. *ad valorem*; on extract of logwood or Campeachy wood, and on all other extracts and decoctions of dye woods, ten per cent. *ad valorem*.

On fruit ethers, and all ethers used as fruit or liquor flavors, not otherwise herein provided for, \$2 50 per pound.

On all ethers and ethereal extracts, not otherwise herein provided for, two dollars per pound.

On fulminates and fulminating powders, \$2 50 per pound.

On nitro-glycerine, or blasting oil, or glonoin, fifty cents per pound.

On gelatine, refined or white glues, twenty cents per pound; and all gelatines and glues, the value of which shall exceed twenty-five cents per pound, shall be considered white.

On dark glues and glue sizings, and on all glues not refined, five cents per pound.

On isinglass and fish glue, fifty cents per pound.

On glycerine in all forms, thirty per cent. *ad valorem*.

On glucose, or grape sugar, six cents per pound.

On gum-arabic, known as sorts, or natural unpicked Alexandria or Turkey gum, on Mogadore gum, and on all acacia gums, not otherwise herein provided for, three cents per pound.

On gum-arabic, picked, known as Alexandria or Turkey first, second, and third, picked, six cents per pound.

On gum arabic, known as gum Gedda, gum Senegal, Barbary gum, East India gum, Cape gum, Australian gum, or by whatever name known, provided the kind, quality, value, and uses be similar to gum Gedda, one and one half cent per pound.

On gum benzoin or Benjamin, ten cents per pound. On copal or gum copal, and sandarac or gum sandarac, on dammar or gum dammar, and on all resinous gums or substances used for similar purposes, and not otherwise herein provided for, three cents per pound.

On gamboge, or gum gamboge, twelve cents per pound.

On kowrie, or gum kowrie, two cents per pound.

On mastic, or gum mastic, thirty cents per pound.

On shellac, or gum shellac, three cents per pound.

On gum tragacanth, known as sorts, or natural unpicked tragacanth, five cents per pound.

On gum tragacanth, picked, ten cents per pound.

On gum olibanum, guaiac, myrrh, bdellium, gabbatum, thus, and all other medicinal gums or gum resins of like character or use, not otherwise provided for, six cents per pound.

On preserved or pickled ginger, and on extract of ginger, fifty per cent. *ad valorem*.

On ground or calcined plaster of Paris, or ground or calcined gypsum, or sulphate of lime, forty per cent. *ad valorem*.

On terra alba, blonde trieste, or any other preparation of sulphate of lime, not herein otherwise provided for, one cent per pound.

On hyoscyamus or henbane leaf, ten cents per pound.

On ink powders and ink of all kinds, thirty-five per cent. *ad valorem*.

On iodine, crude, fifty cents per pound.

On iodine, resublimed, seventy-five cents per pound.

On all salts and preparations of iodine, not otherwise herein provided for, thirty per cent. *ad valorem*.

On ipecac, fifty cents per pound.

On jalap, fifty cents per pound.

On iron rust, red oxide, black oxide, and all dry oxides of iron, not otherwise herein provided for, five cents per pound.

On iron powder, and all chlorides, salts, solutions, and chemical or medicinal preparations of iron, not

otherwise herein provided for, thirty per cent. *ad valorem*.

On iron by hydrogen, twenty-five cents per pound.

On juniper berries, two cents per pound.

On laurel berries, two cents per pound.

On lac dye, five cents per pound.

On lac spirits and lac dye liquid, thirty-five per cent. *ad valorem*.

On lactarene, twenty-five per cent. *ad valorem*.

On lactose, lacticin, or sugar of milk, six cents per pound.

On medicinal leaves, flowers, berries, roots, and plants, dry, and not otherwise prepared, and not otherwise herein provided for, twenty per cent. *ad valorem*.

On buchu leaves, ten cents per pound.

On muriate of lime and citrate of lime, twenty per cent. *ad valorem*.

On all chemical and medicinal preparations of lime, not otherwise herein provided for, thirty per cent. *ad valorem*.

On lime juice and on lemon juice, simple or concentrated, ten cents per gallon.

On white lead or carbonate of lead, dry, four cents per pound.

On white lead, moist, or ground in water or in oil, five cents per pound.

On litharge or semi-vitrified oxide of lead, dry, four cents per pound.

On red lead or minium, or red oxide of lead, dry, four cents per pound.

On red lead, moist, or ground in water or in oil, four cents per pound.

On orange mineral or orange red, or orange-colored oxide of lead, four cents per pound.

On all paints, pigments, enamels, sizings, and glazings of lead, not otherwise herein provided for, dry, moist, or ground in oil, five cents per pound.

On acetate of lead, or sugar of lead, ten cents per pound.

On chromate of lead or chrome yellow, six cents per pound.

On nitrate of lead, three cents per pound.

On lint, linen or cotton, or mixed, forty per cent. *ad valorem*.

On liquorice root, two cents per pound; liquorice paste, juice, or rolls, ten cents per pound.

On litmus paper, thirty per cent. *ad valorem*.

On all extracts of litmus, extracts of orchil or archil, or other lichens, twenty per cent. *ad valorem*.

On magnesia carbonate, six cents per pound.

On sulphate of magnesia, or Epsom salts, one cent per pound.

On calcined magnesia, twelve cents per pound.

On all other preparations of magnesia, not otherwise herein provided for, forty per cent. *ad valorem*.

On manganese, crude or mineral, ten per cent. *ad valorem*.

On prepared oxide of manganese, and on sulphate of manganese, forty per cent. *ad valorem*.

On methylated spirit, or any similar spirit, the duty imposed on distilled spirits.

On Iceland moss and all other mosses, crude, ten per cent. *ad valorem*.

On musk, crude, in natural pod, two dollars per ounce.

On musk in grain, or manufactured musk, \$2 50 per ounce.

On civet, crude, one dollar per ounce.

On oil of musk and civet, fifty cents per ounce.

On ochres and ochrey earths, terra umbra or umber, terra di sienna, Spanish brown, Roman ochre, French ochre, and all colored earths or preparations of colored earths used for similar purposes, and not otherwise herein provided for, if dry, fifty cents per one hundred pounds; if ground in oil, five cents per pound.

On oils, expressed or unctuous, not volatile, aromatic, or essential, namely: on neat's foot oil and all animal oils, crude, not otherwise herein provided for, twenty per cent. *ad valorem*.

On all pomades, dressings, and preparations of oils for personal use, fifty per cent. *ad valorem*.

On pomades and perfumed oils not prepared for personal use, made by the process known as enfleurage, and used exclusively for the manufacture of perfumery, fifty cents per pound.

On linseed, flaxseed, hempseed, and rapeseed oil, and on oil of sesame or bene oil, twenty-three cents per gallon.

On castor oil, ricina oil, or palma-christi oil, seventy-five cents per gallon.

On olive oil in casks or bottles, known as salad oil, or of such quality as to be adapted to table uses, and mustard oil of similar grade or quality, and on salad or table oils of every description, one dollar per gallon: *Provided*, That all salad oil in bottles or flasks shall pay a separate and additional duty of three cents on each bottle or flask.

On olive oil and mustard oil, and all similar oils of lower grade or quality and value than salad or table oils, and not used for salad and table purposes, and not otherwise herein provided for, fifty cents per gallon.

On whale oil, seal oil, and fish oil of foreign fishing, twenty cents per gallon.

On rock oil, peat, shale, wood, and coal oil, and on all bituminous oils, crude, ten cents per gallon.

On all rock, peat, shale, wood, coal, and bituminous oils, refined, and not otherwise herein provided for, thirty cents per gallon.

On all expressed oils of seeds or plants not containing essential oils, and not otherwise herein provided for, fifty cents per gallon.

On burning fluid, three dollars per gallon.

On oils, essential, volatile or aromatic, whether obtained by distillation or by compression and absorption, or however obtained or made, namely: on oils of allspice or pimento, cummin or cumminseed, dill or anethum, and fern or male fern, two dollars per pound; on oil of sweet almonds, fifteen cents per pound; on

oil of almonds, essential, or oil of bitter almonds, \$1 50 per pound; on oil of amber or succinum, crude, six cents per pound; on oil of amber of succinum, rectified, eighteen cents per pound; on oils of anise seed, calamus or flag-root, cassia, cedar, and rue, \$1 15 per pound; on oils of apple, apricot, peach, pear, pineapple, raspberry, strawberry, or other fruit oils, essences or ethers, or on substances made to resemble them, or for similar uses, \$2 50 per pound; on oils of bay, or bay rum, or bay leaves, two dollars per pound; on oil of bergamot, \$1 50 per pound; on oils of black pepper, chamomile or anemism, patchouli, and mustard, essential or volatile, six dollars per pound; on oils of cajuput, caraway or carui, citronella, fennel or foeniculum, jasmine or jessamine, juniper, either from the berries or the wood, lavender, mace, mirbane, nutmegs, sassafras, thyme or origanum red or white, and tube-rose, fifty cents per pound; on oil of cinnamon, whether from the bark or leaves, four dollars per pound; on oil of cloves, two dollars per pound; on oil of cognac, or sennanthie ether, or oil of brandy, four dollars per ounce; on oil of copaiba, or copaiya, seventy-five cents per pound; on oil of coriander, \$2 50 per pound; on oil of cubebbs, \$1 50 per pound; on oil of ergot, five dollars per pound; on oil of geranium, and on oil of rose geranium, whether natural, prepared, or rectified, three dollars per pound; on oil of laurel, twenty cents per pound; on oil of lemon, seventy-five cents per pound; on oil of lemongrass, two dollars per pound; on oil of neroli or orange flowers, sixteen dollars per pound; on oil of bitter orange, \$1 50 per pound; on oil of sweet orange, seventy-five cents per pound; on oil of pepper mint, two dollars per pound; on oil of petit grain, sandal wood, valerian, and wormseed, three dollars per pound; on oil of rhodium, two dollars per pound; on oil of rose or otto of roses, \$1 50 per ounce; on oil of rosemary, savin or sabina, and spearmint, twenty-five cents per pound; on oil of rum or oil of wine, or any oil or essence used in the manufacture of liquors or wines, and not otherwise herein provided for, two dollars per ounce; on all essential oils, not otherwise herein provided for, fifty per cent. *ad valorem*; on crude fusil oil, or amylic alcohol, two dollars per gallon.

On opium, two dollars per pound.

On opium prepared for smoking, and on all extracts and other preparations of opium, not otherwise herein provided for, one hundred per cent. *ad valorem*.

On morphia and on all sorts of morphia, two dollars per ounce.

On orange and lemon peel, two cents per pound.

On green paints, namely, on chrome green, Brunswick green, and imperial green, four cents per pound; on Paris green, French green, and all arsenical greens, and on all green paints or colors not otherwise herein provided for, ten cents per pound.

On ultra-marine, or lapis lazuli, twenty-five per cent. *ad valorem*.

On dutch pink and rose red, two cents per pound.

On Venetian red, dry, a half cent per pound.

On Venetian red, ground in oil, five cents per pound.

On prepared paints, oil-colors and water-colors of every description, dry, moist, or in oil, not otherwise herein provided for, thirty-five per cent. *ad valorem*; and the cost of packing, cases and packages of every sort in which the same shall be put up shall be included in the dutiable value.

On enamel colors for china, crockery, and porcelain ware, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

On paraffine, ten cents per pound.

On perfumes and perfumery, not otherwise herein provided for, not containing alcohol, fifty per cent. *ad valorem*; if containing alcohol as the ingredient of chief value, three dollars per gallon, and, in addition thereto, fifty per cent. *ad valorem*.

On phosphorus, ten cents per pound.

On phosphates and compounds of phosphorus, not otherwise herein provided for, thirty per cent. *ad valorem*.

On phenyl, twenty per cent. *ad valorem*.

On plumbago or black lead, ten dollars per ton.

On black lead, when prepared for pencils, fifty per cent. *ad valorem*.

On polishing powders of all descriptions, polishing rouge, and on tripoli, five cents per pound.

On potassium, metal, twenty per cent. *ad valorem*.

On saleratus, salt, or tartar, or other refined carbonate of potassa, one and a half cent per pound.

On chromate and bichromate of potassa, three cents per pound.

On yellow prussiate of potassa, five cents per pound.

On red prussiate of potassa, ten cents per pound.

On chlorate of potassa, five cents per pound.

On iodate, or iodide, and hydriodate of potassa, seventy-five cents per pound.

On saltpeter, or niter, or nitrate of potassa, crude, one cent per pound.

On saltpeter, partially refined, two cents per pound.

On saltpeter, or niter, or nitrate of potassa, refined, three cents per pound.

On cream of tartar, tartrate and bitartrate of potassa, seven cents per pound.

On muriate of potassa, one fourth cent per pound.

On all salts of potassa, not otherwise herein provided for, thirty per cent. *ad valorem*.

On gunpowder, valued at less than twenty cents per pound, six cents per pound, and, in addition thereto, twenty per cent. *ad valorem*; valued at and over twenty cents per pound, ten cents per pound, and, in addition thereto, twenty per cent. *ad valorem*.

On patty, five cents per pound.

On Prussian blue and on China blue, dry or liquid, twenty cents per pound.

On quassia or bitter wood, one cent per pound.

On quinia, quindina, and all their salts, thirty-three cents per ounce.

On cinchonia, chinoidine, and their salts, ten cents per ounce.



On resins, not otherwise herein provided for, if crude, three cents per pound.

On resins, prepared or manufactured, and not otherwise herein provided for, thirty per cent. *ad valorem*.

On rhubarb, fifty cents per pound.

On resin, two cents per pound.

On crude turpentine, twenty per cent. *ad valorem*.

On spirits of turpentine, thirty cents per gallon.

On saffron extract and extract of safflower, thirty per cent. *ad valorem*.

On sago, pearl, two cents per pound.

On sago flour, as used in the arts for dressings and sizings, and not for dietetic uses, one cent per pound.

On Rochelle salts, fifteen cents per pound.

On Epsom salts, one cent per pound.

On Glauber salts, one half cent per pound.

On sal acuosella, salt of sorrel, or binoxalate of potassa, five cents per pound.

On Seidlitz mixture, ten cents per pound.

On salts not otherwise herein provided for, thirty per cent. *ad valorem*.

On santolin, five dollars per pound.

On worm seed, crude, two cents per pound.

On sarsaparilla, crude, three cents per pound.

On scammony and on resin of scammony, two dollars per pound.

On seeds, namely: on cardamoms in capsules, thirty cents per pound; on cardamoms in capsules, thirty cents per pound; on caraway and coriander, three cents per pound; on fenugreek and fennel-seed, two cents per pound; on hemp-seed and rape-seed, and on other oil seeds of like character other than linseed, a half cent per pound; on linseed or flaxseed, sixteen cents per bushel of fifty-two pounds weight; on linseed meal and linseed cake, twenty per cent. *ad valorem*; on castor seed or beans, one and one fifth cent. per pound; on mustard seed, three cents per pound; on all seeds not herein otherwise provided for, thirty per cent. *ad valorem*.

On senna, in leaf, three cents per pound.

On soda ash, a half cent per pound.

On nitrate of soda, a half cent per pound.

On crude sulphate of soda, or salt cake, one half of a cent per pound.

On sal soda, soda crystals, and all crude carbonates of soda not otherwise herein provided for, a half cent per pound.

On caustic soda, bicarbonate of soda, and all refined carbonates of soda, one and a half cent per pound.

On iodate and hydriodate of soda, sixty-five cents per pound.

On phosphate of soda, hyposulphite of soda, silicate of soda, and all salts of soda not otherwise herein provided for, thirty per cent. *ad valorem*.

On sodium metal, or natrium, twenty per cent. *ad valorem*.

On soap in all forms not perfumed, nor toilet, including castile soap, three cents per pound.

On toilet, perfumed, and fancy soaps, ten cents per pound, and in addition thereto twenty-five per cent. *ad valorem*.

On all soap stocks and soap stuffs not manufactured or prepared, ten per cent. *ad valorem*.

On squills or scilla, two cents per pound.

On potato starch, four and a half cents per pound.

On starch of all kinds not otherwise herein provided for, five cents per pound.

On strontia, in any form, mineral or crude, ten per cent. *ad valorem*.

On nitrate of strontia, and all preparations of strontia, not otherwise herein provided for, thirty per cent. *ad valorem*.

On strychnia, and salts of strychnia, or strychnine, one dollar per ounce.

On sulphur, or brimstone in rolls, ten dollars per ton.

On flor or flour of sulphur, twenty dollars per ton.

On lac sulphur, washed sulphur, and precipitated sulphur, five cents per pound.

On talc, three cents per pound.

On tapioca, cassava, or cassada, two cents per pound.

On tar or resinous trees, twenty-five cents per gallon.

On coal-tar or mineral tar, twenty per cent. *ad valorem*.

On tin crystals, oxymuriate or muriate of tin, and all salts of tin, dry, six cents per pound.

On tin liquor, and all solutions of tin, three cents per pound.

On toluidin, two dollars per pound.

On tonca or tongqua beans, twenty cents per pound.

On vanilla beans, three dollars per pound.

On varnishes, prepared, fifty cents per gallon, and, in addition thereto, twenty-five per cent. *ad valorem*; if containing alcohol or spirits as the ingredient of chief value, three dollars per gallon, and, in addition thereto, twenty-five per cent. *ad valorem*.

On vegetables or plants, green or fresh, not otherwise herein provided for, ten per cent. *ad valorem*.

On veratrine or veratria (alkaloid of hellebore) and all salts of veratria, \$1.50 per ounce.

On vinegar containing not more than four per cent. of acid, ten cents per gallon.

On vermilion, or prepared cinnabar, and other prepared sulphides of mercury, twenty cents per pound.

On concentrated vinegar, the same duty as on acetic acid.

On refined or partially refined wax of all descriptions, and on shoemakers' wax, eight cents per pound.

On sealing wax, thirty-five per cent. *ad valorem*.

On wood naphtha, or pyroxilic spirit, fifty per cent. *ad valorem*.

On dyewoods of all kinds, prepared for use by cutting, grinding, or otherwise, twenty per cent. *ad valorem*.

On sulphate of zinc or white vitriol, one cent per pound.

On white oxide of zinc, or zinc paint, dry, two cents per pound.

On white oxide of zinc or any zinc paint, moist or ground, in water or in oil, five cents per pound.

On all salts of zinc, not otherwise herein provided for, thirty per cent. *ad valorem*.

On all pills, powders, tinctures, troches, or lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions, recommended to the public as proprietary medicines, or prepared according to some private formula or secret art, as remedies or specifics for any disease or diseases or affections whatever, affecting the human or animal body, and upon all mixed materials for such, in whatever state or stage of preparation, fifty per cent. *ad valorem*.

On all articles and preparations of drugs, dyes, chemicals, dietetics, and aliments known or claimed as patent, or bearing the maker's name as proprietary, and put up for popular sale and use under a special name or trade-mark, whether the substance so put up be or be not herein elsewhere provided for, when not so put up, and on all prepared or manufactured materials, as boxes, labels, packages, brands, trade-marks, and so forth, for such articles, fifty per cent. *ad valorem*.

On all drugs, dyes, chemicals, paints, and oils, crude, not otherwise herein provided for, twenty per cent. *ad valorem*.

On all prepared drugs, chemicals and medicines, not otherwise herein provided for, thirty per cent. *ad valorem*.

Mr. FESSENDEN. In line fourteen I move to strike out "ten" and to insert "fifteen," so that it will read:

Acetate of lead, or sugar of lead, fifteen cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-two I move to strike out "ten" and to insert "fifteen," so that the clause will read:

On acetic or pyroligneous acid, exceeding the specific gravity of 1.040, twenty-five cents per pound; not exceeding the specific gravity of 1.040, fifteen cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-five I move to strike out "twenty-five" and to insert "thirty;" so that the clause will read:

On glacial acetic acid, solid at temperatures above thirty-two degrees Fahrenheit, thirty cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out the whole of line twenty-eight:

On boracic acid, crude, five cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line thirty-eight I move to insert as a new paragraph the following:

On nitric, muriatic, and sulphuric acids chemically pure, eight cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line fifty I move to strike out "fifteen" and to insert "sixteen;" so that it will read:

On tartaric acid, sixteen cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. The word "maber," in line sixty-six, should be "amber."

The PRESIDING OFFICER. That change will be made.

Mr. FESSENDEN. In line seventy I move to strike out the words "one cent per pound" and to insert "thirty cents per one hundred pounds;" so as to read:

On sulphate of ammonia, thirty cents per one hundred pounds.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. The Senator from Maine has been called out for a few moments, and I move to strike out the words "and on," in line ninety-four, and the words "tartar, four" in line ninety-five and to insert the word "six;" so that the clause will read:

On argols or crude tartar, brown, gray, or red, six cents per pound.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to strike out lines ninety-six and ninety-seven, as follows:

On argols, white, or partially refined tartar, six cents per pound.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to strike out "seven" and to insert "ten" in line ninety-nine; so as to read:

On cream of tartar, purified argols, or bitartrate of potassa, ten cents per pound.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. In line one hundred and eight I move to strike out "ten" and to insert "six;" so as to read:

On belladonna root and belladonna leaf, six cents per pound.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to add to line one hundred and twenty-three the words "when ground, fifteen dollars per ton;" so that it will read:

On baryta, native carbonate and sulphate, or heavy spar, crude, five dollars per ton; when ground, fifteen dollars per ton.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and fifty the word "cent" should be struck out and the words "and one half cent" inserted; so as to read:

On borate of lime, crude, one and one half cent per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and fifty-six I move to strike out "forty" and to insert seventy-five;" so as to read:

On bromine, seventy-five cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and sixty-six I move to strike out the words "twenty per cent. *ad valorem*;" and to insert "fifteen cents per pound;" so as to make the clause read:

On corrosive sublimate, cyanide, and iodide of mercury, red oxide of mercury, red precipitate, and all salts and preparations of mercury not otherwise herein provided for, fifteen cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out lines one hundred and ninety-seven, one hundred and ninety-eight, and one hundred and ninety-nine, in these words:

On clay, china clay, pipe-clay, fire-clay, and kaoline, five dollars per ton.

On fuller's earth, three dollars per ton.

They are but a repetition.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line two hundred and twenty I move to strike out "one dollar" and to insert "fifteen cents;" so as to read:

On ergotine, fifteen cents per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out from line two hundred and seventy-five to two hundred and eighty, inclusive, and in lieu thereof to insert a more accurate classification or description, as follows:

On gelatine, glue, and glue sizings valued at more than thirty-five cents per pound, twenty-five cents per pound; valued at more than fifteen, and less than thirty-five cents per pound, ten cents per pound; valued at less than fifteen cents per pound, five cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out line two hundred and eighty-two, which is in these words, "on glycerine in all forms thirty per cent. *ad valorem*," and in lieu thereof to insert:

On crude glycerine, two cents per pound.

On refined glycerine, fifteen cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out lines three hundred and forty-six and three hundred and forty-seven, and in lieu of them to insert:

On muriate of lime, one cent per pound.  
On citrate of lime, three cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line four hundred and seventy-six I move to strike out "five dollars" and insert "one dollar;" so as to read:

On oil of ergot, one dollar per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. Between lines five hundred and thirty-seven and five hundred and thirty-eight I move to insert:

On piperine, fifty cents per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and forty-six I move to strike out "three" and to insert "four;" so as to read:

On chromate and bichromate of potassa, four cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and forty-eight I move to strike out "five" and to insert "six;" so as to read:

On yellow prussiate of potassa, six cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and fifty-four I move to strike out the word "cent" and to insert "and one half cents;" so as to read:

On saltpeter, or niter, or nitrate of potassa, crude, one and one half cent per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out line five hundred and fifty-five entirely, namely:

On saltpeter, partially refined, two cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and fifty-nine I move to strike out "seven" and to insert "ten;" so as to read:

On cream of tartar, tartare and bi-tartrate of potassa, ten cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and seventy-two I move to strike out "thirty-three" and to insert "forty;" so that the clause will read:

On quinia, quinidia, and all their salts, forty cents per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and ninety-four I move to strike out "ten" and to insert "twelve;" so as to read:

On Seidlitz mixture, twelve cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line six hundred and thirteen I move to strike out "one and one fifth cent per pound" and insert "seventy-five cents per bushel;" so as to read:

On castor seed or beans, seventy-five cents per bushel.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line six hundred and twenty-eight I move to strike out "sixty-five" and insert "seventy-five;" so as to read:

On iodate and hydriodate of soda, seventy-five cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line six hundred and fifty-two, after the word "dollar," I move to

insert the words "and twenty-five cents;" so as to read:

On strychnia and salts of strychnia, or strychnine \$1 25 per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line six hundred and seventy, after the word "ad valorem," a semicolon should be inserted instead of a comma.

The PRESIDING OFFICER. That change will be made by general consent.

Mr. FESSENDEN. In line six hundred and ninety-nine I move to strike out the words "cordials, bitters."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line seven hundred and one, after the word "compositions," I move to insert the words "not herein otherwise specified."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line seven hundred and seven I move to insert the following proviso:

*Provided, That upon all medicinal or other preparations, or the compounds, of which distilled spirits are the component part of chief value, there shall be levied, in addition to the duties imposed by this act on such preparations, the duties imposed upon distilled spirits.*

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line seven hundred and ten the word "and" should be "or;" so as to read: "or put up for popular sale."

The PRESIDING OFFICER. That change will be made, if there is no objection.

Mr. FESSENDEN. The word "chemicals" in line seven hundred and seventeen should be struck out.

The PRESIDING OFFICER. That change will be made, no objection being interposed.

The Secretary read section ten of the substitute, as follows:

Sec. 10. *And be it further enacted, That, in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid, the following duties and rates of duty, that is to say:*

On bags and baskets, of any material, not otherwise herein provided for, forty per cent. *ad valorem*.

On all manufactures of bamboos, rattans, or reeds, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

On beads, bead bags, bead ornaments, and bead manufactures of all kinds, fifty per cent. *ad valorem*.

On boxes of every material, not otherwise herein provided for, forty per cent. *ad valorem*.

On brooms and brushes of all kinds, forty per cent. *ad valorem*.

On buttons of pearl, forty per cent. *ad valorem*.

On buttons not otherwise herein provided for, forty per cent. *ad valorem*.

On all button molds, and materials used exclusively for buttons, not otherwise herein provided for, thirty per cent. *ad valorem*.

On all articles and manufactures of coral, lava, jet, or cornelian, or of which either shall be the component material of chief value, not otherwise herein provided for, forty per cent. *ad valorem*.

On cork wood, twenty per cent. *ad valorem*.

On corks, forty per cent. *ad valorem*.

On diamonds and gems, not set, five per cent. *ad valorem*.

On diamonds and gems, set, twenty-five per cent. *ad valorem*.

On glaziers' diamonds, ten per cent. *ad valorem*.

On embroideries, or embroidered articles, not otherwise herein provided for, whether embroidered with gold, silver, silk, worsted, or other material, fifty per cent. *ad valorem*: *Provided, That no articles shall be classed as embroideries which are not advanced twenty per cent. in value by embroidered work.*

On raw bullion, camatite, or metal thread, thirty-five per cent. *ad valorem*.

On epaulettes, galleons, laces, regalia, and all like ornaments of gold, silver, or gilt, or of any other material in imitation of either, fifty per cent. *ad valorem*.

On eyelets of every description, fifty per cent. *ad valorem*.

On fans of palm-leaf, one half cent each.

On fans of every other description, fifty per cent. *ad valorem*.

On ostrich, vulture, maribout, cock, and all other ornamental feathers, crude, or not dressed, colored or ornamented, twenty per cent. *ad valorem*; when dressed, colored, or manufactured, fifty per cent. *ad valorem*.

On feathers and downs of all descriptions for beds or bedding, ten per cent. *ad valorem*.

On feather beds, twenty per cent. *ad valorem*.

On skins of birds undressed, and not prepared, twenty per cent. *ad valorem*.

On skins of birds prepared, dressed, or mounted, fifty per cent. *ad valorem*.

On artificial flowers when imported in roses, buds, leaves, and grasses, in gross, fifty per cent. *ad valorem*; when imported in bunches or wreaths, consisting of flowers, buds, leaves, or grasses combined, ready for sale and use, sixty per cent. *ad valorem*; when made wholly or in part of silk, seventy-five per cent.

On lace or laces of every description, composed of cotton or flax, or cotton and flax, not made up by the needle, forty per cent. *ad valorem*.

On lace shawls and scarfs, of cotton or flax, or cotton and flax, and all lace articles of the same materials where lace is of chief value, prepared by the needle, either by machine or by hand, forty-five per cent. *ad valorem*.

On silk lace or laces of every description, and all manufactures of silk lace, prepared by the needle, whether by hand or machine, composed wholly of silk, or of which silk shall be the component material of chief value, sixty per cent. *ad valorem*.

On furs or fur skins, not dressed in any manner, and on fur of all descriptions cut from the skin, but not dressed, cleaned, or prepared, ten per cent. *ad valorem*.

On hatters' or cut furs, cleaned and dressed, and on fur skins or fur on the skin, cleaned, dressed, or prepared, twenty per cent. *ad valorem*.

On fur hats, hat bodies, caps, robes, muffs, and all manufactures of fur, forty per cent. *ad valorem*.

On kid gloves of every description, \$4 50 per dozen.

On all other leather gloves, three dollars per dozen.

On gloves of every description, not otherwise herein provided for, fifty per cent. *ad valorem*.

On hair of all kinds, cleaned, drawn, or dressed, human and horse hair prepared for weaving excepted, twenty per cent. *ad valorem*.

On human hair not cleaned, drawn, or dressed, twenty per cent. *ad valorem*.

On human hair, cleaned, drawn, or dressed, thirty per cent. *ad valorem*.

On hair bracelets, braids, curls, ringlets, and manufactures of human hair of every description, forty-five per cent. *ad valorem*.

On curled hair for beds, twenty per cent. *ad valorem*.

On hair pencils, thirty per cent. *ad valorem*.

On hair cloths, of the description known as hair seating, forty-five cents per square yard.

On hair cloth, known as crinoline cloth, or by any other name, forty per cent. *ad valorem*.

On all other manufactures of hair, not otherwise provided for, forty per cent. *ad valorem*.

On hats and bonnets of straw, chip, palm leaf, or other vegetable material, and on hats, caps, and bonnets of every other material, except silk, wool, and fur, forty per cent. *ad valorem*.

On hoop skirts, forty per cent. *ad valorem*.

On dice, chessmen, draughts, chess balls, billiard balls, and bagatelle balls, of ivory, bone, wood, papier-mache, or any other material, fifty per cent. *ad valorem*.

On manufactures of ivory, bone, horn, wood, leather, or other material for umbrellas, parasols, canes, whips, furniture trimmings, and all like uses, forty per cent. *ad valorem*.

On all other manufactures of ivory or ivory nuts, not otherwise herein provided for, forty per cent. *ad valorem*.

On jewelry, of whatever material composed not otherwise herein provided for, thirty per cent. *ad valorem*; and no articles shall be classed as jewelry not used or intended to be used or worn as personal ornaments exclusively.

On India-rubber shoes and boots, and all manufactures of India-rubber not herein otherwise provided for, forty per cent. *ad valorem*.

On water-proof cloth, stamped or gummed with India-rubber, thirty-five per cent. *ad valorem*.

On fabrics of India-rubber and other materials combined, three inches wide or over, six cents per lineal yard, and, in addition thereto, forty-five per cent. *ad valorem*; on all other fabrics of India-rubber and other materials combined, not otherwise provided for, twenty-five cents for every one hundred and forty-four yards, and, in addition thereto, fifty per cent. *ad valorem*.

On braces and suspenders, made of India-rubber and other materials combined, thirty-five cents per dozen, and, in addition thereto, fifty per cent. *ad valorem*.

On umbrella and parasol elastic ties, fifty per cent. *ad valorem*.

On manufactures of gutta percha, and on all manufactured insulated telegraphic or electric wires or cables used for submarine telegraphic or other purposes, forty per cent. *ad valorem*.

On oil paintings valued, exclusive of frames, at \$100 and less, thirty dollars each painting; valued at over one hundred dollars, thirty dollars each painting, and, in addition thereto, ten per cent. *ad valorem*.

On water-color paintings, ten per cent. *ad valorem*.

On paintings and statuary, not otherwise herein provided for, twenty per cent. *ad valorem*.

On manufactures of palm leaf, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

On manufactures and wares of papier-mache, forty per cent. *ad valorem*.

On paste imitation of precious stones or jewelry, and on composition of glass or paste, set or not set, forty per cent. *ad valorem*.

On pearls, not set, ten per cent. *ad valorem*.

On pearls, set, twenty-five per cent. *ad valorem*.

On pencils of wood, filled with lead, chalk, or other material, fifty cents per gross, and, in addition thereto, thirty per cent. *ad valorem*.

On camel's hair pencils and on crayons, thirty per cent. *ad valorem*.

On all pencils in bone, ivory, or metal cases, not

otherwise herein provided for, one dollar per gross, and, in addition thereto, thirty per cent. *ad valorem*.  
On chalk pencils, fifty cents per gross, and, in addition thereto, thirty per cent. *ad valorem*.  
On pens, metallic, ten cents per gross, and, in addition thereto, twenty-five per cent. *ad valorem*.  
On pen-holders of every description, without pens, forty per cent. *ad valorem*.

On penholder sticks and penholder tips, forty per cent. *ad valorem*.

On pins, hair-pins, brass or white metal pins, and all other pins for dress or personal use, of every description, not jewelry, forty per cent. *ad valorem*.

On pin and needle cases of every material, forty per cent. *ad valorem*.

On pocket-books, pass-books, and note-books, porte-monnaies, photograph albums, wallets, cases, and all like articles, and frames for leather bags and porte-monnaies, not otherwise herein provided for, fifty per cent. *ad valorem*.

On shell baskets, shell-work, and manufactures of shell of every description, forty per cent. *ad valorem*.  
On spectacle cases, of steel, forty-five per cent. *ad valorem*; of gold, silver, or other precious metal, forty per cent. *ad valorem*; of iron, leather, or paper, forty per cent. *ad valorem*; of all not otherwise herein provided for, forty-five per cent. *ad valorem*.

On straw, in bulk or for plaiting, ten per cent. *ad valorem*.

On straw-plaits and braids, and on chip in plaits, braids, or sprays, and not further manufactured, twenty-five per cent. *ad valorem*.

On finished articles of straw or chip, forty per cent. *ad valorem*.

On toys for children, dolls, and parts of dolls of every description, fifty per cent. *ad valorem*: *Provided*, That earthenware, china, or Parian ware toys, shall pay duty as other wares of the same materials.

On umbrellas, parasols, and sun-shades, covered with silk, sixty per cent. *ad valorem*; if covered with cotton or any other material than silk, and of whatever material the frame may be composed, fifty per cent. *ad valorem*.

On umbrellas and parasols, and sticks, frames, tips, runners, stretchers, handles, or other parts thereof, sixty per cent. *ad valorem*.

On watches, watch movements, and parts of watches, and on watch cases of gold, silver, or other metal, twenty-five per cent. *ad valorem*.

On chronometers and parts of chronometers, thirty per cent. *ad valorem*.

On whips of every material, forty per cent. *ad valorem*.

Mr. FESSENDEN. In line sixty-six the words "*ad valorem*" ought to be inserted after "per cent."

The PRESIDING OFFICER. Those words will be added if there be no objection.

Mr. FESSENDEN. In line eighty-two, after the word "dressed," I move to insert "ten per cent. *ad valorem*," and also to strike out the word "and" after the word "dressed," and make a new paragraph following; so as to read:

On hatters' or cut furs, cleaned and dressed, ten per cent. *ad valorem*.

On fur skins or fur on the skin, cleaned, dressed, or prepared, twenty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line eighty-six I move to strike out "forty" and to insert "fifty," so as to read:

On fur hats, hat bodies, caps, robes, muffs, and all manufactures of fur, fifty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In lines eighty-eight and eighty-nine, after the word "dozen," I move to insert the word "pair," so as to read:

On kid gloves of every description, \$4 50 per dozen pair.

On all other leather gloves, three dollars per dozen pair.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line one hundred and seventy-nine I move to insert:

On hair-pins made of iron-wire, fifty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. Now I move to strike out "hair-pins" in line one hundred and eighty.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line two hundred and eleven I move to strike out the letter "s," at the end of the words "umbrellas" and "parasols," and also to strike out the word "and" after "parasols;" so that will read:

On umbrella and parasol sticks, frames, tips, &c.

The PRESIDING OFFICER. That correction will be made if there be no objection.

The Secretary read section eleven of the substitute as follows:

SEC. 11. *And be it further enacted*, That, in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On all brown earthen ware, and common stoneware, and gas retorts, thirty per cent. *ad valorem*.

On blacking jars or bottles not glass, twenty-five per cent. *ad valorem*.

On china and porcelain ware, gilded, ornamented, or decorated in any manner, sixty per cent. *ad valorem*.

On china and porcelain ware, plain and not decorated in any manner, and on Parian ware, fifty per cent. *ad valorem*; on all other earthen, stone, or crockery ware, white, glazed, edged, printed, painted, dipped, or cream-colored, composed of earthy or mineral substances, and not herein otherwise provided for, fifty per cent. *ad valorem*.

On glass vials, jars, bottles, and other vessels of glass, plain, molded, and pressed, not cut, engraved, or painted, of less than eight ounces capacity each, two and one half cents per pound; of eight and less than twenty ounces capacity each, three cents per pound; of twenty ounces capacity and over each, four cents per pound: *Provided*, That the true allowance for boxes or other packages containing the same, shall be twenty per cent. of the gross weight.

On glass crystals for watches, forty per cent. *ad valorem*.

On lenses for spectacles, whether of glass or pebble, forty per cent. *ad valorem*; and in addition thereto, for lenses ground and polished on both sides, two dollars per gross pairs.

On spectacles, spectacle frames, and parts thereof, of whatever material composed, two dollars per gross pairs, and in addition thereto forty per cent. *ad valorem*.

On all other lenses for optical purposes, whether in frames or otherwise, forty per cent. *ad valorem*.

On all articles of glass, cut, engraved, painted, colored, printed, stained, silvered, or gilded, not including plate-glass, silvered, or looking-glass plates, forty per cent. *ad valorem*.

On all unpolished cylinder, crown, and common window glass, not exceeding ten by fifteen inches square, two and a quarter cents per pound; above that, and not exceeding sixteen by twenty-four inches square, two and three fourths cents per pound; above that, and not exceeding twenty-four by thirty inches square, four cents per pound; all above that, four and a half cents per pound.

On cylinder and crown glass, polished, not exceeding ten by fifteen inches square, three and a half cents per square foot; above that, and not exceeding sixteen by twenty-four inches square, five and a half cents per square foot; above that, and not exceeding twenty-four by thirty inches square, eight cents per square foot; above that, and not exceeding twenty-four by sixty inches square, twenty-five cents per square foot; all above that, fifty cents per square foot.

On fluted, rolled, or rough plate glass, not including crown cylinder or common window glass, two cents per pound.

On all cast polished plate glass, unsilvered, not exceeding ten by fifteen inches square, four cents per square foot; above that, and not exceeding sixteen by twenty-four inches square, six cents per square foot; above that, and not exceeding twenty-four by thirty inches square, ten cents per square foot; above that, and not exceeding twenty-four by sixty inches square, thirty cents per square foot; all above that, fifty cents per square foot.

On all cast polished plate glass, silvered, or looking-glass plates, not exceeding ten by fifteen inches square, four cents per square foot; above that, and not exceeding sixteen by twenty-four inches square, six cents per square foot; above that, and not exceeding twenty-four by thirty inches square, ten cents per square foot; above that, and not exceeding twenty-four by sixty inches square, thirty cents per square foot: *Provided*, That no looking-glass plates or plate glass, silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass of like description not framed, but shall be liable to pay, in addition thereto, forty per cent. *ad valorem*.

On porcelain and Bohemian glass, paintings on glass or glasses, and all manufactures of glass, or of which glass shall be a component material of chief value, not otherwise herein provided for, and all glass bottles or jars filled with sweetmeats or preserves, or other articles, not otherwise herein provided for, fifty per cent. *ad valorem*.

Mr. FESSENDEN. In line thirty-five of that section I move to strike out "forty" and to insert "fifty;" so that it will read:

On all other lenses for optical purposes, whether in frames or otherwise, fifty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The Secretary read section twelve of the substitute, as follows:

SEC. 12. *And be it further enacted*, That, in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter enumerated, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On hides, raw or uncured, whether dry, salted, or pickled, ten per cent. *ad valorem*; on hide cuttings,

strips, tails, and like articles, used as glue stock, ten per cent. *ad valorem*.

On raw goat skins in the hair, and on deer skins and calf skins raw, ten per cent. *ad valorem*.

On raw sheep-skins, or pelts without wool, ten per cent. *ad valorem*; and all skins, dressed, tanned, tawed, or curried, wholly or in part, not otherwise herein provided for, shall pay duty as leather, except skins of the North American buffalo, which shall be admitted as raw skins, at a duty of ten per cent. *ad valorem*.

On skivers and roans, pickled or salted, ten per cent. *ad valorem*.

On skivers, tanned, colored or finished, thirty-five per cent. *ad valorem*.

On leather, namely, on bend or belting leather, and on Spanish or other sole leather, thirty-five per cent. *ad valorem*.

On French, German, and other tanned calf skins, and on all upper leather, except Morocco, japanned and patent leather, thirty-five per cent. *ad valorem*.

On Morocco, enameled, glazed, japanned, varnished, and patent leather, forty per cent. *ad valorem*.  
On fawn, kid, and lamb skins, tanned and dressed, otherwise than in colors, and known as chamois, and on all skins tanned, tawed, carried, or dressed, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

On shoes, boots, and slippers, of which leather or lasting is the principal component material, and on all manufactures of leather, not otherwise herein provided for, forty per cent. *ad valorem*.

On mats of sheep-skins, not colored, forty per cent. *ad valorem*.

On mats of sheep-skins, fancy, colored, fifty per cent. *ad valorem*.

Mr. FESSENDEN. In the twenty-fifth line of that section, page 83, I move to strike out the words "morocco, japanned, and patent leather," and to insert "morocco, enameled, glazed, japanned, varnished, and patent leather."

The amendment to the amendment was agreed to.

The Secretary read section thirteen of the substitute, as follows:

SEC. 13. *And be it further enacted*, That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid the following duties, that is to say:

On asbestos, not manufactured, twenty per cent. *ad valorem*.

On Ayr stones, twenty per cent. *ad valorem*.

On bricks, for building or roofing, and on tiles of every description other than marble, and on fire-bricks and Bath bricks, or Bristol bricks, twenty-five per cent. *ad valorem*.

On cement, Roman, Portland, and all other cement, twenty per cent. *ad valorem*.

On chalk, white, or cliff stone, five dollars per ton.

On clay, China clay, pipe-clay, fire-clay, and kaolin, five dollars per ton.

On sand or canal coal, and on all bituminous coal, mined and imported from any port or place thirty degrees of longitude east of Washington, \$1 50 per ton of twenty-eight bushels, eighty pounds to the bushel.

On all bituminous coal, mined and imported from any place not more than thirty degrees of longitude east of Washington, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

On anthracite, and all other coal not herein otherwise provided for, \$1 50 per ton of twenty-eight bushels, eighty pounds to the bushel.

On coke and culm of coal, twenty-five per cent. *ad valorem*.

On chapapote or asphaltum, bitumen, or mineral pitch, Albertite and bituminous shales of every description, fifty cents per ton.

On flint, flint-stones, and ground flint, twenty per cent. *ad valorem*.

On fuller's earth, three dollars per ton.

On grindstones, unfinished, ten per cent. *ad valorem*.

On grindstones, finished, twenty per cent. *ad valorem*.

On burr-stones, finished and bound up into mill-stones, twenty-five per cent. *ad valorem*.

On lime, ten per cent. *ad valorem*.

On limestone, not burned, cut, or dressed, ten per cent. *ad valorem*.

On lime, white, three cents per pound.

On lithographic stones, engraved, twenty per cent. *ad valorem*.

On marble, white statuary, brocatella, sienna and antique, in slab or block, one dollar per cubic foot, and, in addition thereto, twenty-five per cent. *ad valorem*.

On all other marble, in slab or block, fifty cents per cubic foot and monuments, figures, pillars and ornaments, slabs, and tiles, and cut marble of every description, not otherwise herein provided for, seventy-five per cent. *ad valorem*.

On minerals, crude, not otherwise herein provided for, twenty per cent. *ad valorem*.

On paving-stones, slabs, and flags, not dressed, and on Nova Scotia stone, Caen stone, and all building stones, not cut or dressed, twenty per cent. *ad valorem*.

On building, paving, or monumental stones, of every description, cut or dressed, thirty-five per cent. *ad valorem*.

On salt in bulk, and on all rock salt or mineral salt, twenty-four cents per one hundred pounds.

On salt in bags or sacks, thirty cents per one hun-



dred pounds: *Provided*, That no return of duties shall be made on account of damage to salt, or to sacks containing salt, in whatever form imported.

On slate, namely: on roofing slate, slates for school, slate pencils, and all manufactures of slate, forty per cent. *ad valorem*.

On all manufactures of prepared or enameled slate, forty per cent. *ad valorem*.

On polishing-stones, oil-stones, whet-stones, and currier's stones, and all stones for sharpening or polishing metals or minerals, twenty per cent. *ad valorem*.

Mr. FESSENDEN. In line twenty-five, page 85, I move to strike out the words "anthracite and;" so that it will read:

On all other coal, not herein otherwise provided for, \$1 50 per ton of twenty-eight bushels, eighty pounds to the bushel.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line thirty-seven I move to strike out "twenty per cent. *ad valorem*," and to insert "five dollars per ton;" so as to read:

On grindstones, finished, five dollars per ton.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line sixty-one, page 86, I move to strike out "thirty-five per cent. *ad valorem*," and to insert "two dollars per ton of thirteen cubic feet;" so as to read:

On building, paving, or monumental stones, of every description, cut or dressed, two dollars per ton of thirteen cubic feet.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line sixty-six I move to strike out the words "to salt, or," and also to strike out the words "in whatever form imported;" so that the clause will read:

*Provided*, That no return of duties shall be made on account of damage to sacks containing salt.

The amendment to the amendment was agreed to.

The Secretary read section fourteen of the substitute, as follows:

SEC. 14. *And be it further enacted*, That, in lieu of the duties heretofore imposed by law, there shall be levied, collected, and paid, on the importation of the articles hereinafter mentioned, the following duties and rates of duty, that is to say:

On all books in the English language, printed prior to the year 1840, fifteen per cent. *ad valorem*.

On all books in foreign languages, twenty per cent. *ad valorem*.

On all books in the English language, printed since the year 1840, and on all books not otherwise herein provided for, thirty cents per pound.

On all books reprinted from books first printed in the United States, forty cents per pound.

On magazines, periodicals, illustrated newspapers, and newspapers, except as lawfully transmitted by mail, ten cents per pound.

On maps, charts, engravings, lithographs, and photographs, not accompanying books, twenty-five per cent. *ad valorem*; when accompanying books, the duty imposed on books.

On music, bound or unbound, twenty-five per cent. *ad valorem*.

On electrotype and stereotype plates of every description, twenty-five cents per pound.

On paper, namely, on book and printing paper, sized or unsized, used for books and newspapers exclusively, twenty per cent. *ad valorem*.

On writing paper, and all other paper not otherwise herein specified, of every description, thirty-five per cent. *ad valorem*.

On blank-books, envelopes, card-board, bristol board, and paste-board, enameled paper of every description, and paper for labels, colored, marbled or gilt, forty-five per cent. *ad valorem*.

On playing cards, of all kinds, twenty-five cents per pack.

On cards of every other description, forty per cent. *ad valorem*.

On paper-hangings, borders, and paper for screens and fire-boards, valued at not over twenty cents per roll, thirty-five per cent. *ad valorem*.

On all other paper-hangings and borders, and paper for screens and fire-boards, forty-five per cent. *ad valorem*.

On parchment and vellum, thirty per cent. *ad valorem*.

Mr. FESSENDEN. I move to strike out lines eleven, twelve, and thirteen of that section in the following words:

On all books in the English language, printed since the year 1840, and on all books not otherwise herein provided for, thirty cents per pound.

And to insert in lieu thereof:

On all books in the English language, bound, stitched, or in sheets, printed since the year 1840, and on all printed matter not otherwise herein provided for, thirty-five per cent. *ad valorem*: *Provided*, That no books printed since the year 1840 on which

an *ad valorem* duty is imposed by this act shall be admitted for entry at an invoiced value less than fifty per cent. of their retail price at the place of publication.

Mr. SUMNER. Is that a substitute for the proposition in the bill?

Mr. FESSENDEN. Yes, sir, for the eleventh, twelfth, and thirteenth lines.

Mr. SUMNER. I will say nothing about it now. At the proper time I shall have some remarks to make on this subject.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-six the words "sized or" should be stricken out, so that the clause will read:

On paper, namely, on book and printing paper, unsized, used for books and newspapers exclusively, twenty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The Secretary read section fifteen of the substitute, as follows:

SEC. 15. *And be it further enacted*, That in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter enumerated, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On animals living, namely: On horses, mares, colts, asses, and mules, twenty per cent. *ad valorem*; on neat cattle, twenty per cent. *ad valorem*; on sheep, goats, calves, and swine, twenty per cent. *ad valorem*; on all kinds not otherwise herein provided for, twenty per cent. *ad valorem*.

On apples, garden fruit, and edible vegetables, and roots, in a green or fresh state, not otherwise herein provided for, ten per cent. *ad valorem*.

On barley, not including pearl or hulled, fifteen cents per bushel.

On barley, pearl or hulled, one cent per pound.

On beans, (except vanilla and castor,) ten per cent. *ad valorem*.

On broom-corn, fifteen per cent. *ad valorem*.

On Indian corn, ten cents per bushel.

On corn meal, ten per cent. *ad valorem*.

On butter, three cents per pound.

On buckwheat, ten cents per bushel.

On flour and meal, middlings, and mill-feed of wheat, rye, or oats, fifteen per cent. *ad valorem*.

On fruits, green, namely, on oranges, lemons, and limes, and on bananas, plantains, shaddock, mangoes, pineapples, and coco-nuts, twenty-five per cent. *ad valorem*: *Provided*, That loss of quantity of the fruits above named by decay on the voyage shall be admitted when such loss shall be of full packages or other separable portions; and on oranges and lemons in boxes loss of quantity may be allowed where such loss reaches thirty-three per cent. of the quantity in the boxes, such loss being certified by the appraisers of damage; but no other loss or damage shall be allowed in abatement of duty.

On grapes, green, twenty per cent. *ad valorem*.

On fruits, dried or preserved, namely: on currants, raisins, figs, plums, prunes, apples, peaches, and all other dried fruits, three cents per pound; on dates, green or ripe, two cents per pound.

On fruit juice, or fruits preserved in their own juice, thirty-five per cent. *ad valorem*.

On fruits preserved in spirits or brandy, two dollars per gallon; on fruits preserved in sugar or molasses, and on all other sweetmeats, thirty-five per cent. *ad valorem*: *Provided*, That all preserved fruits and pickled fruits in jars, bottles, or other packages, shall pay duty on the entire cost as put up, the cost of packages included.

On fish, namely: on smoked salmon and halibut, one dollar per one hundred pounds; on smoked herring, one dollar per one hundred pounds; on pickled salmon, white fish, and trout, three dollars per barrel; on pickled mackerel, shad, and halibut, two dollars per barrel; on pickled herring and alewives, one dollar per barrel: *Provided*, That any pickled fish in packages other than barrels shall pay in proportion to the rates charged for similar fish in barrels: *And provided further*, That all fish imported in bulk (other than fresh) shall pay at the above rates, estimating two hundred pounds to the barrel. On all pickled fish, not otherwise provided for, one dollar per one hundred pounds; on all dry fish, one half cent per pound; on sardines and anchovies, and all preparations of the same, fifty per cent. *ad valorem*.

On hay, twenty per cent. *ad valorem*.

On honey, twenty cents per gallon.

On hops, five cents per pound.

On meats, namely: On beef not cured, and on beef dried, one cent per pound; on beef cured, in barrels, two dollars per barrel of two hundred pounds; on pork, in any form, not cured, one cent per pound; on pork, in barrels, two dollars per barrel of two hundred pounds; on dressed poultry, one cent per pound; on all other meats not cured, one cent per pound; on all prepared or canned meats and sausages, thirty-five per cent. *ad valorem*.

On malt, thirty per cent. *ad valorem*.

On nuts, namely: on almonds, shelled, seven cents per pound; on almonds, not shelled, four cents per pound; on walnuts, three cents per pound; on Brazil nuts, or cream nuts, two cents per pound; on chestnuts, pecan nuts, filberts, and all other edible nuts, except shelled peanuts, one cent per pound.

On oil cake, twenty per cent. *ad valorem*: *Provided*, That no drawback shall be allowed on oil-cake manufactured of imported linseed when exported to foreign countries.

On olives, in oil or salt, thirty per cent. *ad valorem*. On pickles, capers, catsup, and sauces of every description, and pickled fruits, forty per cent. *ad valorem*; and the cost of all bottles and packages shall be included in the dutiable values.

On peas, twenty-five cents per bushel.

On peanuts, or ground beans, one cent per pound; shelled, one and a half cent per pound.

On potatoes, ten cents per bushel.

On cleaned rice, including rice commonly called Patna rice, two and a half cents per pound.

On uncleaned rice, including Patna rice, one and a half cent per pound.

On paddy, three-fourths of a cent per pound.

On timothy, clover, and other grass seeds, thirty per cent. *ad valorem*.

On all garden seeds, thirty per cent. *ad valorem*.

On canary seed, one dollar per bushel of sixty pounds.

On sesame seed, ten per cent. *ad valorem*.

On all other seeds, not otherwise herein provided for, thirty per cent. *ad valorem*.

On vetches or tares, and seed of vetches or tares, twenty per cent. *ad valorem*.

On tallow, lard, and marrow, one cent per pound.

On tamarinds, two cents per pound.

On vegetables, dried, desiccated or canned, thirty-five per cent. *ad valorem*.

On wheat, twenty cents per bushel.

Mr. FESSENDEN. In line thirteen of that section, page 89, I move to strike out "fifteen" and to insert "ten," so as to read:

On barley, not including pearl or hulled, ten cents per bushel.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line ninety-two, page 92, I move to strike out the words "including rice commonly called Patna rice;" and in line ninety-four I move to strike out the words "including Patna rice;" so that the clause will read:

On cleaned rice, two and a half cents per pound.

On uncleaned rice, one and a half cent per pound.

The amendment to the amendment was agreed to.

The Secretary read section sixteen of the substitute, as follows:

SEC. 16. *And be it further enacted*, That in lieu of the duties heretofore imposed by law there shall be levied, collected, and paid on the importation of the articles hereinafter mentioned, the following duties and rates of duty, that is to say:

On all timber, not otherwise herein provided for, squared or sided, one cent per cubic foot.

On sawed boards, plank, deals, and other lumber of spruce, hemlock, whitewood, and basswood, one dollar per thousand feet, board measure.

On all other varieties of sawed lumber, two dollars per thousand feet, board measure: *Provided*, That when lumber of any sort is planed or finished, in addition to the rates herein provided, there shall be levied and paid for each side so planed or finished one dollar per thousand feet; and if planed on one side and tongued and grooved, two dollars per thousand feet; and if planed on two sides and tongued and grooved, \$2 50 per thousand feet.

On hubs for wheels, posts, last-blocks, wagon-blocks, oar-blocks, gun-blocks, heading-blocks, shingle bolts and stave bolts, and all like blocks or sticks, rough-hewn, or sawed only ten per cent. *ad valorem*.

On pickets, palings, and lath, ten per cent. *ad valorem*.

On pine and cedar shingles, fifty cents per thousand.

On spruce shingles, thirty cents per thousand.

On pine clapboards, two dollars per thousand.

On spruce clapboards, \$1 50 per thousand.

On house or cabinet furniture, in pieces, or rough and not finished, thirty per cent. *ad valorem*.

On cabinet wares and house furniture, finished, forty-five per cent. *ad valorem*.

On casks and barrels, empty, and on sugar-box shoofs, and packing-boxes of wood, not otherwise provided for, thirty per cent. *ad valorem*: *Provided*, That casks, barrels, or carboys, and other vessels, and grain bags, the manufacture of the United States, if exported containing American produce, and declaration be made of intent to return the same empty, shall be admitted free of duty under such regulations as shall be prescribed by the Secretary of the Treasury.

On all manufactures of wood, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

Mr. FESSENDEN. In lines twenty and twenty-one of that section, page 94, I move to strike out the words "shingle bolts and stave bolts." We propose to put them on the free list.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. There is a typographical error in the second line of this section. The word "heretore" should be "heretofore."

THE PRESIDING OFFICER. That correction will be made.

Mr. FESSENDEN. In line twenty-nine I

move to strike out the words "in pieces, or," so as to read:

On house or cabinet furniture, rough and not finished, thirty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line thirty-one, after the word "and" I move to insert "cabinet and," so as to read:

On cabinet wares and cabinet and house furniture, finished, forty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line thirty-eight, after the word "produce," I move to strike out the words "and declaration be made of intent to return the same empty;" and in line thirty-nine, after the word "shall," to insert "when returned empty;" so that the proviso will read:

*Provided*, That casks, barrels, or casks, and other vessels, and grain bags, the manufacture of the United States, if exported containing American produce, shall, when returned empty, be admitted free of duty under such regulations as shall be prescribed by the Secretary of the Treasury.

The amendment to the amendment was agreed to.

The Secretary read section seventeen of the substitute, as follows:

SEC. 17. *And be it further enacted*, That, from and after the passage of this act, in lieu of the duties heretofore imposed by law on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On blacking of all kinds, forty per cent. *ad valorem*.

On bladders, and all integuments of animals, not otherwise provided for, prepared or not prepared, except catgut and whipgut, twenty per cent. *ad valorem*.

On bone manufactures of every description, not otherwise herein provided for, forty per cent. *ad valorem*.

On bones ground and bone-dust, ten per cent. *ad valorem*.

On bristles, fifteen cents per pound.

On busts or casts of plaster, or of earthenware, alabaster, bronze, or metal, and on all figures, moldings, and ornaments, statues, statuettes of plaster, alabaster, earthenware, bronze, or metal, not otherwise herein provided for, forty per cent. *ad valorem*.

On candles of tallow, two and one half cents per pound.

On candles and tapers of wax, spermaceti, or paraffine, wholly or in part, eight cents per pound.

On candles of other mixed materials, and of stearine, five cents per pound.

On canes for walking, of every description, finished or unfinished, forty per cent. *ad valorem*.

On carriages, wagons, and vehicles of every description, thirty-five per cent. *ad valorem*.

*Provided*, That vehicles in actual and necessary use, as the property of emigrants crossing the frontier from the British North American Provinces, shall be admitted free of duty.

On cider, twenty per cent. *ad valorem*.

On clocks and parts of clocks, forty per cent. *ad valorem*.

On all manufactures of cork, not otherwise herein provided for, fifty per cent. *ad valorem*.

On crucibles of sand or earthen, twenty per cent. *ad valorem*.

On crucibles or pots of black lead or plumbago, wholly or in part, thirty per cent. *ad valorem*.

On fish skins, raw, or not manufactured, ten per cent. *ad valorem*.

On gold-beaters' molds, and gold-beaters' skins, ten per cent. *ad valorem*.

On inkstands of every description, forty per cent. *ad valorem*.

On jellies of every description, fifty per cent. *ad valorem*.

On matches of every description, thirty-five per cent. *ad valorem*.

On mathematical and philosophical instruments, of whatever material composed, thirty-five per cent. *ad valorem*.

On moss, sea-weed, and all like vegetable substances, used for beds and mattresses, twenty per cent. *ad valorem*.

On musical instruments, and parts of instruments of every description, and music strings of metal or gut, thirty-five per cent. *ad valorem*.

On percussion caps, ten cents per thousand, and in addition thereto, forty per cent. *ad valorem*.

On common pipes of clay for smoking, thirty-five per cent. *ad valorem*.

On pipes of meerschaum, of earthenware, porcelain, glass, or wood, and on all other tobacco-smoking pipes and pipe-bowls, and on pipe stems, mountings and fixtures, cigar-stands and cigar-holders, of every material, seventy-five per cent. *ad valorem*.

On plows, harrows, wheelbarrows, and all agricultural implements, not otherwise herein provided for, thirty-five per cent. *ad valorem*.

On quills and quill manufactures, thirty per cent. *ad valorem*.

On whalebone of foreign fishing, twenty per cent. *ad valorem*.

On oysters or willows, unmanufactured, thirty per cent. *ad valorem*.

On manufactures of whalebone, not otherwise herein provided for, forty per cent. *ad valorem*.

Upon all fabrics or unmanufactured articles, in whole or in part, not herein otherwise provided for, except such as are included in the free list, there shall be levied, collected, and paid duties at the rate of thirty per cent. *ad valorem*.

On all raw or unmanufactured articles, not enumerated or provided for in this act, ten per cent. *ad valorem*.

Mr. FESSENDEN. The word "emigrants" in line thirty-two should be "immigrants."

The PRESIDING OFFICER. That correction will be made.

Mr. FESSENDEN. In line fifty-eight, page 97, after "mattresses," I move to insert "not herein otherwise provided for;" so that the clause will read:

On moss, sea-weed, and all like vegetable substances, used for beds and mattresses, not herein otherwise provided for, twenty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line seventy-three I move to insert the following:

On pula or pulu, two cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line eighty-three after the words "provided for," I move to strike out the words "except such as are included in the free list."

The amendment to the amendment was agreed to.

The Secretary read section eighteen of the substitute, as follows:

SEC. 18. *And be it further enacted*, That from and after the passage of this act the importation of the articles hereinafter mentioned and embraced in this section shall be exempt from duty, that is to say:

Ambergris; annatto, in fols; annatto seed; articles imported for the use of the United States; *Provided*, That the price paid to the importer does not include the duty; articles, the growth, produce, or manufacture of the United States, when returned in the same condition as exported; *Provided*, That proof of identity be made under such regulations as the Secretary of the Treasury shall prescribe, and such merchandise be admitted to entry, if of such character as was at the time of original exportation charged with internal revenue or duties, unless payment of such internal tax be made, or sufficient proof shall be made that such internal tax was not refunded at the time of exportation; bamboos; barks, Peruvian, Lima, calisaya, and all cinchona barks; beeswax, crude or unbleached; bells, old, and old bell-metal; berries and nuts, used in dyeing or in composing dyes, not otherwise herein provided for; but no such articles shall be classed as such that has undergone any manufacture; bismuth; bleaching powders or chloride of lime; bolting cloths; bones, crude, not manufactured; burr stone, in blocks, rough or not manufactured, and not bound up into millstones; Brazil wood, brazilletto, and all other dye woods in sticks; bullion, gold and silver; cabinets of either coins, medals, or gems, especially imported as objects of taste, and not for sale; calamus, dragon's blood; catechu or cutch; catgut and whipgut; cadmium; castor or castoreum; coins, gold, silver, or copper; collections of antiquities, especially imported as objects of taste and not for sale; copper, when imported for the United States Mint; cochineal; coral, unmanufactured; cornelian, unmanufactured; cudbear; cryolite; diamond dust or bort; divi-divi; eggs; esparto, or Spanish grass; felt, patent adhesive, for ships' bottoms; firewood; fish, fresh, for immediate consumption; fish, for bait; fol. digitalis; glass, when old and not in pieces, which can be cut for use, and fit only to be remanufactured; gold, silver, and platinum; gambier; guano; gypsum, earthy; gypsum, all crude; gutta-percha, crude; hair of the horse, long, and used for weaving, cleansed or not, horse and cow, not cleansed or dressed; hemlock bark, extract of; hoofs, horn and horn-tips; ice; iodium; India-rubber, crude; India-rubber, milk of; indigo; ivory, unmanufactured; ivory, vegetable, unmanufactured; jet, unmanufactured; junk, old; jute butts; kelp and barrilla; lac, crude; lac, stick; lava, unmanufactured; leeches; lithographic stones, not engraved; leaves for dyeing; logs and unmanufactured timber; litmus and all lichen, not prepared; machinery, steam, for agricultural purposes; madder root of all kinds, ground and unground; manioc or India madder; manuscripts; manures; masts and spars, undressed; medals, when imported as objects of taste, and not for sale; models of inventions and other improvements in the arts; *Provided*, That no article or articles shall be deemed a model or improvement which can be fitted for use. Nutgalls; nux vomica; oak bark; oakum and old junk; oils, spermatic, whale, and other fish oils of American fisheries, and all other articles the produce of such fisheries; oil, cocoanut; orchil or archil, in the weed or liquid; oysters; palm leaf and palmetto leaf, unmanufactured; palm oil; paper waste, or waste material of any kind, fit only for the manufacture of paper; pearl, mother

of; Persian berries or yellow berries, for dyeing; personal or household effects, not merchandise, if accompanied by the owner, or if of American citizens dying abroad, with a certified list or invoice from a consul or commercial agent of the United States; wearing apparel in use, professional books, implements and tools of trade, occupation, or employment of immigrants; *Provided*, That this exemption shall not include machinery or tools for use in a manufacturing establishment; paintings, statuary, fountains, and other works of art, the production of American artists residing abroad; *Provided*, That the same be imported in good faith as objects of taste, and not of merchandise; paintings and statuary imported expressly for presentation to national, State, or municipal institutions; phosphates for fertilizing purposes; plants, trees, shrubs, and seeds, imported by the Department of Agriculture for distribution; plants, trees, shrubs, and seeds, imported especially for cultivation, and not for sale or as merchandise; plaster of Paris, or sulphate of lime, unground; platinum, unmanufactured; platinum vases or retorts, for chemical uses; potash, crude; pearlshell, crude; pumice-stone; rags, cotton, linen, jute, and hemp; railroad ties, (of wood); ratans, unmanufactured; reeds, unmanufactured; rotten-stone; roucou; saffron; safflower; seaweeds, not otherwise specially provided for; shrimps; sandalwood; shells, of every description, not manufactured; silk, raw, or as reeled or reeled from the cocoon in the country of origin, and not doubled, twisted, or advanced in manufacture any way; silk cocoons and silk waste, and eggs of the silk-worm; spars, (see masts and spars); specimens of natural history, botany, and mineralogy, when imported as objects of taste, and not for sale; sponges; sulphur, crude; sumac; teazles; timber, round, and not advanced by manufacturing; timber, ship; tin, in pigs, bars, or blocks; tortoise and other shell, unmanufactured; tumeric; terra japonica; turtles, and other shell-fish; weld, wood or pastel; wood ashes; wood ashes, lye of; woods, namely: cedar, lignumvita, lancewood, ebony, box, granadilla, mahogany, rosewood, satinwood, in the log or stick, and all cabinet woods unmanufactured.

Mr. FESSENDEN. After "ambergris," in line five, I move to insert:

Animals imported as specimens of natural history.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-three, after the word "old," I move to insert the words "and fit only to be remanufactured;" so as to read:

Bells, old, and fit only to be remanufactured, and old bell-metal.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line thirty, page 99, I move to insert the following as a new paragraph:

Bones calcined and bone ash, imported for the manufacture of phosphates and fertilizers.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out line forty-five on page 100, in these words:

Copper, when imported for the United States Mint.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line sixty-nine, page 101, a new paragraph should be made after the word "not;" the word "hair" should be inserted after the word "cow," and "or" should be inserted instead of "and," so as to read:

Hair of the horse, long, and used for weaving, cleansed or not.

Horse and cow hair, not cleansed or dressed.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and twenty-two, page 103, after the words "United States," I move to insert the following:

Household furniture, and effects, books, and paintings actually in use by the diplomatic, consular, or other officers of the United States in foreign countries, imported for the use of the owners, and not as merchandise.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and thirty-one I move to strike out the word "and" between the words "paintings" and "statuary," and after the word "statuary" to insert "fountains and other works of art;" and in line one hundred and thirty-two, after the word "State," to insert the words "educational, religious;" so that the clause will read:

Paintings, statuary, fountains, and other works of

art, imported expressly for presentation to national, State, educational, religious, or municipal institutions.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and forty-four, after the word "rags," I move to insert the word "of," and at the end of the line to insert the words "suitable only for the manufacture of paper;" so that the clause will read:

Rags of cotton, linen, jute, and hemp, suitable only for the manufacture of paper.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and forty-six another "t" should be inserted in the word "ratans."

The PRESIDING OFFICER. That change will be made for the sake of orthography.

Mr. FESSENDEN. Between lines one hundred and forty-seven and one hundred and forty-eight I move to insert the following paragraph:

Regalia, meaning thereby articles only worn on the persons of priests or their officials, or used by hand in the performance of religious ceremonies.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line one hundred and fifty-six I move to strike out the word "or," after the word "raw;" and also the words "or rereeled," in the same line; and after the word "cocoon" to insert the words "or rereeled;" so that the clause will read:

Silk, raw, as reeled from the cocoon, or rereeled in the country of origin, and not doubled, twisted, or advanced in manufacture, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After line one hundred and sixty-three I move to insert:

Stave-bolts and shingle-bolts.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out line one hundred and sixty-nine, as follows:

Tin in pigs, bars, or blocks.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I wish to make some few amendments in the part of the bill that has not yet been read, and if it is the pleasure of the Senate to suspend the further reading of the bill until to-morrow, I am willing that it shall go over and come up as the unfinished business.

The PRESIDING OFFICER. It will be taken to be the pleasure of the Senate unless objection be made that the further reading of the bill be postponed until to-morrow.

Mr. FESSENDEN. With the understanding that it will come up as the unfinished business.

#### PRINTING OF REPORTS.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred a report of the Secretary of War, communicating in obedience to law statements by the Chief of Ordnance showing the orders given and the purchases made by the Ordnance office during the year ending December 31, 1866; a report of the Secretary of War, communicating in obedience to law the Quartermaster General's statement of contracts made by that Department from July 1 to December 31, 1866; a report of the Secretary of War, communicating in obedience to law a list of contracts made by the officers and agents of the Engineer Department during the year 1866; and a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of December 17, 1866, reports of the assistant commissioners of freedmen, and a synopsis of the laws respecting persons of color in the late slave States, reported in favor of printing the same; which was agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before

the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 19, 1866, certain information in respect to the progress made in collecting the products and also the weights, measures, and coins of the United States for exhibition at the Universal Exposition to be held at Paris during the present year; which, with the accompanying documents, on motion of Mr. SUMNER, was ordered to be printed, and referred to the Committee on Foreign Relations.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1030) to regulate the sale of gold by the Secretary of the Treasury, was read twice by its title, and referred to the Committee on Finance.

Mr. RAMSEY. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, January 21, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

#### BILLS AND JOINT RESOLUTIONS.

The SPEAKER stated the first business in order was the call of States and Territories for the introduction of bills and joint resolutions for reference only, and not to be brought back by a motion to reconsider.

#### INCREASE OF COMPENSATION OF CRIERS, ETC.

Mr. RANDALL, of Pennsylvania, introduced a bill to increase the compensation of criers and tipstaves of the circuit and district court of the United States held in the cities of Boston, New York, Philadelphia, Baltimore, Brooklyn, New Orleans, and San Francisco; which was read a first and second time, and referred to the Committee on the Judiciary.

#### WAYS AND MEANS.

Mr. BUCKLAND introduced a bill to amend an act entitled "An act to provide ways and means to support the Government," approved March 3, 1865; which was read a first and second time, and referred to the Committee on Banking and Currency.

#### PUBLICATION OF LAWS, ETC.

Mr. MAYNARD introduced a bill providing for the publication of the laws and judicial and other notices in the States recently in rebellion; which was read a first and second time, and referred to the Committee on the Judiciary.

#### TENNESSEE RIVER IMPROVEMENT.

Mr. STOKES introduced a bill for the improvement of the navigation of the Tennessee river; which was read a first and second time, and referred to the Committee on Roads and Canals.

#### MICHIGAN CITY HARBOR COMPANY.

The SPEAKER (placing Mr. FARQUHAR in the chair for the time and taking his place upon the floor as a Representative from Indiana) introduced a bill in relation to the Michigan City Harbor Company; which was read a first and second time, and referred to the Committee on Commerce.

#### RECONSTRUCTION.

Mr. BAKER. I introduce the following joint resolution, and ask that it be referred to the Judiciary Committee:

*Resolved*, First, that the ten communities lately in armed rebellion against the United States of America, known as the States of Virginia, North Carolina, South Carolina, Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, and Arkansas, were left without civil governments upon the overthrow of said armed rebellion; second, that the pretended governments since set up therein through the military interference of the President of the United States, are *de facto* governments of military origin, without civil foundations, and are not valid State governments

under the Constitution of the United States and could only become such, if at all, by being so recognized and declared by Congress in due form of law.

The joint resolution was read a first and second time.

Mr. BAKER. I ask that this joint resolution be referred to the Committee on the Judiciary, unless the Speaker shall decide it must go under the rule to the joint select Committee on Reconstruction.

The SPEAKER. The resolution can be referred to the Committee on the Judiciary, and will be so referred.

Mr. FINCK. I rise to a question of order; the resolution cannot be referred without the question being put to the House.

The SPEAKER. The rule requires its reference without debate.

Mr. FINCK. Without a vote? Is not the House to judge whether a resolution shall be referred or not?

The SPEAKER. By the rule it must be referred.

Mr. FINCK. Is a motion to lay upon the table in order?

The SPEAKER. Not under the rule. If the gentleman prefers another committee he can make that motion.

Mr. ELDRIDGE. I rose to a question of order at the same time that the gentleman from Ohio [Mr. FINCK] did, intending to ask whether this joint resolution did not go to the Committee on Reconstruction.

The SPEAKER. The Chair examined it and thought not, as it did not refer even indirectly to the question of the representation of the so-called confederate States, and the rule of the House is that all papers relating to the representation of the so-called confederate States shall be referred to the joint Committee on Reconstruction without debate.

#### AMENDMENT OF THE CONSTITUTION.

Mr. BROMWELL. I ask leave to offer a joint resolution declaring the power of amending the Constitution, and I ask that it be read.

The joint resolution was read, and is as follows:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That whereas the Constitution of the United States provides that Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution which, when ratified by the Legislatures of three fourths of the States, shall be valid to all intents and purposes as part of the said Constitution; and whereas the number of the States lawfully entitled to representation in the Congress of the United States is twenty-six; and whereas the several States of Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Arkansas, and Texas did attempt, by acts of secession from the Union and by confederating with each other, to form a separate government foreign to the United States, and by war upon the Government of the United States to wholly separate themselves severally and collectively from the United States, and did openly by such acts of secession, confederation, and war deny all allegiance to the Government of the United States, and did by their several Legislatures and by their several conventions called for that purpose, and by their several Governors and by their judiciaries, and by the ratification of their people respectively, engage in a common cause to wholly subvert the power and authority of the United States throughout all their several limits; and did by their Governors, Legislatures, and people make war against the United States, and continue said war, acting as a belligerent power, until finally overthrown as such power by the military force of the United States in open war, and by that means only did take undisputed possession of the territory embraced in said several States, and has from thence hitherto maintained and still maintains military occupation of said territory; and whereas by means of the premises the said several States were left at the close of said war without civil government, and no governments have as yet been formed in any of said States by or with the consent of Congress; and whereas, to participate in altering or amending the Constitution of the Union can only be done by States of the Union, and is the discharge of the highest function possible in a State of the Union—a function derived wholly from its status in the Union: Therefore,

*Resolved*, That in ratifying amendments to the Constitution of the United States, as well those now pending as those which may hereafter be proposed by Congress, the said several States are not entitled to any vote, and are wholly incapable either of accepting or rejecting any such amendment, so as to bind thereby the loyal States of the Union, until they shall severally be restored to their former relation to the Union, in full power and competency as States of the Union, by consent of the United States through the Congress thereof; and that when any



amendment to the Constitution, proposed by the Congress of the United States, shall be adopted by three fourths of the States recognized by the Congress as lawfully entitled to do so, and shall have ratified in due form of law any amendment of the Constitution by Congress proposed, the same shall become thereby a part of the Constitution, and shall be so recognized by all the departments of this Government.

Mr. LE BLOND. Would it be in order to move that that joint resolution be rejected?

The SPEAKER. The gentleman can object to granting leave to introduce the joint resolution. That is the only way in which he can arrive at his object. It is rarely done; but the gentleman has a right under the rules to object to the reception of the joint resolution.

Mr. LE BLOND. If it is necessary to make a motion to that effect I make that motion, that the joint resolution be not received; and upon that motion I demand the yeas and nays. The yeas and nays were ordered.

Mr. WASHBURN, of Indiana. What is the question?

The SPEAKER. The gentleman from Ohio [Mr. LE BLOND] objects to granting leave to the gentleman from Illinois [Mr. BROMWELL] to introduce this joint resolution for reference to a committee. The rule states that bills and joint resolutions for reference only may be introduced on leave during the morning hour on Monday. The question now is on granting leave; will the House allow the introduction of the joint resolution for reference to the Committee on Reconstruction.

The question was taken; and it was decided in the affirmative—yeas 94, nays 33, not voting 74; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Benjamin, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Cobb, Conkling, Cook, Cullom, Davis, Defrees, Deming, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hayes, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Shellabarger, Sloan, Spalding, Stevens, Stokes, Trowbridge, Upson, Burt Van Horn, Hamilton Ward, Warner, Henry D. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—94.

NAYS—Messrs. Ancona, Boyer, Campbell, Chanler, Cooper, Dawes, Eldridge, Finck, Goodyear, Aaron Harding, Hawkins, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Le Blond, Leftwich, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, and Trimble—33.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos R. Ashley, Barker, Beaman, Bergen, Bidwell, Blaine, Blow, Bundy, Reader W. Clarke, Sidney Clarke, Culver, Darling, Dawson, Delano, Denison, Dodge, Driggs, Dumont, Farnsworth, Glossbrenner, Griswold, Hale, Harris, Hart, Henderson, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Johnson, Jones, Latham, Latham, George V. Lawrence, William Lawrence, Marshall, McCullough, McIndoe, Myers, Newell, Phelps, Pomeroy, Raymond, Alexander H. Rice, Ross, Rousseau, Schenck, Scofield, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, William B. Washburn, Windom, Winfield, and Wright—74.

So leave was granted for the introduction of the joint resolution.

During the roll call, Mr. SHANKLIN stated that his colleague, Mr. WARD, was confined to his room by indisposition.

The result having been announced as above recorded, the joint resolution was read a first and second time and referred to the joint Committee on Reconstruction.

#### RETIREMENT OF LEGAL TENDERS.

Mr. HILL introduced a joint resolution suspending the further retirement and cancellation of United States legal currency notes for the term of two years; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### POWERS AND PRACTICE OF SUPREME COURT.

Mr. WILLIAMS. I ask leave, not being present when my State was called, to introduce for reference a bill to regulate the practice and define the powers of the Supreme Court of the United States in certain cases arising thereon.

Mr. LE BLOND. Let it be reported; I believe the State of Pennsylvania has been passed, and I may object to it after hearing it read.

The bill was accordingly read as follows:

*Be it enacted, &c.,* That in all cases of writs of error from and appeals to the Supreme Court of the United States wherein drawn in question, the validity of a statute, or of an authority exercised by the United States, or the construction of any clause of the Constitution of the United States, or the validity of a statute, or an authority exercised under any State, or the ground of repugnancy to the Constitution or laws of the United States, the hearing shall be had only before a full bench of the judges of said court; and no judgment shall be rendered or decision made against the validity of any statute, or of any authority exercised by the United States, except with the concurrence of all the judges of the said court.

Mr. LE BLOND. I feel compelled to object.

Mr. WILLIAMS. Will it be in order to move to suspend the rules?

The SPEAKER. Not during the morning hour.

#### VETERAN OFFICERS.

Mr. HUBBARD, of New York, introduced a bill to amend an act entitled "An act to extend the benefits of section four of an act making appropriations for the support of the Army for the year ending June 30, 1866;" which was read a first and second time, and referred to the Committee on Military Affairs.

#### REPAVING PENNSYLVANIA AVENUE.

Mr. INGERSOLL introduced a bill providing for the repaving of a portion of Pennsylvania avenue; which was read a first and second time, and referred, together with the accompanying papers, to the Committee for the District of Columbia.

#### POWERS AND PRACTICE OF SUPREME COURT.

Mr. BENJAMIN introduced a bill to regulate the practice and define the powers of the Supreme Court of the United States in certain cases arising under the Constitution and laws thereof.

Mr. LE BLOND. I believe that is the same bill introduced by the gentleman from Pennsylvania, [Mr. WILLIAMS.] If so, I enter my protest against it again.

Mr. WENTWORTH. I call the yeas and nays on the question of its reception.

The yeas and nays were ordered.

The bill was again read in full.

The question being taken on granting leave to introduce the bill, it was decided in the affirmative—yeas 107, nays 39, not voting 45; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Cobb, Conkling, Cook, Cullom, Dawes, Defrees, Delano, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, George V. Lawrence, Loan, Longyear, Marston, Maynard, McClurg, McIndoe, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stilwell, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—107.

NAYS—Messrs. Ancona, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Le Blond, Leftwich, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Trimble—39.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Barker, Bergen, Blow, Reader W. Clarke, Sidney Clarke, Culver, Darling, Davis, Dodge, Dumont, Harris, Hawkins, Henderson, Hooper, Asahel W. Hubbard, Hulburd, Johnson, Jones, Latham, Latham, William Lawrence, Lynch, Marshall, Marvin, McCullough, McKee, Myers, Newell, Pomeroy, Rousseau, Starr, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, Winfield, Woodbridge, and Wright—45.

So leave was granted.

The bill was accordingly read a first and

second time, and referred to the Committee on the Judiciary.

#### SUFFRAGE IN THE DISTRICT.

Mr. NOELL introduced a bill to amend an act entitled "An act to regulate the elective franchise in the District of Columbia," passed at the second session Thirty-Ninth Congress, January 8, 1867; which was read a first and second time.

Mr. NOELL. I move the reference of this bill to a select committee of five.

Mr. UPSON. I move that it be referred to the Committee for the District of Columbia.

Mr. WENTWORTH. I would like to hear the bill read.

The bill, which was read, provides that the act of January 8, 1867, be amended so as to abolish all disfranchisement of persons from voting on account of sex.

Mr. NOELL. I desire to state in regard to this bill, that I last Monday introduced a similar one, which was referred to the Committee for the District of Columbia. I believe it is a parliamentary rule that a bill should be referred to a committee that will not strangle it. In asking the reference of this bill to a select committee I simply desire to bring the measure before the House. It is a matter of great importance and is at least entitled to consideration. Let the bill be referred to a committee of its friends.

Mr. UPSON. I am not aware that the Committee for the District of Columbia is not a committee of its friends.

The SPEAKER. The question is first on the motion to refer the bill to the Committee for the District of Columbia. Under the rules a motion to refer to a standing committee takes precedence of a motion to refer to a select committee.

The motion of Mr. Upson was agreed to, there being—aye 70, noes 45.

So the bill was referred to the Committee for the District of Columbia.

#### DISTRIBUTION OF SUPREME COURT REPORTS.

Mr. UPSON introduced a bill to provide for supplying the State library of each State with one copy of each volume of the reports of the decisions of the Supreme Court hereafter annually published; which was read a first and second time, and referred to the Committee on Printing.

#### LIEUTENANT JOHN H. HAMLIN.

Mr. LONGYEAR introduced a joint resolution to pay Lieutenant John H. Hamlin for military services; which was read a first and second time, and referred to the Committee on Military Affairs.

#### TOWN PROPERTY IN GREAT SALT LAKE CITY.

Mr. DRIGGS introduced a bill to authorize the preemption and sale of town property in Great Salt Lake City, Utah Territory; which was read a first and second time, and referred to the Committee on Public Lands.

#### PREVENTION OF SMUGGLING.

Mr. FERRY introduced a bill to amend an act further to prevent smuggling, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### CHARGES OF CLAIM AGENTS.

Mr. WILSON, of Iowa, introduced a bill to fix and establish the fees and charges of agents and attorneys for performing, collecting, and remitting in all cases of claims for bounty, pensions, pay, and emoluments, where such fees and charges are not fixed and established by existing law, and for other purposes; which was read a first and second time, and referred to the Committee on the Judiciary.

#### AMENDMENT OF THE CONSTITUTION.

Mr. COBB introduced a joint resolution proposing an amendment of the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

## CAPTURE OF JEFFERSON DAVIS.

Mr. PAINE introduced a bill to provide for the distribution of the reward offered by the President for the capture of Jefferson Davis; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

## TIMBER-CUTTING IN CALIFORNIA.

Mr. HIGBY introduced a bill to legalize an act of the Legislature of the State of California, and to grant the right to cut timber from lands within the county of Alpine, in the State of California; which was read a first and second time, and referred to the Committee on the Judiciary.

## INDEMNITY FOR INDIAN DEPREDACTIONS.

Mr. DENNY introduced a bill to indemnify the citizens of the Territory of Washington and the State of Oregon for property destroyed by Indians in the years 1855 and 1856; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

## SETH E. WARD.

Mr. HITCHCOCK introduced a bill for the relief of Seth E. Ward, of the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Indian Affairs.

## PACIFIC RAILROAD.

Mr. GOODWIN introduced a bill to aid the construction of a railroad and telegraph line from the Gulf of Mexico to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. GOODWIN also presented a memorial of the Legislative Assembly of the Territory of Arizona, asking for aid to the southern Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

## ORGANIC ACT OF ARIZONA.

Mr. GOODWIN also presented a memorial of the Legislative Assembly of the Territory of Arizona, asking for a change in the organic law of that Territory; which was referred to the Committee on Territories, and ordered to be printed.

## TOWN OF PRESCOTT, ARIZONA.

Mr. GOODWIN also presented a memorial of the Legislative Assembly of the Territory of Arizona, asking Congress to donate two quarter sections of land to the town of Prescott, Arizona; which was referred to the Committee on Public Lands, and ordered to be printed.

## BOUNDARY OF ARIZONA.

Mr. GOODWIN also presented a memorial of the Legislative Assembly of the Territory of Arizona, asking that the act of Congress approved May 5, 1866, setting off to the State of Nevada all that part of the Territory of Arizona west of the thirty-seventh degree of longitude west from Washington, and west of the Colorado river, be repealed; which was referred to the Committee on Territories, and ordered to be printed.

## MAIL ROUTES IN ARIZONA.

Mr. GOODWIN also presented a memorial of the Legislative Assembly of the Territory of Arizona, asking for the establishment of new mail routes in that Territory; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

## MONTANA SURVEYING DISTRICT.

Mr. McLEAN introduced a bill erecting the Territory of Montana into a surveying district, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

## MONTANA JUSTICES OF THE PEACE.

Mr. McLEAN presented a memorial of the

Legislature of Montana, asking Congress to amend the organic act of that Territory so as to extend the jurisdiction of justices of the peace; which was referred to the Committee on the Judiciary, and ordered to be printed.

## POST ROUTES IN MONTANA.

Mr. McLEAN also presented a memorial of the council of Montana, asking for the establishment of post routes and post offices in Montana Territory; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

## EXAMINATION OF TREASURY DEPARTMENT.

Mr. GARFIELD introduced a bill to provide for the examination of the Treasury Department, and other Executive Departments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

## SAN FRANCISCO, CALIFORNIA.

Mr. McRUER introduced a bill to relinquish the interest of the United States in certain lands to the city and county of San Francisco, California; which was read a first and second time, and referred to the Committee on Public Lands.

## REVENUE STAMPS.

Mr. MILLER introduced a bill explanatory of the act relating to revenue stamps upon writs of process in courts of record; which was read a first and second time, and referred to the Committee on the Judiciary.

The SPEAKER. The morning hour has now expired.

## REGULATING SALES OF GOLD.

Mr. MORRILL, from the Committee of Ways and Means, asked leave to report, for immediate consideration, a bill to provide for the sale of gold, and for other purposes.

Mr. WILSON, of Iowa. I object.

Mr. MORRILL. I move that the rules be suspended in order to allow me to report the bill I have indicated.

Mr. WILSON, of Iowa. Let the bill be read.

The bill was read. It provides that after the passage of this act whenever a sale shall be made of coin from the Treasury of the United States public notice of at least four days shall be given by advertisement in one daily newspaper of each of the cities of Washington and New York, designating the amount to be sold, inviting proposals for any part thereof, naming the place and hour up to which such sealed proposals shall be received, the terms of payments, and when and where such proposals shall be opened. Such proposals shall be addressed to the Assistant Treasurer of the treasury at New York, and shall be opened and declared by him in the presence of such persons as may choose to attend at the time designated in the notice; and no proposal shall be considered unless accompanied by a certificate of deposit in the Treasury of the United States of five per cent. of the amount of coin bid for in such proposal, which shall be received as part pay of the coin bid for when the proposal is accepted, or refunded to the party making the same when not accepted; and payment may be received for coin thus disposed of in compound-interest notes with the interest accrued thereon. The Assistant Treasurer, with the approval of the Secretary of the Treasury, shall have the right to reject the whole or any parts of any such proposal; provided that none but the highest bid shall be accepted; and in case of different bids at the same rate, said bids shall be accepted only *pro rata*.

The question was upon suspending the rules. Mr. DELANO. Will the gentleman from Vermont [Mr. MORRILL] consent to a modification of this bill so as to extend the notice beyond four days, in order that this business shall not be confined entirely to the city of New York?

Mr. MORRILL. The bill says that not less than four days' notice shall be given.

Mr. DELANO. I would suggest to the gen-

tleman that the time should be made at least ten days.

Mr. MORRILL. Every order for a sale will be telegraphed throughout the entire country, and any order which may be given will of course be given by telegraph.

Mr. DELANO. That I am aware of, but I respectfully suggest to the gentleman ten days would be better.

Mr. INGERSOLL. Is this debate in order? The SPEAKER. It is not; the motion to suspend the rules is not debatable.

Mr. RANDALL, of Pennsylvania. I should like to know about the printing of this bill. This committee has taken a long time to consider it, and now it is to be forced upon the House without being printed.

The SPEAKER. It is not yet before the House, the question being on suspending the rules.

Mr. RANDALL, of Pennsylvania. That committee has had a month to consider the subject.

Mr. SCHENCK. I rise to inquire of the chairman of the Committee of Ways and Means whether it is his purpose to call the previous question if the rules be suspended. I ask whether he will not pledge himself not to call the previous question.

Mr. MORRILL. I will pledge myself to call the previous question.

Mr. O'NEILL. I do not rise for the purpose of debate, but merely to suggest to the chairman of the Committee of Ways and Means that he also insert Philadelphia, which is a city of great commercial importance.

Mr. INGERSOLL. I object to debate.

Mr. RANDALL, of Pennsylvania. I suggest to the House that this bill be postponed till tomorrow, and ordered to be printed.

The SPEAKER. The Chair will state, as he has heretofore done in reference to the condition of business, that if the bill be postponed it will not be reached again probably during this session.

Mr. RANDALL, of Pennsylvania. I am willing it shall be made a special order.

The SPEAKER. Then it will come in after the banking bill.

Mr. MORRILL. I insist on the question: If gentlemen will allow it to be explained I do not think there will be serious objection in any part of the House. It is a measure called for by the sentiment of the country.

The House divided; and there were—yeas 73, nays 36.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 115, nays 88, not voting 38; as follows:

YEAS—Messrs Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Davis, Defrees, Deming, Denison, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Goodyear, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jencks, Julian, Kelley, Kelso, Ketcham, Koontz, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Moreau, Miller, Moorhead, Morrill, Morris, Montlon, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, William H. Randall, Raymond, John H. Rice, Rogers, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Whaley, Williams, Stephen F. Wilson, Windom, and Woodbridge—115.

NAYS—Messrs Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawes, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Hunter, Kasson, Kerr, Kykendall, Latham, George V. Lawrence, Le Blond, Leftwich, Loan, McRuér, Niblack, Nicholson, Pomeroy, Radford, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Strouse, Nelson Taylor, Thornton, Trimble, William B. Washburn, and James F. Wilson—38.

NOT VOTING—Messrs. Alley, Ames, Arnell, Blow, Boutwell, Sidney Clarke, Cullom, Culver, Darling, Delano, Donnelly, Dumont, Harris, Hayes, Henderson, Asahel W. Hubbard, Humphrey, Johnson,

Jones, Laffin, William Lawrence, Marshall, McCullough, Myers, Newell, Noell, Alexander H. Rice, Rousseau, Starr, Taber, Thayer, Francis Thomas, John L. Thomas, Unson, Robert T. Van Horn, Andrew H. Ward, Winfield, and Wright—38.

So (two-thirds having voted in the affirmative) the rules were suspended.

During the vote,

Mr. SCHENCK stated the chairman of the Committee of Ways and Means consented to an amendment to extend the time, and he would therefore change his vote from the negative to the affirmative.

Mr. BAKER and others made a like statement.

The vote was then announced as above recorded.

The bill was then received, and read a first and second time by its title.

Mr. MORRILL. Mr. Speaker, the present bill is merely intended to provide that Government sales of gold hereafter shall be publicly advertised and be open to all who may desire to bid therefor. While such sales are secretly conducted it is impossible that it should not give rise to suspicion, if not the charge of favoritism and corruption. Such a law may diminish the power of the Secretary for sudden and effective movements, but it will at least protect him from unfounded and damaging rumors. For one I should deprecate the transfer to Congress of the responsibility of the management of our finances from the Treasury Department where it properly belongs. We therefore leave the decision with the Secretary as to whether sales shall take place or not; but if any are made the bill opens them to the public at large, and they will no longer be confined to the gold-room at New York. It is only the surplus above what is required for interest that can be sold; and if ever specie payment should be resumed a large reserve would be indispensable for its accomplishment. The amount now on hand furnishes a basis to some extent for the credit of the legal-tender currency; but sell off the gold largely and the relief would be merely temporary, and we should lose all power to resume at all.

There is another view of the case. Under this bill no expense will be imposed upon the Government for any sales; as now conducted we pay a broker's commission. They will be made, if this bill should become a law, under the authority of the Secretary of the Treasury, by the sub-Treasurer at New York.

I promised to allow the gentleman from Ohio [Mr. DELANO] to move an amendment to extend the time for giving public notice of sale, which is fixed in the bill at four days. I will now yield for that purpose.

Mr. KELLEY. I desire to ask a question of the gentleman from Vermont. I have not had an opportunity of examining the bill before the House, and I simply desire to know whether it expressly or by implication authorizes the sale of any gold.

Mr. MORRILL. Not at all; it merely provides that, if the Secretary does sell, it shall be a public sale, advertised for, and that the awards shall be made to the highest bidders in all cases, save where there are coincident bids, they shall be accepted so far as accepted at all at *pro rata* rates.

Mr. KELLEY. There would be nothing inconsistent in the adoption of this resolution at this time and the adoption by the House, should it in its judgment deem fit, of another resolution prohibiting the sale of any gold.

Mr. MORRILL. Not at all.

Mr. KELLEY. That is all I wished to know.

Mr. INGERSOLL. I desire to ask a question, as I moved the reference of substantially this bill to the committee some few weeks since. I wish to know if there is any limit upon the Secretary of the Treasury, so that he shall not be permitted to sell any gold except when the amount in excess shall be, say, \$50,000,000.

Mr. MORRILL. There is no limit in relation to the amount of gold on hand. It is simply a law providing that whenever he does sell

it shall be at public sale and of the character I have already described.

Mr. INGERSOLL. I desire, at the proper time, to make an amendment to that effect.

Mr. MORRILL. I now yield to the gentleman from Ohio, to allow him to propose his amendment.

Mr. DELANO. I desire to offer an amendment as to the time when notice is to be given for the sale. My own judgment is that ten days is the shortest time that ought to be adopted. It is urged however by those who are opposed to that extension that it will give an opportunity for gold gamblers to combine and put the price down. My own opinion is that such a combination will be made as effectually in four days as in ten; that by giving ten days competition we will save the country from any such combination. Now, if I were to follow my own sentiment I would move to amend by making it ten days, but I have so much respect for the chairman of the Committee of Ways and Means, who seems so well convinced that it is too long a time, that in deference to his judgment I move to extend it only to six days.

Mr. MORRILL. I have no right to accept the amendment, but I make no objection to its being offered.

The SPEAKER. The bill being reported by a committee the gentleman has no right to accept it without the assent of the majority of the committee.

Mr. MORRILL. A majority of the committee now present say they have no objection.

No objection being made, the bill was accordingly amended by striking out "four" and inserting "six."

Mr. MAYNARD. Will the gentleman yield for a question?

Mr. MORRILL. Yes, sir.

Mr. MAYNARD. I notice this bill provides that the gold to be sold may be paid for in compound-interest notes with principal and interest. Will there not be danger that this may be construed as providing for the conversion of all that class of paper?

Mr. MORRILL. Not at all; I do not suppose the Secretary of the Treasury will be able to get a single million of compound-interest notes under the provisions of this bill.

Mr. O'NEILL. I wish to make a suggestion to the gentleman from Vermont. I observe by this bill that public notice of the sale of gold is to be given only in the cities of Washington and New York. I suggest to the gentleman that he include the cities of Philadelphia, Boston, and Cincinnati.

Mr. MORRILL. I would say in reply to the gentleman from Pennsylvania that it was not deemed important by the Committee of Ways and Means that notice should be given in either of those cities, because the moment a sale of gold is advertised in Washington or New York it will be telegraphed to all the cities of the Union, and it would be a useless expenditure for advertising to provide that the sales shall be advertised in any cities except the cities of Washington and New York. If the House differs with the committee I have no objection to the suggestion of the gentleman from Pennsylvania, but I think it would be a useless expenditure of money.

Mr. O'NEILL. Would not it give an advantage to men in these two cities?

Mr. MORRILL. I do not think it would make a difference of twelve minutes.

Mr. WILSON, of Iowa. I wish to make a suggestion to the gentleman from Vermont. I think that in legislation of this kind the House should be very careful not to do anything which would disturb the currency of the country any more than is absolutely necessary at any period of time.

Now, if a sale of gold should be made under this bill, or under the law as it now exists, which would require the payment by the purchasers of, say thirty million dollars of currency for the gold sold to them, and the Secretary of the Treasury should draw upon the

purchasers or upon the banks immediately for that amount, it might create a temporary stringency in the market, which would work a detriment to the business of the country. It has occurred to me that it would be well in disposing of the gold in the Treasury to require the Secretary of the Treasury to receive, in exchange for the gold so disposed of, the funded debt of the United States; or, in other words, that in payment for the gold sold by the Secretary of the Treasury he shall receive, instead of currency, five-twenty bonds or ten-forty bonds or seven-thirty bonds. In that way a sale of gold would not create any immediate or extraordinary demand upon the currency of the country, and therefore would not disturb it. I merely make the suggestion. I suppose the Committee of Ways and Means have examined the subject.

The SPEAKER. Does the gentleman from Vermont [Mr. MORRILL] yield for an amendment to be offered?

Mr. MORRILL. I do not.

Mr. HOOPER, of Massachusetts. I desire to ask the gentleman from Iowa [Mr. WILSON] this question: what effect it would have to have this gold paid for in bonds at par which are now selling at a high premium?

Mr. WILSON, of Iowa. That would depend very much upon the character of our legislation. I merely made the suggestion as one which I thought worthy of consideration, although I did not suppose that the chairman of the Committee of Ways and Means would be prepared to afford me an opportunity to offer an amendment of that kind, inasmuch as he had said that he desired to move the previous question on the bill.

Mr. MORRILL. I think there need be no apprehension in relation to the management of the Secretary of the Treasury, because he, more than any other man in the whole country, has the responsibility upon him to so manage that he can conduct the affairs of the Department with success.

Mr. INGERSOLL. I desire to inquire of the gentleman whether the bill provides that the payment for this gold shall be made in national currency or whether it requires legal-tender?

Mr. MORRILL. We do not prohibit the reception of national currency in payment.

Mr. INGERSOLL. It is left, then, at the option of the Secretary of the Treasury whether he will accept national currency or not.

Mr. MORRILL. I insist on the previous question.

Mr. HOOPER, of Massachusetts. Before the previous question is sustained I desire to suggest a verbal amendment. The bill now reads "Assistant Treasurer of the Treasury." I propose to strike out the words "of the Treasury."

Mr. MORRILL. I have no objection to that.

The amendment was agreed to.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. GARFIELD. I move to amend the title of the bill so that it will read, "A bill to regulate the sale of gold, and for other purposes."

Mr. MAYNARD suggested that the gentleman leave out the words "and for other purposes."

Mr. GARFIELD. Very well.

Mr. KASSON. I suggest further to the gentleman from Ohio that he make the title read, "A bill to regulate the sale of gold by the Secretary of the Treasury."

Mr. GARFIELD. I will modify it in that way.

The amendment of the title as modified was agreed to.



## MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. WILLIAM G. MOORE.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed without amendment House joint resolution No. 227, authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers.

## CONTESTED ELECTION—THOMAS VS. ARNELL.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections, to whom were referred the memorial and accompanying papers of Dorsey B. Thomas, contesting the right of Hon. Samuel M. Arnell to a seat in this House as a Representative of the Thirty-Ninth Congress from the sixth congressional district of Tennessee, have instructed me to make a report accompanied by a resolution. I ask that the resolution be read, and that the report and resolution be laid on the table and printed.

The resolution was read, as follows:

*Resolved*, That Dorsey B. Thomas, contesting the right of Hon. Samuel M. Arnell to a seat in this House as a Representative from the sixth congressional district of Tennessee be, and he is hereby, required to serve upon the said Arnell, within eight days after the passage of this resolution, a particular statement of the grounds of said contest; and that said Arnell be, and he is hereby, required to serve upon said Thomas his answer thereto in eight days thereafter; and that both parties be allowed eighteen days next after the service of said answer to take testimony in support of their several allegations and denial, in all respects in conformity with the requirements of the act of February 19, 1857, except that not more than four days' notice shall be required for the taking of any deposition under this resolution.

The report and resolution were laid upon the table and ordered to be printed.

## LATE ELECTIONS IN MARYLAND.

Mr. WARD, of New York. I move to suspend the rules in order to enable me to submit a preamble and resolution for consideration at this time.

Mr. STEVENS. I call for the regular order of business.

The SPEAKER. A motion to suspend the rules on this day takes precedence of a call for the regular order of business, for it is a motion to suspend the rule under which any subject becomes the regular order of business.

Mr. WARD, of New York. The preamble and resolution which I desire to submit are as follows:

Whereas by the constitution and laws of the State of Maryland persons who were disloyal to the Government of the United States, or gave aid and encouragement to the recent rebellion are deprived of the elective franchise; and whereas it is alleged that at the last election in the State of Maryland large numbers of the persons disqualified as aforesaid did vote for Representative in the Fortieth Congress and other officers; and whereas it is further alleged that armed forces of the United States were ordered by Federal authority to, and did, cooperate with the Executive of the State of Maryland and others who were engaged with him in overruling the constitution and laws aforesaid, and in securing the votes of rebels and persons disqualified as aforesaid, and whereby loyal and qualified voters of Maryland were deterred from the free exercise of the elective franchise and from resisting and preventing the violation of the constitution and laws aforesaid: Therefore,

*Resolved*, That the Committee of Elections shall inquire into and report whether the constitution and laws have been violated as aforesaid, and whether the President or any one under his command has in any manner interfered with the said election, or has in any way used or threatened to use the military power of the nation with reference to the said election, and if so, whether it was upon the requisition of the Governor of Maryland; and the committee shall have power to send for persons and papers.

The question was upon the motion to suspend the rules.

Mr. PHELPS. I rise to a question of order. The point of order is that under the Constitution of the United States and the rules of this House the present House of Representatives of the Thirty-Ninth Congress is not competent to inquire into the election and returns of members of the Fortieth Congress.

The SPEAKER. The Chair overrules the point of order. This House of Representatives can certainly inquire into anything which the

House may resolve to inquire into; when the House shall come to act the gentleman's point of order may be made.

Mr. PHELPS. So far as I am concerned there is no reason why I should make any objection to the fullest investigation of the elections referred to by this resolution. But I submit to this House, apart from my point of order, whether it is proper for this Congress to anticipate the action of the Fortieth Congress in a matter concerning exclusively, as this does, the election and returns of members of that Congress.

The SPEAKER. That is a question for the House itself to determine.

Mr. WARD, of New York. I desire to state that I have introduced this preamble and resolution at the instance of prominent Union men of Maryland.

Mr. FINCK. Is debate in order?

The SPEAKER. A motion to suspend the rules is not debatable.

Mr. FINCK. Then I object to debate.

The question was upon suspending the rules.

Mr. FINCK. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 109, nays 37, not voting 45; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broome, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Deffes, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleson, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Aaron Harding, Abner C. Harding, Hart, Hawkins, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Julian, Kasson, Kelley, Kelso, Koontz, Kuykendall, Lafin, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, Melndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Schoenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Window, and Woodbridge—109.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chandler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Latham, Le Blond, Leftwich, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Trimble—35.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Banks, Blaine, Blow, Buckland, Sidney Clarke, Culver, Darling, Davis, Dawes, Delano, Dodge, Dumont, Harris, Hayes, Henderson, Holmes, Asahel W. Hubbard, Jencks, Johnson, Jones, Kotaham, George V. Lawrence, William Lawrence, Marshall, McCullough, Morris, Myers, Newell, Noell, Pike, Rousseau, Sawyer, Starr, Stilwell, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Andrew H. Ward, Winfield, and Wright—45.

So (two thirds voting in favor thereof) the rules were suspended.

During the call of the roll,

Mr. MORRILL said: A number of the members of the Committee of Ways and Means were last week engaged in their committee-room during the sessions of the House, and they expect to be detained from the House during this week in the same way. This will account for the non-appearance of their names on the yeas and nays.

The result of the vote was announced as above stated.

The SPEAKER. The rules having been suspended, the preamble and resolution are now before the House.

Mr. WARD, of New York. Mr. Speaker, the preamble and resolution recite substantially all that I would desire to say upon the subject. I think that members of the House fully understand the subject-matter of the resolution and are prepared to act upon it. I desire to say only that the resolution is introduced at the instance of prominent Union men of the State of Maryland, they believing that their only remedy is an appeal to the Congress of the United States. They believe that the Executive of the State of Maryland, who in imitation of a higher example has been guilty of apos-

tacy to his party and to the principles upon which he was elected, has handed over the Unionists, bound hand and foot, to the men who, by the constitution of the State, were deprived of the exercise of the elective franchise, because they had been engaged in rebellion against the United States. With this statement I demand the previous question.

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. WARD, of New York. I will yield for a suggestion.

Mr. DAWES. I did not understand distinctly the full scope of the resolution; but it seems to me that there are two questions arising upon it. First, it is so broad that it imposes upon the Committee of Elections, if they are expected to do this work thoroughly and as it ought to be done, more labor than it will be possible for them to perform during the brief period of their existence. The other suggestion is that this will evidently be labor entirely lost, for this same labor will be imposed upon the Committee of Elections of the next Congress; for that committee will not, of course, be identical with the present committee, even if it should include any member of the present committee.

While the present committee will not shrink from the performance of any labor within their power which may be required of them by the House, still I think it highly desirable that the gentleman from New York should accept a modification of his motion, and permit the resolution, without being adopted by the House, to be referred to the committee, so that they may inquire whether under all the circumstances this is a proper investigation to be entered upon by the present committee without their being able to make any legal use of the testimony that may be taken, and when the committee of the next Congress would be obliged to carry on a similar investigation, going over the same ground. If the gentleman will consent to trust his resolution with the committee for this purpose, that would seem to me to be the proper course.

Mr. WARD, of New York. Mr. Speaker, in the preamble of this resolution there is a suggestion that the President of the United States has, without any requisition of the Governor of Maryland, without any demand being made upon him in pursuance of the Constitution, interfered in the elections of Maryland; and I think that question should at least be examined by some committee. I felt a delicacy about asking for the appointment of a select committee, because I knew the reluctance which the House feels toward appointing so many select committees, especially so late in the session. I should have asked a reference of this matter to the Committee on the Judiciary; but I knew that that committee is already charged with the investigation of many important matters, and is burdened with more business than it can attend to during the present session. I felt it proper that this matter should go before the Committee of Elections, because I was well aware that it is a competent committee to make this investigation, and that many members of the committee are elected to the next Congress.

But, sir, as I said in the commencement, I offer this resolution at the suggestion of the prominent Union men of Maryland who have suffered everything during the late contest, who have had their homes desolated, their fields laid waste because of their loyalty to the Government of the United States.

Mr. PHELPS. Will the gentleman yield to me?

Mr. WARD, of New York. Not now. They supposed they would be protected in the rights of American citizens when the war was over and the old flag again waved over every inch of the national domain, but they found themselves, through the treachery of the Executive of Maryland, transferred to those who had been warring against the Government and seeking to overthrow our institutions transferred to them through the machinery of this Government by

aid of the President. And they feel this matter should be investigated now. They went to the Legislature of Maryland; they asked that Legislature to investigate these matters, and that Legislature has refused to investigate the matters involved in this resolution.

The courts there, sir, have sold freedmen into slavery in defiance of the civil rights bill. The President is against them; the Executive of the State is against them; the majority of the people of Maryland who have been rebels and are now restored to power in that State are against them; and, sir, their sole resort is to the Congress of the United States. I ask, therefore, this resolution be passed in deference to the sentiments and feelings of these loyal people; and I hope the gentleman from Massachusetts will not interpose objection.

Of course the Committee of Elections can investigate such questions as they may deem proper and their time will permit. I beseech the House, representing as I do the sentiment of the loyal Union people of Maryland—I expected one of the Representatives of the Baltimore district would be present to offer it, but he is absent—I ask the House to refer the matter to the committee; and I ask that committee to make a full and fair investigation as far as time will permit.

I do not know of any particular labor this committee has at present on its hands. I do not know of any contested-election cases. I have great confidence in that committee, and I hope they will give their attention to the subject.

Mr. PHELPS. One single question.

Mr. WARD, of New York. Certainly.

Mr. PHELPS. I ask whether any petition or memorial from those prominent loyal men of whom the gentleman speaks has been presented to this House upon which this or any other resolution can be based? I have seen no such petition, and I undertake to deny the fact the gentleman has enunciated that this is sanctioned by prominent loyal men of Maryland.

Mr. WARD, of New York. I do not yield for a speech; I only yield for a question.

Mr. PHELPS. This is a matter in which the State of Maryland is concerned.

Mr. WARD, of New York. I will yield to the gentleman from Massachusetts when I have answered the gentleman from Maryland. He asks if my action is based on any petition presented to this House. I have only to say in reference to that I have had no petition in the form of a petition, but I have had application from numerous Union men of the State of Maryland. One of the prominent Union men who asks this action is the gentleman who claims the gentleman from Maryland has been returned to a seat in this House by rebel votes in defiance of the constitution of Maryland.

Mr. PHELPS. I understand that.

Mr. WARD, of New York. I decline to yield to the gentleman. I yield to the gentleman from Massachusetts.

Mr. DAWES. The gentleman knows the Committee of Elections do not desire to prevent any investigation into this matter, but will be willing to investigate anything trusted to us by this House. If gentlemen will notice how broad it is and what labor it will involve, I think they will consent that it should be modified.

Mr. PHELPS. Allow me to correct the gentleman's statement.

Mr. WARD, of New York. For a moment.

Mr. PHELPS. The gentleman has stated an investigation of the character now proposed was attempted to be made by the Legislature of Maryland, and that it was refused to be entertained. I ask whether the gentleman does or does not know the fact, as he seems to be familiar with the proceedings of the Maryland Legislature, that the House of Delegates have passed a resolution of inquiry in reference to the same matters embraced in his resolution. So much for his first misstatement.

The gentleman further stated, reviewing a discussion that took place here the other day, in which I found myself a participant, that

under the laws in relation to the penalty imposed upon persons of color convicted of crime, the penalty of slavery was still being enforced in that State; and the inference from the gentleman's remarks was that there was no help, no redress for outrages, as he called them, such as those thus committed, except by the prompt action of Congress in the direction indicated by his resolution. I ask the gentleman whether he does or does not know the fact that the House of Delegates of Maryland have, by a unanimous vote, passed an act, which I informed this House when I was last on the floor on this question, had then been introduced into that body for the repeal of the statute of Maryland authorizing negro slavery in that State as a penalty for crime. That measure is now before the Senate of the State, and from the unanimity with which it was passed in the Lower House the gentleman may judge whether or not it is likely to command a majority of the Senate of Maryland.

One word more and I have done. Who are these "prominent loyal men" who are representing the State of Maryland here through the gentleman from New York? Where are my colleagues, who are presumed in the estimation of the gentleman to be considered fit and proper exponents of the loyal people of Maryland to speak for them on a question such as this? I venture to make the assertion, in the absence of any petition or memorial signed by any respectable man of the Union party of Maryland presented to the House, that the only parties to whom the gentleman refers, at whose instance this movement is initiated, are defeated candidates for public office.

Mr. WARD, of New York. Mr. Speaker, I desired that my friend from Maryland should have an opportunity to make the statement which he has, because I certainly do not wish to strangle discussion on this subject. But, sir, I hold in my hand a copy of the American and Commercial Advertiser of Baltimore which purports to give the proceedings of the Legislature of the State of Maryland with reference to a proposed investigation upon this subject, and trusting I shall not weary the House with the matter I ask that that report be read. It is all the information I have on the subject.

The Clerk read as follows:

"AFRAID OF DAYLIGHT—INFORMATION REFUSED.—Some of the Democratic press of the State, and many of the Democratic and Conservative members of the Legislature have denounced and abused Hon. HAMILTON WARD, of New York, for the introduction of a resolution in the House of Representatives inquiring into the connection of the national authorities with the recent State election and removal of the police commissioners. Of course, if there was nothing that was not proper to see the light of day in connection with this subject, as the indignation of the Democracy would imply, there would be no objection to President Johnson's connection with that election being made public. The Republicans in the General Assembly, taking this view of the matter, resolved today to test the sincerity of their opponents, and give them an opportunity of defending Messrs. Johnson and Swann from any charges that the resolution in the House of Representatives would imply. Accordingly, in the Senate this morning, Mr. HOLTON, (Republican,) of Howard, submitted an order requesting the Governor to communicate to the Senate all correspondence, by telegraph and otherwise, between himself and General Grant and General Canby in relation to the threatened interference of the United States authorities in the removal of the police commissioners of Baltimore city."

"The Democracy did not at first perceive the object of the Republicans in this move to bring to light matters of such vital importance to the State and country at this time, and adopted the order without a division."

"Some time after its passage, and after the granting of leaves to introduce new bills, at the suggestion of Mr. COMPTON, (Democrat,) of Charles, the vote on its adoption was reconsidered, and the matter was again before the Senate. He then proposed an amendment requesting the Governor to also communicate all information in his possession relative to the threatened interference by non-residents of this State not in official position, which, of course, the Republicans at once accepted as they knew their party had nothing to fear or conceal on this subject."

Mr. DAVIS, (Republican,) of Caroline, suggested to further amend the resolution so as to require that "all conversations between the Governor and President Johnson on the same subject" be given for the public benefit; but this was rejected, it receiving alone the vote of Mr. Davis."

Mr. TOME, (Republican,) of Cecil, was as anxious as his colleague in the pursuit of information, and

offered an amendment requesting his Excellency to furnish the Senate with "the official correspondence with the Conservative and Democratic leaders of the State on the subject of the removal of the police commissioners." This was pushing the affair a little too far, and might make some unpleasant exposures, thought Mr. STEPHENSON, (Democrat,) of Hartford, who moved that the whole subject be laid on the table. The Democracy desired to kill off the matter in a more effectual manner, and uniting with the Republicans, by a vote of 4 yeas to 19 nays, Mr. Stephenson's motion was rejected, and after voting down Mr. Tome's proposition, the original resolution offered by Mr. HOLTON, and as amended by Mr. COMPTON, was rejected, the Democrats and Conservatives, with the exception of Messrs. Broadwater, Compton and Vickers, all voting against it.

But your readers will suppose that in the House of Delegates, where his Excellency's friends are more numerous than in the other branch of the General Assembly, such an opportunity to vindicate his reputation from the charges that have been made in connection with this subject would have been hailed with pleasure, and received a unanimous vote. Not so, however, as the result proved.

Mr. BUHRMAN, (Republican,) of Frederick, offered in this body a resolution similar in purport, but differing slightly in phraseology, to that rejected in the Senate. It occasioned some fluttering and surprise among the majority, and was read the second time for their information at the request of one of their number.

Mr. BOSWELL, of Baltimore, immediately on the conclusion of the reading of the resolution, moved to 'lay it on the table,' but, at the suggestion of

Hon. Alexander Evans, of Cecil, withdrew his motion, and Mr. Evans proposed to amend Mr. Buhrman's order so as to leave the answering of the inquiry at the discretion of Mr. Swann—if in his judgment it was not incompatible with the interests of the State.

This amendment was adopted, the Republicans voting against it, when Mr. Boswell renewed his motion to 'lay the subject on the table.' Even with the discretionary power granted the Governor by Mr. Evans's amendment, to answer or not, Mr. Swann's friends would not permit it to pass. On the motion that the resolution be laid on the table, Speaker MILLER, Messrs. Aydelotte, Cameron, Dennis, Ford, Magraw, Magruder, Parsons, Shipley, and Spicer were the only members of the Opposition who voted with the Republicans against the Governor furnishing the information desired.

"It is to be hoped that Senator CROWELL, Hon. Francis THOMAS, or Hon. JOHN L. THOMAS, will offer a resolution in Congress inquiring of the President for the information desired by the Republican members of the General Assembly and refused them by President Johnson and Governor Swann's supporters. Let there be light thrown on the subject. Congress should fully investigate the matter, and now is the fitting time. Let a Republican from Maryland look after it and at once."

Mr. WARD, of New York. That is the answer to the first question of the gentleman from Maryland. Now in answer to the second—

Mr. PHELPS. Will the gentleman allow me a question?

Mr. WARD, of New York. I cannot. I desire to answer the second question propounded to me by the gentleman, namely: who has suggested this thing? What prominent Union man has asked me to present this resolution? I can tell him that Hon. JOHN L. THOMAS is one, and Mr. STEWART, who is to contest the gentleman's seat in the next Congress, is another. And I have letters here on the subject from numerous parties in the State of Maryland whose names I do not now remember.

Now, sir, I say that this is the only remedy which these people have. This is a part of the grand conspiracy in which the President, Governor Swann, the rebels of the South, and the Copperheads of the North are engaged, to restore the rebels to power and to demand and insist upon the recognition of the rebel State governments in the South. The Supreme Court of the United States has issued its edict, has taken its position; the President of the United States has taken his position; the rebels of the South and the Copperheads of the North have taken their position; and the only remedy that is left to the loyal people of this country, to the down-trodden and oppressed Unionists of the South, whether in Maryland or in Georgia, or wherever they may be, is to come to the Congress of the United States; and, sir, they do come here in this form and ask this interference: that the part taken by the Executive in Maryland matters may be investigated, and that the broad seal of congressional protection be thrown over the Unionists of Maryland. I demand the previous question on the resolution.

Mr. PHELPS. Will the gentleman from New York yield to me for a moment?

Mr. WARD, of New York. I cannot yield. The previous question was seconded—ayes 70, noes 31; and the main question was ordered to be put.

Mr. LE BLOND. Upon the adoption of the resolution I demand the yeas and nays, that we may see who believes that Congress has power to remedy all these evils, if evils exist.

The yeas and nays were ordered.

The SPEAKER. Is there objection to having the vote taken on the preamble and resolution together?

Mr. LE BLOND. I am perfectly willing that the vote shall be taken together.

No objection was made.

The question was taken upon agreeing to the preamble and resolution; and it was decided in the affirmative—yeas 104, nays 35, not voting 52; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Conkling, Cook, Cullom, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Keontz, Kuykendall, Lafflin, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, Melndoe, Mercur, Mercur, Miller, Moorhead, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomroy, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Spalding, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Edwin N. Hubbell, Humphrey, Kerr, Le Blond, Leftwich, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Trimble—35.

NOT VOTING—Messrs. Alley, Ames, Arnell, Banks, Blow, Sidney Clarke, Cobb, Culver, Darling, Davis, Daves, Driggs, Dumont, Eckley, Farnsworth, Hale, Harris, Henderson, Hogan, Hooper, Asahel W. Hubbard, Hulburd, Hunter, Johnson, Jones, Kasson, Latham, William Lawrence, Marshall, McCullough, McKee, Morrill, Morris, Myers, Newell, Price, William H. Randall, John H. Rice, Rousseau, Scofield, Starr, Stilwell, Strouse, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Andrew H. Ward, Whaley, Williams, Winfield, and Wright—52.

So the preamble and resolution were agreed to.

Mr. WARD, of New York, moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

GEORGE ST. LEGER GRENDEL.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit herewith a report from the Secretary of War and the accompanying papers, in compliance with a resolution of the House of Representatives of the 19th ultimo, requesting copies of all papers in possession of the President touching the case of George St. Leger Grenfel. ANDREW JOHNSON.

Mr. WENTWORTH moved that the message and accompanying documents be laid upon the table and printed.

The motion was agreed to.

NORTH CAROLINA JUDICIAL OFFICERS.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I herewith communicate a report from the Secretary of the Interior, in answer to a resolution of the House of Representatives of the 16th instant, in relation to the clerks of the Federal courts and the marshal of the United States for the district of North Carolina. ANDREW JOHNSON.

WASHINGTON, D. C., January 19, 1867.

Mr. WILSON, of Iowa, moved that the message and accompanying document be referred to the Committee on the Judiciary, and ordered to be printed.

The motion was agreed to.

NEW ORLEANS RIOT.

The SPEAKER also laid before the House a communication from the Secretary of War, in answer to a resolution of the House of December 13, 1866, stating that all information relative to the New Orleans riot of July last has been sent by him to the President for transmission to Congress; which was laid upon the table and ordered to be printed.

SPRINGFIELD ARMORY EXPENDITURES.

The SPEAKER also laid before the House a communication from the Secretary of War, in compliance with the act of April 2, 1794, transmitting a statement of the Chief of Ordnance of the arms manufactured and repaired and expenditures made at the Springfield armory during the year ending June 30, 1866; which was referred to the Committee on Military Affairs, and ordered to be printed.

BOTANICAL GARDEN SEWER.

The SPEAKER also laid before the House a communication from the Commissioner of Public Buildings, in compliance with the civil appropriation act of last session, transmitting a report relative to the sewer through the botanical garden; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

LAWS OF UTAH AND ARIZONA.

The SPEAKER also laid before the House copies of the laws of the Territories of Utah and Arizona; which were referred to the Committee on Territories.

ORDER OF BUSINESS.

Mr. STEVENS. I now demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights, upon which the gentleman from Indiana [Mr. KERR] is entitled to the floor.

RELIEF OF POOR IN THE DISTRICT.

Mr. INGERSOLL. Will the gentleman from Indiana yield to me long enough to enable me to introduce a concurrent resolution for the relief of the poor of this District, which I am sure no one here will have the heart to object to when they hear it read?

Mr. KERR. I will not object if it gives rise to no discussion.

Mr. INGERSOLL. I then ask unanimous consent to offer the following resolution:

Whereas the extreme severity of the present winter has doubled the suffering and distress of the poor; Therefore

*Be it resolved,* (the Senate concurring herein,) That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$25,000, to be paid to Major General O. O. Howard, to be distributed by him to the suffering poor of this District, without distinction of race or color, in such sums as to him shall seem proper.

Mr. LE BLOND. I do not propose to object to the resolution if there is a reason for it, but I know of no reason for the adoption of the resolution; neither do I see the propriety of placing this appropriation in the hands of this General Howard. It seems to me that if the appropriation is made at all, it would be more properly placed in the hands of the mayor of the city to be applied by him.

The SPEAKER. Does the gentleman from Ohio [Mr. LE BLOND] object to the introduction and consideration of this concurrent resolution at this time?

Mr. LE BLOND. If the gentleman from Illinois [Mr. INGERSOLL] will assign any satisfactory reason for appropriating this money at this time for this purpose I will not object, otherwise I shall object.

Mr. INGERSOLL. I have received accounts, more perhaps than have been received by any other member of this House because

of my position as chairman of the Committee for the District of Columbia, from all quarters of the distresses of the poor in this city.

Mr. ROGERS. Of the white poor?

Mr. INGERSOLL. Yes, sir, of the white as well as other poor persons; I have had more calls made upon me from the white poor than from any others. This is and has been an unusually severe winter; perhaps the most severe so far of any winter since 1780. On two different occasions heretofore Congress has appropriated the sum of \$2,500, and on one occasion the sum of \$25,000 for similar purposes. In my opinion there is more occasion now for this assistance than ever before; and this is owing to the combination of high prices, excessive snows, and extreme cold weather of this season, together with the unprepared condition of the poor to meet this kind of weather. Many of them are now living in huts, hovels, and shanties, seeking shelter where they can find it. A poor boy came to me the other day who had been lying of nights in a lumber yard, and consequently had a hand and a foot frozen.

Mr. ELDRIDGE. Will not the gentleman consent to modify his resolution so as to provide for placing this money in the hands of those whose duty it is to provide for the poor in this city?

Mr. INGERSOLL. I have no objection to that.

Mr. ELDRIDGE. It seems to me that those who have charge of the poor of this city will know better how to expend this sum of money than any general officer of the Army or any officer of the Freedmen's Bureau.

Mr. INGERSOLL. The main object I have in view is the relief of the distresses of those who are thus suffering. I shall make no objection to any one of known integrity and honesty whom the gentleman from Wisconsin [Mr. ELDRIDGE] may name.

Mr. ELDRIDGE. I would suggest the mayor of Washington or the overseers of the poor.

Mr. INGERSOLL. Several gentlemen around me say they prefer that General Howard shall have charge of this matter. So far as I am personally concerned I have no objection to the mayor of Washington; but as several gentlemen around me object I cannot accept the suggestion of the gentleman.

Mr. RADFORD. I shall insist that this resolution, containing an appropriation, shall be referred to the Committee of the Whole unless some person is joined to the one named in the resolution for the disbursement of this money.

Mr. STEVENS. I would ask if this money is to be drawn from the Treasury of the United States?

Mr. INGERSOLL. It is.

Mr. STEVENS. Then it should be distributed by United States officers. If that is not provided for I must object to it and insist upon the regular order of business.

Mr. HOOPER, of Massachusetts. Will the gentleman allow me to suggest—

The SPEAKER. The gentleman from Indiana [Mr. KERR] yielded on the condition that this matter should not give rise to debate.

Mr. KERR. I desire to suggest, in regard to this resolution, that it be modified so as to provide that the money shall be distributed by the mayor of this city in conjunction with General Howard.

Mr. ELDRIDGE. The mayors of the cities of Georgetown and Washington, and General Howard.

The SPEAKER. If the gentleman from Illinois [Mr. INGERSOLL] will state in what shape he desires to present the proposition the Chair will put the question to the House.

Mr. STEVENS. I call for the regular order.

Mr. INGERSOLL. I move to suspend the rules.

The SPEAKER. The regular order having been demanded, the gentleman from Indiana [Mr. KERR] was upon the floor some time since, and yielded to allow the gentleman from



Illinois [Mr. INGERSOLL] to ask unanimous consent for the introduction of a resolution. The gentleman from Indiana cannot, unless by his own consent, be taken off the floor by a motion to suspend the rules.

Mr. KERR. I must decline to yield further.

Mr. INGERSOLL. Will not the gentleman from Indiana allow me a word in explanation of my position here? I have been appealed to by gentlemen on both sides of the House to yield to suggestions and I have declined. I would like to state my reasons.

Mr. RANDALL, of Pennsylvania. I object to further debate on this question. I insist on the regular order.

#### RECONSTRUCTION.

The House resumed the consideration of House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights.

Mr. KERR. Mr. Speaker, it is proposed by the amendment of the gentleman from Pennsylvania [Mr. STEVENS] to House bill No. 543 to reduce ten States of the Union to the condition of Territories, and govern them, not as Territories of the United States have hitherto been governed, nor even as conquered provinces, but as peoples dependent upon Congress for every right they shall enjoy, whether of life, liberty, or property. This proposition is not only anomalous, but it is startling and revolutionary. It has no precedent in the history of free Governments. It finds no rational justification in the real circumstances of the States to be thus denationalized. It rests for its defense upon a series of assumptions. Some of these are so absurd and baseless as merely to indicate a hopeless confusion of ideas or perverseness of judgment upon the part of their inventors. To such I shall give no attention. Others, equally unsupported by facts and alike void of legal or constitutional foundation, deserve attention because they profess a greater or less degree of conformity to law.

It is assumed in the preamble to the bill to which I have referred that "the eleven States which lately formed the government called the 'confederate States of America' have forfeited all their rights under the Constitution, and can be reinstated in the same only through the action of Congress." This preamble asserts two propositions: first, the forfeiture; and secondly, the exclusive power of Congress to restore. Neither of these propositions is tenable, and the failure of the first destroys the foundation of the second. But the establishment of the first would not vindicate the truth of the second.

How have these States forfeited their rights under the Constitution? The Constitution affords no answer to this inquiry in direct and specific terms. It does not authorize the forfeiture of the rights of States in any manner whatever. It was adopted to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. The high and sacred office of the Constitution is to preserve, not to destroy, the rights of States. When States are once permitted to enter the sanctuary of the Constitution—the Union—they cannot be taken or driven thence, even for punishment. It is made the imperative duty of all the States to protect each of them against invasion or domestic violence. The discharge of these high duties may sometimes, as in the late rebellion, require the aid of such physical forces as shall assume the forms and magnitude of war.

But these facts in no degree change the obligations or enlarge the powers of the Federal Government. The ends for the attainment of which these forces may be used must always remain the same. Any attempt on the part of the Government to extend them will be an assumption of ungranted powers and amount to usurpation. The only wise and noble purposes of written constitutions of government are to define and limit power; not in times of

peace alone, but at all times; not as against one department of the Government alone, but against all the departments and agents of the Government and against the people. Attempted revolution against the Government cannot justify revolution by the Government. There is no way by which the limitations on power in the Constitution can be suspended except the mode prescribed by itself. No preponderance of popular majorities can for an instant produce any such result. There is no "higher law" than the Constitution. It is supreme over all within its prescribed sphere. The Federal Government, therefore, cannot destroy a State unless it first assumes the office and attitude of a revolutionist. It can compel obedience, but not destroy. It can suppress rebellion, but cannot make States criminals and subject them to trial, confiscation, forfeiture, or punishment; it can only deal thus with persons.

Once a State always a State, or there is no virtue, no vitality in our system. The reserved rights, or sovereignty if you please, of States must be respected and maintained. I do not mean that theory of "State rights" which is such a terror, in these reckless and revolutionary times to certain men and timid old ladies in this country; nor that imaginary hideous monster, "State sovereignty," which is denounced with such a fervor of malediction by people who know not what it means; nor that vicious dogma to which the South appealed to justify secession. But I do mean that rational and glorious principle which was established by our ancestors as the chief cornerstone of the Republic when they erected our matchless system of government, with a written Constitution to delegate, define, and limit the powers of the Federal Government, and in which they expressly declared that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I do mean that great and conservative doctrine which maintains that each government shall sacredly observe and respect the boundaries of its own power, and not attempt to encroach upon the jurisdiction of the other; which denies to the central Government the right to invade that residuum of power which is reserved to the States and constitutes their chief value and highest trust in our system of government; which guaranties to them the inestimable and inalienable right of local self-government; which makes them the safest guardians of the dearest, the daily, and fireside rights and interests of the people.

It is this kind of "State rights" which has found a champion in every great statesman and jurist who has reflected honor and made his impress upon our country and our institutions. I might quote from their immortal but now neglected or despised, words and admonitions on this great subject until the sun shall have gone down, but I will not. Out of the very numerous utterances of the Supreme Court of similar import I will cite one only, and that from one of the latest and most solemn judgments of that great tribunal, pronounced by a distinguished judge, who was never identified with the political party of strict construction. He says, in the case of *Cummings vs. the State of Missouri*, a few days ago, speaking for the court:

"We admit the proposition of the counsel for the State of Missouri that the States which existed previous to the adoption of the Federal Constitution possessed originally all the attributes of sovereignty; that they still retain those attributes, except as they have been surrendered by the formation of the Constitution and the amendments thereto; that the new States, upon their admission into the Union, became invested with equal rights, and were thereafter subject only to similar restrictions; and that among the rights reserved to the States is the right of each State to determine the qualifications for office and the conditions upon which its citizens may exercise their various callings and pursuits within its jurisdiction."

These are honest, loyal, immortal words, spoken in the interest of the people, of liberty, and law. They fitly vindicate the wisdom of our fathers in the organization of that great tribunal of last resort. They bear testimony

to the despairing patriot that our country can endure the storms of civil war and yet preserve the essential principles of liberty.

Has the war forfeited the rights of these States? If it had been a foreign war, waged for conquest, we might, upon precedents, but without justice, appeal to the tyrant's logic, that "might makes right," to justify anything we may desire to do with those States. But it was not a foreign war. It was a war on the part of the General Government to suppress insurrection against its authority, "to insure domestic tranquillity," and to maintain the States in their appropriate spheres, and enforce obedience from the people. It was a mere attempt on the part of the Federal Government to execute the laws, and the vindication of the laws terminates the power. This vindication includes the personal punishment of the individual offenders; but this punishment can only be inflicted after trial and conviction "according to law."

In these opinions I am fully sustained by the decision of the Supreme Court in the prize cases. Judge Grier, on this point, expressing the unanimous opinion of the court, says:

"By the Constitution Congress alone has the power to declare a national or foreign war. It cannot declare war against a State or any number of States by virtue of any clause in the Constitution. The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed."

The very learned decision of Justice Sprague, of Massachusetts, in the case of the "Amy Warwick," is so directly and forcibly in point in this connection that I cannot omit a citation from it. He says:

"It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges and treated as foreign territory acquired by arms. This is an error; a grave and dangerous error. Belligerent rights cannot be exercised where there are no belligerents. Conquest of a foreign country gives absolute and unlimited sovereign rights; but no nation ever makes such a conquest of its own territory. If a hostile power, either from without or within a nation, takes possession and holds absolute dominion over any portion of its territory, and the nation by force of arms expels or overthrows the enemy and suppresses hostilities, it acquires no new title but merely regains the possession of which it has been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights."

There is another paragraph from the masterly opinion of the same high court, promulgated in the language of another eminent magistrate, himself the judicial appointee of President Lincoln, and also having no connection or sympathy with any political party of strict construction, which is so full of truth, so bravely and earnestly uttered, and is so merited a vindication of the foresight and wisdom of our early fathers that it should be graven upon the memory of every American citizen. I beg the indulgence of the House to hear it. It is from the late opinion of the court, by Justice Davis, in *ex parte Milligan*:

"Time has proven the discernment of our ancestors, for even these provisions [referring to the provisions of the Constitution designed to protect the personal liberties of the people] expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublesome times would arise when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril unless established by irrevocable law. The history of the past might be tempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of Government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the Government within the Constitution has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority."

Of like import, touching the powers of Congress over the States lately in rebellion, is the

decision of another of the venerable justices of the Supreme Court, (Nelson,) lately made on his circuit in New York, on the application of certain citizens of South Carolina to be discharged from Federal imprisonment. That learned justice did not hesitate to recognize that State as being as much a State in the Union as the State of New York.

These judicial opinions are in such clear harmony with the philosophy of our Government that they cannot fail soon to secure the approbation of the popular judgment unless we are doomed to the loss of our liberties and the overthrow of our cherished institutions by the mad and reckless spirit that rules the hour.

I claim, therefore, that these States never were out of the Union. Every act of theirs or of their people designed to take them out was a failure or a nullity. It involved a personal crime only, and destroyed the practical relations of representation and coöperation which should exist at all times between the States and the Federal Government, but did not in any just or rational sense involve State suicide or State abdication or increase the powers of Congress over the States. Any other theory results in stultification. It is a confession of insincerity, of hypocrisy, and a covert purpose of revolution on the part of the majority who have controlled the country during the last six years. If its present policy is carried out it will effectually revolutionize the Government. It will prove that we have more power and ability to resist the dangers of war than to guard against those of peace. I verily believe that the most difficult duty ever devolved upon Governments or rulers is the pacification of discontented subjects or citizens. This duty seems to acquire tenfold greater embarrassments under a free Government, because the parties to popular disturbances are the people, and the most potent impulses of their natures become involved in the controversy and obscure their better judgments.

The late war on our part was but a mighty display of the police power of the Government in aid of the civil authorities and to reestablish them. That duty done and the Army's and Navy's work was finished.

The high prerogative of national mercy and pardon is committed by the express language of the Constitution to the Chief Magistrate of the United States, who is by the same authority made Commander-in-Chief of the Army and Navy. He cannot even delegate it to another or divide the responsibility of its exercise. I quote again from the decision of the Supreme Court in *ex parte Garland*:

"The Constitution provides that the President shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. The power thus conferred is unlimited, with the exception stated; it extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restriction."

This beneficent power has been exercised in great wisdom and moderation by the President. The great body of the people lately in insurrection against the Government have been pardoned either by general amnesty or special grant. These pardons were all given before conviction. Of such the Supreme Court, in the same case, repeating the language in substance of all the decisions on this subject, say:

"If granted before conviction they prevent any of the penalties and disabilities consequent upon conviction from attaching."

Yet the bill under consideration, in very contempt of the Constitution, laws, and court, utterly ignores all these facts. It assumes the power to punish the recipients of these pardons by imposing upon them most unjust and odious disabilities. In its seventh section, by novel and absurd provisions, it attempts to impose perpetual disabilities and singular punishments upon the States themselves, the corpora-

tions, which can no more be the subjects of punishment than they can be the recipients of executive pardon. In all its provisions it is so pregnant with mischief and so violative of correct and elementary principles that it certainly could not survive the test of judicial examination if it should unfortunately become a law.

The bill assumes that the existing State governments were illegally formed, and then graciously concedes to them a temporary validity for municipal purposes. I have shown that no forfeiture of the rights of States, or of the right of the people to self-government in the States resulted from the attempt to secede. If, therefore, at the close of the war these States were out of their proper relations of harmony and coöperation with the Federal Government it was their imperative duty by their own voluntary action to resume those relations. They have done so. They have voluntarily removed, exorcised, from their State governments every hostile or unconstitutional power or enactment, every indication of rebellious purpose, and hundreds of laws and powers before the war deemed legal and constitutional, but now out of harmony with the spirit of the times.

It is further assumed in the bill that these things were done under duress. But this assumption is wholly gratuitous. There is no fact in the entire history of these changes in their local governments and laws that tends to establish such an assertion. The whole extent of the President's exercise of influence to secure them consisted in the expression of opinions and the giving of advice. The people of those States were at liberty to adopt his advice or reject it. That it was sound and patriotic no man will now deny. It was given in the interest of national reunion and pacification alone. It violated no executive duty. It transcended no executive power.

But it is said by way of reproach or complaint that the President appointed provisional governors for those States. He was Commander-in-Chief of the Army and Navy. In the language of the Supreme Court—

"The Constitution confers on the President the whole executive power. He is bound to take care that the laws be faithfully executed."

It was therefore his duty to know when the war had ceased and the lawful authority of the United States had been restored and established and hostile populations had been reduced to obedience. He needed no legislative action to inform him of these facts. He is the great head of the Government, to whom all such information is communicated by all its subordinate officers. It is his duty, as the sworn conservator of the Constitution, to remember that when the authority of the Government over any insurrectionary district or people has been reestablished, it does not resume possession under a new title as conqueror, but under its old title as the legitimate Government of the country.

In this great emergency, this new and terrible experience of our country, he tried to do his duty, and, in my judgment, has committed fewer errors in action or principle than any ruler similarly situated ever did in the history of Governments before. He found governments in each of those States upon the suppression of the rebellion that were in many respects not in harmony with the Federal Government under the Constitution, and he therefore could not recognize them as rightful State governments in the Union. The people had given up their resistance and returned to obedience, but had not undone the hostile attempts to change their State governments. To aid them in doing this, and to facilitate their transition from a military occupancy and hostile form of State governments to complete voluntary accord with the requirements of the Constitution, he appointed provisional governors. He assigned them a few obvious and simple duties calculated to facilitate the accomplishment of the great duty of restoration. But he did violence to no great principle. He exercised no arbitrary power.

He recognized the great original right of the people to local self-government. In the language of the Supreme Court, in *Chisholm vs. Georgia*, seventy-five years ago, he held that—

"A State does not owe its origin to the Government of the United States in the highest or in any of its branches. It was in existence before it. It derives its authority from the same pure and sacred source as itself, the voluntary and deliberate choice of the people."

In my judgment the interposition of provisional governors adds nothing to the validity of the present State governments in the South. It merely aided in their speedy formation. Their validity, vitality, and sacredness all arise from the consent of the people. If they had been dictated by the President or Congress they would have lacked the very first principle of republican governments. This bill is a wicked attempt to impose governments upon them by the usurped and despotic power of Congress, in violation of this sacred principle.

But it is claimed that the President had no power to recognize these restored State governments in the South. The continued existence of the States themselves as States in the Union had been recognized in a thousand ways by Congress and every department of the Government, from the inception of the war until this present hour. These States are not Territories of the United States within the meaning of the Constitution, and never can be. They needed no enabling acts to authorize them to reform their State governments. They required no congressional permission to do their duty. It was their office, and theirs alone, to undo as far as possible what they had done amiss.

It was the duty of the chief executive officer of the nation, the Commander-in-Chief of the Army and Navy, to know when these States had resumed relations in entire harmony with the lawful authority of the Federal Government. Without this knowledge he could not wisely discharge the duties devolving upon him in either capacity. He must possess it to enable him to direct properly the movements of the military and civil forces and officers under his control. Having it, it became his duty to act upon it, and be controlled by it to its logical results. He is made the constitutional recipient of all such information in the first instance. It is thus, by clear and conclusive inference, made his duty to act upon such knowledge in the performance of his great duty to see that the laws be faithfully executed. He represents primarily the political power of the Government.

In the Dorr rebellion in Rhode Island, in 1842, the President recognized the old charter government as the legitimate government of that State, and in *Luther vs. Borden*, a case which arose out of those troubles, the Supreme Court of the United States held that the President was authorized to make such recognition, and that his action was binding on the court. The decision was based upon the impregnable ground that without this power the President could not in all cases execute the laws, and especially in the protection of States against domestic violence, for he could not lawfully determine which was the legitimate State government entitled to Federal protection.

In 1861, just after the State of Virginia had withdrawn from Congress, a revolutionary government was organized at Wheeling which assumed to be the government of that State, although it only represented in part the portion of the State west of the mountains, and it elected Senators to Congress (Carline and WILEY) who claimed admission as representatives in the Senate for the State of Virginia. Their admission was resisted on various grounds. The organization at Wheeling was in every respect irregular, and represented the voluntary action of a mere section of the people of that State. But President Lincoln recognized it as the legitimate government of Virginia, and the Senators were admitted to seats. The grounds upon which it was done are very forcibly stated by one of the wisest Senators and best men then in Con-

gress, Judge Collamer, who is now dead. His views apply with equal propriety and force to the present attitude of the States of the South. Their governments have been recognized by the Executive, and are in every respect more regular and the more legitimate offspring of the will of the people than was that revolutionary government in Virginia.

I beg the attention of the House while I cite, as briefly as may be, Judge Collamer's views. I read from the *Globe*, volume forty-five page 106:

"There are two difficulties which are suggested in this case. First, it is said that this is a certificate coming from a new government of Virginia, a new organization separated from the rest of the State, but acting for the State as a State. This is in the nature of a judicial proceeding; we are now judging of the qualification of our members. It is not at all an uncommon thing in our highest tribunals that points arise in the investigation of cases, where the court are constrained to say 'that is a political question; with that the courts have nothing to do.' For instance; whether a foreign Government recently commenced has become an independent people, whether in court it is to be treated and considered as a nation, is not a point on which the court can decide. That is a political question; and if the executive head of the Government has received ministers from that Power, recognized it as a Power on earth, the courts cannot go into the question whether he did it right or did it wrong. It is a matter of political action, and the political power is what settles it, and we cannot examine into it any more.

"In analogy to that, in this judicial proceeding, must we not be governed by the fact that the government of Virginia that has executed these papers and sent them to us is recognized by our Executive? They have called on him for militia, and have received militia from him. He recognizes them as the government of Virginia. It is a political question; it is settled. There is no occasion for our inquiring further into that. We, as a judicial body, on this question, have nothing to do with that. Here is the executive of that State, recognized by the Executive of this Government; there is the end of that subject."

But the advocates of this bill and of like revolutionary measures tell the country that the governments of these southern States are not "republican in form," and that "the United States shall guaranty to every State in this Union a republican form of government."

This provision supplies no justification whatever for the monstrous policy of these measures. It gives Congress no shadow of right to dictate constitutions to States of this Union or to Territories. Every contemporaneous interpretation of it is utterly inconsistent with any such idea. Our forefathers never tolerated by any act of theirs any such invasion by Congress of the primary and inalienable right of self-government in the people. In its true intent and spirit this provision is rather designed to prohibit just such changes in the local governments as the pending measures contemplate. Hamilton says, "this guarantee could only operate against changes to be effected by violence," and that it is "as much directed against the usurpation of rulers as against the ferments and outrages of faction and sedition in the community." Mr. Madison says:

"The authority extends no further than to a guarantee of a republican form of government which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Government. Whenever the State may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter."

In these views Judge Story fully concurs.

Now, Mr. Speaker, what have these States done that is not in strict accord with these opinions and principles? Their governments are as thoroughly republican in form as those of any other part of the Union. They are all representative, with such departmental subdivisions to facilitate administration as have been approved by the experience of our whole country, and they all rest upon the consent and voluntary action of the people. It is falsely assumed that they were "formed in the midst of martial law," and therefore do not represent the will of the people. It is true that the military power of the Federal Government held possession of several parts of their territory. But these State governments were so changed by the people, without any interference whatever, military or martial, as to make them harmonize with the Federal Gov-

ernment under the Constitution, so as to remove every line and vestige of hostility to the latter, in order that the presence of any military power of the Government should become unnecessary. I have no doubt that they this day more nearly represent the will and actual consent of their entire people than do the governments of any other equal number of States in the Union.

It is further objected that these constitutions were not submitted for ratification to the people. With all due respect I cannot appreciate this as anything but a political subterfuge. As to the mode of ratifying constitutions of States there is no settled practice in our country; the mode of ratification, like the constitution itself, must be chosen by each State according to its own pleasure. It is a matter of very minor importance. The modes and practice adopted by different States in the history of the formations of our constitutions have been very diverse. The truth is that the changes made in these southern State constitutions were generally very few in number, and such only as were necessary to abolish the changes interpolated into them during the rebellion, and make them harmonize again with the Federal Constitution. In the propriety of making these changes the popular mind of those States was almost a unit, and a submission of them to popular ratification would have been but a useless formula.

But, Mr. Speaker, the undisguised and, in my humble opinion, most unrighteous purpose of all this kind of legislation is to usurp powers over those States that can find no warrant except in the fierce will of the dominant party in this Congress. It is alike at war with every principle of good and free government and with the highest dictates of humanity and national fraternity. The real aim of this bill is to enable this Congress to subordinate all government in those States to its own partisan will and the accomplishment of its own ascendancy in the country. I cannot perceive a single material result that can be attained by this bill that will not involve a palpable violation of some express provision of the Constitution.

It proposes to degrade those States to Territories, and put them substantially under the government of Congress. For this act no man can show a scintilla of constitutional authority. It proposes to impose punishments upon certain classes of the people in the nature of various disabilities for offenses which were not thus punishable when committed. But the Constitution says "no *ex post facto* law shall be passed." It proposes to prescribe the qualifications for office in States of this Union in violation of their reserved rights, as lately adjudged by the Supreme Court. It proposes to disfranchise certain classes of citizens by mere legislative declaration, without trial or conviction according to law. It proposes a retrospective and unconstitutional test oath, the principle of which has just received judicial condemnation at the hands of the Supreme Court. It proposes by its seventh section to make the States which shall come into the Union under its provisions unequal and inferior in dignity and rights to all the others, and liable in certain cases to cease to be States in the Union and to lose their right to be represented in Congress. It proposes to make a mere act of ordinary legislation perpetual and irrevocable by any future Congress. It proposes by a sort of legislative supplement to the Constitution to declare what sort of laws and constitutions the States shall hereafter make. Let me read this seventh section:

SEC. 7. And be it further enacted, That no constitution shall be presented to or acted on by Congress which denies to any citizen any right, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial, without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void and said State lose its right to be represented in Congress.

Now, Mr. Speaker, are we to believe that our revolutionary sires, after their long and bloody struggles with tyrants and tyranny, so

little understood the logic of either as to intrust such dangerous powers as these to any department of the Government? No, never; they had learned the value and necessity for written constitutions, that should be supreme law alike to rulers and people.

But this bill attempts to prescribe the qualifications for voting in those States, in violation of another express provision of the Constitution. And here is disclosed another of the cherished purposes of the dominant party in such legislation. They are determined to confer universal suffrage on the negroes of the South. Very few men of any intelligence will yet claim for Congress the power to go into the northern States of the Union and prescribe the qualifications for suffrage in them. Yet no more power exists in Congress to regulate suffrage in the States of the South than in those of the North. No man can produce a line of respectable authority for either. During the last session of this Congress I discussed this subject in this House with reference to the authorities bearing upon it, and I now refer to what I then said. I now merely repeat that all power over this subject resides in the States alone. Whether and when and upon what terms the negro may exercise the right of suffrage each State has the right to settle for itself.

The venerable gentleman from Ohio, [Mr. BINGHAM,] in his able speech on this bill, indulged in some very startling propositions that seem to me not to be very consistent with his opposition to the bill. If I were compelled to choose between his theory of Federal power over the southern States and the bill itself I think I would prefer the latter, as being, if possible, the least dangerous and revolutionary. He assumes that the States represented in this House alone "are the nation," and that "there is no American nationality" outside of them, and that the States to be affected by this bill "have no power to legislate upon any subject affecting the life, liberty, or property of an American citizen, save by the sufferance of the American nation," and that "by their rebellion they ceased to possess the power or legal coercive force for local State government." I am not sure that my acquaintance with the political vocabulary of the Radicals is sufficient to enable me to understand just what all this means. But I think I am safe in assuming that it means that the Radical party have the power and intend to exercise it to govern this country without the aid of the unrepresented States, the Constitution, or the Supreme Court.

If the unrepresented States are no part of the "nation," it readily follows that they need not be counted in ratifying the proposed constitutional amendments. It is not so clear where the United States obtains power to govern States that are no part of the "nation." This whole doctrine is utterly subversive of the principles of constitutional government. I think I have already sufficiently answered it. It is not sustained by a single respectable authority in the political or judicial history of our Government. If it is, why are they not presented for our consideration? In so grave a matter as the proposed congressional government of States, there should be taken the utmost care to vindicate both its propriety and constitutionality. The learned gentleman from Ohio assumes that there is some countenance given to his theory in the decisions of the Supreme Court in *Luther vs. Borden*, and in the prize cases. I am wholly unable to find any authority whatever in either of those cases to justify any such dogma. But I do find in them ample vindication for the positions I have endeavored to maintain, and I have cited from those cases.

In truth, the whole course of decisions upon constitutional questions in that court, and especially those lately promulgated, are in irreconcilable conflict with all the leading measures and policy of the dominant party in Congress, and by the plainest logical sequence pronounce judgment of condemnation against them all in advance. Hence arises the growing hostility of radicalism toward that great tribunal. The



country may well anticipate an early attempt by the radical despotism that now claims to be the "nation" and to measure its power by its own will to reduce that last citadel of national safety to its control, and to make the judges mere clerks to record as law the edicts of party and caucus. The gentleman from Ohio has pointed out the way. He suggests to his co-workers that they "sweep away at once its appellate jurisdiction in all cases," and thus take from it nearly every opportunity to pass upon the unconstitutional measures of his party. But if the court should still, as often as its remaining jurisdiction might afford it proper occasion, put the seal of judicial condemnation upon the lawless doings of his party, then he invites you to seek its final destruction. Hear his summons, and let the country hear it and take warning of our danger:

"If, however, the court usurps power to decide political questions and defy a free people's will, it will only remain for a people thus insulted and defied to demonstrate that the servant is not above his lord, by procuring a further constitutional amendment and ratifying the same, which will defy judicial usurpation by annihilating the usurpers in the abolition of the tribunal itself."

Yes, if the Supreme Court, a coördinate department of this Government, gets in the way of radicalism it must be destroyed. It must not be allowed to *insult* a "free people's will" by the faithful discharge of its duty under the Constitution. If the President, the representative of another coördinate department of the Government, gets in the way of radicalism he, too, must be disposed of. Congress must be *king*; it is the "nation." Constitutions must be remade, modified, or abolished if the exigencies of party demand it. And this must be done by a part only of the States, such a part as the party is willing to hear. We hear a great deal about the "American nationality," and "the nation," and the "people's will," and "the life of the Republic," and "a politic personality," and other transcendental terms and phrases, but they are all intended to operate upon the people, as a sort of political *mirage*, to inspire them with false hopes and lead them into political chaos or despotism.

Mr. Speaker, when I reflect upon these most extraordinary assumptions of power and most revolutionary *threats* against the integrity of the Constitution my heart sinks within me, and I almost despair for the Republic and for the preservation of liberty in our country. If we are to be saved from such a fate, it must needs be by an interposition of Divine Providence to arouse the people to a consciousness of their great perils.

Mr. HIGBY obtained the floor.

#### BELIEF OF POOR IN THE DISTRICT—AGAIN.

Mr. INGERSOLL. The gentleman from California [Mr. HIGBY] kindly consents to yield to me that I may have another opportunity to present the joint resolution appropriating \$25,000 for the relief of the poor of this District.

Mr. HIGBY. Provided that it gives rise to no debate.

The SPEAKER. In what shape does the gentleman from Illinois now present his proposition?

Mr. INGERSOLL. In order that the resolution may go through without opposition I have consented to modify it so that the distribution of the fund shall be under the control of General Howard and the mayor of Washington.

The SPEAKER. Is there objection to the introduction of the resolution?

Mr. WILSON, of Iowa. I object to it in its present form, though I am willing it shall be introduced and passed in the form in which the gentleman originally presented it.

MRS. MARY WEBBER.

Mr. CULVER, by unanimous consent, introduced a joint resolution for the relief of Mrs. Sarah Webber, late postmistress at Franklin, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 227) authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers; whereupon the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 479) entitled "An act to punish illegal voting in the District of Columbia, and for other purposes," in which the concurrence of the House was requested.

#### BELIEF OF POOR IN THE DISTRICT—AGAIN.

Mr. WILSON, of Iowa. I withdraw my objection to the introduction of the resolution of the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. STEVENS. I suggest to the gentleman from Illinois that he modify his resolution by inserting after the word "sums" the words "and commodities," so as to read "in such sums and commodities as to them shall seem proper."

Mr. McKEE. I object to the introduction of the resolution in its present form.

#### WHIPPINGS IN NORTH CAROLINA.

Mr. FARQUHAR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the select committee heretofore authorized by this House to investigate the facts in the case of certain murderers in South Carolina who were discharged by writ of *habeas corpus*, be, and are hereby, instructed further to investigate and report the facts of alleged punishment by publicly whipping citizens of the United States in North Carolina, and particularly at Raleigh and vicinity, and the burning alive of citizens in South Carolina while confined or imprisoned in jail.

EDWARD LUSHER.

Mr. GRISWOLD, by unanimous consent, introduced a bill for the relief of Edward Lusher; which was read a first and second time, and referred to the Committee on Commerce.

#### REDEMPTION OF SMALL COINS.

Mr. KETCHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law that coins of the denomination of one, of two, of three, and of five cents shall be redeemable at the offices of the Treasurer and Assistant Treasurer of the United States when presented in sums of not less than ten dollars.

#### BELIEF OF POOR IN THE DISTRICT—AGAIN.

Mr. INGERSOLL. I again ask unanimous consent to submit a joint resolution for the relief of the suffering poor of the District of Columbia.

Mr. RANDALL, of Pennsylvania. I hope the gentleman will yield to me to move to insert the name of the mayor of Georgetown.

Mr. INGERSOLL. It is in the District of Columbia and is already included. I move the resolution now with the names of General Howard and Mayor Wallach.

Mr. ELDRIDGE. If the joint resolution be presented in that form there will be no objection on this side of the House.

Mr. McKEE. I object.

Mr. INGERSOLL. Can I move a suspension of the rules?

The SPEAKER. The gentleman has not the floor to make such a motion, another subject, the regular order, being pending.

Mr. INGERSOLL. Can I not move to postpone it?

Objection was made.

The SPEAKER. The Chair will state, in reference to the reconstruction bill, that if postponed without being made a special order it may not again come up this session.

#### RECONSTRUCTION.

The House then resumed the consideration of House bill No. 543, to provide for restoring

to the States lately in insurrection their full political rights, on which the gentleman from California [Mr. HIGBY] was entitled to the floor.

Mr. STEVENS. The gentleman from California yielded to me for a few moments. I propose to call for the vote on the pending bill to-morrow at one o'clock p. m. I now give that notice.

I will move, as there are several gentlemen who wish to speak, that there be an evening session. I trust we will take a recess until half past seven o'clock p. m., and that the evening session be devoted to debate only. I move that the recess begin at the close of the hour of the gentleman from California.

There was no objection; and the motion was agreed to.

By unanimous consent it was agreed that at the close of the evening session Mr. STEVENS should be considered as holding the floor.

Mr. HIGBY. Mr. Speaker, the Committee on Reconstruction, appointed early in the last session of Congress, reported an amendment to the Constitution of the United States, which they recommended should be submitted for ratification to the several States of the Union; and accompanying that amendment they also reported a bill to provide for restoring the States lately in rebellion to their full political rights. The preamble of that bill recites the constitutional amendment to which I have referred, and then proceeds to enact as follows:

"Now, therefore,

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such.

"*Sec. 2. And be it further enacted*, That when any State lately in insurrection shall have ratified the foregoing amendment to the Constitution, any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid in such State may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State, to be given to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act."

I understand, Mr. Speaker, that that bill is now before the House, that it has received no action, and that the amendments which have been proposed by the member from Pennsylvania [Mr. STEVENS] are in the nature of a substitute. I can readily account for the position which was occupied by the distinguished member from Ohio, [Mr. BINGHAM], also a member of the committee, and understand why he adhered with tenacity to the ground taken by that committee one year ago. I think I can see a reason why the committee also should oppose the amendment presented by the member from Pennsylvania. The bill and amendment being reported by the committee no doubt received the sanction of this committee, and having received that sanction we have no reason for supposing that as yet there is any change of sentiment upon this question of reconstruction in the committee of fifteen.

Mr. Speaker, the House does not stand committed to the position that was occupied by that committee. And I will say here in advance that while as between the original bill and the amendment I would by all means support the latter, yet I am prepared to sustain a bill some other than the one recommended by the gentleman from Pennsylvania, provided it has incorporated in it the main principles that are contained in that. Rather than have nothing I will support the bill that he has presented with the amendments that have been proposed to it. The gentleman from Ohio [Mr. SPALDING] has proposed an amendment which has been accepted by the gentleman from Pennsylvania, which, in my judgment, much improves the bill as it came to us from his hands. It must be borne in mind that the amendment to the Constitution as proposed by that committee was much changed in its features here in the House, and

after going to the Senate it there received a material modification, and when it came back to the House we passed it at once as amended by the Senate. By simply turning over one leaf in the committee's report we find what the article was as it passed both House and Senate. We are told not only that this House is committed to the policy adopted by that committee, but that in the political campaign last fall the constitutional amendment was declared to be a final measure of reconstruction, and that it was sent out to the States by Congress for ratification as such final measure.

I have made this statement of the history of this matter and of the position which the Committee on Reconstruction occupied. We have no assurance that the committee would report anything different from what they have already reported to this House, and yet if I am not mistaken this bill is now before the House on a motion to recommit to the Committee on Reconstruction. Sir, the House had better consider before it makes that disposition of it. We should rather retain it here before us, where we can change, mature, and finally pass it and send it to the Senate. The Thirty-Ninth Congress has made no progress on the question of reconstruction. This House will not pass a bill in accordance with this portion of the amendment. The Senate would pass no such bill. The House and Senate both stand committed to an entirely different policy of reconstruction from what is contained in that amendment.

And how does it happen that we have made no progress? It is not the fault of Congress; it is not the fault of the members of either branch of Congress. When Congress met in December, 1865, it found that the President of the United States had been busy during the long recess in building up State governments in every one of the States that had been in rebellion. I say States for convenience sake, though my judgment is that not one of the ten insurgent States has a government at this time with a single element of loyalty in it, or an element that constitutes a State. They saw fit to sever their connection with the Federal Government; they denied all allegiance to it, and fought for four years at great sacrifice of life and expenditure of money to maintain their separation, and it is proper that the General Government should take them at their word and say that they have no State governments under the Constitution of the United States until such time as their true and proper relationship can be permanently settled. I hold at the same time that the territory which they inhabit belongs to the Government of the United States, is within its dominion and subject to its control.

The President of the United States told us in his annual message of December, 1865, that the work of reconstruction was all done; that the insurgent States were restored and reinstated, and would send their members to Congress; and that Congress had only to pass upon the questions of election and qualification of the members from the several States. Thus was Congress frustrated in its work. The President by what I call an act of usurpation, had presumed to do all this work, and he has been struggling ever since to force his policy upon the country on the ground that he had the power to do this work and it did not belong to Congress. Had the Executive been in accord with this Congress at the commencement of its first session there would have been some progress in the work of reconstruction.

But, sir, how do we stand to-day? What is the position of the Government? What is the sentiment already expressed, crystallized into the form of law? The constitutional amendment when it is adopted becomes of binding effect only upon States that have representation in Congress. It applies to States and States only. Then look at our recent legislation. Only a few days ago loyal Nebraska and Colorado came and asked to be received as States into the Union. What was done in the Senate? A section was annexed by way of amendment that impartial suffrage should be

the rule within each of those Territories when they became States. When it came to the House it was amended, the object being to make it more secure, more certain, and more valid; but the strong expression of this body was that neither of those Territories could come in as a State unless impartial suffrage were tolerated in each. That is the principle that was promulgated in the Senate; that is the principle that has been promulgated here; and a few days previous to taking that vote it was voted in this House that impartial suffrage should be the rule in every one of the Territories within the limits of the United States.

Well, sir, the insurgent States of which I have been speaking are no better than Territories in their position. Are we to wait until this amendment be ratified by them or made a part of the Constitution by the States represented in Congress, and then make that the direct basis of reconstruction? Shall South Carolina, upon the terms that are required by that amendment, come here and ask for admission as a State into this Union, and her Representatives be allowed upon this floor? Shall she be allowed to come here and act as if she were a State while she excludes from suffrage her colored population, which is equal to her white population? Is she to be admitted to representation simply upon conforming to the terms of the amendment, exercising the right herself to exclude colored suffrage? Would this House dare to vote to admit her as a State into this Union under such circumstances? Would it not be an absurdity in our action that would make this Congress a laughing stock in the eye of the whole country if rebel South Carolina should be placed upon a better or any other footing than loyal Colorado and Nebraska is placed? Impartial suffrage is required of each of those Territories as a condition precedent to their becoming States; and shall South Carolina, upon this basis of reconstruction, become a part of this Union upon different terms and principles entirely from those implied by the votes we have just given?

My own judgment is that neither this House nor the Senate will ever support such a proposition as that. Sir, this nation has advanced in one year's time, and will not now, I cannot believe, sustain the position assumed by the Committee on Reconstruction in the original bill to which the one under consideration is a substitute.

Suppose, Mr. Speaker, we carry out this idea of making the constitutional amendment the direct basis upon which reconstruction shall depend; the States that were restored or reestablished under the policy of the President went into the hands, as civil powers, of the very men that Grant and Sherman disarmed in the final struggle. While they were thus being disarmed of their military power the President of the United States was arming them with civil power by his plan of restoration. Such was the condition of every one of the States which he had remodeled and in which he had established governments, and such is their condition to-day. Every one of them, so far as they had any governmental action, was then manifesting its hostility to the Government of the United States. There was but one of the rebellious States that was an exception to this rule, and that State was not reorganized under his policy. I refer to the State of Tennessee. That State was reorganized and formed a State government before he became President of the United States. And, sir, where it is attempted to be argued that Tennessee is a precedent for action in these other cases the analogy fails. There there was loyalty; there there was devotion to the Government; although, let me say, I did not vote for the readmission of Tennessee because that State failed to acknowledge one great principle that now, at this session of Congress, is sustained by large majorities at both ends of the Capitol, namely, impartial suffrage. But the State was in the hands of loyal men; it had exhibited its devotion to the Government and its readiness to obey the laws; its Legislature had ratified the amendment proposed to the

Constitution prohibiting slavery and the one passed or proposed last session, and Congress therefore readmitted Tennessee and received her representatives.

But, sir, take this policy of reconstruction based upon the adoption of this constitutional amendment, and what then? South Carolina, because there is no power to dictate to that State a change in its constitution, comes here with the same constitution that it now has, comes here with the same men in power that are now in power and have been for a year past, and with the same laws and despotic rules that are now crushing down the loyal men of that State; and we must admit South Carolina in her present condition! That is the position that has been urged here and is alleged to have been urged in various congressional districts throughout the country. We will find ourselves with our hands tied, and compelled to foist and fasten upon the Government of this country this State government of a most odious character; and this is only one of these State governments of the same character; I have mentioned it merely as an example. There never was a commitment of this branch of Congress to any such position. I deny it emphatically.

Mr. Speaker, I spoke in the outset very briefly of this bill. I have read it and reread it. I confess that the second section of this bill was objectionable to me. But the gentleman from Pennsylvania [Mr. STEVENS] withdrew that section, leaving it no part of the bill, when very great objection was made to it by one or two members. But after that was done the gentleman from Illinois [Mr. BAKER] went on to make a very fierce onslaught upon the sixth section of the bill, simply upon the ground that it proposed to place these southern people in the position of foreigners, and requiring them to go through the process of naturalization before they could again exercise the right of citizenship. That was the ground the gentleman took. Will he for a moment deny that we have the right to exclude rebels and traitors from the exercise of the elective franchise? And if we have the power to keep them from the ballot-box, may we not dictate the method by which they may return to it? Is there any reason why we may not, if we see fit, tell them that after five years, if they go through the process of naturalization, they may again vote? To my mind there can be no possible objection to that if we have the power to exclude them from the ballot-box at all.

Sir, I will vote for the bill as it is, if need be, although I would like to see it more thoroughly matured. I will vote for some other bill, if I have the chance, which comes up more nearly to what I desire. I will vote for some bill or other in order that there may be one step taken in the process of reconstruction.

The loyal people of the South cry out in earnest for us to do something for their relief. And they have cause to do so. The governments which have been given to the rebellious States by the President are all in the hands of men who are full of cruelty. They love cruelty, and indulge in it to-day as they have been indulging in it for months. And it is the voice of distress and suffering that comes up here to us asking for protection and relief; and it is the duty of the Thirty-Ninth Congress to do something in the process of reconstruction.

In regard to the amendment of the Constitution proposed by Congress at its last session, I looked upon it simply as a barrier over which no State could step after it should once have become a part of the Constitution. No one denied the power of Congress to prescribe just such terms as are to be found in that amendment; and the object of proposing it for ratification was that there might be imbedded in the Constitution the principles therein contained, so that no State legislation and no legislation of Congress should be able to override them. It was not to decide the question of our right to say to a State, "Thus far shalt thou go, and no farther;" that was not it. But it was to have imbedded in the Constitution certain

great principles which could not be overridden by any State or by Congress.

One of the principles involved in that amendment was equality of representation. The southern people had formerly held four million slaves each five of whom were counted as three white people in their representation, though the slaves had no voice in the choice of the Representatives based upon their numbers. When those four million slaves came to be emancipated then representation became based upon the whole number instead of upon three fifths only as before. That provision of the amendment to the Constitution was for the purpose of preventing the Government of the United States from being overslaughed by the Representatives of a class who were to have no voice whatever in the election of those Representatives.

Now, what demands have any one of those ten States to make of this Government? What demand has even Nebraska to make? and she can make as many demands as North Carolina, South Carolina, or Georgia. What demands have either of them a right to make upon the Government? They have no legal State constitutions; they are not acknowledged by us to be States; they have had no Representatives in this Hall since the session of 1860-61; they are not held by Congress to occupy the position of States. If one of them desires to come into this Union as a State, is it not perfectly consistent for this Congress to do with South Carolina or Georgia what it has done in regard to Nebraska and Colorado? We have the right to say to them: the colored citizen born upon the soil must be allowed the right of suffrage; that this is one of the prerequisites to the admission of their Representatives upon this floor. Is there anything inconsistent in that? If so, then we have already been inconsistent in regard to Nebraska and Colorado. Then, if I am right in that, the amendment to the Constitution proposed to the States for ratification is not the final measure of reconstruction.

And, sir, we should not wait the action of the State Legislatures on the amendment proposed to them before we adopt legislation here to secure and protect, if possible, the loyal men in those States; and if there is to be a reorganization, one to be acknowledged by Congress, it should be a reorganization under the control of loyal men and none others.

Mr. Speaker, the opposition of the minority of this House has been consistent, steady, and unceasing to every proposition involving the interest and salvation of the Republic. James Buchanan, occupying the presidential chair when this rebellion commenced, said there was no right of secession under the Constitution of the United States, that no State had the right to secede, but that he had no authority under the Constitution to oppose or prevent it. Suppose, sir, that a man being murdered should use no means to oppose the violence inflicted upon him by the murderer except to say to his assailant, "You have no moral, no religious, no legal right to do what you are doing, but I have no right or authority to oppose you in your attack upon me." Mr. Speaker, would not this be an anomaly? Would anything in the affairs of men long exist with the tendency to so much mischief and evil manifest in all ages? Creation would be useless, as destruction would immediately follow.

Sir, there would be as much sense in such a proclamation by any man murderously assailed as there was in the announcement made by the President of this Republic when the southern States were taking their measures of secession. Sir, there is no Government that has not the power within it of self-preservation.

Mr. Speaker, the Opposition have been constantly proclaiming the same idea—weakness of the General Government, its inability to resist violence. The changes have constantly been rung upon the Constitution; every step we have taken has been declared to be in violation of the Constitution of the United States. It surprises me that with the Constitution so sadly

broken and torn by the majority here the gentlemen composing the minority can find enough of it left to warrant their coming here and taking part in legislation.

This cry of invasion of the Constitution is the final resort in every argument. We are constantly told that we are unconstitutionally infringing upon the rights of the States, trying to blot out and obliterate State lines. Mr. Speaker, I am not forgetful of the fact that our Government is complex in form, that while we have a national Government we have State sovereignties within and under that Government. And I am not unmindful of another fact: that the States in their separate capacities and the nation as a whole are completely and admirably represented in the legislative branch of this Government. The Senators at the other end of this Capitol are the proper and legitimate representatives of the States, while the members of this House are the Representatives of the people at large. I am not unmindful of another fact: that the people in order to form a more perfect Union did ordain and establish the Constitution of the United States.

Sir, until I see some flagrant outrage committed by the Senate upon the rights of the States I shall feel it my duty to leave the guardianship of the States to them and confine myself to my legitimate business as a Representative of the people. I shall not, however, while so acting forget that there are States in this Union. When I hear so much said at this end of the Capitol about violating the Constitution and infringing the rights of the States, I think it is like the last resort of kings; they have no other argument, and they think this is very fine to dwell upon. Our Constitution, I think, has been well preserved, not only by loyal Representatives in this Hall, but by the loyal men who went to the field and fought our battles and crushed the rebellion.

Mr. Speaker, I have digressed somewhat from the bill before the House, but I think that the question upon which I have dwelt had reference more or less to it. I think that a proper self-respect on the part of Congress, as well as a regard to the welfare and safety of the nation, requires that before this session expires we shall adopt some measure which will enable the loyal men of the southern States to reorganize government and have some protection for themselves.

I had proposed to yield the remainder of my time to the gentleman from Ohio, [Mr. SHELLABARGER,] but I see that he is not now present.

#### PAINTINGS FOR THE HALL.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on the Library:

*Resolved*, That the Committee on the Library be authorized to contract with Albert Bierstadt for two paintings, thoroughly American in character, representing some prominent feature of the scenery or important event in the discovery or history of America, to fill two unoccupied panels of the Chamber of the House of Representatives.

#### RELIEF OF POOR IN THE DISTRICT—AGAIN.

Mr. INGERSOLL. I desire to submit for adoption the joint resolution offered by me twice before providing for the relief of the poor in the District of Columbia.

Mr. RADFORD. I do not object provided the understanding is that it is to include the Mayor of Washington as well as General Howard, and is not to be amended.

Mr. INGERSOLL. I agree to that.

Mr. WILSON, of Iowa. I object if the resolution is to be introduced with the understanding that it is not to be open to amendment.

Mr. STEVENS. I hope the next time the gentleman introduces the joint resolution he will modify its language so as to say "in such sums and commodities."

Mr. INGERSOLL. I hope the gentleman from New York will withdraw his objection.

Mr. RADFORD. I understand what the design is, to get the joint resolution before the

House and then to amend it as they please, and therefore I must object to the introduction of the resolution unless it be with the understanding that the name of the mayor of Washington shall not be stricken out.

Mr. WILSON, of Iowa. And I object to the resolution coming in with any understanding that it is not to be open to amendment.

HULL AND COZZENS, AND A. O. NAYLOR.

Mr. HOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Territories be requested to inquire what sum or sums of money are due to Hull & Cozzens, and A. O. Naylor, of St. Louis, Missouri, for work done and materials furnished for building the State House for Nebraska Territory, and to report by bill or otherwise.

And then, in compliance with the order of the House, (at a quarter to five o'clock p. m.) a recess was taken till half past seven o'clock p. m.

#### EVENING SESSION.

The House resumed its session at half past seven o'clock p. m., Mr. VAN HORN, of New York, acting as Speaker *pro tempore*.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. ASHLEY] is entitled to the floor, but as he is not present the Chair will assign the floor to the gentleman from Kentucky, [Mr. TRIMBLE.]

#### TAX ON DISTILLED SPIRITS.

Mr. McKEE. My colleague [Mr. TRIMBLE] yields to me to ask leave to have printed as part of the proceedings some remarks I have prepared on the revenue law in relation to distilled spirits.

No objection was made, and leave was accordingly granted. [The remarks will appear in the Appendix.]

#### RECONSTRUCTION.

Mr. TRIMBLE addressed the House upon the subject of restoring to the States lately in insurrection their full political rights. [His remarks will be found in the Appendix.]

Mr. DODGE. Mr. Speaker, it was my purpose to have prepared some remarks to submit to the House in the morning, but I understand the debate is to close this evening, and I shall have no opportunity in the morning. I therefore embrace the present moment to give some reasons why it will be impossible for me to vote for the bill or the amendment. But I trust in the remarks I am about to make I shall not be accused of being a renegade to party; that I shall not be accused of going with those who are considered as enemies of the best interests of the country, for I claim to be as loyal as any other man.

Mr. RADFORD. To whom does the gentleman refer as enemies of the country? Does he mean gentlemen on this side of the House?

Mr. DODGE. Not at all; and I am glad to be interrupted to make the disclaimer.

I differ, Mr. Speaker, entirely with this side of the House in assuming as they do that the States lately in rebellion are out of the Union. I am not a constitutional lawyer, and not prepared to argue the question in a constitutional way. Looking at it in a common-sense way I think we have already recognized these States as States in the Union by submitting to them the constitutional amendment for the abolishment of slavery.

I assume, sir, it was impossible for them to have constitutionally ratified that amendment without being States in the Union. It was because they were States that it was submitted to them. At the last session we recognized, although they had in a certain sense lost their relations to the Government, that they were still States in the Union. In a discussion in this House in 1862 on the admission of West Virginia, this whole subject was very fully considered, and I quote from the remarks of Speaker COLFAX:

"Two things are required by the Constitution of the United States for the admission of this new State: first, the assent of the Legislature of the State out of



which it is to be formed; and secondly, the assent of Congress. The decision then turns to a great extent upon the question whether the Governor now acting as the Governor of Virginia, and residing at Wheeling, and the Legislature to which he communicates his messages, are really the Governor and Legislature of the loyal people of Virginia. I think they are, and that the history of events in Virginia will prove that fact.

The next question is, has this loyal Legislature been recognized? There are facts enough in the action of the various branches of this Government to prove to us that they have, one and all, fully and in various ways recognized this as the only true and rightful government of Virginia. Allow me to present a few of them:

First, The Senate of the United States has recognized this Legislature as the Legislature of the State of Virginia, and admitted two Senators elected by that body to fill vacancies caused by treason as the rightfully chosen Senators of Virginia. That was done almost unanimously by that body.

I say, then, that not only the two legislative branches of the Government, but that the President of the United States and the various members of the Cabinet have, without dissent and without protest, as far as I have heard, by any one up to this day, recognized Governor Peirpoint and the Wheeling Legislature as the rightful authority in Virginia, and it therefore seems to be a settled and concluded question; and the consent of this Legislature to the division of the State is sufficient to bring it within the purview of the Constitution.

It appears to me that the State of Virginia was recognized then as a State, and the government under Governor Peirpoint was regarded as the constitutional government; competent to give its assent to the division of a portion of its territory and have it formed into a new State.

Then, again, we have treated them as States by sending to them the various amendments to the Constitution that passed this House at its last session. I am sure that a majority of the members of this House at least fully expected that these amendments would be sent to the Legislatures of the southern States for ratification. If they had seen fit to have ratified them—had it not been for the influences that were thrown around them in high quarters; had it not been for the Philadelphia convention and all the influences that emanated from that; had it not been the expectation on the part of the South that there would be another party in the country which would sustain the policy of the President; had they not been flattered and made to believe that if they refused to ratify the amendments they would yet be admitted to representation in Congress—I verily believe that a sufficient number of the southern States would have ratified the amendments to have made them, with the help of the northern States, a part of the organic law of the country.

I regret that these amendments could not have been ratified. I believe they were wisely designed to promote that peace and harmony which are necessary for the best interest of this entire country. They do not attempt to interfere with the constitutional rights of the States in regard to suffrage, but they do make a proper arrangement for the changed condition of things resulting from the emancipation of slaves and the destruction of slavery. They declare that if any portion of the people recently made free by the constitutional amendment and thus become citizens of the United States are deprived of the right of suffrage they shall not count in the basis of representation. We all know from the past history of the South that their desire has ever been to secure their full amount of political influence in the country, and that desire would have led them ere long to have passed such laws as would have eventually enfranchised the negro race. They have not seen fit to do it. These amendments were sent forth to the country as the result of six long months of careful deliberation on the part of the joint Committee on Reconstruction.

The loyal portion of the country—I beg pardon of my colleague, [Mr. RADFORD;] I will amend by saying the radical portion of the country, which, I presume, will satisfy him—the radical or Union portion of the people were almost universally satisfied with the report of the committee of fifteen, resulting in the passage of the joint resolution amending the Constitution. I believe, Mr. Speaker, that if these resolutions had been adopted, had been ratified by the States, and become a part of the organic

law of the land, there would have been universal satisfaction throughout the country. When it was found that they were not likely, at present at least, to be adopted by the southern States, then the country looked anxiously to the deliberations of this House to what we would propose next. The country is anxiously looking at us now as the focal point from which is to emanate something that shall give peace, harmony, and prosperity to the country and perpetuity to the Government. And now, when the session is half over, we are about to present to the country the bill of the honorable gentleman from Pennsylvania, or the substitute offered by the gentleman from Ohio, [Mr. ASHLEY.]

I have very carefully read these two bills or the bill and the proposed amendment, and I fail to find in either the original bill or in the amendment of the gentleman from Ohio anything that to my mind promises peace, union, and happiness as the result of its passage. I hold that it is of the very first importance that at the earliest possible day there should be a reconciliation—let me use that term—between the North and South; that there should be a permanent reconciliation; that as far as possible, considering the nature of man, we should forget and forgive the past so far as it is right and proper. And in passing laws here having that in view, we should be careful not to pass those that, from the very nature of man, must be calculated to irritate and perpetuate the very difficulties that now tend to separate us.

I hope, Mr. Speaker, that in the very desultory remarks I am making I shall not be understood as having no sympathy with the loyal men of the South who have been and still are suffering under the continued rule of the majority there, or as having no sympathy with the emancipated colored man, or as having no feeling for those who are being shot down, imprisoned, whipped, and deprived of their rights under the law. I feel as much sympathy for them as any gentleman on this floor. And yet I cannot divest myself of the feeling that to a certain extent just such a state of things was naturally to be expected from so sudden a change in the civil and social relations which have existed in the South for the last hundred years. It was hardly to be expected—it would have been a miracle if it had been so—that immediately upon this sudden and almost instantaneous severing of the relations which had existed between master and slave there should have been nothing to irritate; that there should have been no men of such unnatural feelings as would lead them to refuse to do justice to the emancipated negroes. We must all know that there are men North as well as South who are hard-hearted, unfeeling—men that seem to have no sense of right or justice.

But, sir, I do not say this as an apology for the wrongs done to the freedmen or for the cruel manner in which they have been and still are treated, in defiance of the civil rights bill, which we passed last year, and in despite of the provisions of the Freedmen's Bureau bill, which were all calculated to shield the freedman from the dangers which surround him. I make no apology for the wrongs done to them. I sympathize with the colored man as much as any gentleman upon this floor; but at the same time I cannot divest myself of the feeling that it was reasonable for us to expect for a certain length of time that there might be irritation and difficulty in administering the laws. What is wanted is something that will secure quiet and better feeling between the North and the South, and at the same time better feeling between southern men and the freedmen. And we want this because the southern country is part of our own. We fought for four long years that we might continue one undivided people, and if these southern States are still to be kept year after year in this state of disquietude we at the North, sympathizing with them in our social and business relations, must to a certain extent suffer with them. We want to devise some plan, equitable, just, and reasonable, that shall, if

possible, bring about a state of peace, union, and harmony between the North and the South. I cannot see, Mr. Speaker, that either in the bill or the amendment there is anything calculated to bring about such a result. In the constitutional amendment we made a proper provision for the punishment, if I may use that expression, of the prominent men who were engaged in the rebellion. We disfranchised them for a certain length of time of the right to hold office under the Government.

The bill proposed here, with the amendment, provides that every man who was twenty-one years of age in 1861, and who has engaged in any way or held office under the so-called confederate government, or who has taken an oath to support that government—which, if I understand it, includes all the private soldiers in the confederate army—shall be disfranchised. They are to be deprived of all civil rights and to be placed in the position of aliens. They can only acquire the rights of citizenship as foreigners acquire them; by giving notice of their intention they become citizens in five years; by taking an oath, under the most fearful penalties, that from March, 1864, until the close of the war, they would have been ready, if opportunity had offered, to have done anything to have brought the war to a close; that they had no sympathy with the war after that time, and that they would, if opportunity had presented itself, have accepted the amnesty offered by President Lincoln and left the confederate government. How large a proportion of the southern people could come forward and honestly take that oath? The result of the passage of this bill, if it shall become operative, will be to disfranchise nearly the entire white population of the southern States, and at the same time enfranchise the colored people and give them the virtual control in the proposed organization of the new State governments.

I submit as a dictate of common sense, taking mankind as we find them, as we know they are, is it natural to suppose that the passage of such a law as this will be calculated to promote increased friendly relations between the North and South, to create a better feeling between the white and the colored population? I assume that that should be the object of the laws which we pass, as well as to protect in all their civil rights the loyal white man and the freedman. I can see nothing either in the original bill or in the proposed substitute which is calculated to increase or create any good feeling between the North and South. It is not natural that they should love us while we are putting them under such a ban. Under this bill, if they shall ever be formed into States, all the men who have ever held office under the confederate government are to be entirely disfranchised.

Mr. Speaker, if we had gone before our State at the last election and had proposed as a plan for reconstruction and settling the difficulties existing between the North and South the plan contained in this bill and the amendment, I have no hesitation in saying we would have lost the State of New York. I do not know what was the course pursued in other States, but when we went into the canvass in the State of New York we took our stand upon the amendment to the Constitution and assumed that we intended to hold the South where they were until they should see fit to ratify that amendment.

Mr. RADFORD. Will my colleague allow me to ask him a question?

Mr. DODGE. Certainly.

Mr. RADFORD. I desire to know if the gentleman is now in favor of admitting the southern States to a representation here in Congress provided they ratify the amendment to the Constitution?

Mr. DODGE. I say unhesitatingly that I should, provided they send loyal men here.

Mr. RADFORD. That is my religion.

Mr. DODGE. I believe if this Congress shall abandon the idea of requiring the ratification of the constitutional amendment passed by the last session of Congress, and shall pass these bills and they become laws, the people of the

country will not be satisfied. As they examine them they will see provision made for the military support of the new State organizations contemplated. They will see that by the amendment of the gentleman from Ohio [Mr. SPALDING] in all these ten States martial law is to be declared, and we are to go, if not into actual war again with the South, at least to put the South under martial rule; that the writ of *habeas corpus* is to be suspended, that writ so precious to us all as citizens. They will see that this is not likely in the nature of things to bring about an early reorganization of the South. The commercial, the manufacturing, and the agricultural interests of this country, as they look at this matter, will see in it a continuance of taxation necessary to support this military array sent to these ten States.

Then, in connection with this, they will see the attempt which is now being made in this House to impeach the President. I speak of the impeachment, not because I would not be as ready as any man in the House to impeach the President if there can be specific charges brought against him which will enable the Senate of the United States to find a true bill against him. But looking at it in view of the present position of the party to which I belong, I think it a most unfortunate move. I hold that the President of the United States has been impeached by the country; that he stands impeached to-day; and that this effort will simply tend to galvanize him again into life, to give him an amount of sympathy which he never would get otherwise. I think it a most unfortunate move in a party point of view; but of vastly more importance in its relations to the great interests of the country, which are being paralyzed in view of this unprecedented movement.

Sir, if this bill should pass, and if we go on with the impeachment movement and carry it to the Senate, you will find that all the great interests of this country will measurably stand still, waiting the result of these movements. The manufacturing, commercial, and agricultural interests of the country are now looking to this House for that support which may be given by an increased tariff, but they will look in vain for a resuscitation of business and a return to a healthy state of things so long as the public mind shall be agitated by this unexpected and unusual measure brought forward in this House. There are gentlemen from all parts of the country who are making their way to our great commercial centers, to obtain the means for carrying on the enterprises so necessary to the development of our country. But when they go to the capitalists asking means or offering for sale their railroad bonds, when they present propositions for their varied enterprises, they will find that the men who control the money are waiting to see what shall be the result upon the interests of the country of the measures about to be acted upon in this House. Mr. Speaker, the fact is there will be a general hesitation. The man who has been contemplating the building of a ship will stand still and await the development of these measures. The merchant, about to send his vessel on a long eastern voyage, will hesitate before he loads his ship and sends her away on a twelve months' voyage.

Sir, I received to-day, from one of our merchants, a letter stating that on Friday last he met with some gentlemen who are directors of a benevolent institution of which he is the treasurer, those gentlemen being among the wealthiest and most loyal men of our country; and at that meeting they decided that \$150,000, placed in his hands for investment, and which they had at a previous meeting resolved to invest in United States securities, should be deposited in the Life and Trust Company, to await the action of this House on these important measures now pending.

Sir, you will find that the man who has been waiting the decline of materials to build will wait still longer. The result will be a partial paralysis of the great interests of the whole country, and especially if this bill shall pass,

and if the other measure to which I have referred shall be pressed to a decision.

Mr. Speaker, we have been living for six long years between hope and fear. I assure you, sir, that standing here to-day, looking at these measures, fraught, as I believe, with so much danger to the best interests of the country, I feel very much as I did when I stood in the peace conference before the war and saw the dark clouds that were gathering over our country. I feel that we are now in great peril, and ought not to look simply to the immediate enfranchisement of the negro race, overlooking all the other great interests of the country which are dependent upon the legislation we may adopt. No man on this floor is more strongly in favor than I am of protecting the best interests of the colored man. I voted with all my heart for their enfranchisement in this District; and I would go as far as any other man to elevate and advance the colored race, downtrodden as they have been so long. But pass this bill, and I cannot see that it will be productive of aught else than injury to the colored race. We need to-day measures which shall elevate their condition, which shall render them most valuable as citizens. We want to place them in such a position that their labor will be sought after as a matter of interest, and that they may receive from the people with whom they have so long associated that treatment to which they are entitled. But the very fact that the white population of the South by this bill are to be almost universally degraded while the colored men are elevated above them is not, in my opinion, calculated at all to promote the best interests of either.

I do hope, Mr. Speaker, that neither the bill of the gentleman from Pennsylvania nor the amendment of the gentleman from Ohio will pass. I trust that some other plan will be devised by which the loyal men in the South and the freedmen shall be protected in their civil rights. I hope that we shall not attempt to reorganize the southern States by assuming they are nothing but Territories and their inhabitants aliens.

Mr. Speaker, I trust these bills will be referred to the Committee on Reconstruction, with the hope that they may be able to present to the House some constitutional plan by which the loyal men of the South, white and black, may be protected in all their rights of person and property, and which may put an effectual stop to the injustice, persecution, and murders which are now going on in all parts of the South apparently without restraint from the general or local governments.

Mr. HISE next addressed the House upon the same subject. [His remarks will be found in the Appendix.]

Mr. PERHAM moved that the House adjourn.

The motion was agreed to, and accordingly (at ten o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Daniel P. Monroe, and 32 others, citizens of Dawson county, Georgia, asking that in the work of reconstruction the elective franchise in the rebel States shall be placed in the hands of loyal people only.

Also, the petition of the Michigan City Harbor Company, asking that the appropriation made in the harbor and river appropriation bill of the last session to aid them in the construction of works and the improvement of the harbor at Michigan City, Indiana, may be placed at their disposal when the company shall have expended \$100,000 of their own funds thereon.

Also, the petition of J. W. McMinn, and 5,000 others, citizens of western North Carolina, asking the formation of a new State in that region, or the reconstruction of North Carolina on a loyal basis.

Also, the petition of S. Beatty, H. Garner, A. W. Porter, J. S. Bender, J. B. Hoag, J. H. Adair, and others, citizens of Knox, Indiana, praying that there may be no curtailment or withdrawal of the national currency.

By Mr. BEAMAN: The petition of Robert Inksee, and 35 others, citizens of Wayne county, Michigan, praying for the impeachment of the President of the United States.

By Mr. BROOMALL: The petition of citizens of the United States residing within the limits of the former State of Georgia, praying Congress to abolish

the existing organization in that State, and to enable the loyal citizens, without regard to race or color, to form a State government.

Also, the petition of citizens of Delaware county, in that State, remonstrating against the passage of any law for the more rapid curtailment of the currency, and against requiring the national banks to redeem their issues in New York.

By Mr. BUCKLAND: The petition of T. D. West, for relief for damages done to buildings, &c., by United States troops.

By Mr. BUNDY: The petition of Thomas B. Davis, and 30 others, citizens of Vinton county, Ohio, against the further curtailment of the national currency.

By Mr. BUBLEIGH: A memorial of the Legislative Assembly of Dakota Territory, praying for a geological survey of the Black Hill country.

By Mr. DAWES: The petition of George W. Paschal.

By Mr. DRIGGS: The petition of Captain E. B. Ward, Moore, Foote & Co., and 20 others, merchants and ship-owners of Detroit, Michigan, praying Congress to make an appropriation for light-house and piers for the improvement of the harbor at Alpena, Thunder Bay, on Lake Huron, Michigan.

By Mr. EGGLESTON: The petition of R. W. Booth & Co., and 7 other mercantile firms of Ohio, protesting against an advance of duty on steel.

By Mr. ELIOT: The petition of William F. Golden, and others, of Georgia, for legislative aid for freed men.

By Mr. HARDING, of Kentucky: The petition of citizens of Nelson county, Kentucky, against a return to specie payment.

Also, the petition of J. Harding Magruder, of Shelby county, Kentucky, praying for compensation for slaves.

By Mr. HOLMES: The petition of George A. Crolius, for American register for the schooner Mayflower of Port Dover.

Also, the petition of James McLaughlin and Timothy Driscoll, for American register for schooner Gem.

By Mr. KELLEY: The petition of 80 loyal (colored) citizens of North Carolina, praying Congress to pass into a law the bill introduced by Hon. THADDEUS STEVENS December 19, 1866, to establish civil government in North Carolina, or to pass some bill similar in character, so that civil government may be speedily established on a thoroughly loyal basis in North Carolina.

Also, the petition of 56 manufacturers and journeymen cigar-makers, citizens of the fourth congressional district of Pennsylvania, praying Congress to so amend the internal revenue tax on cigars as to create a specific tax of five dollars per thousand on all domestic cigars, thereby affording a more adequate protection to the honest manufacturers and journeymen and a larger revenue to the Government than by any other possible means, &c.

By Mr. KOONTZ: The petition of William H. Hafer, of company E, second regiment Pennsylvania cavalry, for pension.

By Mr. MARSTON: The petition of Charlotte A. Thomas, Stephen Fessenden, and 44 others, residents of Windham, New Hampshire, asking that the tariff on wool and woolsens passed by the House of Representatives at its last session may become a law.

By Mr. MARVIN: The petition of Daniel A. Atwell, E. Ross, C. M. Underhill, and others, citizens of Schenectady, New York, praying for the establishment of a uniform system of inter-State insurance.

By Mr. PRICE: The petition of 32 citizens of Jones county, Iowa, asking for an amendment to the Constitution of the United States guaranteeing equality for all citizens before the law, regardless of birth, race, or color.

By Mr. SCHENCK: The memorial of Lieutenant Robert E. Riehl, United States Navy, for the passage of an act of special legislation that may give him the promotion to which he claims he is entitled and which he alleges has been unjustly withheld.

By Mr. SPALDING: The petition of Mary B. Fowler, of Cleveland, Ohio, for pension.

By Mr. UPSON: The petition of Otis Shepardson, Z. H. Wallace, and 82 others, of St. Joseph county, Michigan, praying for the impeachment of Andrew Johnson, acting President of the United States, for high crimes and misdemeanors.

By Mr. WARD, of New York: The petition of 34 citizens of Alleghany county, New York, in favor of the impeachment of the President.

By Mr. WARNER: The petition of George W. Howland, of New Haven, Connecticut, for compensation for services while held to military service.

Also, the memorial of the Union Knife Company, Tuttle & Whittemore, and others, hardware manufacturers and workmen of Naugatuck, Connecticut, praying for a reduction of the internal revenue tax on their several products of manufacture.

Also, the memorial of William Wilcox & Co., and employees, manufacturers of padlocks and other articles of hardware, praying for reduction of internal revenue tax on these products.

Also, the memorial of Union Shear Company, and others, manufacturers and employees, praying for a reduction of internal revenue tax on manufactures.

By Mr. WASHBURN, of Massachusetts: The petition of Fuller & Tucker, and others, citizens of Hampshire county, in Massachusetts, asking that the tax on cigars be changed to a specific tax of not over five dollars per thousand.

By Mr. WILSON, of Pennsylvania: The petition of 400 naturalized citizens and immigrants who have declared their intention to become citizens of the United States, residing in Clinton county, Pennsylvania, asking Congress to so amend the negro suffrage act for the District of Columbia as to put white men who are citizens or who have declared their intention of becoming citizens and residents of the District upon an equal footing with the negroes, and to extend to them the same privileges enjoyed by negroes.

## IN SENATE.

TUESDAY, January 22, 1867.

Prayer by Rev. C. R. HAINS, of West River, Maryland.

The Journal of yesterday was read and approved.

The PRESIDENT *pro tempore* presented the credentials of Hon. Charles D. Drake, elected a Senator by the Legislature of the State of Missouri for the term of six years, commencing on the 4th of March, 1867; which were ordered to be placed on the files of the Senate.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of the expenditures and of the arms, &c., manufactured and repaired at the Springfield Armory during the year ending June 30, 1866; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

## PERSONAL EXPLANATION.

Mr. WILLEY. I ask the indulgence of the Senate to make a remark or two in regard to a matter in the nature of a matter of privilege. It will be within the recollection of the Senate that a few days since I had occasion to advert to certain extracts from the Wheeling Register, at that time edited by a Mr. Long, now postmaster of the city of Wheeling. I have received a letter from Mr. Long, in which he complains somewhat that injustice has been done him by reading those extracts; and I will read his own explanation, so that it may go out to the country together with the extracts:

"Of the alleged extracts from the Register but one appeared as original matter, the others, if they were published at all, having been copied from other journals. In addition to this fact, it can be proven that I was not personally responsible for the publication of any of these things. I was absent from the city and from the State when it is alleged that the extracts were published in the Register. I had nothing to do with them whatever, and should not be made to suffer for them."

It is proper I should state that the attention of Mr. Long was directed to these extracts so long ago as the 30th of August last by a very sharp criticism in another paper published in that city; but I am not aware that Mr. Long or any other person for him disavowed his complicity with those articles, or in any way denounced the spirit and matter of them until now. It was to be presumed, therefore, that he was responsible for them. My remarks and the extracts have gone out to the country, and I have placed his own explanation upon the records of the Senate, to go out along with them, and if any injustice has been done him his own explanation of the matter will go out to the country also.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of an amendment to the organic act of the Territory so as to extend the jurisdiction of justices of the peace; which was referred to the Committee on Territories, and ordered to be printed.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, in favor of the establishment of certain post routes and post offices in that Territory; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. WILSON presented a petition of officers of the United States Army, praying that when officers are withdrawn from active service and placed on the retired list under existing laws they may be allowed to retain their service or longevity rations; which was referred to the Committee on Military Affairs and the Militia.

He also presented three petitions of officers in the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented two petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased

revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie upon the table.

Mr. CONNESS. I present a memorial of the Legislative Assembly of the Territory of New Mexico, concerning an attempt said to have been made there to obtain a grant of land by certain military officers, among whom are Brigadier General James H. Carleton, Brevet Colonel N. H. Davis, Brevet Lieutenant Colonel A. B. Carey, and others. I believe a similar memorial has already been presented and referred to the Committee on Private Land Claims. I ask that this may have the same reference.

It was so referred.

Mr. CHANDLER presented a petition of citizens of Michigan, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, so far as it relates to foreign wool; which was referred to the Committee on Finance.

He also presented a resolution of the Bellevue Farmers' Club, of Eaton county, Michigan, praying for an increase of the duty on foreign wool; which was referred to the Committee on Finance.

Mr. WILLIAMS. I present a memorial of citizens of the Territory of Idaho and citizens of New York interested in the mining and agricultural interests of that Territory, in which they represent that the business of the Territory amounts annually to millions of dollars; that they have no medium of exchange there except gold dust, which, by reason of a difference of fineness and adulteration, has no uniform value and is exceedingly hazardous. They further represent that they are remote from the principal centers of business; that communication with the principal cities of the country is exceedingly difficult; and they are anxious to have some legislation by which that Territory can be provided with some of the national currency of the country. As it is a subject which relates to the finances, I move that this memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. GRIMES. I present the memorial of Charles W. Buck, late an acting master of the United States Navy, who represents that while serving in that capacity on board the United States gunboat Water Witch, in Ossibaw sound, on the southern coast, the vessel (not through his fault, but through the negligence of the watch officer) was captured, and the Navy Department have decided that he is entitled to no relief for losses sustained thereby; and he appeals to Congress for aid. I ask its reference to the Committee on Naval Affairs.

It was so referred.

Mr. SHERMAN presented a petition of journeymen cigar-makers and manufacturers of cigars, of Toledo, Ohio, praying for a specific tax of five dollars per thousand on all domestic cigars, that the present tariff on imported cigars may remain unchanged, and that the present system of stamping be altered so as to allow the sale of stamps to manufacturers at five dollars per thousand, and that the penalty for violating the revenue laws be increased; which was referred to the Committee on Finance.

Mr. PATTERSON presented a memorial of the Chamber of Commerce of Memphis, Tennessee, praying that the Union Pacific Railway (southern branch) Company be as liberally endowed with subsidies and franchises as the Union Pacific railroad and its northern branches; which was referred to the Committee on the Pacific Railroad.

He also presented a petition of Captain Daniel Ellis, praying for compensation for services rendered in recruiting for the Union Army in East Tennessee during the rebellion, together with statements by Colonel John K. Miller, of the thirteenth Tennessee cavalry, Colonel George W. Kirk, third North Carolina infantry, and Lieutenant F. S. Singletory, of the fourth regiment Tennessee infantry, in support

of the petition; which were referred to the Committee on Military Affairs and the Militia.

Mr. JOHNSON presented a memorial of citizens of Little Rock, Arkansas, representing that in May, 1865, a large amount of property in that city was sold for the non-payment of the United States direct tax, and remonstrating against the passage of any law to remedy the defects in the sale; which was referred to the Committee on the Judiciary.

Mr. CRESWELL. I present a memorial of merchants, mechanics, and manufacturers of Baltimore, constituting a large proportion of the industrial capital of that city, remonstrating against the passage of the bankrupt bill; and in support of their remonstrance they make the following points:

"1. They suggest that there is no present necessity in the financial condition of the country for measures of relief.

"2. They claim that since the abolition of imprisonment for debt in the States, no question of humanity to honest, unfortunate debtors is involved, and they respectfully represent that experience has demonstrated the ease with which debtors can compound with their creditors on a reasonable exposition of their affairs.

"3. They call your attention to the fact that immense sums are due from persons in the States lately in rebellion, who would be enabled to avail themselves of such legal obstacles to the collection of debts; and your memorialists are satisfied from experience that many debtors would take advantage of any law of that kind to defraud their creditors of their just dues, which otherwise could be collected by the ordinary process.

"4. And chiefly, they protest against the injustice of any retrospective enactment, taking from the creditor those securities of statute law under which the credit was given and the obligation incurred. They are forced by observation and experience to believe that such legislation is demoralizing in its tendency, and violative of good faith toward the important class of interests upon which it would most severely bear."

As the Committee on the Judiciary, who had the bankrupt bill in charge, reported it some time ago, I ask that this memorial be printed and laid on the table.

The PRESIDENT *pro tempore*. The motion to print will go to the Committee on Printing, and the order to lie upon the table will be entered.

## PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

Ordered, That the papers in the case of George and W. H. Wood, presented to the Senate on the 26th of January, 1864, and referred to the Committee on Claims, be withdrawn from the files of the Senate and again referred to said committee.

## REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 681) for the relief of Celestia P. Hart, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 68) in relation to the office of naval judge advocate general and of solicitor of the Navy Department, reported adversely thereon, and moved the indefinite postponement of the bill; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 233) in relation to the appointment of enlisted persons in the Naval Academy, and for other purposes, reported adversely thereon, and moved the indefinite postponement of the bill; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 346) to amend section seven of the naval appropriation bill, approved March 3, 1845, reported adversely thereon, and moved the indefinite postponement of the bill; which was agreed to.

He also, from the same committee, to whom was referred a memorial of petty officers, seamen, and others on board of vessels in the employ of the Government, praying for an amendment to the act for the relief of seamen and others borne on the books of vessels wrecked or lost in the naval service, approved July 4, 1864, so as to include those on board of vessels in the employ of the Government captured by the enemy, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of the St. Domingo



Mining and Commercial Company, praying that immediate steps be taken to explore and ascertain some commercial place on the island of St. Domingo with reference to its adaptability as a naval station, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a resolution of the Legislature of Michigan, in favor of the location and establishment of a naval station and dock-yard at Grand Haven, in that State, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a resolution of the Chamber of Commerce of the State of New York in favor of the passage of Senate bill No. 233, in relation to the appointment of enlisted persons in the Naval Academy, and for other purposes, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the joint resolution (H. R. No. 126) for the relief of certain settlers on the Sioux reservation, in the State of Minnesota, reported it without amendment.

#### BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 521) to amend an act entitled "An act for the disposal of coal lands and of town property in the public domain," approved July 1, 1864, and to amend an act supplemental thereto, approved March 3, 1865; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 522) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 523) to provide for the registration of electors in the Territories of the United States; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 524) establishing the salaries of the judges in the Territories; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 158) for the relief of Daniel Ellis; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### DIGEST OF REVENUE LAWS.

Mr. SHERMAN. I ask the Senate to grant an order for the printing of a digest of the statutes of the United States prescribing the rates of duties on imports in force October 1, 1866, with an index prepared by Mr. Lewis Heyl, of the Treasury Department. As the subject is now before us, I desire to have this digest printed, so that we may have it on our tables.

The motion was agreed to.

#### CONSTRUCTION OF LAND-GRANT BILLS.

Mr. NORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas it is alleged that by the construction of the Department of the Interior of several acts of Congress granting lands to aid in the construction of certain railroads settlers are deprived of the full benefit of the preemption and homestead laws: Therefore,

*Resolved*, That the Committee on Public Lands be, and is hereby, directed to inquire what, if any, legislation is necessary or may be had to correct such construction, and to report by bill or otherwise.

#### PENSION AGENTS.

Mr. LANE. I move that the Senate proceed to the consideration of Senate bill No.

69, to provide for the payment of pensions, which stands upon a motion to reconsider.

Mr. HENDRICKS. As a bill has passed the Senate regulating the appointment and tenure of all officers whose appointment requires the confirmation of the Senate, I cannot see any necessity for this bill; at least the latter part of it. All that it is necessary now for the Senate to do, it seems to me, is to provide for the appointment of these agents by the President, by and with the advice and consent of the Senate, and then they will fall under the bill that was passed last week. If Senators think that bill was right in regard to all presidential appointments, these being presidential appointments of course ought to be governed by its provisions; and therefore I think the reconsideration ought to take place.

Mr. LANE. After full consideration at the last session and the present session we have matured and passed a bill for the appointment of pension agents, which now stands merely upon a motion to reconsider. It was passed by a very large vote of the Senate, and a motion to reconsider was made. It does not fall within the scope of the bill passed on the subject of appointments to office generally, because the provision embraced in this bill is not touched by the provisions of that bill. It is true that this bill makes the nomination of the President and confirmation of the Senate necessary to the appointment of pension agents. It is equally true that by another provision reported by the Judiciary Committee this bill proposes that the offices of certain pension agents, those appointed since July last, shall expire within thirty days after the passage of the bill. This bill, then, contemplates a class of officers not embraced and not touched in the general bill passed the other day. As the whole subject of the bill has been under debate several times in the Senate, I shall content myself now with expressing the hope that the Senate will not reconsider, but will let this matter be passed.

Mr. HENDRICKS. I do not wish to continue the debate with my colleague on this subject; but I think his first suggestion is calculated to make a wrong impression on the Senate. He said that this bill was considered at the last session and passed. At the last session he reported a bill making these agents to be appointed by the President, and not any longer by the Secretary of the Interior. That was the bill that my colleague proposed—a bill that I was very well satisfied to approve; but he never did report, and I do not think he would report, a bill that certain officers appointed before the 1st day of October shall not go out of office, and all appointed under the same law after that date shall go out. He did not report any such provision; it was not in the bill; the Senate did not vote it at the last session; it was not up; but now, when these appointments are made subject to the confirmation of the Senate, this entire class of officers will fall under the operations of the bill that the Senate passed last week. If that bill is right, it ought to govern these officers; if it is wrong, it ought not to govern any officers. That is a plain proposition. It is the bill that the majority agreed to in regard to presidential appointments. If it is right, the majority ought to make it applicable to all officers; if it is wrong, they ought to repeal it.

The PRESIDENT *pro tempore*. The question is on the motion that the Senate now proceed to the consideration of Senate bill No. 69, to provide for the payment of pensions.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate. The question is, Will the Senate reconsider its vote passing the bill?

Mr. BUCKALEW. I understood the question was on reconsidering the concurrence of the Senate in the House amendment. The bill passed the Senate at the last session and came back at the present session from the House with this amendment in relation to the dismissal of agents at the expiration of thirty days; and, if I am correct in my recol-

lection, the pending question is upon reconsidering the vote by which the Senate concurred in the House amendment.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania is right technically; but that vote passed the bill, and the Chair therefore stated it in the general form. Technically, the question is, will the Senate reconsider its vote concurring in the amendment made by the House to the bill, the effect of concurring being to pass the bill. The question is on the reconsideration.

Mr. BUCKALEW. Then I hope the Senate will reconsider its vote in order to free the bill from this novel feature, and, as already explained by the Senator from Indiana, allow these officers to fall under the general regulations, which are, or may be, provided by law, instead of singling them out, a very few in number, and introducing a very objectionable feature in our legislation, to wit, the direct dismissal of officers by the act of Congress itself, the legislative body, instead of leaving their dismissal either to the former regulations of law or to the new principle which has been introduced, namely, the conjoint action of the Senate and the President.

Mr. FESSENDEN. I ask for the yeas and nays on the reconsideration.

The yeas and nays were ordered.

Mr. TRUMBULL. I trust that the action of the Senate on this bill will not be reconsidered. I think it is right. I was not present at the time that action was had in the Senate; but the bill was considered in the Committee on the Judiciary, and I see, on looking at it, that the Senate has substantially concurred in the report of the committee. I think the report is correct. I see nothing to be gained by a reconsideration. Here is a class of officers, formerly of very little importance in the country, but since the war of very great importance. The Secretary of the Interior, under, as I think, rather a forced consideration of the law, has undertaken to appoint pension agents *ad libitum*, dividing up the States and appointing as many as he pleased, and paying them salaries in the way of a percentage, which makes the offices very important. They handle a great deal of money. Here is a bill providing that hereafter these officers shall be nominated by the President and appointed by and with the advice and consent of the Senate. I suppose no one has any objection to that.

Another provision of the bill is that all these officers who have been appointed within the last few months—I think since the 1st of October, 1866, if I recollect the bill correctly—shall go out of office within thirty days. Is there anything wrong in that? Is there anything unusual in that? By no means. It is in conformity to the legislation of Congress forty-seven years ago. In 1820 the Congress of the United States passed a law providing that persons in office should go out at different periods: that those appointed after a certain date should go out at one time, and those appointed after another date at another time. I can see no objection to this provision. I was not present when the discussion took place upon it; but it is in harmony with the previous legislation of Congress, and I can see no objection to declaring that these officers who have been recently appointed should go out of office within a certain time, and that the others should go out of office at a different period. Precisely such legislation as that has been had heretofore. I trust that the Senate will not reconsider its vote, but will let the bill stand as it is.

Mr. FESSENDEN. There was no sort of objection in the mind of any one to the first provision of the bill, which was all very proper as it passed the Senate originally, and that was providing that these officers hereafter shall be nominated by the President and confirmed by the Senate, and providing also for limiting the number. But the bill goes further by the amendment of the House, and provides that a certain portion of those who have been appointed—not all of them, but a certain portion who have been appointed recently—shall go

out of office. That is the way it stands as I understand it.

Mr. TRUMBULL. All who have been appointed within a certain period.

Mr. FESSENDEN. Why not apply it to all who have been appointed?

Mr. TRUMBULL. I can give the reason.

Mr. FESSENDEN. The reason is very obvious. The Senator need not give it. Those appointed before that as pension agents were appointed by our side. Since the present Secretary of the Interior has come in he has turned out a few and appointed some others; and the bill provides, or is intended to provide, that those whom the present Secretary has appointed since he came into office shall go out. That is about the amount of it. If the Senator wants to conform his action to all the previous legislation of Congress let him put them all out.

I have no objection to the proposition except simply what I stated a day or two ago; it is a kind of legislation that I do not like. Authority has been exerted legally on the subject, and I do not think it will look well for the credit of Congress if we direct our legislation merely to putting out a few officers who have been appointed in different parts of the country—I believe there are but few of them—by the present Secretary of the Interior. That is my only objection to it, and it is the reason why I objected the other day. If the Senate choose to do it, they can do so; but I really do not think that the great duty of the hour of the great party to which I have the honor to belong is to devote itself to keeping certain persons in office and preventing other persons from getting in. I think they have duties beyond and larger than that.

Mr. TRUMBULL. I do not think either that that is the great business of the country, to keep certain men in office and certain others out; but I think it is very proper that the Congress of the United States, so far as it has the power, should see that the friends of the country exercise the official authority of the country. These persons have been appointed, to say the least of it, under questionable authority. I have looked into the law as carefully as I was capable of examining it, and I have never been satisfied that the Secretary of the Interior had the authority to make these appointments.

Mr. FESSENDEN. The present Secretary had just as much as the previous Secretary.

Mr. TRUMBULL. Yes, sir; but this is a novel thing that has been done very recently by all of them since the war. I made some remarks in the Senate before the present Secretary occupied the position of Secretary of the Interior in which I contested the authority of the Secretary to make these appointments.

Mr. FESSENDEN. Nobody objects to that part of the bill at all.

Mr. JOHNSON. They ought all to go out.

Mr. TRUMBULL. No, sir; they ought not all to go out because the law had specifically provided for certain pension agents. Congress many years ago established pension agents when this branch of the public service was connected with the War Department, and by special acts of Congress pension agencies were established in the different States, at Tuscaloosa, Alabama, and at other points; but when this branch of the public service was transferred from the War to the Interior Department, the Secretary of the Interior assumes, possibly correctly by inference from some laws which have been passed—there is no direct statute authorizing it—that he had this authority. I think it is questionable whether he had it or not. This is not novel legislation. I will say to the Senator from Maine that similar legislation to this was had in 1820 when the terms of various officers were fixed; some went out of office at the end of one year, and some at the end of two. This bill does not prevent the President from removing any of these officers, but it declares that certain of them shall go out within a limited period; and so did the act of 1820.

Mr. FESSENDEN. That turned them all out at some period or other.

Mr. TRUMBULL. I think it did provide that all of them should go out within some period. It seems, then, that if this bill had provided that no one should hold the office for more than four years without a reappointment, as the act of 1820 provided in regard to marshals, a certain class of postmasters, district attorneys, registers of land offices, and other officers, it would obviate the objection which the Senator from Maine has. Perhaps it would be well enough to limit it. I am not sure whether the bill under consideration does limit the term of service to four years or to any definite period. It might be well enough to do it. But whether limited or not, the President exercises the power of nominating at any time a person as a new incumbent of any of these offices, and if the Senate confirms the nominee the old officer goes out even within the four years. It is a very common thing for a postmaster to be removed who has served but one or two years, although the term of office which he would serve would be four years if he was not interfered with by the Executive.

Mr. LANE. If the Senator will pardon me one moment, I can inform him that the bill provides expressly for a term of four years.

Mr. TRUMBULL. Very well; then it meets that objection. They all go out within a limited period, and it is in that respect in precise conformity to the legislation of 1820. The only effect of the bill is, that it provides that certain officers shall go out sooner than others. There is nothing novel in that legislation; and it seems to me, in the condition of the country, it is very proper that such legislation should be had. I certainly am desirous that legislation should be had that will put a termination to the offices of certain persons who have been appointed within the last few months, in some of the States at least.

Mr. CONNESS. I am opposed to this reconsideration, and I confess very freely that my opposition is based in a great measure upon the fact that the appointments complained of were made by the present Secretary of the Interior, because I regard him as one of the most responsible of the bad advisers of the President, and one of the most accountable for the unfortunate differences that have occurred between the executive and legislative departments of the Government. These do not furnish the only cases in which that officer has exhibited that class of partisanship that is based upon the removal of men from office because they have not taken up the cudgels in behalf of the Executive, or rather against Congress. In place of using his time and bringing his talent to an adjustment of the differences that existed, I have the best reason to believe that that officer has constantly promoted the unfortunate difficulties to which I have referred, from which the country suffers so much. Therefore, sir, I am opposed to the reconsideration and in favor of just such legislation as has been enacted.

Mr. SAULSBURY. I wish to state a simple proposition, which is clear to my own mind, and yet I may be in error. It is a question of law. These pension agents were appointed by authority of law by the Secretary of the Interior. They entered upon the discharge of the duties of their office. According to judicial decision, they had a property in their office; and the proposition now is, not to repeal the act creating the offices, but to remove, by legislative power, men in office having a property in their office. I hold that that is not within the competency of Congress; but if they wish to get clear of these officers they must repeal the act under which they were appointed; and Congress has so acted. When it seemed necessary for the good of the country, and in obedience to the dictates of "loyalty," that Congress should get clear of the courts in this District, what did they do? Did they attempt by a single act of legislation to remove the judges? No, sir; but they repealed the act constituting the court. Now, sir, I hold that these officers having been appointed according to law by a power having the right to appoint them it is

not competent for the legislative department of the Government simply to remove them; but if they wish to get clear of them they must repeal the act under which they were appointed, and pass another act, under which other persons may be appointed in their stead. For that reason I shall vote for the reconsideration.

Mr. TRUMBULL. I stated that this legislation was not without precedent. The Senator from Maine seemed to think it was a novel mode of legislating. I have now before me the act of May 15, 1820, which declares—

"That from and after the passing of this act all district attorneys, collectors of the customs, naval officers and surveyors of the customs, navy agents, receivers of public moneys for lands, registers of the land offices"—

Enumerating various officers—

"to be appointed under the laws of the United States, shall be appointed for the term of four years, but shall be removable from office at pleasure."

The second section reads as follows:

"That the commission of each and every of the officers named in the first section of this act, now in office, unless vacated by removal from office or otherwise, shall cease and expire in the manner following: all such commissions bearing date on or before the 30th day of September, 1814, shall cease and expire on the day and month of their respective dates which shall next ensue after the 30th day of September next; all such commissions bearing date after the said 30th day of September, in the year 1814, and before the 1st day of October, 1816, shall cease and expire on the day and month of their respective dates which shall next ensue after the 30th day of September, 1821; and all other such commissions shall cease and expire at the expiration of the term of four years from their respective dates."

Now, the Senate will observe that if a person was appointed a register of a land office or a district attorney after the 1st day of October, 1816, say on the 1st day of November, 1816, he would go out at the end of four years, which would be the 1st of November, 1820; whereas a person appointed before October, 1816, would hold until the 30th of September, 1821.

Mr. FESSENDEN. It is the other way I think.

Mr. TRUMBULL. No, sir; those last appointed would go out before those who had been appointed prior to October, 1816. Those appointed prior to October, 1816, and after 1814, were to hold until the 30th of September, 1821, but all others—

Mr. FESSENDEN. Were to hold for four years.

Mr. TRUMBULL. Well, if they were appointed in November, 1816, the four years would expire in November, 1820, which would be a year before the others would go out; and the different periods were fixed when the various officers would go out of office. I think the case is entirely analogous to the one we have before us. It is no new legislation—nothing extraordinary to declare that certain persons in office shall go out of office. Some time certainly should be fixed when these persons appointed by the Secretary of the Interior should go out of office.

Mr. FESSENDEN. I will simply say that the Senator is mistaken. Those earliest appointed by the act of May 15, 1820, go out of office first.

Mr. TRUMBULL. If the Senator will read it through he will see that he is mistaken.

Mr. FESSENDEN. I will read it: "All such commissions bearing date on or before the 30th day of September, 1814"—

That is the earliest date.

"shall cease and expire on the day and month of their respective dates, which shall next ensue after the 30th day of September next."

That is 1820.

Mr. TRUMBULL. That is right. That is the first time.

Mr. FESSENDEN.

"All such commissions bearing date after the said 30th day of September, in the year 1814, and before the 1st day of October, 1816, shall cease and expire on the day and month of their respective dates, which shall next ensue after the 30th day of September, 1821."

That is a later year.

Mr. TRUMBULL. Now, read the rest.

Mr. FESSENDEN.

"And all other such commissions shall cease and expire at the expiration of the term of four years from their respective dates."

Mr. TRUMBULL. Let me ask the Senator, suppose a person was appointed on the 1st of November, 1866, when would he go out of office?

Mr. FESSENDEN. But the obvious intent of the law is to make those first appointed go out first.

Mr. TRUMBULL. It is as to part of them; but the Senator will see it is not the case as to those appointed after October, 1816.

Mr. FESSENDEN. It goes up to 1820. There might possibly be a few, but the most of them would hold over for a still longer period.

Mr. TRUMBULL. Some of them, but the principle is in the bill.

Mr. FESSENDEN. The principle is that those first appointed should first go out of office clearly, because otherwise why did they postpone the second class after the first class; and even there the great majority of them would come in the same way.

Mr. TRUMBULL. But some of them would not.

Mr. FESSENDEN. It is possible a few might not, but it is obvious that that is the principle of the bill; whereas the principle here is to make a few recently appointed go out anyhow and leave the rest in. However, I care nothing about it, and as it is one o'clock and I wish to take up the tariff bill I will withdraw the call for the yeas and nays and take the question on a division, and settle it one way or the other.

The PRESIDENT *pro tempore*. The call for the yeas and nays can be withdrawn by unanimous consent only. Is there any objection?

Mr. HENDRICKS. Yes, sir; let the question be taken by yeas and nays.

The PRESIDENT *pro tempore*. The motion is that the Senate reconsider its vote concurring with the House of Representatives in amending this bill. Those who are in favor of reconsidering will as their names are called answer "yea."

Mr. FESSENDEN. Was there any objection to the call for the yeas and nays being withdrawn?

The PRESIDENT *pro tempore*. The Chair so understood; but the Chair will put the question again. The Senator from Maine, on whose call the yeas and nays were ordered, asks the unanimous consent of the Senate to withdraw that call. Is there any objection?

Mr. HENDRICKS. Yes, sir.

The PRESIDENT *pro tempore*. Objection is made, and the call cannot be withdrawn.

Mr. WILLEY. As the yeas and nays are to be taken I desire to state that my colleague [Mr. VAN WINKLE] has been detained from his seat for several days by indisposition.

The question being taken by yeas and nays, resulted—yeas 15, nays 24; as follows:

YEAS—Messrs. Buckalew, Cowan, Dixon, Doolittle, Fessenden, Foster, Hendricks, Johnson, Morrill, Nesmith, Norton, Patterson, Saulsbury, Willey, and Williams—15.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Creswell, Edmunds, Fogg, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howe, Kirkwood, Lane, Morgan, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, and Wilson—24.

ABSENT—Messrs. Cragin, Davis, Guthrie, Howard, McDougall, Nye, Poland, Pomeroy, Riddle, Ross, Van Winkle, Wade, and Yates—13.

So the motion to reconsider was rejected.

#### PRINTING OF DOCUMENTS.

Mr. SUMNER submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That one thousand extra copies of the message of the President, with the accompanying documents on the subject of the Paris Exhibition, be provided for the use of the Senate, and two thousand copies for the use of the Department of State.

Mr. CONNESS submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That one thousand additional copies of the report of Admiral Davis, of the Naval Observatory, on inter-oceanic canals and railroads be printed for the use of the Senate.

Mr. CONNESS submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That ten thousand copies of the report

of J. Ross Browne to the Treasury Department of the statistics of mines and mining be printed for the use of the Senate.

#### THE TARIFF BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes; and that bill is now before the Senate as in Committee of the Whole. The reading of the amendment reported by the Committee on Finance will be proceeded with from the point where the reading terminated last evening.

Mr. FESSENDEN. Before the reading is proceeded with I desire to go back and make a few amendments. The first is on page 31, in line one hundred and fifty-nine of section seven. The committee have ascertained that raising the duties so much on iron and not raising them on wood-screws has had the effect to make the duty on iron so large that it affords no protection whatever on the screws, and therefore I move in line one hundred and fifty-nine to strike out "eight" and insert "nine;" and in line one hundred and sixty to strike out "eleven" and insert "twelve;" so as to make the clause read:

On screws, commonly called wood-screws, two inches or over in length, nine cents per pound; less than two inches in length, twelve cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line twenty-six of section nine, page 42, "a half" should be "one quarter of a;" so as to read:

On arsenious acid, one quarter of a cent per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 44, after line seventy-three of that section, I move to insert:

On crude aniline oil, ten per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. Now, in line seventy-five I move to strike out "and on aniline."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 47, line one hundred and fifty-seven of section nine, I move to strike out the word "and" after "potassium," and after "sodium" to insert "and of ammonium;" so as to read:

On bromide of potassium, of sodium, and of ammonium, sixty-five cents per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On the same page I move to strike out lines one hundred and sixty-three to one hundred and sixty-six, inclusive, of that section, as follows:

On corrosive sublimate, cyanide, and iodide of mercury, red oxide of mercury, red precipitate, and all salts and preparations of mercury, not otherwise herein provided for, fifteen cents per pound.

And to insert in lieu thereof:

On corrosive sublimate and red oxide of mercury or red precipitate, fifteen cents per pound.

On all salts and preparations of mercury, not otherwise herein provided for, twenty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out from line two hundred and thirty-three, on page 50, to line two hundred and fifty-six, on page 51, inclusive, and to insert in lieu thereof the following, which is a better arranged classification:

On extract of cannabis indica, or Indian hemp, or gunjah, opium when strictly an official extract for medical use, \$4 50 per pound.

On extracts of colocynth, colocynth compound, eubebæ, ipæacuanha, jalap, nux vomica, and rhubarb, two dollars per pound.

On extract of acornite, arnica, belladonna, calumba or calumbo, chamomile or anthemism, colchicum, conium, cicuta or hemlock, digitalis or fox glove, hellebore, humulus or hops, hyocyamus, papaver or poppy, quassia, rhubarb, stramonium, taraxacum or dandelion, and valerian, one dollar per pound.

On extracts of duleamarn or bitter sweet, gentian, butter-nuts, lettuce, and squill, fifty cents per pound.

On lactuarium, two dollars pound.

On extracts of cinchona or Peruvian barks, \$3 50 per pound.

On extract of elaterium, or elaterium, sixty cents per ounce.

On all medicinal extracts not otherwise herein provided for, forty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 57, line four hundred and fourteen of section nine, after the words "bene oil" I move to insert "and, on cotton-seed oil;" so as to read:

On linseed, flaxseed, hemp-seed, and rape-seed oil, and on oil of sesame or bene oil, and on cotton-seed oil, twenty-three cents per gallon.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 61, line five hundred and four of section nine, I move to strike out the words "all extracts and" at the end of the line; so as to read:

On opium prepared for smoking, and on other preparations of opium, not otherwise herein provided for, one hundred per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 75 I move to strike out lines one hundred and eighteen, one hundred and nineteen, and one hundred and twenty of section ten, and to insert in lieu of the following:

On manufactures of ivory, bone, horn, wood, leather, India-rubber, gutta percha for umbrellas, parasols, canes, whips, and furniture trimmings, forty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out the words "and statutory" in line one hundred and fifty-three of that section, page 76. The subject-matter is provided for in another place.

The PRESIDENT *pro tempore*. That modification will be made, no objection being interposed.

Mr. FESSENDEN. I move to strike out lines one hundred and ninety-eight, one hundred and ninety-nine, and two hundred of that section, on page 78, and in lieu of them to insert:

On plaits, braids, flats, lace trimmings, spray fissues, willow sheets, and squares, used for making or ornamenting hats, bonnets, caps, and hoods, and not further manufactured, composed of straw, chip, grass, palm-leaf, willow, or any other vegetable substance, or of hair or whalebone, twenty-five per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out lines two hundred and eleven, two hundred and twelve, and two hundred and thirteen of that section, on page 78, and insert in lieu of them:

On umbrella and parasol sticks, frames, tips, runners, stretchers, handles, or other parts thereof, when made in whole or in chief part of iron, steel, or any other metal, sixty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to insert between lines seventy-five and seventy-six of section eleven, on page 82, as a new paragraph:

On glass demijohns of one gallon contents capacity or less, ten cents per demijohn; over one gallon capacity and not over three gallons, seven cents per gallon; over three gallons five cents per gallon.

On carboys for each gallon contents capacity: five cents.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out the proviso on page 90, beginning with line twenty-seven of section fifteen to line thirty-five, inclusive, in these words:

*Provided*, That loss of quantity of the fruits above-named by decay on the voyage shall be admitted when such loss shall be of full packages or other separable portions; and on oranges and lemons in box loss of quantity may be allowed where such loss reaches thirty-three per cent. of the quantity in the boxes, such loss being certified by the appraisers of damage; but no other loss or damage shall be allowed in abatement of duty.

The amendment to the amendment was agreed to.



Mr. FESSENDEN. On page 94 I move to strike out lines thirty-one and thirty-two of section sixteen, and in lieu of them to insert:

On all cabinet wares, cabinet and house furniture finished, writing and toilet cases, work-boxes, ornamental and mantel clocks, all carved or other wood whether inlaid or embellished with paintings, not herein otherwise provided for, forty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. The Secretary may now proceed with the reading.

The PRESIDENT *pro tempore*. The reading of the amendment of the Committee on Finance reported as a substitute, where it terminated last evening, will now be resumed.

The Secretary read section nineteen of the substitute, as follows:

SEC. 19. *And be it further enacted*, That from and after the passage of this act the importation of the articles mentioned and embraced in this section shall be absolutely prohibited; and if imported or presented for entry in any collection district of the United States shall be declared forfeited, and shall be forfeited and disposed of as the Secretary of the Treasury may direct.

First. False or counterfeit money, or plates or dies for printing the same.

Second. Indecent or obscene books, prints, paintings, photographs, cards, lithographs, engravings, or any other indecent or obscene articles.

Three. Articles of foreign manufacture, and any package of such articles bearing any names, brands, marks, or devices, being or purporting to be the names, brands, marks, or devices of any manufacturer or producer residing in the United States.

Four. Fire-crackers.

Mr. FESSENDEN. In line four, after the word "imported," I move to strike out the words "or presented for entry."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After "United States," in line sixteen, at the end of item "three," I move to insert:

Unless authorized by such manufacturer or producer, of which fact proof satisfactory to the collector shall be presented.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After "fire-crackers," in line seventeen, I move to insert the following proviso:

*Provided*, That all fire-crackers actually placed on ship-board prior to the 1st day of May, 1867, for exportation to the United States from the country where manufactured, shall be admitted to entry on payment of the rates of duty established by law at the time of the passage of this act: *And provided further*, That fire-crackers may be imported and bonded for shipment or reexportation to foreign countries.

The amendment to the amendment was agreed to.

Section twenty of the substitute was next read, as follows:

SEC. 20. *And be it further enacted*, That in all cases of claims for return of duties on imports on account of damages occurring on the voyage of importation, where the damage so determined under existing laws shall exceed twenty-five per cent. of the value of the merchandise damaged, the same shall be sold at public auction by the collector, under the same condition as now regulate the sale of imported merchandise by the collectors of customs, and the amount of damage awarded shall be determined by such sale; the sound value of the merchandise to be determined by the appraiser of damage: *Provided*, That when, in the judgment of the collector, the public interest require it, the said sale may be made by the importer after due and sufficient notice; and in such case the report of said sale shall be made to the collector, and shall be attested by the importer, on oath, as being *bona fide* to the highest bidder.

Mr. FESSENDEN. In line two the words "allowance of" should be inserted before the word "return," and in line three the word "damages" should be "damage;" so as to read:

That in all cases of claims for allowance of return of duties on imports on account of damage occurring, &c.

The PRESIDENT *pro tempore*. Those corrections will be made.

Mr. FESSENDEN. In line eight I move to strike out the word "imported" before "merchandise," and to insert "unclaimed."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line eleven I move to strike out the words "appraiser of dam-

age," and to insert "duly authorized officer or officers of customs."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line thirteen, after the words "sale may be made," I move to insert "at auction."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In lines fifteen and sixteen I move to strike out the words "and shall be attested by the importer, on oath, as being," and to insert "with satisfactory proof, on oath, to the collector that such sale has been."

The amendment to the amendment was agreed to.

The Secretary read section twenty-one of the substitute, as follows:

SEC. 21. *And be it further enacted*, That from and after the 1st day of April, 1867, there shall be allowed on the following articles, when exported, a drawback equal to the amount of duty paid on the imported materials used in the manufacture thereof, less five per cent. on the amount of such drawback, which shall be retained for the use of the United States; and such drawback shall be ascertained in accordance with regulations to be prescribed by the Secretary of the Treasury, namely: on mowing machines, reaping machines, ploughs, axes, hatchets, scythes, cotton-gins, shovels, spades, hoes, hay and manure forks, chisels, augers, and carpenters' tools.

The Secretary read section twenty-two of the substitute, as follows:

SEC. 22. *And be it further enacted*, That on and after the 1st day of April, 1867, there shall be allowed and paid a drawback equal in amount to the import duty paid on all iron, copper, and cordage, which shall be wrought up into the construction of sailing vessels of the United States, or used in repairing vessels of foreign build, documented in conformity with the provisions of the act of 23d December, 1852, less five per cent. on the amount of such drawback, which shall be retained for the use of the United States under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the word iron as herein used shall not be construed to include any manufactured article of iron.

Mr. FESSENDEN. In line four I move to strike out the words "iron, copper, and cordage," and to insert "lumber, hemp, manila, copper, and upon all iron not advanced in manufacture beyond bars, rods, and bolts."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five, after the word "construction," I move to insert "rigging or equipment," and after the word "sailing," to insert "or steam;" so as to read:

Which shall be wrought up into the construction, rigging, or equipment of sailing or steam vessels of the United States, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to strike out the proviso at the end of the section in these words:

*Provided*, That the word iron as herein used shall not be construed to include any manufactured article of iron.

That is struck out, because we have provided for it by other words, which render the proviso unnecessary.

The amendment to the amendment was agreed to.

The Secretary read section twenty-three of the substitute, as follows:

SEC. 23. *And be it further enacted*, That any goods, wares, or merchandise imported into the United States, upon which an *ad valorem* duty is imposed by law, may be taken by the United States upon the payment to the consignee thereof of the dutiable value of such goods, wares, or merchandise as stated by the invoice thereof at the place of exportation, and in addition to such invoice value ten per cent. thereof and the freight, insurance, and charges to the place of importation. That it shall be the duty of the collector of the port of importation of any of such goods, wares, or merchandise, whenever in his opinion such goods, wares, or merchandise are undervalued to an amount equal to ten per cent. of the invoice value thereof, to take possession of such goods, wares, or merchandise as the property of the United States, and to sell the same under such rules and regulations as may be prescribed by the Secretary of the Treasury. And to ascertain such undervaluation he shall cause full and detailed inventory and valuation to be made, a copy whereof shall be delivered to the said consignee. And the Secretary of the Treasury is hereby authorized to pay such consignee the said dutiable value, and ten per cent. thereof, and the said freight, insurance, and charges, in coin, out of any money in the Treasury not otherwise appropriated, and for such purpose a sum sufficient is hereby appropriated.

And the Secretary of the Treasury is required to report to Congress annually the several seizures and sales made under this section.

Mr. FESSENDEN. In line five I move to strike out the word "dutiable," before the word "value," and to insert "entered or declared;" and in line seven to strike out the word "invoice," before the word "value."

The PRESIDENT *pro tempore*. Those corrections will be made if there be no objection.

Mr. FESSENDEN. After section twenty-three I move to insert two new sections, to be sections twenty-four and twenty-five:

SEC. 24. *And be it further enacted*, That a discriminating duty of ten per cent. *ad valorem*, in addition to the duties imposed by law, shall be levied, collected, and paid on all goods, wares, and merchandise which on and after the day this act shall take effect shall be imported in ships or vessels not of the United States: *Provided*, That this discriminating duty shall not apply to goods, wares, and merchandise which shall be imported on and after the day this act takes effect in ships or vessels not of the United States, entitled by treaty or by any act or acts of Congress to be entered in the ports of the United States, on payment of the same duties as shall then be paid on goods, wares, and merchandise imported in ships or vessels of the United States.

SEC. 25. *And be it further enacted*, That on and after the day and year this act shall take effect, there shall be levied, collected, and paid on all goods, wares, and merchandise of the growth or produce of countries east of the Cape of Good Hope, except raw cotton when imported from places west of the Cape of Good Hope, a duty of ten per cent. *ad valorem* in addition to the duties imposed on any articles when imported directly from the place or places of their growth or production: *Provided*, That said duty of ten per cent. shall not apply to goods, wares, and merchandise exempt from duty.

The amendment to the amendment was agreed to.

The Secretary read the twenty-fourth [twenty-sixth] and last section of the substitute, as follows:

SEC. [24] 26. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, shall, on and after — day of — be repealed: *Provided*, That the existing laws shall extend to and be in force for the collection of the duties imposed by this act for the prosecution and punishment of all offenses, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect in the existing laws contained had been inserted in, and reenacted by this act: *And provided further*, That all goods, wares, and merchandise in bond, or in bonded warehouses, on which duties have not been paid, shall, after this law takes effect, pay all the rates of duty imposed by this act.

Mr. FESSENDEN. I move to fill the blank with the "1st day of April, 1867."

The amendment to the amendment was agreed to.

Mr. ANTHONY. I did not hear distinctly the last amendment which was read, imposing a differential duty on articles imported from beyond the Cape of Good Hope.

Mr. FESSENDEN. It is the same provision we have in our existing laws.

Mr. ANTHONY. Is the differential duty applied on cotton?

Mr. FESSENDEN. Everything, I presume.

Mr. ANTHONY. That has been left off two or three times by temporary provisions, as the Senator will recollect.

Mr. FESSENDEN. The Senator can bring that matter up by and by, by an amendment to the section, and in the mean time he can see what the law is on the subject. I hardly know whether it applies to Surat cotton or not; but perhaps there is no reason why that should be excepted. The exception existed during the war, I know.

Mr. ANTHONY. I think there is good reason for it now if the provision applies to that.

Mr. FESSENDEN. There are one or two blanks to be filled. In the first line of the first section of the amendment I move to insert "1st day of April, 1867."

The PRESIDENT *pro tempore*. The blank will be so filled in order to make it correspond with the close of the bill.

Mr. FESSENDEN. I move the same amendment in line one hundred and eleven of section one, page 5.

The PRESIDENT *pro tempore*. The blank will be so filled there for the same reason.

Mr. FESSENDEN. There are no other amendments of the committee.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee as amended.

Mr. CATTELL. Mr. President, the importance of the bill now under consideration overcomes my reluctance to trespass upon the time of the Senate, and induces me to attempt the expression of the general views which govern me in advocating the principles upon which the bill is founded. In the statement of these views I shall not, at this period of the discussion, enter into an examination of the details of the bill, as to which there may be differences of opinion even among those who favor its general principles.

In most, if not all civilized countries, the needs of the Government under ordinary circumstances are provided for mainly from import duties, this being the easiest and surest and least objectionable form of raising revenue. But the principles upon which these duties should be levied have given rise to much discussion among both practical statesmen and scholars who have written upon political economy. The extreme views are held on the one hand by the advocates of free trade in its full sense as a rule applicable to all nations and under all circumstances, and on the other hand, by those protectionists whose views, if logically carried out, would end in absolute prohibition. In my judgment the truth here, as in so many other cases, lies in the middle ground.

In the consideration of the subject before us it might be interesting and instructive to trace the rise and progress of the doctrine of protection to home industry in the kingdom of Great Britain, which has risen to be the greatest manufacturing country in the world; a doctrine pushed at some periods even in the present century to the point of actual prohibition, and stubbornly maintained until the development of England's resources and industry enabled her to produce more cheaply than any other nation. But I will not consume the time of the Senate in any such extended review of this history, but content myself at this point, with saying that the principle of protection to home industry was recognized and applied in Great Britain during the last century and a half until all industrial pursuits had been so stimulated and capital so much increased and cheapened that foreign competition was no longer feared. As a single illustration, the duties on iron were raised by Parliament fifteen times in a period of little over a century, commencing about the year 1700; and so late as a period within the memory of some who hear me, 1819, the import duty on certain kinds of small iron was £20 per ton, and on hoop £23 15s., the one a little under, and the other something over \$100 per ton! Other illustrations might be given if it were necessary, but the fact that England's policy was that of protection during this period is familiar to you all.

This decided, unwavering adherence to the doctrine of protection, sternly enforced by the British Parliament and made effective by the adoption so far as practicable of specific instead of *ad valorem* duties, built up England's supremacy in iron making, rapidly developed her resources, stimulated her commerce, and added immensely to her wealth. The results vindicated the wisdom and sagacity of her statesmen in the adoption of the system of protection, when such protection was needed to encourage and develop her infant manufactures, until she was able to compete with and in fact surpass all other nations in producing cheaply the more important of the manufactures required in civilized countries. Nay, more, Great Britain influenced by these views of the protective policy, even ignored the admitted principles of political economy (if there be any settled principles of the so-called science) by excessive import duties on food. By the adoption of a sliding scale, she virtually prohibited importations until the price of wheat grown upon her own soil should reach the extreme figures of eighty shillings per quarter, (about \$2 50 per bushel,) and it was not until the serious failure

of the crops in 1846, resulting in the great famine, that this unnecessary burden was lifted from the backs of the toiling millions. It should be observed, however, that this protection of the agricultural interests stimulated high culture until the improved husbandry brought the production up to its maximum point, and in some degree compensated for the evils always resulting from excessive import duties upon food.

And now the object of protection having been gained in Great Britain by the encouragement of domestic competition, resulting in ability to produce as cheaply as any other nation, and needing a market for her surplus, she naturally and wisely adopts as her interest the doctrine of free trade, and while for more than a century she barred the doors of her custom-house against the surplus of other countries, she would now fain persuade other nations whose conditions are similar to hers of the last century rather than of the present that the doctrine is applicable to them. I need scarcely remind the Senate that the American nation is the one above all others which the British statesmen of the present day seem most anxious to convert to their newly-discovered principle in the laws of trade.

Our consul at Liverpool, a sagacious observer, writes to a friend in Washington, May 19:

"Great efforts will now be made by English capitalists and manufacturers to induce us to reduce our tariff and permit them to do all our manufacturing. They are beginning to stir this matter already. Our warm personal friends will be put forward to move the matter, such men as John Bright, Goldwin Smith, and others, who have stood by us through this war. I have seen decisive evidence of this purpose here. They will struggle hard to break down our tariff; there will be a terrible pressure put upon the Government."

We are well aware that the persistent, vigorous, and often unscrupulous efforts of British manufacturers and capitalists "to break down our tariff" are for the selfish purpose of making England the workshop of the world, thus advancing their own private interests; but the character of the gentlemen here named, and of others equally honored who share their views, remove from them even the suspicion of unworthy and sordid motives. In my judgment, however, the American people will honor them far more for other things than for urging upon us the adoption of a theory which, while it would tend still further to develop and increase the manufacturing industry of their nation, would be fatal to this interest in our own.

While we concede the wisdom of applying the principles of free trade to their own country in its present condition, we contend that they are not applicable to a country like ours, that has yet to develop its manufactures and needs precisely the protection that Great Britain needed under similar circumstances, and which her law-givers had the sagacity and wisdom to give her.

Mr. President, the difficulties which surround this question will be relieved if we consider that nations, like individuals, require different treatment at different periods of their lives. There are periods when a nation requires for its healthy development different systems of treatment; so different that what is admirably adapted to a nation in certain conditions would be utterly ruinous in conditions that are dissimilar. One of the ablest European writers upon this subject, L. de Tegoborski, says:

"In political economy there are no absolute principles applicable alike to all countries, times, and circumstances. Political economy is a science of observation, consecrated by an examination of the facts which manifest themselves in the creation of wealth and of the causes by which they are produced." "The study of social economy as a moral and political science must be guided and corroborated by practice and experience."—*Volume i, p. 451.*

I need not further dwell upon a point so plain, nor would it be worth referring to at all were it not evident that this fallacy has strangely deceived so many, whose arguments for universal free trade amount to nothing whatever, unless it be admitted that the same system is applicable to all nations, in every condition and in every degree of their development.

I do not propose to discuss the question whether, in certain conditions of the world, if free trade were universal, the world would be the gainer. Most assuredly each individual nation would not be, if the experiment were tried now when the conditions of nations are so unequal. To test the principle fairly every nation should start even with every other nation, and as we are not here to legislate for the world at large, but for the American Union, it will be time enough for practical men to meet this question when the world at large shall agree to practice universal free trade. For myself I do not expect such a system to be inaugurated until we shall be many centuries nearer that happy and blessed day when "the lion shall lie down with the lamb."

Certainly we shall act the part of wisdom at the present time and under our present circumstances, if instead of—

"To the fascination of a name  
Surrendering judgment hoodwinked,"

or suffering ourselves to be captivated by the alliteration of free speech, free press, free trade, we address ourselves to the examination of our actual condition and endeavor to ascertain from the history of other nations that have risen to wealth and power, and from the lessons taught by our own experience, what system, not in conflict with national honor and Christian principle, will most speedily and surely secure to the nation progress, prosperity, and power.

This history teaches us, as I have already observed, that England had a protective policy for centuries, during which her condition resembled ours at present in many respects; and that this policy, supported by Cromwell, Walpole, and Chatham, resulted in making her the greatest manufacturing nation upon the earth. It is also worthy of observation that it was not until the year 1840 that any change of note was made in the British policy, long after her manufactures had arrived at a point that enabled her to defy the world. Even the famous tariff of Sir Robert Peel, adopted in 1842, did not ignore the doctrine of protection. In the debate on the bill Peel himself said:

"I do not abolish all protective duties; on the contrary, the amended tariff maintains many duties that are purely protective as distinguished from revenue duties."

Thus practically ignoring the theories of her own economists.

France, guided by the practical wisdom of the First Napoleon, sternly protected her industrial interests, and especially after the close of the continental wars in 1815, when she adopted the policy of sustaining by all the power of legislation and all the authority of the Government the great increase of manufactures which had been forced into development by the incidents of the war. The example of France in this particular is worthy of our special consideration. Important branches of industrial pursuits were established in our own country by circumstances produced by the late civil war, and we shall exhibit practical statesmanship if we ourselves adopt the policy of France in protecting and sustaining such as are at all adapted to the conditions and resources of our country and the tastes and habits of our people.

Russia, peculiarly an agricultural nation, was behind both England and France in recognizing the true interests of her people. Relying upon agriculture, in view of her enormous territory and capacity to produce the fruits of the soil, she neglected manufactures, and although her advance in agriculture and population was comparatively repaid, manufactures were feebly struggling against the pernicious influences of a mistaken policy, and trade and commerce languished. Count Nesselrode in 1821, in an official document, declared that Russia was—

"compelled by circumstances to recur to a system of independent commerce; that the productions of the empire found no market abroad; that the manufactures of Russia were ruined, or on the verge of ruin; that the money of the country was being carried off into foreign parts, and that the most solid of commercial establishments were at the brink of destruction."

Count Nesselrode was too clear-sighted a statesman not to discover that the disease which

afflicted the body-politic was free trade, and he resolutely applied the remedy. He adopted the system of protection, and under its magic influence the dormant energies of the country were aroused. Productions, manufacturing and agricultural, increased; and trade and commerce felt the swell of general prosperity. I need not point the Senate to the present flourishing condition of the Russian empire and attempt to describe how much of her prosperity she owes to these forty years protection of her home industry. Nor will I stop to inquire how much she is indebted to the intellectual and moral influences resulting from the increased activity thus produced among her people for that higher type of civilization that has given freedom and manhood to the serf.

But we need not look into the history of the European nations alone for confirmation of the truth that national prosperity and national progress are promoted by a proper protection of manufacturing industry. Our own country affords us the most striking illustration. Indeed, eminent English writers have been constrained to admit the beneficial tendency of our protective policy. One of them remarks:

"The most prosperous of all nations for the last fifty years has been the United States, yet the exports and imports of the American Union, notwithstanding its vast augmentation in population, are not very much greater than they were in 1805. It is the unregistered home production and home trade, doubled and quadrupled over and over again, that has created this unexampled prosperity."—*Buies*, p. 131.

That this writer is correct in referring our "unexampled prosperity" to this increase of "home production and home trade" can scarcely be denied, and all this was effected by our protective policy, so generally known as the "American system." It may be said, however, that the United States have not constantly adhered to the protective system; that we have vibrated in our policy from tariffs for protection to tariffs for revenue simply, and *vice versa*. The allegation is admitted; and I have only to say on this point that if the true policy had been permanent we should have less need of protection now. That this great country has made progress even under legislation adverse to her industry is admitted; but I assert without fear of successful contradiction that the examination of our history will show that our greatest strides in national prosperity, embracing our agriculture and our commerce, as well as our manufactures, were made during the period when the doctrines of the American system found favor with the law-givers of the nation. When the practical wisdom of Clay and Evans and Simmons prevailed in this Chamber and triumphed over the subtle free-trade fallacies of Calhoun, Hayne, and Hunter, the industry of the nation was quickened and her onward progress accelerated. The impulse thus given to our industrial energy enabled us to make progress for a time even against the disadvantages of the opposite legislation; but every departure from the protective policy has invariably resulted in the end in stagnation of trade, followed by financial embarrassment.

The principle of protection to home productions was early recognized and approved by our fathers; and it is worthy of remark that the policy of protection to American manufactures was assumed in the second legislative act of the First Congress of the United States. That Congress, July 4, 1789, passed "an act for laying duties on goods, wares, and merchandise imported in the United States," the preamble of which reads as follows:

"Whereas it is necessary for the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of American manufactures, that duties be laid on goods, wares, and merchandise, Be it enacted," &c.

This bill was signed by the immortal Washington, and the policy then adopted has been approved and advocated from that time by most of the leading minds of the nation. But of late years the American system of protection to home industry is met with the objection that this is class legislation for the exclusive benefit of one particular interest, and that every dollar of duties levied on imports for protection is so

much tax on the consumer, for which there are no compensatory benefits. This is the one great argument upon which the advocates of free trade mainly rest their case; and although it has been met and answered, in my opinion conclusively, in the books of recent writers in our own country—Cary, Colwell, Colton, and others—and in the speeches of many of our leading statesmen, yet I may be permitted briefly to restate the grounds upon which advocates of protection reject this fallacy.

But first, if this allegation of the free-trade theorists were true, which I do not for a moment admit; it has no force in the present condition of our national finances. The Secretary of the Treasury estimates that there will be required for the year ending June 30, 1868, to meet the expenditures of the Government, to provide for the interest on the public debt, and for the payment of bounties, a revenue of \$350,000,000, so that after having arranged your tariff at the highest admissible rate consistent with a due regard to both revenue and protection, you must look to your excise to give you a revenue of nearly or quite two hundred million dollars. Indeed, the receipts of internal revenue for the year 1866 reached the enormous sum of \$310,906,984, and of this the manufacturing industry, which is sought to be protected by this bill, paid \$178,356,661.

Do you believe that anything like this sum can be realized to the Government from this source during the present fiscal year, unless the much-needed protection be accorded them? The premiums on gold, which acted measurably as a tariff, has fallen, while the high prices of labor remain the same. In this abnormal condition of affairs the munificent contributions made by our manufacturers to the revenue of the Government last year cannot without further legislation on their behalf be repeated, and the more objectionable demand of an increased excise upon the people at large must supply the deficit. But apart from this consideration, we contend that a careful examination of the whole subject will show the utter fallacy of the usual and clamorous free-trade argument that under all circumstances all duties for protection are a tax upon the consumer.

A recent writer upon this point says:

"If protective duties enhance for a time domestic manufactures, they secure afterward lower prices by means of internal competition; for an industry that has reached its development can safely reduce its prices far below those which were necessary to insure its growth, and thus save to its consumers the whole expense of transportation and the whole profits of trade, which are consequent upon imports of the same articles from other countries."—*List*, p. 80.

The history of our country will fully justify this conclusion. It is competition and development at home that produce lower prices; and while protective duties will reduce foreign competition and perhaps arrest development in other countries, they invite and encourage domestic competition and stimulate the development of our own resources. And when it is remembered that our imports are not more than ten per cent. of our consumption is there not wisdom in encouraging competition at home where the ninety per cent. is produced? And will not this, beside building up the nation, eventually give us a lower range of prices than the practice of the opposite doctrine? Will not the encouragement given by protection invite capital into manufactures; attract to our shores the skilled workmen of other lands; stimulate enterprise and quicken the activities of our people, until the manufacturer will find a sharper competition at his own door than the one three thousand miles away?

Let me illustrate by the statement of a case with which we are all familiar. Before the war, say in 1860, the price of anthracite coal delivered at Philadelphia was three dollars to three dollars and a quarter per ton. The capital engaged in its production and the collieries then opened were sufficient to meet the constantly increasing wants of the country in a normal condition of affairs. In fact capital, in view of the previous prosperity of the trade, had been attracted to it, until the supply was in advance of the demand.

A distinguished gentleman, largely engaged in the mining of coal, writes me as follows:

"For a number of years prior to the war the coal business was much depressed. Most of the operators were bankrupt, the cost of production exceeding the market price, except in favored localities."

But the inauguration of the war threw suddenly a largely increased demand on the source of supply. As a consequence the market rose rapidly, until the price reached ten dollars per ton at Philadelphia. At this price coal mining was among the most profitable occupations. The enterprising capitalists saw this at a glance, and were attracted in that direction. New collieries were opened; those already engaged in the business were stimulated to increased production; and what is the result? Why, the increase of production in 1866 to November 1 over that of the corresponding year of 1865 was two million eight hundred and thirty-six thousand seven hundred and eighty-two tons. As a consequence the price of coal has fallen in Philadelphia to about five dollars per ton, a price actually below the cost of production at the present prices of labor. This illustration is drawn from the movement of anthracite coal; but the same results—of domestic competition—are observable in the movements of bituminous coal. During the war prices at Pittsburg ran up to thirteen cents per bushel, which stimulated production and increased the supply; and the price was consequently reduced until the article is now freely offered at seven cents per bushel. I submit that such is the natural and usual result of home competition, and that when protection is necessary to induce this competition it is the interest of all classes of the nation to accord it. But still further I propose to show that facts sustain this principle, by a reference to the prices of a few leading articles before and after they were produced by the American manufacturer.

The tariff bill approved May 22, 1824, levied a rate of duty equal to eight cents per square yard on the coarser qualities of unbleached four-quarter cotton muslins. For a brief period the price of this article was advanced somewhat over that prevailing previous to the passage of the tariff act referred to. But the encouragement given by protection on this class of goods induced capitalists in different sections of the country to erect factories and to engage in the manufacture of an article so largely consumed by our people. The natural result followed. The energy and skill of our people, and the improvement of machinery adapted to the manufacture of these goods, were such that the consumer through the working of home competition was supplied with an article of superior quality to the imported, at a cost of seven and a half cents, being actually one half cent per yard below the duty levied. Another illustration may be cited of more recent date; that of the finer grades of cast steel, for which a few years ago we were entirely dependent upon the Old World. A number of original invoices now in my possession from prominent English steel manufacturers' agents on this side, dated in the years 1850, 1852, 1853, 1855, 1856, and 1857, show that during these years, when the duties on steel were far below the present rates, being as low in the year 1857 as twelve per cent. *ad valorem*, (equal to about one and a quarter cent per pound, as shown by the custom-house valuation,) the price of best cast steel averaged fifteen cents, and the maximum sixteen and a half.

Invoices and offers made by the very same manufacturers' agents during the present month, the existing tariff upon the same grade being three cents per pound, show an average decline of one and a quarter cent per pound. This is comparatively a new branch of manufactures, and the figures I have given show that, working under a protective duty of three cents per pound, the energy and enterprise of our own people have forced the English manufacturer to reduce his rate one and a quarter cent per pound, saving to the American consumer twenty-five dollars on every ton used.



But a singular confirmation of the truth that domestic competition, which is always induced by protection, actually reduces prices is found in a recent memorial sent to the Finance Committee by some of the most eminent railroad men in the country. Representing the interests of their roads, and desiring of course to purchase steel rails as cheaply as possible, they ask that the increased duty on steel proposed by the House bill be sustained. They state the pregnant fact that the present extensive preparations to produce Bessemer steel rails in our own country have compelled the foreign agents to reduce the price of theirs forty dollars per ton. But I will read the memorial with the names of the distinguished gentlemen which are appended, and let them speak for themselves:

*To the Finance Committee of the Senate of the United States:*

We, the undersigned, respectfully represent—

1. That in our opinion it is highly important for the interests of American railroad companies, and the builders and users of American machinery, that the business of manufacturing Bessemer steel rails, axles, boiler-plate, forging, &c., in this country should be commenced and carried to such an extent that, in case of war with a foreign Power or other contingency, we may be capable of supplying our whole domestic demand.

2. That previous to the present extensive preparations in this country for producing Bessemer steel rails, forgings, &c., foreign agents charged \$150 per ton in gold for the same rails that they reduced to \$110 per ton in gold when they became aware that such preparations were being made; thus showing the necessity for a home supply in order that the foreign article may be obtained at a reasonable rate.

3. That we are credibly informed that large works for manufacturing Bessemer steel for rails, forgings, &c., are in course of erection at Troy, New York; Harrisburg and Chester, Pennsylvania; Cleveland, Ohio, and Detroit, Michigan; and that capable gentlemen are awaiting the result of the present action on the tariff bill before beginning to build works of the same kind already planned, at Mott Haven, New York; Pittsburg, Johnstown, and Bethlehem, Pennsylvania; Baltimore, Maryland; Cincinnati, Ohio, and St. Louis, Missouri, which works, if built, will more than supply the present domestic demand.

Now, therefore, we respectfully ask that the House bill, placing two and a half cents per pound duty on steel rails, and three and four cents per pound on other articles of Bessemer steel of more difficult manufacture, be sustained; and that all steel rails contracted for previous to July 1, 1866, be permitted to enter the country at the present duty of forty-five per cent. *ad valorem*.

J. EDGAR THOMSON,

*President Pennsylvania Railroad Co., &c.*

THOS. A. SCOTT,

*Vice President Pennsylvania Railroad Co., &c.*

H. J. LOMBAERT,

*Vice President Pennsylvania Railroad Co., &c.*

M. B. HICKMAN,

*President West Chester and Philadelphia Railroad Co.*

J. D. PERRY,

*President Union Pacific Railway Co., E. D.*

WM. J. PALMER,

*Treasurer Union Pacific Railway Co., E. D.*

JOHN TUCKER,

*Philadelphia and Reading Railroad Co.*

JAY COOKE, *Banker.*

WM. B. BIDDLE,

*Vice President Lehigh Coal and Navigation Co.*

S. P. ELY,

*Of Marquette and Bay de Noquette Railroad, Mich.*

EDW. MILLER,

*Of Warren and Franklin Railroad.*

S. M. FELTON,

*President Philadelphia and Baltimore Central Railroad, Delaware Railroad Co., and Chester Creek Railroad Co., &c.*

NATHL. THAYER,

*Banker and Railroad Director of Michigan Central, Hannibal and St. Joseph Railroad Co., &c.*

ISAAC HINCKLEY,

*Pres't Phil'a, Wilmington, and Baltimore R. R. Co.*

ERASTUS CORNING,

*Of New York Central Railroad Co., &c.*

W. W. LONGSTRETH,

*President Lehigh Valley Railroad Co.*

FREDK. FRAILY,

*President Schuylkill Navigation Co.*

CHAS. E. SMITH,

*President Reading Railroad Co., &c.*

J. GREGORY SMITH,

*President Vermont Central Railroad Co., &c.*

J. D. CAMERON,

*President Northern Central Railroad Co.*

R. N. RICE,

*General Superintendent Michigan Central Railroad Co.*

J. B. SUTHERLAND,

*Michigan Central Railroad Co.*

One other illustration, and I have done on this point. An extensive manufacturer of iron in Pennsylvania, in reply to some inquiries I made, writes me as follows:

"In regard to the iron business before and since the war we submit the following: the highest price iron touched during the war was eight and a half cents per pound for common bar. It is now four and a half cents; but to compete with foreign iron must

be sold at four cents. Labor is as high as it ever was during the past five years; and unless there is a general decline in prices of everything that enters into daily economy of life we cannot bring it down in anything like the same proportion that the price of the product has fallen.

"Another point: iron averaged during the ten years before the war two and three fourths to three cents per pound for common bars. Reduce our price of five cents to gold at thirty-three per cent., and it shows we would now sell New American iron at three and three fourths cents gold; and we do not fear to predict that should even a majority of articles follow gold down to par iron would sympathize to a greater extent than the above relative prices. In some particular descriptions of iron, in hoops, sheet, and light sizes, prices have actually been lower—computing value in gold—than before the war. Home competition has done this; but we do not fear that; it is the fault of the individual manufacturer if his American rival can outstrip him."

But there is still another view of this subject.

I have already said that the imports did not exceed ten per cent. of our consumption. In other words, the industry of our own land supplies us with ninety per cent. of our wants.

Now, suppose by an unwise system of legislation you expose our manufacturers, without protection, to the ruinous competition of the cheaper labor and cheaper capital of Europe and thus break them down; suppose you put out the fires of the forge and the rolling-mill, arrest the shuttle of the weaver, and still the music of the spindle, what will be the inevitable result as to price? You thus throw upon the workshops of Europe the demand to supply the whole of our enormous wants. Their capacity is about equal to the wants of their customers, as things now stand, and consequently the demand when increased by the volume of your entire wants will far exceed the supply. Then, by the inexorable law of trade, prices must rise. You get now the ten per cent. of your wants cheap because you produce the other ninety per cent. Close up your workshops and throw your whole demand upon those of Europe and you aid in building up the industry of other nations upon the wreck of your own. In this view of the case the interest of people of all classes is promoted by protection to home industry, and that can hardly be called class legislation, which, in the end, benefits all classes and tends to develop the mighty empire which God has given for our heritage.

But, Mr. President, the argument rests on a much broader basis, which is, that the prosperity of the manufacturing interests invariably brings prosperity to every other department of industry. There is harmony between the agricultural, manufacturing, and commercial industry of a well-regulated nation. If I may be allowed to use a figure, agriculture may be considered the framework and foundation of the body-politic, as the bones and muscles and sinews are of the body-organic; manufacturing industry fitly represents the life blood, while trade and commerce constitute the heart, whose mighty pulsations send the life-giving current through every artery and vein. As a healthful condition of all the parts of the human body assures a perfect development of the man, so a healthful condition of all the departments of industry is essential to the perfect development of a nation. If manufactures languish you cannot have a healthful, natural condition; for if the blood be impoverished and the supply scanty, the pulsation of the heart will be lessened and weakened, and for want of a proper supply of nourishment torpor will ensue and paralysis will finally settle on the entire organism.

In respect to commerce, this harmony of interests arises from the fact that our home industry is the basis of all our prosperity. It is a well-established fact that foreign commerce flourishes just in proportion to the nation's productive energy and power of consumption. In a country so vast as ours, stretching from ocean to ocean and "from the icy north to torrid climes," with every variety of soil and climate, with its fertile valleys, its broad prairies, its beautiful savannahs, its mighty rivers, and its inland seas, its hills of gold and its mountains of silver, its inexhaustible supplies of coal and iron, the "twin sisters of civilization," there is no limit of wealth and power of which human thought can conceive which cannot be

reached by the industrial forces of our people if they be aided by wise and judicious legislation. It is to the development of these great resources, the gift of a beneficent God, that we must look for national wealth and power and individual prosperity and happiness. Whatever tends to stimulate this development increases the prosperity of every class.

A careful examination will show that under our varying system of protection foreign commerce flourished most when the activity of the laboring masses was the greatest, and he is behind the age in which he lives and an inattentive observer of the progress of our own and other nations who objects to the protective policy on the ground that it militates against commerce. England's commercial supremacy was acquired during a system of protection to her manufacturing industry more rigid and effective than any ever adopted by the United States, or than any now proposed by the most earnest advocates of protection. Look at the figures of the Russian empire. Her foreign commerce shows a total movement of imports and exports in 1822, under the free-trade policy, of but 92,065,000 roubles; while after the better system of protection to her manufactures, which we are so positively assured militates against commerce, had been in operation for thirty years, the total movement showed in 1853, the latest dates at my command, 246,605,000 roubles, an increase of two hundred and fifty per cent. Do these figures sustain the idea that commerce is dwarfed under the protective system? The power to produce and the ability to consume in a nation is what makes commerce, and both these conditions result when the operatives are fully employed and fairly paid. To secure these results you must protect your workmen from the ill-paid, ill-clad, ill-fed labor of the Old World. But if it could be shown that this policy did somewhat interfere with our foreign commerce, I submit that the most ample compensation would come from the increase of our domestic commerce. Commerce in its full sense embraces both foreign and domestic, and if the loss in one branch is more than compensated by the gain in the other, is the nation a loser; or can it with any propriety be said, under such a condition of things, that commerce languishes?

In foreign commerce there is of necessity some division of profits with the nation with which you trade. With domestic commerce the net results are all your own. Beside the prosperity of a country, so far as it results from foreign commerce, may be interrupted, disturbed, or annihilated by foreign legislation or by war. The relative importance of the two branches of commerce will be seen by a comparison of the movement of each, and I ask your attention to a few figures bearing upon this point. These figures are taken from statistical reports prepared by Mr. Delmar, the very able chief of the Bureau of Statistics connected with the Treasury Department, and now in course of publication. The entire table is so interesting and instructive that I give it in full, although a small portion of it only is necessary for my present line of argument:

*Value in gold of the annual product of the people of the United States—1860.*

Engaged in agriculture.....	\$1,608,963,917
Engaged in manufacture.....	916,699,948
(This includes all processes between the raw material and consumption, and thus comprises the cost of dwellings erected, railroads and canals equipped, home-made manufactures, &c.)	
Engaged in mining.....	100,000,000
Engaged in fishing.....	12,924,092
Engaged in hunting.....	2,000,000
Engaged in foresting, wood cutting, &c.	25,000,000
Engaged in domestic commerce.....	1,500,000,000

[This sum represents the net annual earnings of, or gross increase of, money value derived from railroads, canals, turnpikes, steamboats, vehicles, and vessels of every description employed in the transportation and distribution of passengers and commodities in every direction within the country, including money value of all incidental labor devoted thereto.]

Engaged in foreign commerce..... 190,000,000

Amount carried forward..... \$4,355,587,957

Amount brought forward.....\$4,355,587,957  
 [This sum represents the net annual earnings or gross increase of money value derived from exchanging products with foreign countries, that is from foreign imports and exports, and from the carrying to and fro of passengers.]  
 Engaged in improving the face of the country and subjoining to the purposes of society.....2,400,000,000  
 [This sum represents the yearly increase of the value of lands and other immovable property newly brought under cultivation or improved, and comprise the "permanent ways" of railroads and canals, and indeed all real property.]  
 \$6,755,587,957

## RECAPITULATION.

Agriculture.....	\$1,608,963,917
Manufactures.....	916,699,948
Mining.....	100,000,000
Fishing.....	12,924,092
Hunting.....	2,000,000
Forestry.....	25,000,000
Domestic commerce.....	1,500,000,000
Foreign commerce.....	190,000,000
Internal improvements.....	2,400,000,000

Total gold value.....\$6,755,587,957  
 Same reduced to currency at 140, estimate for 1866.....\$9,457,823,139

Of the \$6,755,000,000 (gold value) produced in 1860, \$6,000,000,000 were consumed during the same time, leaving a surplus or annual gain to the people's combined wealth of \$755,000,000.

As the product of 1866 was about the same in gold value as that of 1860, and the surplus of course the same, the latter amounted in currency in 1866 at 140 for gold to \$1,057,000,000; and of this amount \$561,000,000 in currency was paid to the Government in the form of taxes.

These figures are not only interesting and instructive in their detail, but the grand total of the people's earnings in currency (\$9,457,823,139) almost surpasses belief, and induces the thought that the human mind is scarcely capable of conceiving the vastness of the material resources of the nation when the energy and enterprise of our people shall have been fully developed. And if the premises upon which the table is made and the conclusions drawn therefrom be correct, the astounding fact is developed that the industry of the nation paid during the year 1865 in taxes to the Government more than half of the net profits of the whole people.

But my chief purpose in producing this table is to show the immense volume of our domestic commerce and to draw therefrom a comparison of it with the results of our foreign commerce, in confirmation of my assertion that our domestic commerce far outstrips our foreign in importance to the nation, \$1,500,000,000 against \$190,000,000. Think of it, and tell me whether I am extravagant in saying that in view of such figures our foreign commerce sinks into comparative insignificance. The American system, by giving activity and volume to our domestic trade, assures the increasing development and onward progress of our domestic commerce.

Having thus seen, by an examination of the history of other nations and by the results in our own, that there is no real antagonism to commerce in the encouragement we propose to manufactures, it only remains on this branch of the subject to inquire whether the system of protection is in harmony with the agricultural interest of our country, confessedly the most important element of our national wealth. The advocates of the free-trade theory have employed their most subtle arguments in the attempt to prove that there is an antagonism between the manufacturing and agricultural interests of our country, but I am sure that an honest and faithful examination of the subject will show that such an antagonism exists only in their imagination.

The argument that import duties are a direct tax upon the consumer, without any compensatory benefit, which, if true, would fall most heavily on agriculture, I have already attempted to answer in the course of these remarks and I but restate what I have said, when I assert that the soundest of the recent

writers upon political economy, and especially those of our own country, deny the truth of this assertion, and that they are sustained by a rigid examination of the facts and a careful comparison of results under different systems. I admit that British writers on political economy who assume the hypothesis of free trade have occupied the field for more than half a century, but the unsoundness of their theory has been shown, not only by the close reasoning of later writers, but also by its rejection as a rule of practice by the wisest practical statesmen of all highly prosperous countries.

Napoleon the Great is reported by Las Casas to have said:

"Duties which were so severely condemned by political economists should not, it is true, be an object to the treasury: they should be the guarantee and protection of a nation and should correspond with the nature and objects of its trade. Holland, which is destitute of productions and manufactures, and which has a trade only of transit and commerce, should be free of all fetters and barriers. France, on the contrary, which is rich in every sort of production and manufactures, should incessantly guard against the importations of a rival who might still continue to be superior to her, and also against the cupidity, egotism, and indifference of mere brokers. I have not fallen into the error of modern systematizers who imagine that all the wisdom of nations is centered in themselves. Experience is the true wisdom of nations, and what does all the reasoning of the economists amount to?"

At another time this extraordinary man, when discussing the theories of political economists, is reported to have said:

"If an empire were made of adamant political economists would grind it to dust."

For myself I prefer to accept the practical wisdom of this great man rather than the speculations of Adam Smith and Say and their disciples.

If, then, it has been shown by practical results that, taking a series of years, prices are cheapened rather than advanced by protection to home manufactures, by stimulating home competition, and that there is harmony with instead of antagonism to all the great interests of our country, the foundation upon which the free trade hypothesis is built is destroyed, and the whole fabric falls.

But suppose, for the sake of argument, that the money price of an article was advanced to the extent of the duties imposed, it does not follow that it is actually dearer to the consumer. Full employment to the laborer increases his power to buy and consume; and agriculture confessedly supplies a large part of his wants. The artisan who makes the plow, the ax, the mower, or the reaper, whether he does it in England or America, must be fed. If he be an American artisan the more fully you keep him employed the greater his ability to purchase your products. He must of necessity have bread, and he must therefore be a customer for what the farmer has to sell. While he has been employed in making the ax for the farmer the farmer has been producing the bread for him. He takes your bushel of wheat in pay for the ax he has made for you. Now, before you can decide whether the farmer has actually given more for the ax than one of foreign manufacture would have cost him with the duty imposed, you must settle the question whether more or less than a bushel of wheat is required to procure the ax from a foreign workshop, and pay the importer's profit, the cost of transportation, and the duties levied upon it by Government. Now, the home laboring classes comprise the great body of the farmer's customers, and if they be fully employed and fairly paid, their ability to purchase is increased and the demand for agricultural products is increased, resulting in an advance in prices, which is the usual result of active markets. If they be not employed, the surplus population which can no longer find means of living in factories will be driven to the cultivation of the land and thus become the farmer's competitors instead of his customers.

But, Mr. President, the harmony of interests which exists between agriculture and manufactures, and the truth of the position I have taken, are clearly shown by actual results. I am sure the Senate will excuse me if I draw

an illustration from personal observation in my own mercantile life. Twenty years ago last autumn I embarked in the trade in breadstuffs in the city of Philadelphia. At that time, and for some succeeding years, the entire volume of my business was made up of consignments of agricultural products from the valleys of the Susquehanna, the Juniata, and the Lehigh. I have not the figures at command, but I am sure I speak within bounds when I say that my own house and the four or five others doing business from the same points must have received from this quarter four to five million bushels of cereals per annum. Philadelphia is still the natural market for the surplus product of this territory, but for some years past there have not been consignments enough received from that entire section to realize commissions sufficient to pay the salary of a receiving clerk. Do you ask, has production fallen off? I answer, no; on the contrary, it has increased, but the whole line of these valleys has been dotted with furnaces and forges and rolling-mills and saw-mills and factories and workshops, filled with operatives, and the consumer of agricultural products has been brought to the farmer's doors. He now finds a readier market for his products at home at prices equal to those ruling on the sea-board, of which he avails himself and thus saves all the cost of transportation and factorage, equal at average prices to about twenty per cent. Nay, more, sir, my own firm has frequently within the past few years sold and shipped to the millers in one of these valleys, that in which the iron interest has been most developed, the Lehigh, wheat drawn from Michigan, Illinois, Wisconsin, and Iowa to supply the deficiency in the consumptive want. And these products of the prairies of the West were sold, too, at a price far in excess of what could have been realized by exportation to any country on the face of the globe. As a consequence of this state of things land has risen in value through all this section, and farms that could have been bought fifteen or twenty years ago at forty or fifty dollars per acre are now salable at one hundred and fifty or two hundred dollars per acre. Villages have grown to be towns, and towns have grown to be cities, agriculture and manufactures have clasped hands and prosperity reigns.

In further confirmation of the view that activity and prosperity in manufactures is favorable to the agricultural industry of the nation, I submit the following extract from a letter written by D. J. Morell, Esq., of the Cambria Iron Works, Johnstown, Pennsylvania:

"The Cambria Iron Works makes a market indirectly for an immense deal of produce which I cannot pretend to trace. They have created and they sustain the population and diversified industries of the city of Johnstown, which would be nothing without them."

In the following table he shows the sources from which this demand is supplied:

*Estimated production of rails by the Cambria Iron Works for the present year, ending October 31, 1867.*

	Tons.
New.....	40,000
Rerolled, 10,000 tons, to new.....	5,000
Total.....	45,000

Expended in living by workmen, \$65 per ton for 45,000 tons is.....	\$2,925,000
Which, as per foregoing estimates, is distributed as follows:	
Paid to western farmers.....	\$1,050,750
Paid to southern farmers.....	319,050
Paid to local farmers.....	217,800
Paid to foreign farmers.....	175,500

Total to agriculture.....	1,762,100
Paid to western manufacturers.....	102,500
Paid to southern manufacturers.....	79,200
Paid to local and eastern manufacturers.....	616,950
Paid to foreign manufacturers.....	81,000

Total to manufacturers.....	890,650
Paid to purposes not connected with agriculture or manufacturers.....	281,250
Total.....	\$2,925,000

## Percentages of distribution, (in order.)

To western farmers.....	35
To eastern and local manufacturers.....	21
To southern farmers.....	11
To local agriculturist.....	9
To foreign agriculturist.....	6
To western manufacturer.....	3
To southern manufacturer.....	3
To foreign manufacturer.....	3
To local purposes.....	9
Total.....	100

He adds:

"One thing you will particularly observe. It may seem that in distributing the agricultural products consumed by workmen I have not accorded enough to the locality of the works. I feel certain that I have given too much. So far as the Cambria Iron Company are concerned the local supply of agricultural products, though large, is almost imperceptible. It does not nearly sustain the other industries created by the works, but having no dependence upon them other than the works, are as necessary to their existence as the shining of the sun."

It has been well said:

"Protective duties do not press heavily upon the agriculture of a country. By the development of manufacturing industry, the wealth, population, consumption of agricultural products, and exchangeable value of real estate are vastly increased, while the manufacturer's products consumed by farmers gradually fall in price. Agriculture and manufacturing industry united in the same nation, under the same political power, live in perpetual peace! They are disturbed in their reciprocal action neither by war nor foreign legislation. They insure to a nation the continual development of its prosperity, civilization, and power."

Antagonism between agricultures and manufactures! Protective duties, a class legislation to favor the opulent manufacturers and to oppress the hardy sons of toil! No, no. If charges must be made, we retort that this is but the clamor of those who would have you legislate in favor of the industrial interests of other nations, and I submit that it is the duty as well as the high privilege of the Congress of the United States to legislate for the interests of this nation.

I submit to the gentlemen who so worthily represent the great agricultural States of the West that the adoption of the American system and a faithful adherence to the principles upon which it is based is the true interest of their great and growing empire. The fertile prairies of the West crown the labors of the husbandman with the rich reward of abundant harvests, and our noble water-courses and inland seas and magnificent system of railways enable him to deliver from his abundance to all parts of our widely-extended country. All that is needed to bring prosperity to this class is a steady demand for their products. Encourage manufacturing industry and you increase the number of those who consume your products and add to their ability to buy. All the world over, as a rule, the home customer is the best; his want is steady, constant, sure, and gives you an unfailing market; while the foreign demand, which is insignificant at best, is fitful and contingent, liable at any moment to be interrupted by war or paralyzed by adverse foreign legislation.

The only nation of importance which does not produce food sufficient for its own consumption is Great Britain, while the great nations which lie near her—Russia, France, and Germany—have a surplus to export. The total annual want of Great Britain is about five million quarters, say about forty million bushels. Now, the annual production of wheat and corn in the United States is shown by the census reports to be about one thousand million bushels. If, then, Great Britain were to take from us the whole quantity of her deficit it would only be four per cent. of our crop. But Russia, France, and Germany compete with us for this trade, and the result is that we furnish but a small part of the want. The special commissioner of revenue, Mr. Wells, in his recent report, says:

"Of the value of the whole agricultural products of the country, excluding cotton, rice, and sugar, only two and three fourths per cent. was estimated to have been exported, leaving ninety-seven and one fourth per cent. for the home market and consumption."

Under the depression resulting from the low tariff of 1846, after the spasmodic rise occasioned by the Irish famine of that year had subsided, prices of breadstuffs declined, and,

with not the slightest demand for export, prime winter wheat sold in Philadelphia as low as seventy-five cents per bushel, a price which would hardly leave the producer in Iowa and Wisconsin forty cents per bushel. If you destroy manufacturing interests and drive the operatives from the workshop to the cultivation of the field, where are you to find a market for your agricultural products at remunerative prices?

A recent writer has said:

"Chicago alone often sends off in ten days more grain and flour than England has taken from us each year, on an average, for twenty years past; and the grain export from that city in a single day often exceeds what England has bought of us for a whole year."

In the course of a speech made in Boston by J. W. Brooks, Esq., president of the Michigan Central railroad, he said:

"We want a more steady and reliable market for the produce of the great food-producing region. Its power of production has hardly begun to be developed; but even now it is often without a market for its products. The natural buyers of surplus food are the manufacturers, and the great body of them live too far away from us. England does not import food from this country till she has exhausted those nearer home, which usually supply nearly all she requires. Estimating the growers' portion of the price received at twenty-five cents for corn and eighty cents for wheat, the export of breadstuffs for the last eighteen years has yielded to the growers an average of about thirteen million dollars per annum, rising as high as \$34,800,000, and falling as low as \$860,000 per annum—some years more than forty times as great as others—yielding to the nation a maximum of but a little over one dollar per head, and sometimes falling below three cents. This is too insignificant at best, and too unreliable at all times for so important an interest in our national economy."

Sir, whatever may be the fact in regard to other nations, with us there is unquestionably a harmony of interest between these great sources of our national wealth—agriculture, commerce, manufactures. Our fathers grouped them on our national shield in loving accord, emblematic of unity of interest; and all the subtle sophistry of British writers and the specious arguments of British statesmen, and the clamorous, selfish demands of British manufacturers, will never shake my faith in the conviction that they are those whom God has joined together at the altar of our common country, and no man may put them asunder. And such is the opinion of the people I have the honor in part to represent in this Chamber.

New Jersey speaks on this subject through her worthy Governor, distinguished no less for his practical statesmanship than for his steadfast devotion to the cause of our country in her hour of peril, and his unceasing efforts to minister to the wants of our brave defenders and their families. Governor Ward, in his annual message to the Legislature of New Jersey, which convened a few days ago, says:

"There is another subject of great interest to the nation in the question of properly protecting its capital and industry. We were enabled to pass through four years of a sanguinary and costly war, the magnitude of which is now scarcely realized, by the simple development of our natural resources. Let these resources be steadily fostered and protected and we shall continue to prosper as a nation and as individuals. I believe in an American system which recognizes the duty of protecting our interests and our labor against the foreign policy of free trade. We ought to have no sympathy with those false and pernicious theories which would make us tributary to foreign workshops and foreign labor. True national prosperity consists in well-protected capital, in well-educated and well-qualified labor, and in bringing the manufactory into close proximity to the farm. In our own State there is no division of opinion upon this subject. The least intelligent farmer knows that his close proximity to the mine, the forge, and the workshop is the secret of his real prosperity. He cannot be persuaded that any foreign market for his grain, his fruit, his cattle, or the produce of his dairy will supply the demands which these various branches of labor now create at home. Our large and varied interests are all united in the confident expectation that the Government will give to our industrial resources the protection which is demanded for their full development."

"At no period in our history has it been so important for us to adopt the doctrine of 'protection for the sake of protection' as now. Every dollar of gold exported from our country is a rebuke to the extravagance of our people and to the short-sighted policy of our Government. We are without adequate security that the investments of to-day will be profitable to-morrow. We feel that the financial interests of the country are so largely connected with the prosperity of our home industry that any neglect of this industry will work a sure and lasting injury to the former."

These are the words of wisdom fitly spoken. But there may be those who, while admitting the soundness of the protective policy, will contend that the existing tariff is high enough for the accomplishment of the protectionist's purpose, and that no further increase of duties is necessary.

To this I reply by asking the objector to look at the condition of the manufacturing industry of the nation at the present time.

My daily life is spent among a people largely engaged in the manufacture of iron and steel and in the production of textile fabrics; and I know from personal observation that foreign competition and excessive taxation constitute the upper and nether millstone between which these industrial pursuits are being ground to powder. If you admit the principle of protection to be true, then make your duties sufficiently high to be effective. If you will not do this, abandon the system, I beg you, and do not—

"Keep the word of promise to the ear,  
And break it to our hope."

But again, the necessity of some further protection to the industry of the country is conclusively proved by the course of importations for the year 1866, just closed. The enormous increase of imports is alarming, notwithstanding the allowance, which I admit should be made, for increased importations, in view of the probable adoption by the Senate of the higher duties proposed in the House bill of last session.

I am indebted to an intelligent gentleman connected with the customs department for the following figures. At the port of New York alone the imports of foreign merchandise for the year 1866, just closed, reach the enormous sum of \$306,618,184, all gold values as invoiced, exclusive of freights, duties, and profits. If we convert this sum into currency it will be found that the value of these importations at this one port will be \$439,258,457 currency, an amount far in excess of any previous year. And of these importations very much more than one half come in direct competition with the labor of our own country, as the following figures for the most prominent articles will show:

Principal articles imported in 1866 to New York, competing with American labor.

Dry goods:	
Woolens.....	\$50,405,179
Cottons.....	21,287,490
Of silk.....	24,837,731
Of flax.....	20,456,870
Miscellaneous.....	9,235,822
Iron:	
Pig.....	\$879,733
Railroad.....	1,492,633
Hoop steel, &c.....	3,053,478
Chains, wire, &c.....	484,264
Hardware.....	1,821,731
Cutlery.....	2,466,207
Steel.....	2,949,349
Machinery and steel manufactures.....	865,942
Copper:	
Copper.....	\$665,309
Zinc and spelter.....	1,064,195
Nickel.....	180,698
Lead.....	2,485,840
Brass and metal goods.....	817,638
Watches.....	
Instruments.....	\$2,387,685
Jewelry.....	714,438
Glass and glassware.....	
Earthenware.....	\$2,523,279
Buttons.....	3,113,878
Fancy goods.....	\$1,389,383
Baskets, boxes, &c.....	4,362,850
Furs.....	
Hair manufactures.....	\$14,267
Feathers.....	\$2,643,664
Leather and leather manufactures.....	
Paper.....	\$264,337
Books.....	\$1,458,660
Engravings and stationery.....	851,683
Paper-hangings.....	661,660
Paints.....	
Linseed oil.....	\$1,336,214
Perfumery, soap, &c.....	2,374,089
Flax.....	727,247
Hops.....	439,453
Tobacco.....	515,673
Total.....	
\$179,307,593	



The aggregate value of the items here cited roughly from the list of importations at New York alone for the calendar year 1866 is nearly one hundred and eighty million dollars in gold value as invoiced, all or at least very nearly all of which comes in direct competition with the labor of our own country.

It is estimated that imports at all other ports are equal to from one fourth to one third of the imports at New York. Call it one fourth, which will be \$45,000,000, and you have a total of imports of products competing with our own, in round numbers, \$225,000,000. Reduce this to currency at forty per cent. for gold, about the average rate of the year, and you reach the amazing sum of \$325,000,000; and remember that this is not the total of imports, but simply that part of them which come in direct competition with our own productions. In currency value, the total imports will, as before stated, exceed \$500,000,000. The rapid and excessive increase of imports, which will be shown by the following table, is the strongest evidence I can submit to prove that the present tariff is not sufficient either to protect properly American industry or to save the nation from ruin by over importation.

Comparative table of imports at New York.

	Dry goods.	Earthen and glass wares.	Pig iron.
1863.....	67,274,547	1,704,154	397,916
1864.....	71,589,752	1,979,634	803,788
1865.....	91,965,138	2,014,920	385,788
1866.....	126,222,855	4,204,552	879,733

It will be seen from these figures that the imports of these three leading items for the years 1866 are double those of the year 1863, a fact that may well alarm us. But more than this: these figures, large as they are, do not present the whole truth. The Secretary of the Treasury in his last report to Congress says:

"For many years there has been a systematic undervaluation of foreign merchandise imported into the United States, and large amounts have been smuggled into the country along our extended sea-coasts and frontiers. To make up for undervaluations and smuggling, and for cost of transportation paid to foreign ship-owners, twenty per cent. at least should be added to the imports, which would make the balance for the past year against the United States nearly one hundred million dollars."

If you add the Secretary's estimate for undervaluation, smuggling, &c., say \$100,000,000, to the ascertained imports for 1866, you have the enormous sum of between six and seven hundred millions, currency value, as the grand total of imports for the calendar year.

Such a statement may well "give us pause," and when we remember that a very large share of the articles whose values are included in this vast sum can be and would be produced by our own people, under a proper system of protection, which would save them from being driven from the factory and the workshop by the untaxed pauper labor of Europe, the subject is sufficiently important to demand the most serious consideration of Congress.

You must do something to arrest this flood of importation if you would save the nation from utter bankruptcy. Ruin must come to nations as well as individuals when they continue to buy more than they sell, and this is just what our nation is doing now. Let us see. So far the figures I have given were for the calendar year 1866. I propose now to call your attention to some figures from the Secretary of the Treasury's report for the fiscal year ending June 30, 1866.

During the fiscal year ending June 30, 1866, the United States imported:

Foreign merchandise free of duty.....	\$58,861,759
Foreign merchandise paying duty.....	368,588,051

Of foreign merchandise there was reexported:

Free of duty.....	\$1,907,157
Dutiable.....	9,434,263

Total, (mixed gold and currency value).....	11,341,420
Which, reduced to currency value, was equal to.....	10,263,233

Total net imports foreign merchandise, value in gold.....	417,046,577
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Amount brought forward.....	\$417,046,577
Imports, specie.....	\$10,329,156
Of which there was reexported.....	3,400,697
Net imports, specie.....	6,928,459
Total net imports, foreign merchandise and specie.....	423,975,036
During the fiscal year ending June 30, 1866, the United States exported domestic merchandise, currency value, \$468,040,903, reduced to gold value, \$333,322,085	
Specie exported.....	82,643,374

Total domestic exports, value in gold.....	415,965,459
Apparent balance of trade, value in gold.....	\$8,009,577

This table shows an apparent balance of only \$8,009,577 against us for the fiscal year. But it must be remembered we paid during the year \$75,714,915 in specie. To this we must add the Secretary's estimate of twenty per cent for undervaluation, smuggling, &c., say \$83,409,315, making a grand total of balance of trade against us for a single year of \$167,133,807. Will any Senator tell me how we could have paid the astounding balance but by the exportation of our Government bonds, which will one day return to plague us; and will any gentleman tell me how we are ever to return to specie payments with a continuance of such a policy? Let the Secretary of the Treasury speak. He says:

"Notwithstanding our heavy exports during the past year, (that of cotton having been six hundred and fifty million six hundred and seventy-two thousand eight hundred and twenty pounds, or nearly one million six hundred thousand bales, a quantity greater than our entire crop of the present year,) the United States are largely in debt to Europe. It is evident that the balances have been largely against the United States for some years past, whatever may have been the custom-house returns. On no other ground can the fact be accounted for, that a very large amount of American bonds is now held in Europe, which are estimated as follows, to wit:

United States bonds.....	\$350,000,000
State and municipal bonds.....	150,000,000
Railroad and other stocks and bonds.....	100,000,000
	\$600,000,000

"It is evident from these figures that the balances are against us, and, chiefly by the exportation of our Government bonds, are being temporarily and improvidently arranged; temporarily, because a large portion of these bonds have been bought on speculation, and will be likely to be returned whenever financial troubles in the countries in which they are held shall make it necessary for the holders to realize upon them, or whenever satisfactory profits can be made by returning them, which will be when they nearly approach their par value in coin; improvidently, because they are being purchased at very low prices, and because their exportation stimulates imports and thus cripples home industry. Nothing is more certain than the fact that there can be no permanent resumption of specie payments in the United States until the balances between them and other nations shall be made easy by an exportation of commodities, including the products of the mines, equal at least to our importations, and until provision shall be made for returning bonds, or for preventing their return at unpropitious times. This state of things, it is conceived, cannot be effected without a change in our financial policy."

It must, therefore, be evident to the most superficial observer, who looks at these facts and figures, that the only road that will lead us to a sounder financial condition, and enable us to reach the desired point of specie payment, is to turn the balance of trade in our favor by buying less abroad and producing more at home. While I am constrained to differ in some points from the distinguished Secretary of the Treasury, I most heartily concur in the views he has so ably presented on this branch of the subject.

Sir, however much this Congress may legislate in regard to the currency; whatever views may prevail as to expansion or contraction; however wisely you may provide for funding your debt and providing for your interest and other Government expenditures, you will fail to reach the disease that is preying upon the vitals of the nation if you do not in some form check these excessive importations.

In my judgment the power to do this lies in the passage of the bill now under consideration. I do not claim, by any means, that it is perfect

in its details. It differs in many points from the House bill. It differs in some important points from the recommendation of Mr. Wells, the highly intelligent and eminently faithful special commissioner; and I may say, on some points, the members of the Finance Committee themselves are not all agreed. Its defects may be supplied and its mistakes corrected by the practical wisdom of the Senate; and when this is accomplished I sincerely trust the bill will become a law.

It may be objected that the duties provided in this bill are too high to be consistent with a proper regard to revenue, and that the check upon importations which it may impose will reduce the gold revenue below what is required for the payment of the interest on the public debt.

I think there need be no apprehension on this point. Experience shows that increased rates on what is imported fully compensate for the deficiency in the amount imported. The advance in duties, made by the bill of 1864-65, was in some instances large, and yet the revenue, instead of being decreased thereby, was largely increased.

The committee had this point in view during the entire time the bill was under consideration. It is my opinion, and I think the distinguished chairman of the Finance Committee agrees with me, that the amount of revenue for the next fiscal year would probably be much the same under the proposed bill as it would be if the existing tariff were permitted to stand. In either case the revenue will doubtless fall off, for two reasons: first, we imported last year altogether too much, and more than we could pay for, but for artificial aids, such as the exportation of Government and other bonds; and secondly, the impetus given to importation in view of the anticipated passage of a higher tariff this session has accumulated a surplus that may carry us partly through the coming fiscal year.

Mr. President, I have already trespassed too long on the indulgence of the Senate. A word or two more and I have done. Sir, I speak to-day in behalf of the American laborer, the hardy sons of toil, the bone and sinew of our nation. It is their cause I plead, and I covet for them the best gifts which the nation can bestow. Look over this broad land and see the millions of humble yet happy homes of your industrial classes, where the fire burns brightly on the hearth, and where connubial, parental, and filial affection reigns.

Amid all that is great and glorious in our land I single out the fact that our sons of toil are better fed, better clothed, better lodged, better paid, and better taught than those of any other nation on the face of the earth, and proclaim it as the brightest jewel in our crown of glory.

It is the boast of England that her cheaper labor will always enable her to produce so cheaply as to defy competition. God grant that cheap labor in the English sense may never be the boast of this nation. Under our form of Government the laborer never can be and never ought to be reduced to the condition of those in other lands, who are content to toil on while others think for them and govern them, without even so much as an aspiration for a better condition. The working men of our land make and unmake Presidents, Congresses, and Legislatures, and the elevation of the masses socially, intellectually, and morally is a necessity if you would perpetuate the institutions of the Republic.

Is there a Senator within the sound of my voice who would reduce the laborer of our country to the level of the pauper labor of Europe? No, no! There was once a class of men in these Halls who might have consented to this. Under their "peculiar institution," now happily gone forever, labor was degraded by chains and fetters, and the bold announcement was made that "capital should own its own labor." They resisted unto blood the higher civilization, which taught the sublime truths of the universal brotherhood of man, and the

right of all men to the just rewards of their labor.

The conflict is ended, and, God be praised, the right has triumphed; and having thus elevated four million human beings from chains and slavery to freedom and to manhood let us address ourselves to the work of stimulating the industrial energies of the nation, so that free labor shall find its wonted employment, and receive its just reward.

The bill under consideration, if passed, will prove an important agency in this work. It speaks of cottons and woollens, of iron and steel, of wheat and corn, of linseed and barley, but these are only other words for labor, and the title of the bill might with propriety read: "An act for the encouragement and protection of American labor."

Perfect this bill, and then make it a law, and hope and courage will spring up throughout the nation. The fires of a thousand forges and mills and furnaces will illumine the land and the ceaseless hum of a million whirling spindles will chant the praises of the American Congress that had the wisdom to understand and the fidelity to maintain the principles of the American system.

Mr. SPRAGUE. I desire to ask the attention of the Senate to the linen interest as affected by the provisions from page 22 to page 25 of the amended bill reported by the Committee on Finance, section six. I do not intend to make any remarks upon the general provisions of the bill, or upon the proposed tariff as a measure of expediency; nor to go into the questions which have been so ably entered into by my friend, the Senator from New Jersey, [Mr. CATTELL.] What I desire to do is simply to state to the Senate the fact that the linen interest is a new branch of industry in this country; that it is directly connected with the agricultural interest in the production of flax and of hemp; that to produce cloth from linen requires three times the labor that is required for the production of cloth from cotton; that the legislation of the country has exhibited its favor to this branch of industry by admitting free of duty the machinery necessary to produce the goods; that in consequence of that favorable legislation large amounts of machinery, hundreds of thousands of dollars in value, have been introduced that will produce every known article manufactured out of linen in any country; but that owing to the present condition of the revenue laws that machinery is found to be of no practical value for the purposes designed.

This subject was brought to the House Committee of Ways and Means at the last session, in June or July, and the facts were laid before the committee by the chairman of the linen interest, and they were induced to adopt a schedule or classification that would meet the necessities of this business. The House adopted provisions satisfactory to this class of people; but the tariff bill has laid over during the interval and is now before us. During the recess an agent, for whose appointment Congress in its wisdom provided, has been at work collecting information as to the various subjects embraced by this bill, and the results of his labors have been laid before Congress. The chairman of the linen interest was induced to go to the custom house where Mr. Wells had located and to have an interview with the person to whom this branch of the tariff had been assigned. That interview was had and appeared to be perfectly satisfactory.

The views expressed and endeavored to be made clear by the chairman of this interest, were, as it was thought, to be adopted by the agent employed by the Government. So the story runs. But upon the report being published it was discovered that a large portion of the classification that had been suggested and ingrafted in the House bill was omitted in the report of the commissioner. Thereupon the gentleman to whom I have alluded, authorized by the linen interest of this country, came to Washington and endeavored to get a hearing before the Senate Committee on Finance during the holidays. Of course the Senate com-

mittee were unable to grant time enough to develop the points which he endeavored to make plain, and a written statement was presented which succeeded in obtaining something of a modification of the commissioner's bill, but not sufficient in the opinion of this interest to enable them to go on and to compete with the foreign production and to carry out the idea of promoting the cultivation of flax and hemp in this country with a view to the encouragement of the manufacture and production of all the known articles made from flax. This gentleman then appeared before the Committee on Manufactures of the Senate and laid before them the whole condition of this interest, and that committee has authorized me to ask the favorable consideration of the Senate to the classification which I am authorized to move as a substitute for that which the Committee on Finance have recommended.

I may say here that the chairman of this interest was a farmer who accumulated some property which he devoted in the early stages of this business to the manufacturing of linens and twine; but, sharing the fate of many new enterprises, the capital was sunk and he was induced by solicitations to himself to become an active instrument in endeavoring to bring it out of its depressed and destroyed condition. As a farmer he devoted himself to the production of linen yarns, and I have now the result of his energy, of his skill, and of his application in the production of a yarn equal to any produced in the world, yarn that will produce any fabric that is imported into this country. [Exhibiting skeins of yarn.] It is mainly from his suggestions and from the knowledge which the Committee on Manufactures had themselves as to the condition of this interest, that that committee were induced to suggest the points which I have risen to present to the Senate.

As it takes three times the labor to produce a linen fabric that it does a cotton fabric, and as forty per cent. of the linen material is lost in the process of bleaching, it may be readily understood that if the duties are placed upon the same schedule as to rates as cotton goods it would be unequal. The linen interest should receive a higher protection in point of rate in order to produce equality; but all that is asked by those who represent it and by the Committee on Manufactures is that it should receive the same protection only as that which is given to cotton goods, and they do not ask that it should receive as much as is given to woollens or to silks.

Before I suggest the amendments that I desire to move, let me say that the product of linen is not used as a general thing by the poorer or the working classes of the people. It is used by those whose pockets are able to procure the luxuries of life, and any tax that would be required to promote the growth of flax and hemp in this country, and to develop the linen interest, will come out of the pockets of those who are able to pay the tax.

I come now to consider the bill of the Committee on Finance; and first as to the duty which it imposes on the raw material. The provision is:

On flax, unmanufactured, fifteen dollars per ton.  
On flax hackled, known as dressed line, twenty dollars per ton.

Mr. FESSENDEN. The "twenty" dollars has been raised to "thirty."

Mr. SPRAGUE. The chairman of the Finance Committee informs me, however, that the latter clause is raised to thirty dollars. For the purposes of my argument, however, I may consider the bill to stand as it was reported in this respect. Flax, hackled, is a manipulation of flax whereby forty per cent. of the tow is taken therefrom, leaving sixty per cent. of what is called "dressed line." In that condition it is in a manufactured state. The tow of flax or hemp is allowed to be introduced by this bill at five dollars a ton. Forty per cent. of five dollars, which would be the amount of flax or hemp that would come from the dressed line, would introduce the hemp at

two dollars a ton. At twenty dollars a ton, sixty per cent. of that only being "dressed line," the duty upon the sixty per cent. would be twelve dollars. Twelve dollars for the sixty per cent. of "dressed line," added to the two dollars upon the flax or hemp, would bring in the "dressed line" at fourteen dollars a ton, taking the bill in this respect as reported by the Committee on Finance. The result would be that "dressed line," which I will observe requires an expense of fifty-six dollars to produce it in that condition in this country, would come in at one dollar per ton less than the unmanufactured article.

Now, I desire to state that in this country there is not a pound of flax used for the finer fabrics at this time that is cultivated in this country. The flax used for the finer fabrics must be pulled before the seed ripens. In all other countries the flax is produced as well for the seed as the fiber. The fiber must be taken when it is in its green state, or before it has grown to a coarse size, and, therefore, all the kind of flax that is imported, either in its unmanufactured or manufactured state, is not at present produced in this country, and cannot be for some years to come.

I ask the Senate whether under these circumstances it would not be wise for them to put unmanufactured flax on the free list, with a view of inducing the manufacturers to consume it; and when they get their machinery in operation there will then be a market for flax, and at the same time the American flax-grower will have some inducement to produce the article. But under the provisions of this bill, as reported by the Committee on Finance, the manufactured flax would be brought in at one dollar per ton less than the unmanufactured, which would do away with all the duty upon it. Not only would this be the result, but the duty would bear very heavily upon the linen interest not yet perfected, not yet in a state to bear any of the burdens that are put upon other articles, because it is new, because the machinery has not yet been put in operation, and because the skill necessary to perfect it has not been concentrated and brought into the country. Now, I ask the Senate to leave off the duty on unmanufactured flax and to leave the duty on the dressed line as it was reported, instead of increasing it to thirty dollars; and that will answer the first conditions that I require. Will the chairman of the Committee on Finance agree to this?

Mr. FESSENDEN. I have no authority to agree to it. It is for the Senate to say.

Mr. SPRAGUE. I will proceed, then, before putting my motion in form to the Senate, to present the various items bearing upon this subject. The bill of the Finance Committee contains this item:

On jute, unmanufactured, and sisal grass, and other vegetable fibers, not otherwise provided for, five dollars per ton.

On all manufactures of sisal grass, thirty per cent. *ad valorem*.

I think that these articles in the raw state should come in free of duty, for the reason that it would cheapen the price to the consumer and would not interfere with the production, sale, and prices of flax produced in this country; and yet I am not authorized by the Committee on Manufactures to suggest any changes except in the case of manufactures of Sisal grass, in regard to which they think the duty should be forty per cent. instead of thirty per cent., as here provided.

I come next to the duties on cloths made from linen. In the bill as reported by the Finance Committee the heaviest cloths and the finest cloths are placed in the same schedule and under the same classification. If the Senate will refer to that part of the same bill which applies to cloths made from cotton, they will see that they are placed under five different classifications, and the heavier goods bear a different rate of duty from that which is imposed on the finer. In regard to burlaps, canvass paddings, cot bottoms, &c., I desire the same schedule of duties as is provided for cottons, four cents per square yard. Although

cottons are at ten per cent. *ad valorem* and four cents per square yard, I think four cents on these articles would amount to about the same, in consequence of the increased price of cottons, and I will show how that is.

I will take the article of burlaps, worth now in the market twelve and one half cents per yard. Cotton of the same width is worth forty cents a pound. I will put burlaps at the place of importation at eight cents per yard in gold. Thirty-five per cent. on that would make the *ad valorem* duty \$2 80, and four cents per square yard, according to the motion which I intend to make, would make the duty on burlaps \$6 80. Now, the duty on cotton goods is fixed at four cents per square yard and ten per cent. *ad valorem*. Reduce the forty cents that would be required for the manufactured cotton goods of the first class according to this bill, to the gold cost, and it would be about twenty-four cents. Ten per cent. *ad valorem* duty on that would be \$2 40, and then add four cents per square yard, and you would have \$6 40 a yard on cotton goods, compared with \$6 80, as I propose, for burlaps. In this same bill that provision which applies to gunny-bags and gunny cloths at four cents per pound would be eight cents per square yard in comparison with burlaps at \$6 80 per square yard, so that gunny-cloths, the heaviest and the easiest made of any product in the country, has a duty upon it of eight cents per square yard, as compared with \$6 80 on burlaps.

The bill of the Finance Committee goes on:

On all brown or bleached linens, ducks, canvas-paddings, cot-bottoms, burlaps, drills, coatings, brown holland, blay linens, Spanish linens, diaper, damasks, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, hemp, or jute, or of which flax, hemp, or jute is the component material of chief value, not otherwise provided for, three cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

My proposition is to classify this description of goods the same as cotton goods of like quality, of like weight, but not of like expense of manufacture, because, as I said before, it takes three times the labor to produce linen fabrics that it does cotton fabrics; and there is forty per cent. more shrinkage in the bleached or prepared condition of linens than is the case with cotton goods. Now, in the place of the clause which I have just read, I propose to introduce this:

On all brown or bleached linens, damask table linens, damask brown holland, Spanish linens, blay linens, coatings, drills, diapers, crash, huckabacks, handkerchiefs, lawns, and other manufactures of flax, hemp, or jute, or of which flax, hemp, or jute is the component material of chief value, valued at thirty cents or less per square yard, five cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over thirty cents and not over sixty cents per square yard, ten cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over sixty cents and not over one dollar per square yard, fifteen cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over one dollar per square yard, twenty cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

The *ad valorem* in my proposition is the same as in that reported by the Committee on Finance, and the five cents per square yard increase according to classification is pretty much the same as is applied to cottons. The highest rate I proposed is twenty cents per square yard and thirty-five per cent. *ad valorem* as applied to linens, while in the case of silks the *ad valorem* duty is seventy per cent., nearly twice the amount. A square yard of these finer fabrics would cost in my instance four dollars, a damask table-cloth for instance; so that the specific duty as you reach the higher grades is really the cause of very little increased cost to the consumer.

The next clause in the bill as reported is:

On cordage and rope, of whatever vegetable material composed, three cents per pound.

The Committee on Manufactures have not thought it worth while to disturb that. The next item is as to the duty on gunny-cloth and gunny-bags, to which I have already alluded. The duty on gunny-cloths, as I have said, is one and sixty one-hundredths cent per square

yard more than the duty upon the finer fabrics. The next item is:

On jute, hemp, or cocoanut matting and carpeting, three cents per square yard, and, in addition thereto, thirty per cent. *ad valorem*.

The House bill imposes six and one half cents per square yard, and it may be remembered that carpeting or matting of this character requires a large quantity of hemp or flax made from tow that cannot be produced by the hemp product of this country; and it would seem that as the specific duty is in comparison with the weight of the material very light, the recommendation of the committee there should be adopted.

I come next to the item of thread. The Finance Committee have made two descriptions of thread, one single and one double; and upon each they fix two classifications and distinct duties. The difference between a single yarn and a double yarn is this: in a double yarn there may be two or more yarns twisted together, and a single yarn they reel upon hanks. The expense of twisting and the expense of reeling is about the same, so that the manufacturers have thought that there need not be any different classes of duties applied to threads because the fact really is that there is no difference in expense because the expense of reeling two threads is as much as of twisting two threads together. For that reason the Committee on Manufactures have desired me to suggest this classification:

On threads, patent threads, saddlers' threads, shoe threads, gill-net thread or gill-net twine, pack thread, and sewing machine thread, and all other threads, twines, and yarns, single and when advanced beyond single, made of flax, hemp, or jute, or the tow of flax, hemp, or jute, valued at thirty cents or less per pound, five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

It will be observed that where five cents per pound is applied to yarns, five cents per square yard is applied to cloth, so that the same method is followed in classifying yarns that was followed in the classification of cloth. The only difference here is that the Finance Committee have made their classification on the basis of the value of fifty cents per pound, whereas the Committee on Manufactures have thought it wise to fix a lower point, and have taken as their classification thirty cents, sixty cents, one dollar, and over one dollar, carrying it out thus:

Valued at over thirty cents and not over sixty cents, ten cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over sixty cents and not over one dollar per pound, fifteen cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over one dollar per pound twenty cents per pound, and thirty-five per cent. *ad valorem*.

The next item is with regard to the seines and nets. In this regard the Committee on Manufactures have adopted nearly the same system in classifying these articles as the Committee on Finance, but when we arrive at the higher values of all these higher classes of yarns we find that on corresponding articles of silk or cotton or wool the duty is from one third to one half more than the corresponding duty on articles of linen manufacture. The proposition of the Committee on Manufactures will be to substitute for the clause of the bill of the Committee on Finance:

On seines or nets made of flax, hemp, or jute thread, yarn, or twine, completed or in parts, valued at not over fifty cents per pound or less, ten cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at fifty cents and not over seventy-five cents per pound, fifteen cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over seventy-five cents per pound, twenty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

I wish next to call attention to this clause in the bill reported by the Committee on Finance.

On jute yarns, single, thirty per cent. *ad valorem*.

In every other portion of the bill flax, hemp, and jute yarns are included in a specific classification. Here it is brought down to thirty per cent. *ad valorem*, but it is already provided for in the previous clauses of the bill, and therefore the Committee on Manufactures recom-

mend that this line be stricken out. The next clause is:

On coir yarn, one cent and a half per pound.

This coir yarn is a substitute for flax and hemp. It may be introduced in the manufacture abroad and mixed, or come unmixed, and would to that extent interfere with the machinery already in operation and ready to produce this article; but, as the Commissioner has observed in his report, it is wise to admit jute and coir with as little burden as possible, because we have in the southern sections of this country land and climate of such a character as would produce them in a very short time if there was a demand for them by the machinery of our own country.

In place of the next clause of the bill of the Committee on Finance, the Committee on Manufactures propose to offer this:

On webbing, tapes, galloons, bindings, gimps, trimmings, braids, plain or otherwise, made of flax, hemp, or jute, or of parts of either, or of which flax, hemp, or jute shall be the component material of chief value, sixty per cent. *ad valorem*.

Thus raising the duty fixed by the Committee on Finance from fifty per cent. to sixty per cent.; and it will be observed that the rate of *ad valorem* duty which we propose is about the same as that applied to cottons on page 11. The per cent. of *ad valorem* duty on cottons is sixty per cent., as will be seen by reference to that page. On page 18 you will see that woollens are put at seventy per cent., and on page 21 silks at forty-five per cent. *ad valorem* and fifty cents per pound.

The next clause of the bill of the Committee on Finance is:

On all other manufacturers of flax, hemp, or jute, or other similar fiber, not herein otherwise specified, forty per cent. *ad valorem*.

The Committee on Manufactures recommend that that be fifty per cent.

I think I have gone over the list, and now I desire to say to the Senate that I have examined the subject of the duties on linens carefully as in comparison with those on cottons, and that the Committee on Manufactures have also examined it with care; and although I may not have been able to express myself with sufficient clearness to the Senate, they may be assured that the facts are as I have stated them, and that the classification which the Committee on Manufactures propose bears a close similarity to that of cottons, and is a reduction of one cent per square yard as compared with the duties upon the heavier articles of cottons. The illustration which I have made compares the duties on linen with those on the heavier cottons, but the difference between the suggestions of the Committee on Manufactures and those of the Committee on Finance when applied to the light fabrics and light yarns is not very great. The difference is only in the classification which the Committee on Manufactures propose to introduce with a view to promote this new branch of industry, standing as it does where the cotton manufacture stood twenty years ago. Capital is now at its disposal, ready to enter upon the business so as to be able in a few years to compete successfully with the manufactures of flax and hemp abroad. There is a large amount of this product now imported into this country in consequence of the inability of the American manufacturers to produce it. When it is considered that this country can produce forty millions of flax which may be put into fabrics, and that the stimulus thus given will increase production correspondingly, the flax-grower may readily understand the advantage it is to him to promote this industry and to protect this product.

I desire to state as a matter of fact one other point which I know about myself. Four dollars per week will employ a hand on cottons that will attend to six hundred spindles, whereas it requires seven dollars to attend to one hundred and twenty spindles on linens. And when I say that the introduction of linen machinery that will produce articles as fine, as well manufactured, and as cheap, if you leave out of view



the excessive burdens of taxation under which all industry now suffers in this country, has been in consequence of the favor afforded and the inducement held out by the Government in withdrawing the duties from the importation of flax machinery, it may be well understood why the linen manufacturers are in the position they are with this machinery unemployed, and the Senate will understand the necessity, at any rate, for placing their products upon an equal footing with cotton manufactures.

Before I am done I will make a comparison between linen thread and cotton thread. The duty on carpeting is eighty cents per square yard. The carpeting is three fourths of a yard in width or thereabouts. The duty therefore is \$1 20 per running yard. The bottom of these carpets is linen thread. That thread is now entered at a nominal duty; it can be purchased abroad at from twelve to fifteen cents. That class of yarns and threads can be produced in this country out of the flax and hemp cultivated here. Under the classification of the bill of the Committee on Finance all that material will be imported from abroad. Now this great interest, the only real interest in this country that is upon its feet, will not in the least be embarrassed by placing the duty upon linens the same as upon cottons; and as regards thread, allow me to call the attention of the Senate to the duty upon spool thread in the classification of the bill reported by the Committee on Finance, and they will see that the duty upon that kind of thread which bears a comparison or analogy to linen thread is two or three times as much.

Mr. CONNESS. With the consent of the Senator from Rhode Island, if he will give way for that purpose, I will move an executive session. It is understood to be desirable to have a short executive session, and as it is now four o'clock I suppose it is about time.

Mr. FESSENDEN. An executive session can be had just as well at five o'clock as now, and we must get through with this bill at some time or other.

Mr. CONNESS. The honorable Senator will have the Senate with him until he passes his bill, but we must do a little else as we go along. I hope he will consent to this. At any rate, I make the motion that the Senate do now proceed to the consideration of executive business.

Mr. FESSENDEN. I hope the Senator from Rhode Island will not give way. I wish to say to the Senator from California that I do not have the Senate with me. Every now and then some Senator wants to offer a resolution and asks me to give way to let him do so. I believe the Senator from California has done that twice to-day. I merely wish to remind Senators that this is not the only bill we have got to pass. We have not yet passed a single appropriation bill, and we have but a very short time remaining. If Senators will not allow more than four hours daily for action upon these bills when they come in, we shall not be able to get through our business. The British Parliament sit from four o'clock in the afternoon until midnight or one in the morning.

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) Does the Senator from Rhode Island yield the floor to the Senator from California?

Mr. SPRAGUE. Certainly, I yield the floor.

Mr. CONNESS. I understand the force of the remarks of the honorable Senator from Maine, but I think the Senate is really at his pleasure on these bills; and although he does not like to say it, I will say it for him, he generally has his own way here about time. I think an executive session is needed, and I hope we shall have it now. I insist upon my motion.

The motion was agreed to; there being on a division—ayes 18, noes 11.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration

of executive business; and after some time spent therein, the doors were reopened and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, January 22, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

#### CLERK OF A COMMITTEE.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on a Uniform System of Coinage, Weights and Measures be authorized to employ a clerk, at the usual rate of compensation, for forty days during the present session.

Mr. KASSON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### JUDICIAL PROCEEDINGS.

Mr. WILSON, of Iowa. I ask unanimous consent to introduce a bill to regulate judicial proceedings in certain cases, and have it referred to the Committee on the Judiciary.

Mr. FINCK. I ask that the bill may be read.

Mr. WILSON, of Iowa. As the bill is a long one, and it will take up much time to read it in full, I will not ask leave now to introduce it.

#### BRANCH OF UNION PACIFIC RAILROAD.

Mr. DONNELLY, by unanimous consent, introduced a bill to facilitate the construction of a branch of the Union Pacific railroad from Sioux City to the head of Lake Superior; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. STEVENS. I ask leave of absence for Mr. WASHBURN, of Illinois, for the remainder of the session. The condition of his health is such that it is absolutely necessary that he should refrain from attendance here for the balance of the session.

Leave was accordingly granted.

#### OBSTRUCTION OF MAIL ROUTES.

Mr. PAINE, by unanimous consent, introduced a bill to punish obstructions of railways used for the transportation of the United States mail; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### HOT SPRINGS RESERVATION, ARKANSAS.

Mr. SCHENCK, by unanimous consent, introduced a bill for the sale of the Hot Springs Reservation, in the State of Arkansas; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

#### PAY OF HON. A. H. COFFROTH.

Mr. BENJAMIN. I rise to a privileged question, and call up the motion to reconsider the vote by which a resolution which I introduced on Saturday last in relation to the compensation of Hon. Alexander H. Coffroth, late a member of this House, was referred to the Committee on the Judiciary. I will state very briefly the reasons why I think that vote should be reconsidered.

The Committee on the Judiciary, as is well known to all, is pressed with business more than it can properly attend to for the remainder of the session; and I think there would not be the slightest possibility that we could get a report on that subject from the committee at this session. Nor can I see that there is any legal point involved in this matter which should require an opinion from that committee. I think, after the precedent set by the House upon other occasions in cases which

I think are parallel to this, the House is as prepared to act understandingly upon the subject to-day as at any other time.

The facts in the case are these: Mr. Coffroth, at the commencement of the last session, was admitted by a vote of this House to a seat here as a member of the Thirty-Ninth Congress, the House determining that he had a *prima facie* right to a seat as a member. His seat was contested, as we all know, and the House finally found for the contestant, and Mr. Coffroth was ousted. Subsequently to that the House, on the last day of the session, passed an act increasing the compensation of members of Congress. The terms of that act, so far as they relate to this case, I will read:

*And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be \$5,000 per annum, to be computed from the first day of the present Congress.

Mr. Coffroth had received his pay at the rate of \$3,000 a year, that being the compensation allowed by law at the time he was a member. The act to which I have referred related back to the first day of the session; in other words, it included all the time that Mr. Coffroth held a seat here as a member of the Thirty-Ninth Congress. Mr. Coffroth while a member, was entitled to the pay and emoluments of a member of Congress. He stood upon the same footing with every other member on this floor. The fact that he was ousted prior to the passage of the law giving extra compensation should not, it strikes me, affect in any manner the claim of Mr. Coffroth.

But, sir, this House has already set two precedents which seem to me to cover this case. One of these precedents was in the case of Mr. Gooch, who was elected a member of the Thirty-Ninth Congress from the State of Massachusetts, and who resigned previous to the commencement of the first session of the Thirty-Ninth Congress. In that case the House has adopted a resolution granting to Mr. Gooch the increased compensation from the beginning of the Congress up to the time of his resignation. That precedent of itself should, I think, govern the case.

Another instance was that of a member from New York, Mr. Humphrey, who was taken from us by death prior to the passage of the act giving increased compensation. This House has adopted a resolution granting to the family of Mr. Humphrey the increased compensation up to the time of his death. In both these instances the parties had ceased to be members prior to the passage of the act giving the increased compensation. It seems to me that these cases should govern that of Mr. Coffroth. I can see no reason why he is not as much entitled to the extra compensation as we who have received it.

I trust that the motion to reconsider will prevail, and that the resolution will be put upon its passage now. If no gentleman wishes to say anything on the subject I will demand the previous question.

Mr. RAYMOND. With the consent of the gentleman from Missouri I would like to ask a question.

Mr. BENJAMIN. I yield to the gentleman.

Mr. RAYMOND. Early in this session a bill was introduced to repeal the law of last session giving increased compensation to members of Congress. That bill was referred, I believe, to the Committee on the Judiciary. I would like to inquire of the chairman of that committee [Mr. WILSON, of Iowa] whether the committee propose to take action on that bill, and when they will probably be able to lay it before the House for consideration. I ask this because there are probably quite a large number of members who have not drawn their extra compensation, and who prefer not to do so until they know what is to be the fate of that bill.

Mr. WILSON, of Iowa. I do not see that the question propounded by the gentleman from New York [Mr. RAYMOND] has any pertinency to the subject before the House, nor

am I prepared to say, if the Committee on the Judiciary should report back the bill referred to, what would be the action of the House upon it. I presume that, if the bill should be reported to the House, all the members who voted for the increase of pay at the last session would be in favor of its continuance. Hence, I see no occasion for any member permitting the amount of his extra pay to remain longer in the Treasury. Certainly a House of Representatives, which just before the elections for members of Congress had the courage to pass a provision for extra compensation, would not be in haste when the elections are over to repeal that provision of the law and pay back the amount of the extra compensation, as the amendment referred to the committee proposes.

Mr. RAYMOND. I have no objection to the gentleman arguing the probabilities with regard to a vote of the House on the question. I think, however, it might be more satisfactory to the House if the committee would report the bill and let the House act upon it according to its own judgment.

Mr. WILSON, of Iowa. I should like to know whether the gentleman from New York has allowed his extra pay to remain in the Treasury.

Mr. RAYMOND. I have not drawn the extra compensation. I am naturally very anxious to do so, but I do not like to draw it until it is decided whether this repealing bill is to be passed or not. If the gentleman can give me an assurance that it will not be repealed and that I shall not be compelled to pass through the very unpleasant process of paying back the money, I do not know that I should press this inquiry further.

Mr. BLAINE. I cannot see that this question has any bearing upon the case of Mr. Coffroth. It seems to me that the House has fully and entirely adjudicated the whole question involved in this case by granting the extra compensation to Mr. Gooch. As to the matter of refunding the extra pay in case a repealing bill should be passed, I presume that Mr. Coffroth would make repayment as promptly as any of the one hundred and seventy members who have drawn their extra compensation. I see no reason why Mr. Coffroth should be kept out of this extra pay a single day, when the rest of us have pocketed it. I do not see the pertinence of the inquiry made by the gentleman from New York. [Mr. RAYMOND.]

Mr. RAYMOND. I beg to remind the gentleman from Maine that I have made no opposition to the resolution. I did not suppose that my inquiry was pertinent to this particular question. I made it for a different purpose altogether.

Mr. DAWES. I wish to call the attention of the House to the difference in the two cases of Mr. Gooch and Mr. Coffroth. It is not my intention to offer any remarks on the propriety of passing this resolution, but only on the power.

I desire the House shall understand it is not the case of Mr. Gooch, but is fixing a new precedent, which will be followed by all the cases which have been passed upon by the Committee of Elections. The difference between the case of Mr. Coffroth and that of Mr. Gooch is this: Mr. Gooch was a member of this House *de jure*, actually elected a member of this House, while Mr. Coffroth was never elected a member of this House, and was only a member *de facto*, and took the pay which the law allowed a member *de facto*, and that only. Mr. Gooch was actually a member of the House, while Mr. Coffroth was only a member *de facto*; and, as the result showed, the report of the committee and the decision of the House was that he was not entitled to anything, and only took the pay of a member *de facto*, which he was entitled to under the law. According to the report of the committee and the decision of the House he received pay which belonged to some one else. He took it, not in his own right, but in his own wrong. I only desire to have it clearly under-

stood that there is this difference in the two cases, and that this case will form a precedent for all cases passed upon by the Committee of Elections.

Mr. BLAINE. I wish to inquire of the gentleman from Massachusetts whether he ever knew of a gentleman who sat here and was afterward unseated by a subsequent decision of the House who was not paid the legal pay for the time he sat as a member. I submit the *de facto* case is stronger to my mind than the *de jure* one. Mr. KOONTZ never was a member of the House, was never qualified, never took his seat until the report of the committee and the decision of the House. He was a presumptive member, but never participated in legislation, while Mr. Coffroth was here as a member until he was declared by the House not entitled to a seat. After he has participated as a member of this House, whether he can be deprived of the legal pay of that time, which has been pocketed, I leave to the close logic of the chairman of the Committee of Elections.

Mr. DAWES. It does not depend upon any logic of mine whether he shall have pay or not, but it depends on the correctness of the position of the gentleman from Maine or mine whether the two cases are the same.

The gentleman asks me whether I ever knew of a *de facto* member who did not draw the pay which a member was entitled to by law while he was sitting here. I answer, no; and that is what Mr. Coffroth did. He as a *de facto* member drew the pay a legal member was entitled to.

One word more. The gentleman from Maine says to his mind this is a stronger case than that of Mr. KOONTZ. Very well; but it is not the same case. It may be stronger to his mind, because he says Mr. KOONTZ was never a member of this House. I want him to understand that he sat in this House waiting upon the committee for months, the duties of which were protracted by this House; and I speak of this only to show Mr. Gooch was not without merit in claiming this extra pay.

Mr. BLAINE. I suppose not.

Mr. DAWES. I want this put upon the true ground. It is not the same case as that of Mr. Gooch. It is a precedent, standing by itself, and for the first time in the history of contested election cases will a man who sat as a *de facto* member be adjudged by the House of Representatives entitled to extra pay not prescribed by the law in existence while he sat as a member. If the House is disposed to do it I have not a word to say, only it will be followed by all of the other cases I have mentioned.

Mr. BROOMALL. I desire to ask the gentleman from Missouri whether this extra pay now claimed by Mr. Coffroth has not been in fact paid to the actual member, Mr. KOONTZ.

Mr. BENJAMIN. In reply to that I will say that not only the extra pay, but the original pay has been received by the successful contestant; and not only in that case, but in every case where a sitting member has been ousted. We always pay both members.

Now, in reply to the gentleman from Massachusetts, the question, and the only question is, was Mr. Coffroth entitled to the pay of a member of Congress. It makes no difference whether he is *de facto* or *de jure* a member, his pay is the same. That the gentleman admits. There is no difference between us in that respect.

Now, what is the legal pay? Let every gentleman ask himself what pay he is entitled to and from what time that pay commenced. He can readily answer the question. Being entitled to pay at all, he is entitled to all of it; and he might for the same reason say he would never draw any of his pay after receiving the original \$3,000 because it did not belong to him; for if he is entitled to any he is entitled to all, the act referring back to the commencement of the Thirty-Ninth Congress.

Mr. SCHENCK. It seems to me this whole matter may be adjusted without difficulty if the gentleman will consent to an amendment of

his resolution. I will suggest an amendment to this effect:

*Provided*, That the said Alexander H. Coffroth shall be entitled in good faith to the same conscientious scruples as other members of the Thirty-Ninth Congress as to receiving any part of said pay, and that he shall refund the same when they do. [Laughter.]

The SPEAKER. That is not in order at present, the pending question being on the reconsideration of the reference.

Mr. BENJAMIN. I pledge myself that Mr. Coffroth will return the increased pay to the conscience fund whenever other members of this House do it. [Laughter.] I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Missouri yield?

Mr. BENJAMIN. I decline to yield any further.

Mr. CONKLING. I desire to have the resolution reported for information.

The resolution was again read.

The question being taken on reconsidering the vote by which the resolution was referred to the Committee on the Judiciary, it was reconsidered.

The question being taken on the motion to refer it to that committee, it was disagreed to.

The question recurred on the adoption of the resolution.

Mr. BENJAMIN. I demand the previous question.

Mr. SCHENCK. As my amendment is now in order, I ask to be allowed to offer it.

Mr. BENJAMIN. I will allow it to be read for information.

The amendment of Mr. SCHENCK was read, as follows:

*Provided*, That the said Alexander H. Coffroth be entitled in good faith to the same conscientious scruples as other members of the Thirty-Ninth Congress, as to receiving any part of said pay, and that he shall refund the same when they do. [Laughter.]

Several MEMBERS. All right.

Mr. BENJAMIN. As it has gone before the country, I think that will do. I decline to allow it to be offered.

The previous question was seconded and the main question ordered.

Mr. BROOMALL. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question being taken; it was decided in the affirmative—yeas 93, nays 39, not voting 59; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Beaman, Benjamin, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Buckland, Campbell, Chanler, Cooper, Cullom, Dawson, Denison, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Farquhar, Garfield, Glossbrenner, Goodyear, Grinnell, Griswold, Hale, Hayes, Hill, Hogan, Holmes, Hooper, Hotchkiss, Deems Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Ingersoll, Johnson, Kerr, Koontz, Kuykendall, Laffin, George V. Lawrence, Le Blond, Lettwich, Longyear, Marshall, Marvin, McKee, McKuer, Miller, Moorhead, Moulton, Niblack, Nicholson, Noel, Orth, Paine, Patterson, Porham, Price, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Ross, Sawyer, Schenck, Shanklin, Sitgreaves, Spalding, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, Henry D. Washburn, Wentworth, James F. Wilson, Winfield, and Woodbridge—93.

NAYS—Messrs. Baker, Baxter, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Dawes, Deming, Farnsworth, Abner C. Harding, Hawkins, Hise, John H. Hubbard, Kelley, Ketcham, Loan, Lynch, Marston, McClurg, Morrill, Morris, Myers, O'Neill, Pike, Raymond, Rollins, Scofield, Shellabarger, Sloan, Stevens, Stokes, Trimble, Trowbridge, Burt Van Horn, Hamilton Ward, William B. Washburn, and Williams—39.

NOT VOTING—Messrs. Alley, Ames, Arnell, Baldwin, Banks, Barker, Bingham, Blow, Bundy, Sidney Clarke, Culver, Darling, Davis, Defrees, Delano, Dodge, Dumont, Eckley, Ferry, Finck, Aaron Harding, Harris, Hart, Henderson, Higby, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Jones, Julian, Kasson, Kelso, Latham, William Lawrence, Maynard, McCullough, M. Indoe, Mercer, Newell, Phelps, Plants, Pomeroy, Alexander H. Rice, Rogers, Rousseau, Starr, Thayer, Upson, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, Welker, Whaley, Stephen F. Wilson, Windom, and Wright—59.

So the resolution was adopted.

Mr. BENJAMIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### PAY OF MESSRS. VOORHEES AND BROOKS.

Mr. WASHBURN, of Indiana, by unanimous consent, submitted the following resolution:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, authorized and directed to pay Daniel W. Voorhees the amount of increased pay of a member of this House provided by law, from the commencement of the Thirty-Ninth Congress to the period when he ceased to be a member.

Mr. WASHBURN, of Indiana. I demand the previous question on the resolution.

Mr. TAYLOR, of New York. I desire to suggest as an amendment that the name of James Brooks be inserted in the resolution.

Mr. DAWES. I was about to ask the gentleman to modify his resolution in that way. We may as well make short work of it and put the name of James Brooks in the resolution.

Mr. WASHBURN, of Indiana. I will modify the resolution so as to include the name of James Brooks, and now I ask the previous question on the resolution.

The previous question was seconded and the main question ordered.

Messrs. DAWES and KOONTZ demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. FARNSWORTH. Would it be in order to move to amend the resolution so as to include all the contestants who came here to get seats? The same principle would cover them precisely.

The SPEAKER. It could only be done by unanimous consent.

Mr. SPALDING. I object.

The question was taken; and it was decided in the affirmative—yeas 79, nays 43, not voting 69; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, James M. Ashley, Beaman, Benjamin, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Campbell, Chandler, Cooper, Dawson, Denison, Dixon, Donnelly, Driggs, Eldridge, Finck, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Haynes, Higby, Hill, Hogan, Holmes, Edwin N. Hubbell, James R. Hubbell, Humphrey, Ingersoll, Johnson, Kasson, Kerr, Kuykendall, Ladin, Latham, Le Blond, Longyear, Marshall, Marvin, McIndoe, McRuer, Miller, Moorhead, Newell, Niblack, Nicholson, Noell, Paine, Price, Radford, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Schenck, Shanklin, Sitgreaves, Spalding, Stillwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Warner, Henry D. Washburn, Wentworth, Winfield, and Woodbridge—79.

NAYS—Messrs. Baker, Baxter, Bingham, Broomall, Cobb, Conkling, Cook, Dawes, Deming, Eckley, Farnsworth, Abner C. Harding, Hawkins, Hise, John H. Hubbard, Julian, Kelley, Kelso, Ketcham, Koontz, Loan, Lynch, Marston, Maynard, McClurg, Mercer, Morris, Myers, O'Neill, Perham, Pike, Raymond, Rollins, Scofield, Shellabarger, Sloan, Stokes, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, William B. Washburn, and Williams—43.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos R. Ashley, Baldwin, Banks, Barker, Blow, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Gullom, Culver, Darling, Davis, Defrees, Delano, Dodge, Dumont, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Harris, Hart, Henderson, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Hulburd, Hunter, Jenckes, Jones, George V. Lawrence, William Lawrence, Leftwich, McCullough, McKee, Morrill, Moulton, Orth, Patterson, Phelps, Plants, Pomeroy, Alexander H. Rice, John H. Rice, Rousseau, Sawyer, Starr, Stevens, Thayer, John L. Thomas, Trimble, Upson, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Welker, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Wright—69.

So the resolution was agreed to.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendment of House to the bill (S. No. 69) to provide for the payment of pensions, with amendments, in which the concurrence of the House was requested.

#### CONTESTED ELECTION—THOMAS VS. ARNELL.

Mr. DAWES. I rise to a question of privilege. I call up the resolution reported yesterday by the Committee of Elections in the case of Thomas vs. ARNELL.

Mr. MAYNARD. I hope the gentleman will not call up that case until the report that accompanies the resolution is printed. It certainly would not be doing justice to the parties, and I think it would not be doing justice to the House.

Mr. DAWES. My object is to obtain as early action as possible, knowing how brief the time left is for the parties to prepare their cases. If the parties themselves are not desirous of pressing the matter I have no desire to do it. I think the gentleman from Tennessee [Mr. MAYNARD] will be able to present to the House the precise question at issue as well without the report as with it.

Mr. MAYNARD. I think it is very unusual for the House to act upon such questions as this without having a printed report before them for their information. It is well known that members rely more upon the facts that are presented in the report than they do even upon the oral argument which may be founded upon those facts. This report I suppose is not very voluminous, and it may be sent in here from the printing office even during the present sitting of the House, certainly before our next sitting. I trust we shall not be called upon to act in this case until we can have the report printed and laid before us. I had supposed that the report would have been printed and laid before us to-day. It certainly will be printed by to-morrow, and one day will not make much difference.

Mr. DAWES. Very well; I am not disposed to press the question, unless I can have the cooperation of members from Tennessee in the matter. I therefore withdraw my call for the present.

#### HOT SPRINGS RESERVATION—AGAIN.

Mr. SCHENCK. I ask unanimous consent at this time to submit for consideration a resolution calling for information which should be sent to the Committee on Public Lands, in connection with a bill which was introduced and referred to that committee this morning. The resolution is as follows:

*Resolved*, That the Secretary of the Interior be requested to communicate to this House all the information to be obtained from the records and files of his Department relative to the condition, occupancy, and area of the Hot Springs Reservation, in Hot Springs county, State of Arkansas.

No objection being made, the resolution was received, considered, and agreed to.

The SPEAKER. The morning hour has now commenced, and reports are in order from the Committee on the Judiciary.

#### E. R. AND S. W. CLARKE.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary were discharged from the further consideration of Senate bill No. 402, to confirm the title of Ethan Ray Clarke and Samuel Ward Clarke to certain lands in the State of Florida, claimed under grant from the Spanish Government; and the same was referred to the Committee on Private Land Claims.

#### CHARLES CLARKE.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary were also discharged from the further consideration of Senate joint resolution No. 146, for the relief of Charles Clarke, marshal of the United States for the district of Maine; and the same was referred to the Committee of Claims.

#### INDEMNITY FOR OFFICIAL ACTS.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back with sundry amendments House bill No. 859, to declare valid and conclusive certain proclamations of the President, and acts done in pursuance thereof, or of his orders, in the suppression of the late rebellion against the United States, with a recommendation that the same do pass.

The bill was read at length. It provides that all acts, proclamations, and orders of the President of the United States, or acts done by his authority or approval after the 4th of March, 1861, and before the 1st day of December, 1865, respecting martial law, military trials by courts-martial or military commissions, or the arrest, imprisonment, and trial of persons charged with participation in the late rebellion against the United States, or as aiders or abettors thereof, or as guilty of any disloyal practice in aid thereof, or of affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrests and imprisonments made in the premises by any person by the authority of the orders or proclamations of the President, made as aforesaid, are hereby approved in all respects, legalized, and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made, and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted and expressly authorizing and directing the same to be done. And no civil court of the United States, or of any State, or of any District or Territory of the United States, shall have or take jurisdiction of, or in any manner reverse any of the proceedings had or acts done as aforesaid, nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance of any of said proclamations or orders, or by authority or with the approval of the President within the period aforesaid, and respecting any of the matters aforesaid; and all acts and parts of acts heretofore passed, and inconsistent with the provisions of this act, are hereby repealed.

The first amendment reported by the committee was to insert after the words "or as guilty of any disloyal practice in aid thereof" the words "or of any violation of the laws or usages of war."

The amendment was agreed to.

The next amendment was to insert after the words "and no civil court of the United States or of any State" the words "or of the District of Columbia."

The amendment was agreed to.

The next amendment was to insert near the close of the bill, after the words "and respecting any of the matters aforesaid," the following:

And all officers and other persons in the service of the United States, acting in the premises, shall be held *prima facie* to have been authorized by the President.

Mr. JOHNSON. Will the gentleman from Iowa yield to me for a moment?

Mr. WILSON, of Iowa. Yes, sir.

Mr. JOHNSON. Mr. Speaker, it strikes me that this bill goes very far; but we go to an extreme and an unprecedented length when we undertake to adopt a provision such as that proposed in the amendment. It proposes to enact that any officer of the United States, when called to answer for wrongful acts committed by him, shall be held *prima facie* to have received authority for such acts. Sir, I think we had better let things take the ordinary course. If provost marshals of the United States have without legal authority imprisoned men, willfully locked them up from mere caprice or malice, why not let such cases take the regular course of the law? Why should this Congress undertake to declare that, because men held appointments under the United States, it shall be presumed *prima facie* that all their acts were done under the direct authority of the Secretary of War and the President? It is reversing the proper order of things and requiring a party to prove a negative.

Mr. WILSON, of Iowa. Mr. Speaker, it is the purpose of the committee to provide in this bill a complete indemnity for persons who have acted for the United States in connection with the various subject-matters mentioned in the provisions of the bill. It is for the purpose



of making this indemnity effectual that I have proposed the pending amendment. I now demand the previous question on the amendment.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 199, nays 37, not voting 45; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Dawes, Deacons, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Jenckes, Julian, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, Rollins, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stillwell, Stokes, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—109.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanter, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Edwin N. Hubbell, Humphrey, Hunter, Johnson, Kerr, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nelson Taylor, Thornton, and Trimble—37.

NOT VOTING—Messrs. Ames, Ames, Arnell, Banks, Blaine, Blow, Sidney Clarke, Conkling, Culver, Darling, Davis, Dodge, Hale, Harris, Hart, Henderson, Hogan, Asahel W. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jones, Kasson, William Lawrence, Maynard, McCullough, Morrill, Patterson, Phelps, Pomeroy, William H. Randall, John L. Rice, Rousseau, Sawyer, Starr, Nathaniel G. Taylor, Thayer, Francis Thomas, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Whaley, Stephen F. Wilson, Winfield, and Wright—45.

So the amendment was agreed to.

Mr. LE BLOND. I would ask the gentleman from Iowa whether he has any other amendments to offer to the bill?

Mr. WILSON, of Iowa. I have not.

Mr. LE BLOND. I would ask the gentleman what course he intends to pursue in regard to the bill—whether he intends to put it upon its passage now.

Mr. WILSON, of Iowa. It is my purpose to put that bill upon its passage.

Mr. LE BLOND. At this time, and without debate?

Mr. WILSON, of Iowa. Of course if I put it upon its passage now it will be without debate.

Mr. LE BLOND. Well, I did suppose the gentleman would allow at least a few minutes debate upon this proposition. I should like to say something myself if the gentleman will permit me.

Mr. WILSON, of Iowa. I should be very glad to permit the discussion of this bill if it were possible for me to do so without interfering with the other business of the committee.

Mr. LE BLOND. Oh, Mr. Speaker, it seems to me, the Constitution is paramount to any other business that is pending, and some little debate ought to be given to it.

Mr. WILSON, of Iowa. Mr. Speaker, this committee has not been called for several weeks, and probably will not be called again during this session. A great deal of the important business is in the hands of that committee, and several members desire to submit their reports for the action of the House; therefore it will be impossible for me to consume the morning hour of the day in the discussion of this measure without depriving the committee of an opportunity to report their important bills.

Mr. DELANO. Allow me to make a suggestion. Perhaps the House may consent to put this measure in a position where it will receive some little consideration. It is undoubtedly an important measure, rendered necessary by the decision of the Supreme

Court recently made, which decision I think would be properly reviewed and considered in the discussion of this measure.

I look upon the measure as one of vast importance to the nation. It involves really the nation's power for its own protection; and in view of its importance I think it would be well for the country that the House should consider it. I want to know whether the power of this nation for its own preservation lies at the power of any one man. I think it is time the country should know it, and indirectly as this whole subject is embraced in the bill, I suggest whether, as this measure cannot now be discussed, it should not be put in a shape where it can receive the consideration which it deserves. I myself think it is a subject which the House should consider early and settle in such manner as to show its disapprobation to the decision of the Supreme Court which has rendered this bill a necessity.

Mr. WILSON, of Iowa. I desire to say, sir, I sympathize with the views expressed by the gentleman from Ohio. I regret the necessity of asking the House to pass upon this bill without deliberate consideration, and if I can be relieved of this necessity, by order of the House, that it will not lead to undue postponement of this measure I shall be glad to be so relieved. If an early day can be fixed for the discussion of this as a special order, to be continued from day to day until disposed of, I shall not object to that order being made by the House.

The subject embraced in this bill is one of more importance than any other that has been presented to the House during this or any other Congress since the foundation of the Government. It involves all of the questions embraced in the recent decision of the Supreme Court in the Milligan case. It proposes to bring the legislative department of the Government in conflict with the views of that court as expressed by the majority. But I do not think the measure should be crowded through the House with unseemly haste; and if such proposition can be made as I have suggested, I will be thankful to the House for making it.

Mr. DELANO. What will you consent to?

Mr. WILSON, of Iowa. I must first ask the Chair what day we can fix.

The SPEAKER. In response to the inquiry of the gentleman from Iowa, the Chair would state that there are already five special orders in the House undisposed of; namely: the bills in regard to appointments to and removals from office; in regard to counting illegal electoral votes at a presidential election; from the Judiciary Committee, amendatory of the currency law; from the Committee on Banking and Currency, amendatory of the same law, and a railroad grant at Puget sound. There are also five special orders undisposed of in the Committee of the Whole on the state of the Union; namely, the following appropriation bills: invalid pensions, consular and diplomatic, Military Academy, Post Office, and fortifications. The Committee on Appropriations have also yet to report the Army and Navy appropriation bills, and for sundry civil expenses, which will be special orders in the Committee of the Whole. And the Committee of Ways and Means will also probably report a bill amendatory of the internal revenue act.

Mr. WILSON, of Iowa. I move that the bill be recommitted to the Committee on the Judiciary, with leave to report at any time; that will take it out of the morning hour and allow it to be freely and fairly considered.

Mr. SCHENCK. You will give at least one day's notice.

Mr. WILSON, of Iowa. Yes, sir.

Mr. GARFIELD. I ask whether the bill as it now stands legalizes the release of rebel property. It seems to me, at a hasty glance, it does more than the gentleman would like. I do not want to legalize the action of a large number of persons during the last two years, merely for the sake of indemnifying some of our friends who ought to be indemnified.

Mr. WILSON, of Iowa. It is not the purpose of the committee to go beyond the class of cases named by the decision of the Supreme Court in the Milligan case. I do not think it goes beyond that. It is not the purpose of the committee to ratify any proceeding on the part of the President to which the gentleman refers. We do not enter on that at all.

Mr. ROGERS. Will the gentleman yield?

Mr. WILSON, of Iowa. Yes, sir.

Mr. ROGERS. I am a member of this committee, and it has more business before it than any committee of this House. I am the only member of it, I suppose, who is opposed to this bill. It appears to be the practice of the committee to run these bills through without allowing an opportunity for even a member of the committee to be heard. It is almost useless for me to act upon them in the committee, for I am not heard at all. I must say, however, that I disagree with them in all these bills of a revolutionary character which the committee are getting up.

Mr. WILSON, of Iowa. Unless the gentleman objects to the proposition I am not disposed to yield for a lecture by him.

Mr. ROGERS. I am objecting.

The question was taken; and the bill was recommitted to the committee and ordered to be printed, with authority to report at any time on giving one day's notice.

#### OATH FOR ATTORNEYS, ETC.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back House bill No. 239, to prescribe an oath for public officers and members of the bar, and for other purposes, with an amendment in the nature of a substitute therefor, by striking out all after the enacting clause and inserting the following:

That no person shall be permitted to act as an attorney or counselor in any court of the United States who has been guilty of treason, bribery, murder, or other felony, or who has been engaged in any rebellion against the Government of the United States, or who has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto.

SEC. 2. And be it further enacted, That the first section of this act is hereby declared to be a rule of every court of the United States.

SEC. 3. And be it further enacted, That it shall be the duty of the judge or judges of any such court, when the suggestion is made in open court that any person acting as an attorney or counselor of said court, or offering or proposing to so act, is barred by the provisions of this act, or whenever said judge or judges shall believe that such person is so barred, to inquire and ascertain whether such person has been guilty of treason, bribery, murder, or other felony, or whether he has been engaged in any rebellion against the Government of the United States, or whether he has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto; and if the court shall be of opinion that such person has been guilty of treason, bribery, murder, or other felony, or that he has been engaged in any rebellion against the Government of the United States, or that he has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto, to exclude or debar such person from the office of attorney or counselor of said court; and any person who shall testify falsely in any examination made by any court as aforesaid shall be guilty of perjury, and liable to the pains and penalties of perjury.

Mr. BOUTWELL. Mr. Speaker; as the amended bill has been read by the Clerk I shall be saved the necessity of much explanation. It is very well known that the majority of the Supreme Court have declared the test oath unconstitutional so far as by act of Congress the attempt was made to apply it to counselors and attorneys in the courts of the United States. The purpose of this bill is to declare by a rule, which, I take it, under the Constitution and by the decisions of the courts of the United States, it is entirely competent for the legislative department of the Government to declare, that certain persons shall not hold the office of attorney or counselor in any court of the United States. It provides that persons who are guilty of certain offenses shall be debarred from that office in all of the courts of the United States.

We believe, as a committee, that it is entirely competent for Congress to declare, not only what the rules of the Supreme Court shall be in reference to this particular class of cases, but in reference to every case which can pos-

sibly arise in the judicial administration of the law. Congress, by the Constitution, has power to enact all laws necessary and proper for the administration of the executive and judicial departments of the Government, and nothing can be more eminently proper than that persons who have been guilty, as in this bill it is declared, of treason, bribery, murder, or other felony, or who have participated in any rebellion against the Government of the United States, or have given aid, comfort, counsel, or encouragement to the enemies of the United States in armed hostility thereto, should be deprived of the privilege of appearing as officers of the Government in any court of the United States.

It is no punishment. The opinion of the court that persons are guilty of any of the offenses enumerated in this bill is no evidence elsewhere by which those persons are to be deprived of any right whatever. It does not even deprive them of the power of practicing in the vocation of attorneys or counselors, but merely says that those persons are of such character and such known repute, based upon the actual facts of their lives, that they are unworthy to appear in the judicial tribunals of the country, to come in contact with the officers of the law, to exercise an influence over the Chief Magistrates of the land deleterious to the public morals; and if there be five judges upon the bench of the highest tribunal who have not that respect for themselves to enact rules and to enforce proper regulations by which they will protect themselves from the foul contamination of conspirators and traitors against the Government of this country, then the time has already arrived when the legislative department of the Government should exercise its power to declare who shall be officers of the Government in the administration of the law in the courts of the Union; and this bill is for that purpose. I am directed by the Committee on the Judiciary to report this bill, and I ask the previous question upon it.

Mr. CHANLER. I hope the gentleman from Massachusetts will not force this question directly upon the House without allowing some opportunity to this side of the House to speak in behalf, not of the rebellion, but of the Supreme Court of the United States. Will the gentleman allow me a few moments before he presses the previous question?

Mr. BOUTWELL. I will yield to the gentleman from New York for five minutes.

Mr. CHANLER. I thank the gentleman for his extensive courtesy. But, sir, by this bill the whole issue upon this floor is changed. It is not now a question of rebellion against the Government of the United States sustained by the Opposition upon this side of the House, as is so often charged by the Administration party; but we are arrayed here and called upon to sustain the character of the Supreme Court of the United States from the assaults of the devil's advocate from Massachusetts. When, sir, a Christian was to be admitted into the calendar of saints the college of cardinals sat in judgment upon the coming brother, and one of them, arrayed in all the panoply of his office, assuming the position of devil's advocate, accuses the unheard and unseen person of every crime known to the catalogue of sins.

Mr. SPALDING. I call the gentleman from New York to order. He has called the gentleman from Massachusetts [Mr. BOUTWELL] "the devil's advocate." [Laughter.]

The SPEAKER. The gentleman must repeat the words excepted to, and the Chair will then rule upon them.

Mr. SPALDING. The Globe reporters will furnish them; they have taken them down.

Mr. STEVENS. I hope the gentleman from Ohio will not detain the House, but will withdraw his point of order. The gentleman from New York [Mr. CHANLER] did not say a word; every one agrees to that. [Laughter.]

Mr. SPALDING. Well, I will withdraw the point of order.

Mr. CHANLER. I must ask the gentleman from Massachusetts to extend my five minutes.

He knows very well that the allusion I made had no personal reference to him as an individual, and that my remark was simply in regard to the system of legislation followed here, illustrated by that once adopted in the conclave of cardinals. In placing upon him the liveliness of the "father of lies" I do not say that he is the "father of lies." I simply say that historically he appears on this floor in the same character that the cardinal of Rome assumed when he arrayed himself against a candidate to be admitted to the calendar of saints when, assuming the position of the devil's advocate, he charges the candidate for admission with every crime known to the catalogue of sins.

Now, to start from that point, I assume that the Supreme Court of the United States stands too high to be arraigned upon questions of individual character, because the gentleman himself said, as I understood him, in assailing that institution, that it was a question of character. I claim that I was not out of order in alluding historically to the position of the gentleman, and that he was out of order, under the rules of the House, in assailing one of the coordinate branches of this Government upon the sacred question of character.

Five minutes is not time enough to defend the character of the Supreme Court. [Laughter.] I take it, sir, that when a defense of the Supreme Court is necessary upon this floor it will be more than a five-minutes question; and if there is any argument deeper, broader, and more damning against the organization of this House it is that a man will rise here to assail the Supreme Court, and when asked to yield that that institution may be defended he shuts off debate under a five-minutes rule. I leave the gentleman in his unenviable position. Let him go on and defend those whom he thinks to be right and I will defend those whom I deem to be right.

Here the hammer fell.

Mr. BOUTWELL. I would perhaps yield further to the gentleman from New York, [Mr. CHANLER,] but I think that probably the Supreme Court of the United States will be satisfied with the defense he has already made of that body.

Mr. CHANLER. I am very much obliged to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. I now yield for eight minutes to the gentleman from New Jersey, [Mr. ROGERS.]

Mr. ROGERS. I am truly sorry that a committee of this House should consider it right and proper to urge through questions of so grave and momentous importance as this without allowing anybody upon this side of the House to be heard. I say that the only essence of liberty in this country is in having the people heard through their representatives upon the floor of Congress. And every man who has any regard for the right of free speech must see that we upon this side of the House are not allowed—and I say it with all due courtesy to gentlemen upon the other side of the House—that right to express our sentiments in behalf of two millions of voters in this country which we ought to be allowed. No one can expect that a question involving constitutional principles as this does, one that strikes at the very foundation of our judicial system, that attempts to inaugurate this Congress into a judicial body or legislative court, can be fully discussed in the short, paltry time of eight minutes.

This bill undertakes to override the plain principles laid down in the decision of the Supreme Court of the United States in the case of *ex parte* Garland, where the test oath was declared to be unconstitutional upon the plain and simple ground that it inflicted a punishment for past offenses which did not attach to them at the time of their commission. The very object of this bill is to deprive persons of the right and privilege of acting as attorneys and counselors in the courts of the United States simply because they were engaged in the

rebellion; thus attaching to that offense a punishment which did not attach to it at the time of its commission. It also authorizes and allows judges of the courts to condemn, without trial before a jury, attorneys and counselors who make application to be admitted to practice as guilty of treason and other high crimes named in the bill which has been presented for the consideration of this House.

I deny the authority of this Congress, or of any other body known to the Constitution of this country, to deprive a citizen of the United States, where his character, his life, his property, and his reputation are concerned, of his right to be tried by the tribunal guaranteed to him by the Constitution, a jury of twelve men, to be impaneled to consider and try his case according to the law.

This bill mistakes the Constitution in two very material particulars. One is, that it inflicts an additional punishment for an offense that was not provided for at the time it was committed. The other is, that it organizes a system of trial unknown to the courts of this country; and it establishes a judicial system through Congress which alone ought to be and can only be constitutionally exercised by the courts of judicature.

Sir, an attorney or counselor is not an officer of the Government, nor is he a State officer. He is a mere deputy or agent appointed by a court for the purpose of carrying on the necessary functions and powers which have been lodged in that court by virtue of the Constitution of the United States. From time immemorial, from the earliest days of the common law in England down through the whole history of jurisprudence in this country, attorneys and counselors have been appointed and commissioned by the courts, holding their offices during good behavior, and forfeiting them by any act of misbehavior in the court. And if a man is not of good moral character, or has been guilty of any of the offenses named in this bill, when he has been tried by a tribunal competent to try the case, and has been found guilty, he will be removed by the court.

If men of character and standing are to be placed in jeopardy in this manner, are to be tried without the benefit of a jury, then I will say that liberty in this country has flown from the luminous sphere which she has heretofore occupied in the courts; and nothing but despotism exercised by Congress is to be the rule of action. And this outrage is to be inflicted upon every man who cannot come up to the test of loyalty laid down and prescribed by the members of this honorable body. And I appeal to members upon the other side of the House that out of regard to the dignity of the Congress of the United States, and the rights of the freemen of this land, measures of such momentous consequence should not be rushed through the House in this manner without allowing to gentlemen who oppose them any opportunity to state the reasons of their opposition.

Sir, I will not undertake in the short time allotted to me to discuss the constitutional questions involved in this matter. Those questions have been fully examined in the decision of the Supreme Court in the case of *ex parte* Garland; and any member of the House who may read that decision, if he has any regard whatever for the supreme law of the land as enunciated by that tribunal, cannot hesitate to say that there is no authority lodged in this Congress to do directly what we were unable to do indirectly by the passage of the test oath act, which inflicted this punishment in an indirect manner upon those who had been engaged in the rebellion.

Sir, this bill is objectionable, not only because it exceeds our constitutional authority; it is injudicious in point of policy. We must practice the principles of charity. Christianity must rule in this country. The laws of God must govern men's consciences. To undertake now to inflict punishment upon men in this manner by depriving them of the means of earning a livelihood by practicing law in the courts

of justice, after they have received a full pardon for any offenses they may have committed, must engender a spirit of animosity and revenge which years will not be able to wipe out.

[Here the hammer fell.]

Mr. KELLEY. I ask the gentleman from Massachusetts [Mr. BOUTWELL] to yield to me for a moment.

Mr. BOUTWELL. If the House shall sustain the call for the previous question, I will yield to other gentlemen a large part of the hour to which I shall be entitled. I do not intend to occupy much time myself. I call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Massachusetts [Mr. BOUTWELL] is now entitled to an hour to close the debate.

Mr. BOUTWELL. I yield five minutes to the gentleman from New York, [Mr. HALE.]

Mr. HALE. Mr. Speaker, it is very difficult to judge of the merits of an important measure like this from the mere reading by the Clerk at the desk. The bill has not been printed and laid before us. I endeavored to follow the reading as closely as I could; but I am satisfied that I failed to understand properly several important provisions of the bill. I apprehended as the bill was read that it applied to State courts as well as Federal courts. I wish to inquire whether I am correct on that point?

Mr. BOUTWELL. The bill applies only to the courts of the United States; it does not interfere with the practice of the State courts.

Mr. HALE. I shall not attempt, Mr. Speaker, to discuss to any extent the constitutional questions involved in this bill. While I have no sympathy with any feeling that prompts members upon this floor to attack the Supreme Court as guilty of corrupt or improper action, I have, on the other hand, no disposition to support any legislation which would tend to do away with the test oath, so far as it can be constitutionally upheld, and so far as it is applicable to what are considered, in popular estimation, offices. But I have long been of opinion that the test oath act covers a class of nominal offices, like the offices of attorneys and counselors in courts, in regard to which it would be the part of wisdom to repeal the requirement of the oath, even if it were held to be within the constitutional power of this Congress to impose it. I ask gentlemen whether there is any good reason as a matter of policy why we should insist on applying this exclusion as for past acts to those offices which are such only nominally, while they are in fact the exercise of a profession or employment as completely as the practice of any other of the learned professions or any of the mechanic arts. It seems to me that for us now to pursue the course contemplated by this bill, and to exclude for an indefinite time—I do not think any member of this House is inclined to hold that the exclusion should be adhered to perpetually—to exclude for an indefinite period attorneys and counselors on account of past acts, whether pardoned or unpardoned, from the practice of their profession is not the part of wisdom, and does not comport with the judicious policy which Congress ought to pursue toward those lately engaged in rebellion.

Now, I concede, for the purpose of argument, that attorneys and counselors of courts may be considered in one sense officers of the Government, though independently of my argument I might perhaps question that. They are undoubtedly officers of the courts. They may perhaps be considered officers of the Government; but it is purely in a technical sense that they are officers. They are considered officers to enable the court to control them; to exercise summary jurisdiction over them as they do over other officers of the court.

In reality it is a profession by which a man gets his living, by which he earns his bread; and is it the part of wisdom, is it a policy such as shall commend itself to us, we shall now go back and say, notwithstanding any circumstances

which may surround the case, notwithstanding any pardon, notwithstanding any repentance, notwithstanding anything which should commend the man to our favorable consideration, we shall show no mercy; and because a man has once sinned we will say he has sinned away the day of grace, and the bread shall be taken from his own and his children's mouths?

It seems to me we will be better engaged in pursuing another policy; and great as is my respect for the gentleman from Massachusetts [Mr. BOUTWELL] and the Committee on the Judiciary, from which this bill is reported, I am constrained to differ on this question of policy.

There are other questions involved of greater importance than this; questions of un-constitutional power, which I do not assume to discuss, and which cannot be discussed in this brief time. I trust the House will not, under the pressure of the previous question, pass this bill, but take some action that will give an opportunity for discussion and consideration.

Mr. BOUTWELL. I now yield to the chairman of the committee.

Mr. JOHNSON. I appeal to the gentleman from Massachusetts to allow me three minutes. If it be not granted I shall object to the gentleman farming out the floor.

The SPEAKER. It has been decided more than once that under the rule a gentleman holding the floor may yield for explanation.

Mr. WILSON, of Iowa. As a question of policy each member will judge and act for himself; and that question I do not propose to discuss. I think, Mr. Speaker, the gentleman has not been happy in drawing his parallel between attorneys and counselors at law, who are officers of the court, and persons engaged in the mechanic arts. It is well known that in all courts of the land the power has been exercised to disbar members of the legal profession, prohibiting them from practicing in the courts for improper or criminal conduct; as, for instance, if an attorney has willfully misled the court or been untrue to his client. Any act of that character is deemed sufficient to disbar the attorney and render him incompetent to practice as an attorney. I have never heard in this country that a mechanic, who may have even willfully done a bad piece of work, can be prevented from following his trade.

Mr. HALE. I concede they are officers of the court for the purpose of submitting them to this summary process.

Mr. WILSON, of Iowa. Then that question is out of the case.

Now, how can this bill, if it becomes a law, be enforced? I have heard among members that that court cannot be authorized by Congress to try a man in this summary way for treason or any other offense. Sir, this bill does not propose to clothe the court with any such power. If a member of the bar of the Supreme Court of the United States should be charged with being guilty of any crime, such as murder, the record of his conviction is sufficient proof. So it is in reference to treason or any other grade of felony.

Mr. DAWES. I should like to ask the gentleman from Iowa whether the statutes of every State do not prescribe as one of the qualifications for admission to the bar the possession of a good moral character, and whether it is not for the court to pass on that; and how does this differ from the requirements in State courts.

Mr. WILSON, of Iowa. I cannot see any distinction between the rule which this bill seeks to prescribe and that prescribed by the State laws.

Mr. ROGERS. I would ask the gentleman what construction he puts upon this part of the decision in the case of *ex parte* Garland:

"The attorney and counselor, being by the solemn judicial act of the court clothed with office, does not hold it as a matter of grace and favor. The right which it confers upon him to appear for suitors and to argue cases is something more than a mere indulgence, revocable at the pleasure of the court or at the command of the Legislature. It is a right of which he can only be deprived by the judgment of the court for moral or professional delinquency."

Mr. WILSON, of Iowa. I am free to say, in

reply to the gentleman, that I can find a great deal in that opinion of the Supreme Court that I do not agree with.

Mr. FINCK. Will the gentleman yield?

Mr. WILSON, of Iowa. For a question.

Mr. FINCK. The gentleman from Massachusetts inquired of the gentleman from Iowa whether the States did not require as a qualification for the admission of attorneys to practice in the State courts that the applicant should be a man of good moral character, and the gentleman replied that he believed such were the provisions of the laws of the States, and that he could not see any difference between that and the proposed legislation here. I ask the gentleman if he would be willing to put in this bill a provision that the applicant should be a man of good moral character, and let the courts decide the question.

Mr. WILSON, of Iowa. I mean to say that I see no difference in the principle involved. I do not mean to say that the phraseology of this bill is precisely that which is to be found in the State statutes. I am talking about the principle involved. And I wish to say here, so far as the Supreme Court affirms in that decision the power to debar a man for the delinquencies which are there mentioned, I do not differ from it. It is because it stopped short of the application of the principle which I deem to be just and right that I say I differ with the Supreme Court.

The Supreme Court has decided, also, the question of the power of the President of the United States to pardon a citizen before or after conviction of any offense he may have committed against the law. Now, if it be said that under the provisions of this bill, which declares that a person who has been engaged in rebellion may be debarred from holding the office of attorney-at-law, I beg gentlemen to remember that a very large class of cases covered by this bill have the record-proof of guilt in the pardon of the President of the United States. If before conviction the President has the power to pardon them, the very application of a person so pardoned is an admission of guilt as surely as would be a plea of guilty in open court.

There are other limitations in the statutes of the several States, those which were referred to by the Supreme Court in that part of the decision read by the gentleman from New Jersey, [Mr. ROGERS.] One I may mention is the requirement that the party applying for admission to the bar shall swear he has not been engaged in the practice of dueling, has not been a party to a duel either as principal or second. We are seeking by this bill simply to enforce upon a court where we find a majority unwilling to carry out the laws of Congress a power which we have a right to enforce, and which has never before been questioned—the power to establish rules. The Supreme Court, in the *Garland* case, undertook to decide that that court possesses the power to prescribe the rules which are to govern it, and that Congress has no right to interfere. And yet any gentleman who will take the time and pains necessary to an examination of the various judiciary acts of the United States will find that there is nothing in the power of the court in that regard that does not depend upon the statutes enacted by Congress. The statutes declare that the courts may prescribe rules. This is the declaration of Congress. Now, sir, if Congress can clothe the courts with power to prescribe rules, why may not the same body prescribe rules itself? If it can do it indirectly through the court, why may it not do it directly through a statute? And that is all the committee propose to do in this bill.

Mr. FINCK. I desire to ask my friend from Iowa whether this proposed legislation is not retroactive in its operation; whether it will not have the effect of disbarring gentlemen who are now practicing law in the Supreme Court from the exercise of that right?

Mr. WILSON, of Iowa. I will answer the gentleman's question by asking another. Suppose the statute of Ohio should provide, as I



believe it does, that no person who does not possess a good moral character shall be permitted to practice law in that State; and upon examination a party should be admitted to practice under this rule; and we all know these examinations are very loosely conducted sometimes, and after being admitted it should be discovered by the court that instead of being possessed of a good moral character the character of the party was infamous, does the gentleman say the court could not lawfully exclude him from the bar?

Mr. FINCK. I will answer the question as briefly as I can. In that case the court would find, before they would debar the party from practicing, that he was a man of bad character; but in this case of Garland the case has been already examined by the Supreme Court and he has been allowed to practice in that court, and you propose now to require the Supreme Court to go behind that decision and say that Garland is not qualified to practice. I claim that that is a retroactive law.

Mr. WILSON, of Iowa. Of course it would be retroactive, and I take it that we have the power to make it retroactive. It is simply a rule of the court that persons who have been guilty of these offenses shall not appear in the presence of the court as its officers. The object is to defend the court against the presence of such persons, to exclude criminals and infamous persons from the halls of justice; and I would like to ask the gentleman from Ohio whether any inquiry into the reputation and character of a party is not necessarily retroactive?

Mr. SPALDING. Always so.

Mr. FINCK. Certainly not.

Mr. WILSON, of Iowa. Can you try a man's character and reputation in the future? I suppose that a man's character is that which he is, regardless of the opinions of others, and that reputation is the judgment of the community in which he resides.

Mr. FINCK. I claim that the question of character, where it is involved, must be determined by its standard at the time of inquiry, and not what it was years before. What is it now? is the inquiry.

Mr. WILSON, of Iowa. A man's reputation must be based upon his conduct and what others say of him. A man's character is that which he himself is, regardless of the judgment of those surrounding him, and an inquiry into either must necessarily be retroactive. I now resign the floor to the gentleman from Massachusetts.

Mr. BOUTWELL. Mr. Speaker, if the House will pardon me, I think that by the record I can demonstrate concisely how Congress is justified in this proceeding. The gentleman from New Jersey [Mr. ROGERS] was pleased to say that this bill contemplates a new mode of trial. I take it that no gentleman knows better than the gentleman from New Jersey that the provisions of this bill with reference to an examination into the character of a counselor in a court are in exact accordance with the practice in every court in this country and in Great Britain also, as I understand. If it be suggested in open court that a man has been guilty in any time past of any act which unfits him, either according to law or in the judgment of the court, to pursue his profession and hold office as a practitioner in the court, the court proceeds to inquire whether those things are so or not, not as a criminal is charged upon the criminal side of the court, but merely for the purpose of reaching an opinion which has only this effect, that it determines the future standing of the party in court, but does not affect the party anywhere else in his rights.

Mr. ROGERS. I desire to ask the gentleman what is the best proof that a man is guilty of the offenses referred to in this bill, treason, murder, &c.? Can you prove it in any way except by the production of a record of his conviction?

Mr. BOUTWELL. Undoubtedly the production of the record of conviction is the best evidence of the guilt of the party; but that is

not the only evidence that a court may take. It may go into an examination of charges which have never been brought before a criminal tribunal, and if the court is convinced that the party is guilty it has a right to deprive him of the privilege of practicing in the court.

Mr. MAYNARD. I would ask the gentleman from Massachusetts whether this bill amounts to anything more than a statute declaratory of what the law now is? Every court has a right to inquire into the character of its officers; this House might inquire into the conduct of any one of its members, or of its Clerk, or Sergeant-at-Arms, or Doorkeeper, and, being satisfied of his guilt of the charges brought against him, might get him aside. I would ask if this is anything more than the embodying in a statute of what the common law of the courts now is?

Mr. BOUTWELL. There can be no doubt upon that point. And I say here, upon my responsibility, with reference to the recent decision of the Supreme Court, that it is an offense to the dignity and the respectability of the nation that that tribunal, under the general authority vested in it under the Constitution and the laws, does not protect itself from the contamination of rebels and traitors, until the rebellion itself shall be suppressed and those men shall be restored to their former rights as citizens of this country. The Supreme Court, failing in the performance of this high and self-protecting duty, the time has arrived when the Congress of the United States, by whose breath alone the Supreme Court enacts rules of any sort or admits any man to the office of counselor or attorney at its bar, should assume exact and specific authority to declare by solemn law that men who have been guilty of murder or treason or bribery, or who have raised their arms to strike down the Government of their country, shall not participate in the administration of the laws of the land until they are absolved from their crimes.

Now, it is not enough that the Supreme Court of this country tells us that the pardon of the President absolves these men from their iniquities. Sir, that is not enough; the pardon of the President may open the doors of jails and penitentiaries; it may release criminals who are guilty of murder or any other felony. But while I occupy a place upon this floor never with my consent shall the pardon of the President be a certificate on which a felon may enter into the sacred tribunals of this land and assist in the administration of justice. [Applause on the floor and in the galleries.]

The SPEAKER. Spectators in the galleries must not manifest disapprobation or applause; and the assistant doorkeepers of the House will remove all persons offending against its rules.

Mr. ELDRIDGE. I would inquire of the Chair if it is not equally out of order for members on the floor to applaud.

The SPEAKER. It is.

Mr. BOUTWELL. I now ask for a vote.

Mr. JOHNSON. Will the gentleman from Massachusetts [Mr. BOUTWELL] allow me two minutes upon this question?

Mr. BOUTWELL. There are twenty gentlemen appealing to me to yield, and if I yield to one I ought to yield to all. I must decline to yield further, though I would be glad to accommodate my friend from Pennsylvania, [Mr. JOHNSON.]

Mr. ROGERS. I move to reconsider the vote by which the main question was ordered to be now put; and upon that motion I call for the yeas and nays.

Mr. WILSON, of Iowa. I move to lay the motion to reconsider upon the table.

Mr. FINCK. Upon that motion I ask the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 40, not voting 40; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Broomall, Reader W. Clarke,

Gobb, Conkling, Cook, Cullom, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hise, Hogan, Edwin N. Hubbard, Humphrey, Hunter, Johnson, Kerr, Latham, Le Blond, Leftwich, Marshall, Nicholson, Neill, Radford, Ritter, Rogers, Ross, Shanklin, Stitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, and Winfield—40.

NOT VOTING—Messrs. Alley, Ames, Arnell, Banks, Blow, Bromwell, Buckland, Bundy, Sidney Clarke, Culver, Darling, Davis, DeFree, Delano, Dodge, Garfield, Harris, Hart, Hawkins, Henderson, Asahel W. Hubbard, Chester D. Hubbard, Jencks, Jones, Kelso, William Lawrence, McCullough, Niblack, Phelps, Pomeroy, Samuel J. Randall, Rousseau, Starr, Stillwell, Thayer, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Whaley, and Wright—40.

So the motion to reconsider was laid upon the table.

The question recurring on agreeing to the substitute, it was agreed to.

The bill, as amended, was ordered to be engrossed and read the third time.

Mr. NIBLACK. I call for the reading of the engrossed bill.

The SPEAKER. It has not yet been engrossed.

Mr. MAYNARD. In order to give time for the engrossment of the bill I move to reconsider the vote by which the bill was ordered to a third reading; and on that motion I call for the yeas and nays.

Mr. ROLLINS. I move that the motion to reconsider be laid on the table; and on that motion I call for the yeas and nays.

Mr. MAYNARD. That will accomplish the same purpose.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 41, not voting 42; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Dawes, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Griswold, Abner C. Harding, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, Loan, Longyear, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Spaulding, Stevens, Stokes, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hise, Hogan, Hunter, Le Blond, Leftwich, Marshall, Maynard, Niblack, Nicholson, Neill, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Shellabarger, Stitgreaves, Stillwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Trowbridge, and Winfield—41.

NOT VOTING—Messrs. Alley, Ames, Arnell, Banks, Blow, Buckland, Sidney Clarke, Cullom, Culver, Darling, Davis, DeFree, Dumont, Eggleston, Grinnell, Harris, Hart, Hawkins, Henderson, Asahel W. Hubbard, Edwin N. Hubbard, Humphrey, Jencks, Johnson, Jones, Kerr, William Lawrence, Lynch, McCullough, Moorhead, Phelps, Pomeroy, Raymond, Rousseau, Starr, Thayer, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Whaley, and Wright—42.

So the motion to reconsider the vote by which the bill was ordered to a third reading was laid on the table.

The engrossed bill was then read.

Mr. BOUTWELL. I call for the previous question on the passage of the bill.

Mr. FINCK. I move that the House adjourn, and on that motion I call for the yeas and nays.

On ordering the yeas and nays, there were—yeas 24, noes 105; less than one fifth in the affirmative.

Mr. FINCK. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. FINCK and BOUTWELL were appointed.

The House divided; and the tellers reported—yeas twenty-eight; noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 126, not voting 38; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Humphrey, Hunter, Kerr, Latham, Le Blond, Leftwich, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Strouse, Taber, and Trimble—27.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Chandler, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawes, Dawson, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, Loan, Longyear, Lynch, Marshall, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—126.

NOT VOTING—Messrs. Alley, Ames, Arnell, Banks, Blow, Buckland, Sidney Clarke, Culver, Darling, Davis, Deffrees, Harris, Henderson, Hise, Asahel W. Hubbard, Jenckes, Johnson, Jones, William Lawrence, McCullough, Phelps, Pike, Pomeroy, William H. Randall, Rousseau, Sitgreaves, Starr, Thayer, Thornton, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, Whaley, Stephen F. Wilson, Windom, Winfield, and Wright—38.

So the House refused to adjourn.

Mr. ELDRIDGE moved that the bill be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK moved that the House take a recess till half past seven o'clock this evening; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE moved when the House adjourns to-day it adjourn to meet on Thursday next.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

Mr. FARNSWORTH called for tellers.

Tellers were ordered; and Mr. FARNSWORTH and Mr. ELDRIDGE were appointed.

The House divided; and the tellers reported, yeas 80.

So (more than one fifth of those present voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 119, not voting 54; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Chanler, Denison, Finck, Glossbrenner, Hise, Johnson, Le Blond, Leftwich, Niblack, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, and Trimble—20.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawson, Deffrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Ferry, Garfield, Goodyear, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marshall, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Pike,

Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stokes, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—119.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Banks, Blaine, Blow, Campbell, Sidney Clarke, Culver, Darling, Davis, Dawes, Eldridge, Farnsworth, Farquhar, Aaron Harding, Harris, Hawkins, Henderson, Hooper, Asahel W. Hubbard, Humphrey, Hunter, Jones, Kerr, William Lawrence, Marston, McCullough, Patterson, Phelps, Pomeroy, Raymond, Ross, Rousseau, Starr, Stilwell, Taber, Nelson Taylor, Thayer, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Whaley, Windom, Winfield, and Wright—54.

So the motion to adjourn over was disagreed to.

Mr. FINCK moved that the House do now adjourn; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 18, nays 114, not voting 59; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Denison, Eldridge, Finck, Glossbrenner, Hise, Johnson, Leftwich, Marshall, Noell, Rogers, Shanklin, Sitgreaves, and Strouse—18.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Broomall, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawes, Dawson, Deffrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Ferry, Garfield, Grinnell, Hale, Aaron Harding, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Laffin, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morris, Moulton, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Perham, Price, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Spaulding, Stokes, Taber, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—114.

NOT VOTING—Messrs. Alley, Ames, Arnell, Benjamin, Blaine, Blow, Sidney Clarke, Culver, Darling, Davis, Dumont, Eggleston, Farnsworth, Farquhar, Goodyear, Griswold, Harris, Henderson, Asahel W. Hubbard, Demas Hubbard, Hulburd, Humphrey, Jones, Kerr, Kuykendall, William Lawrence, Le Blond, Maynard, McCullough, Morrill, Niblack, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Ross, Rousseau, Scofield, Starr, Stevens, Stilwell, Nelson Taylor, Thayer, Thornton, Trimble, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Whaley, Williams, and Wright—59.

So the House refused to adjourn.

#### TREASURY NOTES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting information required by the second section of the act of April 12, 1861; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### STEAMERS EVENING STAR AND COMMODORE.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of the 3d instant, transmitting reports relative to the loss of the steamer Evening Star and the wreck of the steamer Commodore; which was ordered to be printed, and referred to the Committee on Commerce.

#### LEAVE OF ABSENCE.

Mr. MOORHEAD asked and obtained leave of absence for Mr. CULVER for ten days.

#### OATHS FOR ATTORNEYS—AGAIN.

The SPEAKER. The pending question is on the motion to adjourn.

Mr. LE BLOND. I move that when the House adjourns it adjourn to meet on Thursday next.

The SPEAKER. That motion is not in order. The motion to fix a time for adjournment has priority over a mere motion to adjourn, but the usage has been in all recent Congresses that the former motion cannot be

repeated, after being once decided, until the motion to adjourn has been decided, and for this reason: that one fifth of the members of the House could keep it in session when a majority desired it to adjourn.

Mr. LE BLOND. Then I move that the House take a recess until half past seven o'clock.

The SPEAKER. That does not take precedence; the motion to adjourn must be put before any other motion of a similar character is put.

Mr. BOUTWELL. I wish to inquire what will be the state of this bill if the House adjourns.

The SPEAKER. It will come up to-morrow morning immediately after the reading of the Journal.

Mr. INGERSOLL. I ask unanimous consent to introduce a resolution.

Mr. RADFORD. I object.

The question being taken on the motion to adjourn, it was decided in the negative—yeas 42, nays 82, not voting 67; as follows:

YEAS—Messrs. Ancona, Baxter, Bergen, Bidwell, Boyer, Campbell, Chanler, Cooper, Denison, Farquhar, Finck, Glossbrenner, Goodyear, Hawkins, Hise, Edwin N. Hubbell, Ingersoll, Johnson, Julian, Kerr, George V. Lawrence, Le Blond, Leftwich, Marshall, McRuer, Miller, Moorhead, Niblack, Nicholson, Noell, Orth, Radford, Raymond, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taber, Trimble, Windom, and Winfield—42.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Dawes, Dawson, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Hunter, Jenckes, Kasson, Kelley, Kelso, Ketcham, Koontz, Laffin, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Mercur, Morris, Myers, O'Neill, Paine, Perham, Price, Samuel J. Randall, William H. Randall, Rollins, Sawyer, Schenck, Sloan, Spaulding, Stokes, Nathaniel G. Taylor, Francis Thomas, Trowbridge, Warner, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, and Woodbridge—82.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, Baldwin, Beaman, Benjamin, Bingham, Blaine, Blow, Bundy, Sidney Clarke, Cook, Cullom, Culver, Darling, Davis, Deffrees, Dumont, Eliot, Farnsworth, Garfield, Hale, Aaron Harding, Harris, Henderson, Asahel W. Hubbard, Demas Hubbard, Humphrey, Jones, Kuykendall, Latham, William Lawrence, McCullough, Morrill, Moulton, Newell, Patterson, Phelps, Pike, Plants, Pomeroy, Alexander H. Rice, John H. Rice, Ross, Rousseau, Scofield, Shellabarger, Starr, Stevens, Stilwell, Nelson Taylor, Thayer, John L. Thomas, Thornton, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Whaley, Williams, and Wright—67.

So the motion to adjourn was disagreed to.

Mr. KASSON. I ask the consent of the House, with the approval of the gentleman in charge of this bill, that instead of adjourning we shall suspend the rules and go into Committee of the Whole upon a very short bill, the Post Office appropriation bill.

Several MEMBERS. I object.

Mr. ELDRIDGE. I move that the House take a recess till half past six o'clock.

The SPEAKER. The pending motion is to take a recess till half past seven o'clock, on which the yeas and nays are ordered.

The question being taken, it was decided in the negative—yeas 19, nays 99, not voting 78; as follows:

YEAS—Messrs. Allison, Ancona, Baxter, Bergen, Bidwell, Boyer, Bundy, Campbell, Donnelly, Finck, Aaron Harding, Hawkins, Hill, Kerr, Leftwich, Samuel J. Randall, Strouse, and Trimble—19.

NAYS—Messrs. Delos R. Ashley, James M. Ashley, Baker, Beaman, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawson, Delano, Deming, Denison, Dixon, Dodge, Driggs, Eckley, Eggleston, Eldridge, Eliot, Ferry, Glossbrenner, Grinnell, Griswold, Abner C. Harding, Hart, Higby, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelley, Ketcham, Koontz, Laffin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Mercur, Miller, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, O'Neill, Paine, Perham, Price, Radford, William H. Randall, Raymond, Ritter, Rogers, Rollins, Sawyer, Schenck, Shanklin, Shellabarger, Spaulding, Stokes, Nathaniel G. Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Welker,

Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Winfield, and Woodbridge—99.

**NOT VOTING.**—Messrs. Alley, Ames, Anderson, Arnell, Baldwin, Banks, Barker, Benjamin, Blaine, Blow, Chandler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Dumont, Farnsworth, Farquhar, Garfield, Goodyear, Hale, Harris, Hayes, Henderson, Hise, Asahel W. Hubbard, Demas Hubbard, Hulburd, Humphrey, Johnson, Jones, Kelso, Kuykendall, Latham, William Lawrence, McCullough, McKee, Moorhead, Morrill, Noel, Orth, Patterson, Phelps, Pike, Plants, Pomeroy, Alexander H. Rice, John H. Rice, Ross, Rousseau, Scofield, Sitgreaves, Sloan, Starr, Stevens, Stilwell, Taber, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, Windom, and Wright—73.

So the motion was disagreed to.

Mr. FINCK. I move that the House do now adjourn.

Mr. BOUTWELL. We have consumed about the time we usually consume in our daily sessions, and perhaps to-morrow we may be able to finish this bill.

Mr. RANDALL, of Pennsylvania. I object to debate.

Mr. FINCK. I call for the yeas and nays on my motion.

Mr. ELDRIDGE. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. PAINE and BOYER were appointed.

The House divided; and the tellers reported thirty-three in the affirmative.

So the yeas and nays were ordered.

Mr. FINCK. I understand that the gentleman from Massachusetts [Mr. BOUTWELL] is about to make a motion to adjourn, and in that case I will withdraw my motion.

Mr. RANDALL, of Pennsylvania. I object to the gentleman from Massachusetts or anybody else upon that side of the House entering into debate.

Mr. BOUTWELL. I would like to know whether there will be any objection to taking the vote to-morrow morning if we adjourn now?

Mr. FINCK. Yes; there will be.

Mr. BOUTWELL. Then we will stay here.

Mr. FINCK. Then I insist on my motion. The question was taken; and it was decided in the negative—yeas 9, nays 78, not voting 106; as follows:

**YEAS**—Messrs. Ancona, Bergen, Bingham, Campbell, Eldridge, Marshall, Nicholson, Ritter, and Trimble—9.

**NAYS**—Messrs. Allison, Baker, Banks, Boutwell, Brandegee, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferry, Grinnell, Griswold, Hale, Abner C. Harding, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Keontz, Ladin, George V. Lawrence, Loan, Longyear, McClurg, McIndoe, Mercer, Miller, Morris, Myers, Newell, O'Neill, Paine, Perham, Price, Radford, William H. Randall, Raymond, Rogers, Rollins, Sawyer, Schenck, Scofield, Shanklin, Shellenbarger, Sloan, Spaulding, Nelson Taylor, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Welker, Williams, James F. Wilson, and Woodbridge—78.

**NOT VOTING.**—Messrs. Alley, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Blow, Boyer, Brownell, Bundy, Chanler, Sidney Clarke, Conkling, Cooper, Culver, Darling, Davis, Dawes, Dawson, Defrees, Deming, Denison, Dumont, Eggleston, Farquhar, Finck, Garfield, Glossbrenner, Goodyear, Aaron Harding, Harris, Hart, Hawkins, Hayes, Henderson, Hise, Hogan, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Johnson, Jones, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, Leitch, Lynch, Marston, Marvin, Maynard, McCullough, McKee, McKee, Moorhead, Morrill, Moulton, Niblack, Noel, Orth, Patterson, Phelps, Pike, Plants, Pomeroy, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ross, Rousseau, Sitgreaves, Starr, Stevens, Stilwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Thayer, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Whaley, Stephen F. Wilson, Windom, Winfield, and Wright—106.

So the House refused to adjourn.

During the roll call,

Mr. ASHLEY, of Ohio, stated that he had paired off until twelve o'clock to-morrow with Mr. ROSS.

Mr. LEFTWICH stated that he had paired off with Mr. STOKES.

The SPEAKER. No quorum voted on the last vote.

Mr. GRINNELL. I move that there be a call of the House.

Mr. SPALDING. I second the motion.

The motion was agreed to.

The roll was accordingly called; when the following members failed to answer to their names:

Messrs. Alley, Ames, Anderson, Arnell, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Blow, Brownell, Buckland, Bundy, Chanler, Sidney Clarke, Culver, Darling, Dawes, Dawson, Defrees, Delano, Dumont, Eckley, Eggleston, Garfield, Goodyear, Harris, Hart, Henderson, Hise, Asahel W. Hubbard, James R. Hubbell, Jones, Kelly, Kuykendall, Latham, William Lawrence, Marvin, Maynard, McCullough, McKee, McKee, Moorhead, Morrill, Moulton, Orth, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Alexander H. Rice, John H. Rice, Ross, Rousseau, Sitgreaves, Starr, Stevens, Stilwell, Stokes, Thayer, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Stephen F. Wilson, Windom, and Wright.

One hundred and twelve members answered to their names.

Mr. BOUTWELL. I move that further proceedings under the call be dispensed with.

Mr. FINCK. On that motion I call the yeas and nays.

Mr. BOUTWELL. I withdraw the motion.

The doors of the House were then closed, and the Clerk proceeded to read the names of the absentees for excuses.

JOHN B. ALLEY.

Mr. HOOPER, of Massachusetts. I wish to say that my colleague, Mr. ALLEY, is absent by leave of the House, his leave extending, I believe, beyond the present time.

The SPEAKER. If the House has granted him leave of absence, he is excused.

OKES AMES.

Mr. HOOPER, of Massachusetts. I desire to make the same statement in regard to Mr. AMES that I did in regard to Mr. ALLEY—that he is absent on leave.

The SPEAKER. Then he will be excused.

GEORGE W. ANDERSON. No excuse offered.

SAMUEL M. ARNELL.

Mr. HAWKINS. My colleague, Mr. ARNELL, obtained leave of absence for ten days to return to his home.

The SPEAKER. Any gentleman absent on leave is excused, of course.

JOHN D. BALDWIN. No excuse offered.

ABRAHAM A. BARKER. No excuse offered.

PORTUS BAXTER. No excuse offered.

FERNANDO C. BEAMAN. No excuse offered.

JOHN F. BENJAMIN. No excuse offered.

JOHN BIDWELL. No excuse offered.

JAMES G. BLAINE. No excuse offered.

HENRY T. BLOW.

Mr. LOAN. My colleague, Mr. Blow, is absent by leave of the House for an indefinite time.

The SPEAKER. His name will be omitted from the list of absentees.

HENRY P. H. BROMWELL. No excuse offered.

RALPH P. BUCKLAND. No excuse offered.

HEZEKIAH S. BUNDY. No excuse offered.

JOHN W. CHANLER. No excuse offered.

SIDNEY CLARKE.

Mr. GRINNELL. The gentleman from Kansas, Mr. CLARKE, is absent on leave.

The SPEAKER. His name will be stricken from the list.

CHARLES V. CULVER.

The SPEAKER. The gentleman from Pennsylvania, Mr. CULVER, obtained leave of absence to-day.

WILLIAM A. DARLING.

Mr. RAYMOND. My colleague, Mr. DARLING, has been absent from the House, first on account of sickness, and now, I believe, on account of a death in his family. I believe he is absent on leave, but at any rate I move that he be excused.

The motion was agreed to.

HENRY L. DAWES. No excuse offered.

JOHN L. DAWSON. No excuse offered.

JOSEPH H. DEFREES. No excuse offered.

COLUMBUS DELANO. No excuse offered.

EBENEZER DUMONT.

Mr. INGERSOLL. The gentleman from Indiana, Mr. DUMONT, has been absent during the greater part of the session on account of sickness. I move that he be excused.

The motion was agreed to.

EPHRAIM R. ECKLEY. No excuse offered.

BENJAMIN EGGLESTON. No excuse offered.

JAMES A. GARFIELD.

Mr. ALLISON. The gentleman from Ohio, Mr. GARFIELD, left the House a few hours ago, complaining of illness. I understand also that he has sickness in his family. I move that he be excused.

The motion was agreed to.

CHARLES GOODYEAR. No excuse offered.

BENJAMIN G. HARRIS.

Mr. LE BLOND. I received a letter from Mr. HARRIS the other day, saying that his wife was very ill. I think he is absent by leave of the House. I move that he be excused.

The motion was agreed to.

ROSWELL HART. No excuse offered.

JAMES H. D. HENDERSON.

Mr. PRICE. The gentlemen from Oregon, Mr. HENDERSON, is very sick, confined to his bed. I move that he be excused.

The motion was agreed to.

ELIJAH HISE. No excuse offered.

ASAHIEL W. HUBBARD.

Mr. GRINNELL. My colleague, Mr. HUBBARD, has been sick all the session and not able to be here at all. I move that he be excused.

The motion was agreed to.

JAMES R. HUBBELL. No excuse offered.

MORGAN JONES.

Mr. TAYLOR, of New York. My colleague, Mr. JONES, is sick, confined to his room, as he has been during the whole session. I move that he be excused.

The motion was agreed to.

WILLIAM D. KELLEY. No excuse offered.

ANDREW J. KUYKENDALL. No excuse offered.

GEORGE R. LATHAM. No excuse offered.

WILLIAM LAWRENCE.

Mr. WELKER. My colleague, Mr. LAWRENCE, of Ohio, is absent by leave of the House for an indefinite time.

The SPEAKER. That is the fact. His name will be stricken from the list of absentees.

JAMES M. MARVIN.

Mr. MERCUR. The gentleman from New York, Mr. MARVIN, left the Hall about an hour and a half ago, observing that he felt quite unwell. I move that he be excused.

The motion was not agreed to.

HORACE MAYNARD. No excuse offered.

HIRAM MCCULLOUGH. No excuse offered.

SAMUEL MCKEE. No excuse offered.

DONALD C. MCIVER. No excuse offered.

JAMES K. MOORHEAD. No excuse offered.

JUSTIN S. MORRILL. No excuse offered.

SAMUEL W. MOULTON. No excuse offered.

GODLOVE S. ORTH. No excuse offered.

JAMES W. PATTERSON.

Mr. HALE. The gentleman from New Hampshire, Mr. PATTERSON, stated to me an hour or two ago that it was indispensably necessary that he should leave; and he requested me to pair with him on this bill. I do not know whether the fact that he is paired is an excuse for his absence.

The SPEAKER. Pairing has not been regarded as an excuse for absence under a call of the House.

Mr. HALE. I presume the gentleman was under the impression that it was a valid excuse. I move that he be excused.

The motion was not agreed to.

Mr. INGERSOLL. I rise to make an inquiry of the Chair. I desire to know whether it is not, by the usages of the House, allowable for one member to pair with another and be absent?

The SPEAKER. It is; but the fact of a member being paired does not operate as an excuse for absence when a call of the House is ordered. Otherwise the absentees might all be paired off. The rule is that no member can



absent himself from the House without its leave while it is in session.

SIDNEY PERHAM. No excuse offered.

CHARLES E. PHELPS. No excuse offered.

FREDERICK A. PIKE. No excuse offered.

TOBIAS A. PLANTS. No excuse offered.

THEODORE M. POMEROY.

Mr. KETCHAM. My colleague, Mr. POMEROY, was called away to New York very unexpectedly this morning on important business. I move that he be excused.

The motion was not agreed to.

ALEXANDER H. RICE. No excuse offered.

JOHN H. RICE. No excuse offered.

LEWIS W. ROSS. No excuse offered.

LOVELL H. ROUSSEAU.

Mr. HOGAN. I presume that General ROUSSEAU, who has been absent two or three weeks, is away by leave of the House. I move that he be excused.

The motion was not agreed to.

CHARLES SITGREAVES. No excuse offered.

JOHN F. STARR. No excuse offered.

THADDEUS STEVENS.

Mr. BROOMALL. I move that my colleague, Mr. STEVENS, be excused.

Several MEMBERS. Oh, no.

Mr. GRINNELL. Mr. STEVENS told me when he left that he was sick and could not stay here any longer.

The motion of Mr. BROOMALL was agreed to.

THOMAS N. STILWELL. No excuse offered.

WILLIAM B. STOKES. No excuse offered.

M. RUSSELL THAYER.

Mr. O'NEILL. My colleague, Mr. THAYER, is detained at home by continued illness in his family. I move that he be excused.

The motion was agreed to.

JOHN L. THOMAS. No excuse offered.

ANTHONY THORNTON. No excuse offered.

ROBERT T. VAN HORN.

Mr. LOAN. My colleague, Mr. VAN HORN, left the city during the recess at the time of the Christmas holidays and went to Missouri. I understand that he is sick there and unable to return.

Mr. HOGAN. He was sick when he went away.

Mr. LOAN. I do not know whether he has leave of absence or not. I move that he be excused.

The motion was agreed to.

ANDREW H. WARD.

Mr. SHANKLIN. My colleague, Mr. WARD, has been confined to his room for several days by sickness. I move that he be excused.

The motion was agreed to.

HAMILTON WARD. No excuse offered.

SAMUEL L. WARNER. No excuse offered.

ELIHU B. WASHBURN.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has been granted leave of absence for the remainder of the session. His name will be stricken from the list of absentees.

HENRY D. WASHBURN. No excuse offered.

WILLIAM B. WASHBURN. No excuse offered.

STEPHEN F. WILSON. No excuse offered.

WILLIAM WINDOM. No excuse offered.

EDWIN R. V. WRIGHT.

Mr. NEWELL. My colleague, Mr. WRIGHT, is at his home sick, unable to be here. I move that he be excused.

The motion was agreed to.

Mr. GRINNELL. Mr. Speaker, I move that the Sergeant-at-Arms take into custody the members absent without leave and bring them to the bar of the House forthwith.

Mr. HILL. I move to amend that those who are outside of the Hall may be permitted to come in.

The SPEAKER. Members who are absent will be taken into custody as they appear.

Mr. HALE. Can those members who may be seen looking through the glass doors be said to appear here? [Laughter.]

Mr. ELDRIDGE. They only appear through the glass darkly. [Renewed laughter.]

Mr. HILL. I withdraw my amendment. I understand that those who are outside will appear and surrender themselves.

Mr. GRINNELL's motion was agreed to.

Mr. JOHNSON. I ask that I be excused by the House from further service during this day's session on account of sickness, and submit the motion accordingly.

The House divided; and there were—ayes eighty-one; noes not counted.

So the motion was agreed to.

Mr. ELDRIDGE. The doors seem to be leaking.

The SPEAKER. The gentleman will state who has been allowed to come in.

Mr. ELDRIDGE. The gentleman from West Virginia seems to have dropped from some quarter.

Mr. WHALEY. In reply I will say I was here when the roll was called and answered to my name, and if the Clerk did not hear me I cannot help it.

The SPEAKER. The Clerk did not hear the gentleman's answer.

Mr. ELDRIDGE. Has the Doorkeeper the right to let members in upon their own statement?

The SPEAKER. The Chair will state to the gentleman from Wisconsin that the Doorkeeper always requires every member to answer whether he answered to his name on the call of the House, and when they answer they did he allows them to enter the House.

The Chair will also state that during the pendency of a call of the House permission is uniformly given to members on their parole to be absent for a few moments.

Mr. WENTWORTH. I demand that the Sergeant-at-Arms shall enforce the warrant of the House.

The SPEAKER. The Clerks are preparing the warrant.

Mr. RADFORD moved the House adjourn.

Mr. PAINE called for the yeas and nays.

Mr. RANDALL, of Pennsylvania, demanded tellers.

Tellers were not ordered; and the yeas and nays were not ordered.

The House refused to adjourn.

The Sergeant-at-Arms appeared at the bar of the House, and reported he had under the warrant of the House now in custody Mr. PERHAM and Mr. ECKLEY.

The SPEAKER. Mr. PERHAM, you have been absent from the House without its leave. What excuse have you to offer therefor?

Mr. PERHAM. I felt in need of my dinner and went home and procured it. The only complaint I have to make is, that when I returned I was kept waiting for a long time before I could get in.

Mr. BINGHAM. I move the gentleman be excused.

Mr. RADFORD. On the payment of costs.

The amendment was agreed to; and the motion, as amended, was adopted.

The SPEAKER. Mr. ECKLEY, you have been absent without leave of the House. What excuse have you to make?

Mr. ECKLEY. When I left the House I was under the impression it was about to adjourn. That impression I received from the action of those who had charge of the bill. Like the gentleman from Maine, I felt much in need of my dinner for the sustenance of the inner man, and after getting it I returned here and had to wait for a long time before I was allowed to come in.

I was absent without leave of the House, for which I beg its pardon. I did not mean any disrespect to the House.

Mr. SPALDING moved his colleague be excused on payment of costs.

The motion was agreed to.

Mr. BINGHAM moved that the House adjourn.

The motion was disagreed to.

Mr. BINGHAM. My colleague, Mr. LE BLOND, desired to be heard on this question, and I move he be heard for ten minutes.

Mr. LE BLOND. I did not ask to be heard upon this bill, but on the one reported by the chairman of the Committee on the Judiciary.

Mr. BINGHAM. I was mistaken then, and apologize to my colleague.

Mr. RADFORD. I hope gentlemen on the other side will be willing to make some compromise, and fix an hour when the vote shall be taken.

Mr. RANDALL, of Pennsylvania. I object to any compromise.

Mr. BINGHAM. I move that all further proceedings under the call be dispensed with. The motion was disagreed to.

Mr. RANDALL, of Pennsylvania. In consideration of the attention and devotedness of the members present, I move they shall be allowed a recess of five minutes.

The SPEAKER. That would dispense with the proceedings under the call.

Mr. RANDALL, of Pennsylvania. It does not seem to be the wish of the House, and I withdraw it.

Mr. RADFORD. I ask for leave of absence.

Mr. SPALDING. I object.

The Sergeant-at-Arms appeared at the bar of the House, and reported that, in compliance with its warrant, he had now in custody Mr. DELANO and Mr. BUCKLAND.

The SPEAKER. Mr. DELANO, you have been absent from the House without its leave. What excuse have you to offer?

Mr. DELANO. I went home, got my dinner, and returned as soon as I could.

Mr. HUBBARD, of Connecticut. Was the gentleman arrested?

Mr. DELANO. I came back voluntarily and hunted up the Sergeant-at-Arms. [Laughter.]

Mr. MILLER. I move the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. BUCKLAND, you have been absent without leave of the House. What excuse have you to offer?

Mr. BUCKLAND. My only excuse is I went to get my dinner.

Mr. RADFORD. I move the gentleman be excused on the payment of fees.

Mr. SCHENCK. If the gentleman procured his dinner at the restaurant below stairs it must have been so miserable a one that I am quite sure it was punishment enough. [Laughter.]

The motion was agreed to.

Mr. ROGERS. I move each one of the members be furnished with a ham sandwich at the expense of the House.

Mr. HOGAN. To be paid out of the contingent fund.

The SPEAKER. As it involves an appropriation it must be first considered in the Committee of the Whole. [Laughter.]

Mr. BOYER. I move the House adjourn.

The motion was disagreed to.

Mr. INGERSOLL. I wish to present a motion, and to explain it I ask the Clerk to read the paper I send up.

The Clerk read as follows:

The common understanding of the reason why a State forfeits State rights by its hostility to the United States, as evidenced by the adoption of an ordinance of secession—

Mr. COOPER. I object to any further reading.

Mr. INGERSOLL. I move all further proceedings under the call be dispensed with.

The motion was disagreed to.

Mr. INGERSOLL. I move that I shall be excused from further attendance on this day's session of the House; and I ask a paper to be read in support of that motion.

Mr. SPALDING. Is it a physician's certificate?

Mr. INGERSOLL. I rise to ask a question of the Chair as to the right of a member to deny me the privilege of being heard on a question of this kind. I ask the House to excuse me. I may have the best reasons in the world, and yet gentlemen deny me the privilege of giving them. Now, is that parliamentary?

The SPEAKER. The Chair thinks it is, unless the gentleman gives his reasons for desiring to be excused.

Mr. INGERSOLL. Am I compelled to give them verbally? Can I not send them to the Clerk's desk? I have an elaborate article prepared on the subject. [Laughter.]

Mr. RANDALL, of Pennsylvania. I will say to the gentleman that I objected out of deference to himself.

Mr. INGERSOLL. I was not aware the gentleman had so much regard for me.

Mr. HILL. I suppose the gentleman places it upon the ground that he is not to give his reasons upon compulsion.

Mr. INGERSOLL. Although they should be as thick as blackberries I would not do it. [Laughter.]

The SPEAKER. The Chair rules that the gentleman can give his reasons for asking to be excused, but he cannot have them read without permission of the House.

Mr. INGERSOLL. I suppose I can read them myself?

The SPEAKER. The Chair thinks not.

Mr. INGERSOLL. Well, sir, on some more happy occasion perhaps the House will hear them. [Laughter.]

Mr. ELDRIDGE. I would like to know what occasion that will be. [Laughter.]

Mr. BINGHAM. I move that the House do now adjourn.

The motion was disagreed to—ayes 27, noes 68.

Mr. WENTWORTH. Would it be in order to have the President's message read? [Laughter.]

The SPEAKER. It would not; no business can be transacted during the pendency of the call of the House.

Mr. KASSON. Is there a quorum present? The SPEAKER. There is.

Mr. KASSON. Then I move to suspend further proceedings under the call for the purpose of proceeding with the business of the House.

The motion was disagreed to.

Mr. GRINNELL. I ask if it is in order to move that the Speaker appoint an assistant Sergeant-at-Arms so that members may be brought in with greater facility?

The SPEAKER. The Sergeant-at-Arms has power to appoint special messengers under the rule of the House.

Mr. INGERSOLL. I rise to a question of order; whether it is in order for lunch to be distributed on the desks of members during business hours. [Laughter.]

The SPEAKER. Does the gentleman insist upon the point of order?

Mr. INGERSOLL. I make it in good faith.

The SPEAKER. The Chair rules that it is not in order.

Mr. INGERSOLL. I then ask that the order be carried into execution.

The SPEAKER. The Doorkeeper will execute the order.

Mr. HILL. Does that rule extend to apples? I am interested, as I have just sent for half a dozen. [Laughter.]

The SPEAKER. The Chair thinks not.

Mr. WENTWORTH. I move that the chairman of the Committee on the Judiciary [Mr. WILSON, of Iowa] be excused out of deference to his position as chairman of that committee, and also taking into consideration his age. [Laughter.]

The SPEAKER. The gentleman has not himself asked to be excused.

Mr. WILSON, of Iowa. Mr. Speaker, having finished my lunch, I ask that the order of the House be enforced and that the articles be removed. [Laughter.]

Mr. RADFORD. Mr. Speaker, I want to know if the freedman yonder is a member of the House; if not, I ask that the floor may be cleared. [Laughter.]

The SPEAKER. He is one of the employes of the House, and therefore entitled to be present.

Mr. RADFORD. Mr. Speaker, is good

faith now I propose that the House adjourn; and on that motion I call the yeas and nays.

On ordering yeas and nays there were—ayes nine.

Mr. LYNCH. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. LYNCH and RADFORD.

The House divided; and the tellers reported—ayes 2, noes 3. [Laughter.]

The SPEAKER. One fifth having voted in the affirmative, the yeas and nays are ordered. [Laughter.]

The question was taken; and it was decided in the negative—yeas 13, nays 89, not voting 89; as follows:

YEAS—Messrs. Baker, Bergen, Bingham, Campbell, Cooper, Denison, Glossbrenner, Hale, Edwin N. Hubbell, Ketcham, Miller, Rogers, and Trimble—13.

NAYS—Messrs. Allison, Ancona, Delos R. Ashley, Banks, Boutwell, Boyer, Brandegee, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Culom, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eldridge, Eliot, Ferry, Finck, Grinnell, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hogan, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelso, Kerr, Koontz, Ladin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, McClure, McIndoe, Mercer, Morris, Myers, Newell, Niblack, Nicholson, Noell, O'Neill, Paine, Perham, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Schenck, Scofield, Shanklin, Shellabarger, Sloan, Spalding, Strouse, Taber, Nelson Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Winfield, and Woodbridge—89.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Blow, Bromwell, Bundy, Chanler, Sidney Clarke, Conkling, Culver, Darling, Davis, Dawes, Dawson, Deffrees, Deming, Dumont, Eggleston, Farnsworth, Farquhar, Goodyear, Griswold, Aaron Harding, Harris, Hart, Henderson, Hise, Hooper, Asahel W. Hubbard, James R. Hubbell, Humphrey, Johnson, Jones, Kelley, Kuykendall, Latham, William Lawrence, Leitch, Marston, Marvin, Maynard, McCullough, McKee, McRuer, Moorhead, Morrill, Moulton, Orth, Patterson, Phelps, Pike, Plants, Pomeroy, Alexander H. Rice, John H. Rice, Bitter, Rollins, Ross, Rousseau, Sawyer, Sitgreaves, Starr, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Stephen F. Wilson, Windom, and Wright—89.

So the motion to adjourn was not agreed to. The Sergeant-at-Arms here appeared and announced that in obedience to the warrant of the Speaker he had arrested and produced at the bar of the House, Mr. ORTH, of Indiana.

The SPEAKER. Mr. ORTH, you have been absent from this House without its leave. What excuse have you to render for your absence?

Mr. ORTH. I do not know that I have any very good excuse to offer to this House. I remained here until I was satisfied that I would have a very late dinner if I got any at all. I trusted to the good sense of this House to soon adjourn; but I must confess that my confidence was misplaced, although I set the example myself of leaving the House. And I will also say that I saved the Sergeant-at-Arms from any unnecessary traveling, because I was arrested by him near the door of the House.

Mr. KOONTZ. I move that the gentleman from Indiana, Mr. ORTH, be excused upon the payment of the usual fees.

Mr. ELDRIDGE. I move to amend by adding the following:

And being subjugated he shall submit to suffrage without regard to race or color and shall take the test oath. [Laughter.]

The SPEAKER. The Chair is of opinion that the amendment is not in order.

The question was taken; and the motion of Mr. KOONTZ was agreed to.

The Sergeant-at-Arms also announced that in obedience to the warrant of the Speaker he had arrested and now produced at the bar of the House, Mr. HISE, of Kentucky.

The SPEAKER. Mr. HISE, you have been absent from this House without its leave. What excuse have you to render for your absence?

Mr. HISE. May I inquire, being new to legislative forms and proceedings, what will be the penalty if I have no sufficient excuse to render for my absence?

The SPEAKER. It is within the discretion

of the House. The usual penalty is the payment of fees to the Sergeant-at-Arms.

Mr. HISE. I have the floor for a few moments, I suppose, for the purpose of rendering my excuse.

The SPEAKER. The gentleman has the floor for the purpose of stating his reasons for his absence.

Mr. HISE. I did not leave the Chamber until after the usual hour of adjournment; it was a few minutes after four o'clock before I left. I was very much fatigued by close attention for some hours to the proceedings of the House. I was also somewhat dispirited, I acknowledge, with the appearance of things in the House as I left it. I perceived that a bill, constituting, I supposed, one of a series of measures, had been brought into the House, and the supporters of the bill called for this extraordinary previous question, denying the privilege of discussion upon the subject. It was a bill which, with its conferees and associate measures, in my deliberate judgment, makes an assault upon one of the main pillars of this Government, and strikes down one of the corner-stones of our political fabric.

Mr. KOONTZ. I rise to a question of order. Is the gentleman in order in thus making a speech upon this occasion?

The SPEAKER. In the opinion of the Chair the gentleman from Kentucky [Mr. Hise] is not in order. The gentleman must state his reasons for his absence without leave. The opinion of the gentleman upon a pending bill is not a reason for absence; it is a good reason for his remaining in the House. [Laughter.]

Mr. HISE. I think I can show that my remarks are pertinent.

Mr. LE BLOND. Is it not a good reason why a member should leave the House that he sees that one of the arms of the Government is being assailed? [Cries of "Order!" "Order!"]

The SPEAKER. The gentleman is out of order.

Mr. HISE. When I left the Chamber I thought I perceived that my further presence here would be unnecessary and unavailable. I was not willing to be present and see a measure of that description—

The SPEAKER. The Chair thinks the gentleman is out of order.

Mr. WENTWORTH. I move that the time of the member from Kentucky [Mr. Hise] be extended. [Great laughter.]

Mr. HISE. I was proceeding to show the motives and reasons why I absented myself. Be they good or be they bad, still they are the reasons I have for leaving the Chamber as I did; and they constitute the excuse, and almost the only excuse, I have to offer. I had heard the gentleman from Massachusetts [Mr. BOUTWELL] get up on this floor and proclaim and declare the most monstrous and horrible opinions that ever had been uttered either in or out of this House. [Cries of "Order!" "Order!"]

The SPEAKER. It is clearly not in order for the gentleman to indulge in strictures upon the gentleman from Massachusetts, [Mr. BOUTWELL,] or any other gentleman, in rendering his excuse for being absent without leave.

Mr. SLOAN. Is it not the duty of the gentleman from Kentucky [Mr. Hise] to take his seat after he has been called to order until he has the leave of the House to proceed?

The SPEAKER. After the Chair has ruled that a member is out of order in his remarks the Chair has nothing further to do in the matter. It is for a member, if he desires it, to insist that the member called to order shall take his seat until leave is given by the House for him to proceed in order.

Mr. HISE. I was merely remarking that I had heard opinions declared and views announced in regard to the structure and form of Government—

The SPEAKER. These remarks of the gentleman are clearly out of order.

Mr. HISE. Well, I will state that I thought

I perceived that if I remained in this Chamber there was no hope that I could obtain the exercise of the privilege of responding to those opinions, or of making known my opposition to the monstrous measure now before the House. I furthermore state that in connection with that I was wearied and fatigued with my attendance here, and I thought that perhaps my personal presence was not material or necessary in any way, either to prevent the adoption of that measure or to give the opposition to its adoption any aid or assistance. I perceived that there were motions to lay on the table, to adjourn, and other motions by which the session of the House would be protracted to a very unreasonable hour in the night. And as I had done my usual duty, and had performed my usual amount of labor during the day, I hoped that I might retire without any prejudice to the public service.

Mr. GRINNELL. Is it in order to move that the gentleman have leave to print the remainder of his remarks?

The SPEAKER. The Chair thinks not, as the reasons the gentleman is giving are to influence the action of the House at this time.

Mr. SPALDING. I would inquire if the gentleman left with the intention of again returning?

Mr. HISE. I left with the intention of returning to-morrow at twelve o'clock.

Mr. LE BLOND. I move that the gentleman from Kentucky [Mr. HISE] be excused upon the payment of the usual fees.

Mr. HISE. I came here immediately upon the summons of the officer without any delay, and here I am. [Laughter.]

Mr. PRICE. As a reason for excusing the gentleman it may be urged that he gives the same reasons for absents himself to-day that the members of the southern confederacy gave for absents themselves in 1860.

Mr. RADFORD. I call the gentleman to order.

The SPEAKER. The gentleman from Iowa [Mr. PRICE] is not in order in the remarks he is making.

The question was upon the motion of Mr. LE BLOND, that Mr. HISE be excused upon the payment of the usual fees.

The motion was agreed to.

Mr. SCHENCK. I desire to move an amendment to the motion of my colleague, [Mr. LE BLOND.]

The SPEAKER. The gentleman is too late; the motion of his colleague [Mr. LE BLOND] has been agreed to.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the motion to excuse the gentleman from Kentucky [Mr. HISE] was agreed to.

Mr. ELDRIDGE. I move to lay the motion to reconsider upon the table.

Mr. RANDALL, of Pennsylvania. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I rise to a question of order: whether this business can be done while the order is being executed for a call of the House?

The SPEAKER. What rule prohibits it?

Mr. ELDRIDGE. I inquired of the Speaker.

The SPEAKER. That is the exact way in which the call proceeds. The motion to reconsider is of course in order, and it may be laid on the table.

Mr. ELDRIDGE. Suppose there is no quorum present?

The SPEAKER. The call of the House presumes there is not a quorum present.

Mr. STROUSE. I ask unanimous consent to excuse my colleague, Mr. DENISON, from further attendance at this sitting, as he is indisposed.

No objection was made.

Mr. HALE. I rise to a point of order. Gentlemen who are supposed to be in the custody of the Sergeant-at-Arms are occupying their seats in this Hall. I ask if that is permissible.

The SPEAKER. It is not; gentlemen who are under arrest cannot occupy their seats until they are discharged from custody.

Mr. WENTWORTH. I would inquire what effect the decision of the Supreme Court has upon these arrests? [Laughter.]

The SPEAKER. The Chair is not aware what effect that will have.

The question being taken on the motion to lay on the table the motion to reconsider the vote by which the House excused Mr. HISE on payment of the usual fees, it was decided in the negative—yeas 48; noes 53, not voting 90; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Baker, Banks, Bergen, Bingham, Boyer, Buckland, Campbell, Cooper, Eldridge, Eliot, Farquhar, Finck, Gloss, Gresham, Hale, Abner C. Harding, Hogan, Hotchkiss, Chester D. Hubbard, Edwin N. Hubbell, Hunter, Kerr, George W. Lawrence, Le Blond, Loan, Lynch, Marshall, Miller, Niblack, Nicholson, Noel, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Scofield, Stillwell, Strouse, Taber, Nelson Taylor, Francis Thomas, Trimble, Wentworth, Whaley, and Winfield—48.

NAYS—Messrs. Allison, Brandegee, Reader W. Clarke, Cobb, Cullom, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Ferry, Grinnell, Griswold, Hawkins, Hayes, Higby, Hill, Holmes, Hooper, De-mas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelso, Ketcham, Koonz, Ladin, Longyear, McClurg, McIndoe, Mercer, Morris, Myers, Newell, Orth, Paine, Perham, Price, Rollins, Sawyer, Schenck, Shollabarger, Sloan, Spalding, Upson, Welker, Williams, James F. Wilson, and Woodbridge—53.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Blow, Boutwell, Broomall, Chandler, Sidney Clarke, Conkling, Cook, Culver, Darling, Davis, Dawes, Dawson, De-frees, Denison, Dumont, Eggleston, Farnsworth, Garfield, Goodyear, Aaron Harding, Harris, Hart, Henderson, Hise, Ashael W. Hubbard, James R. Hubbell, Humphrey, Johnson, Jones, Kasson, Kelley, Kuykendall, Latham, William Lawrence, Lefebvre, Marston, Marvin, Maynard, McCullough, McKee, McRuer, Moorhead, Morrill, Moulton, O'Neill, Patterson, Phelps, Pike, Platts, Pomeroy, Alexander H. Rice, John H. Rice, Ross, Rousseau, Shanklin, Sitgreaves, Starr, Stevens, Stokes, Nathaniel G. Taylor, Thayer, John L. Thomas, Thornton, Trowbridge, Van Aernam, Bart Van Horn, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Stephen F. Wilson, Windom, and Wright—90.

So the motion was not laid on the table.

The question recurred on the motion to reconsider the vote by which Mr. HISE was excused on payment of the fee.

Mr. SCHENCK. Upon that motion I desire as a reason for the vote I shall give to have some of the language used by the gentleman from Kentucky [Mr. HISE] read from the Clerk's desk. I hope the reporter will be called upon to read his notes.

Mr. RADFORD. I rise to a point of order. The gentleman has no right to present his views at this time.

The SPEAKER. It is in the province of the gentleman from Ohio, on the motion to reconsider, to state why the gentleman from Kentucky should not be excused on the payment of the fee. That motion opens the whole question; the motion to lay it on the table being rejected.

Mr. SCHENCK. If the motion to reconsider shall prevail, I propose to move some fine by way of amendment to the motion to discharge the gentleman on payment of the usual fee, because I think a fine ought to be imposed. I think when a member is called upon to present his excuse for his absence and he takes advantage of that opportunity to announce secession doctrines on this floor and to abuse the chairman of the committee who reported the bill under consideration, he ought to be made an example of. And I ask, as a reason for the vote which I shall give, and in illustration of the remarks which I shall make, first for the reading of this extract from the notes of the reporters, which I send to the Chair, containing what he said about Mr. BOUTWELL.

The Clerk read as follows:

"I have heard the gentleman from Massachusetts get up on this floor and proclaim and declare the most monstrous and horrible opinions that ever had been uttered either in or out of this House."

Mr. SCHENCK. I also ask that the remarks made by the gentleman previous to that shall be read from the notes of the reporters. I am willing; however, to rest the case upon

this attack made upon the gentleman from Massachusetts, [Mr. BOUTWELL,] who introduced the bill; an attack made by the gentleman from Kentucky under cover of an excuse for his absence. I call the previous question on the motion to reconsider.

Mr. BINGHAM. I hope not; I desire to make some remarks upon the question.

Mr. LE BLOND. Can the previous question be ordered when the House is carrying out an order for a call of the House, when the Speaker has already announced that that presupposes there to be a minority of this House present?

The SPEAKER. Upon all the questions growing out of a call of the House, and arising from the power of the House over its absent members, the previous question and a motion to lay upon the table are in order under the rules of the House.

Mr. LE BLOND. I hope my colleague will withdraw the demand for the previous question. I would like very much to be heard for a moment in reply to my colleague.

Mr. SCHENCK. I wish simply to say that I have no desire myself to debate this matter, and no desire to hear it debated. I leave the case just where it was, that, in the exercise of the privilege to give an excuse for his absence, the gentlemen from Kentucky, at least, whatever may be thought of anything else he said, took advantage of the occasion to attack a member of this House, and that is the reason why I shall vote to reconsider in order to afford an opportunity to see whether the House will not impose a further punishment than the easy and lenient course of merely discharging the member on payment of costs.

Mr. HALE. I wish to inquire of the gentleman from Ohio [Mr. SCHENCK] if he claims that the language of the gentleman from Kentucky as read from the Clerk's desk is unparliamentary.

Mr. SCHENCK. I do claim it to be unparliamentary, but that is not the point I make. I present it as a proof of the fact that he availed himself of the opportunity to assault one of the members of this House, denouncing him as having uttered the most monstrous and horrible opinions he ever heard expressed here or anywhere else.

Mr. HALE. Then I would ask the gentleman would it be right in his judgment to impose a fine upon a member of this House for language which was not unparliamentary? And that being the question, I wish to submit the question to the Speaker whether the language of the gentleman from Kentucky was unparliamentary.

The SPEAKER. That is not a question for the ruling of the Chair on this proposition. It is within the province of the House to decide what penalties it will inflict upon its absent members.

Mr. HISE. Will the gentleman yield to me?

Mr. SCHENCK. Not to make a speech on this question. I will move myself to allow the gentleman to respond hereafter, when a motion is made to impose any further punishment upon him; but I do not want him to argue this question.

Mr. HISE. I never yet understood, may it please the Speaker and the House, that to characterize the opinions of a member of a legislative body as monstrous, as untenable, as opinions which, if carried out into practice, would be subversive of the character of the Government of the United States, could be properly construed into personal abuse. Political, constitutional, and legal opinions expressed upon the floor of this House, in the course of the transaction of the public business, are fair subjects for criticism and remark. The words "monstrous," "extraordinary," and "horrible," are terms and expressions by which the extent and degree of our opposition to those opinions may be made manifest. That does not amount to personal abuse. How often have gentlemen upon the other side of the House characterized gentlemen upon this side as "traitors" and "rebels" and "cop-perheads," and characterized their principles



and views as "falacious," as the views of "factionists," as the views of "secessionists," as "revolutionary," "rebellious," and all that, without even being called to order for it?

Now, I intended no personal disrespect to the gentleman from Massachusetts, none whatever; but I looked upon him as being an educated man, and as belonging to that extreme latitudinarian school of politicians which encourages and entertains views somewhat similar but not nearly as ultra as the views which he seemed to express to-day. The views which he expressed to-day tended, it seemed to me, simply to this: that the legislative department of this Government is supreme, and that the executive and judicial departments are subservient, to be ruled by it without regard to constitutional checks and limitations on their power. That, I thought, was the tendency of his views, and I characterized them as monstrous, but I did it with no intention of personal disrespect toward the gentleman, none whatever.

I brought it in in connection with my excuse for my absence, and I really and conscientiously believe I was not out of order in reverting to his remarks to-day in making my excuse. What effect must it not have had upon a man of my political opinions to hear such views expressed upon this floor? Sir, it saddened me. It produced a feeling of melancholy and sadness which I could not control. I had no chance to speak, and no opportunity of expressing my views or explaining my position to the House. There was a struggle apparently going on, on the one side for delay, in the hope of getting an opportunity to discuss hereafter this most important and dangerous measure, and upon the other side to maintain their position in passing this measure without discussion or debate, so that the country may not be enlightened in regard to it, though we may be. I had no intention to be out of order; but in this state of mind and feeling, when I had been here desiring to speak and hoping to get an opportunity to speak and express my strong and indignant opposition to the doctrines expressed by that gentleman and their tendency, and despairing of that opportunity and having exhausted myself by my anxiety and attention to business, after the hour of four o'clock had arrived, inasmuch as my age and time of life make it necessary that I should have some repose, I retired from the Chamber without intending any disrespect to the House or to the authority of the House, and the very moment the Sergeant-at-Arms came to me and notified me that there was a call of the House and that my presence was demanded, I came up here.

The gentleman from Ohio is totally mistaken in supposing that I have voluntarily gone out of my way to indulge in any personal abuse of the gentleman from Massachusetts. I adverted to his opinions only to show the great anxiety I had to respond to them and oppose them. I despaired of an opportunity of doing so, and in that way, my mind and feelings being affected by the scenes that occurred here to-day, I retired from the Chamber under the idea that my presence would be of no service to my side of the House, that no opportunity for discussion would be allowed, and that the vote would not be taken this afternoon.

Now, sir, I never have departed and I never will depart from the subject-matter in hand. I desire to treat all subjects before the House in a legitimate, fair, and argumentative manner. It has been my habit all my lifetime, when I have been called to the discussion of any subject, either in legislative halls before the people or at the bar, to confine myself to the subject-matter in hand. I have never allowed myself to go out of the way and indulge in personal abuse of men opposed to me, either in the Legislature, before the people, or at the bar. Therefore, if the gentleman understood me as designedly or voluntarily going out of the way and departing from the proper rules of decorum in making the allusion I did to the gentleman from Massachusetts, [Mr. BOUTWELL,] he

misunderstood my motives at least, if he did not put a wrong construction upon what I said. I care but little about being fined. I suppose I have furnished about as good and reasonable an excuse for my departure from this Chamber as any other delinquent who was absent when the roll was called.

Mr. SCHENCK. After having yielded to the gentleman from Kentucky [Mr. HISE] to make his explanation of his motives and purposes, I feel it due to myself as well as to the House to be a little more explicit in presenting the point raised by the question now pending. In objecting to the language used by the gentleman from Kentucky in presenting his excuse for absence from the House, I do not wish to be understood as construing it to be a personal assault prompted by personal hostility or enmity in any shape toward the gentleman from Massachusetts. The ground I take is this: the gentleman was absent at the call of the roll; he was sent for; was arrested and has been brought to the bar of the House by the Sergeant-at-Arms, and has been called upon for his excuse for his absence. In making that excuse he assigns as a reason for his absence that while he was here he had heard such monstrous doctrines, such horrible opinions expressed by the gentleman from Massachusetts that he was so saddened and dispirited that he left the House, because he had become satisfied, from the course of proceeding here, that such was the tyranny of this House he could not exercise his rights here as a Representative.

Now, I do not think I have overstated his language, and before I take my seat I may ask for the reading from the Globe reporter's notes of the language he did use. My objection is not so much to an attack upon a particular member, as to his characterizing the opinions of that member as horrible in connection with his reasons for leaving the House, and his conclusion that this House was a tyrannical body, in which he could not exercise his rights as a member. That I claim to be an arraignment of the majority of this House, under color of giving an excuse for his absence. That is the point I desire to have presented here. But the gentleman makes such disclaimer of motives that I hardly know whether to insist upon a reconsideration of the vote excusing him or not.

Mr. BOUTWELL. Will the gentleman from Ohio [Mr. SCHENCK] yield to me for a few moments?

Mr. SCHENCK. Certainly.

Mr. BOUTWELL. I did not hear the remarks of the gentleman from Kentucky [Mr. HISE] when he was making his explanation to the House, nor did I know what he had said until the words were reported from the Clerk's desk. I certainly should not have felt particularly aggrieved by the remarks which the gentleman made. I myself indulge in great frankness of expression about measures, and sometimes about men; and no doubt I am oftentimes under the necessity of soliciting the charity of others to put the most favorable construction upon what I may say; and I am always disposed to put a similar construction upon what is said by others.

I trust the gentleman from Ohio [Mr. SCHENCK] will not press this matter upon the ground of any personal regard which I know he entertains for myself. If he supposes that the course of remarks of the gentleman from Kentucky in any way infringes the rights of a majority of the House, that is a question with which I have no more concern than any other member of this House. The House will vindicate its own rights and privileges of course.

Now, I desire to make a remark a little outside of this present matter, which is somewhat personal. The Committee on the Judiciary commenced reporting this morning. It has but two hours of the time of the House now, and will probably have no more of the time of the House during this session. It had several important measures which it desired to report and to have passed, if such should be the judgment of the House.

Our friends on the other side of the House I think ought to consider, when they express the idea that we exercise some tyranny in pressing these measures, that we have only two hours at our command for the purpose of bringing before this body, and soliciting its favorable action upon them, all the measures which have been submitted to the Judiciary Committee. Now, if we allow gentlemen to indulge in great latitude of discussion, the business of the House, so far as it is in the hands of the Committee on the Judiciary, would soon be at an end. I think that ought to be a reason why a member of the Judiciary Committee reporting a measure should be excused from the charge of exercising any tyrannical force over the minority.

Mr. ELDRIDGE. I want to inquire of the gentleman from Massachusetts, [Mr. BOUTWELL,] if he considers that any fair or reasonable opportunity for debate has been granted to gentlemen upon this side of the House to make such remarks and argument as the character and importance of the subject would require of members of any deliberative body?

Mr. BOUTWELL. If the gentleman from Wisconsin [Mr. ELDRIDGE] asks me whether I think the brief time, something less than two hours, which was accorded to the discussion of this subject this morning, is the time that should be given to a question of this sort, I say frankly that in my judgment it is not sufficient time.

But if he asks me whether, under the rule of this House, by which the Committee on the Judiciary as well as the members of the House are bound, it was reasonable for the Committee on the Judiciary to give more time than was given this morning, then I must say that I think we gave all the time which, with reference to the business in our charge, we had a right to give. But the gentlemen on the other side will recollect that two of the three persons who first addressed the House on the pending bill were gentlemen on the other side, and that then I gave way to my colleague upon the committee, its chairman, the gentleman from Iowa, [Mr. WILSON,] to speak for a few minutes.

Mr. ELDRIDGE. The remark made by the gentleman from Massachusetts is subject to misapprehension. He stated the committee had two hours to report, and seemed to indicate that was all the time which could possibly be devoted to the discussion of these measures. I understand the rule to be they may report in that time and that it gives as much time as the House may wish for the discussion of any question. It is not necessary they should be all discussed and passed in two hours.

Mr. HISE. I simply rise for the purpose of responding to the few remarks made by the gentleman from Massachusetts, [Mr. BOUTWELL,] and I hope in the same temper which he has exhibited. Of course I have no personal acquaintance with him, not the least. I do not know what his name is. All I know is, his appearance and manner in the discussion of this subject have made a favorable impression on my mind as to his being a gentleman of cultivated intellect and of superior education and attainments, a gentleman of courtesy and kindness. I had not the slightest intention to impute to him any intentional departure from what was proper, but only alluded to him as belonging to the latitudinarian school of politicians.

Therefore so far as the gentleman from Ohio has based his motion for inflicting an additional pecuniary fine upon me on the ground I went out of my way to abuse the gentleman from Massachusetts, he is entirely mistaken. I did not intend any personal abuse. In the few remarks I submitted a few moments ago, I did not go out of my way violently to characterize the attempts of that gentleman as horrible and extraordinary. It was in my way to do so on my privilege in making an excuse for my absence from the House. I did not make it personal. I thought it was pertinent, for part of my excuse was that we were denied all expression of our views, while those on the

other side of the Chamber had opportunity to enunciate their doctrines. I was affected by a feeling of sadness and melancholy; I was fatigued and went out, not supposing the vote would be taken until to-morrow, when we could place ourselves upon the record against this most monstrous measure.

I did not use the word tyrannical in regard to this House. At the same time permit me to be frank enough to confess that to me the course taken seems to be arbitrary in the extreme; that is, for gentlemen to get up a measure of that sort, the tendency of which, the true construction and understanding of which, cannot come to us at the moment, and after they have said what they want to say to rally their own party then to close the discussion, so that we cannot tell the country and our constituents what we think on the subject.

I am not experienced in legislation. I never was in Congress before, although I was in the State Legislature. No such practice ever attained there. I am not familiar with the rules, and it requires time, especially with old men who do not learn so fast, to find out these rules. I was taken thoroughly and completely by surprise by the demand for the previous question, by which a man who introduces a measure presents it at the Clerk's desk, makes an eulogy of the measure, and then forces it through without discussion on our part to enlighten our constituents on the subject. It seems to me to be arbitrary, though the gentleman says he does not think it to be arbitrary. Gentlemen on the other side may be generous in their personal character, but I must say they appear to act tyrannically in the way they force these measures through without proper consideration.

Now if a young member sees a thing in this light I think he ought to be excused. [Laughter.] So it looks to me. I have been on this floor something like eight weeks and have been endeavoring to get the floor and to be heard on every important question that has come up before the House. I have been fuming and fretting, being compelled all the time, with emotions swelling in my bosom, and thoughts pouring into my brain, to hold my peace and say not a word. [Laughter.] Now this looks to me very unlike free discussion. I am aware the majority of the House are not liberal.

Mr. HILL. Will the gentleman allow me a single question?

Mr. HISE. Yes, sir.

Mr. HILL. Am I mistaken in saying that he has already occupied four hours of the time of the House for discussion at the present session? Such is my impression—that one speech of his occupied some three hours and another one.

Mr. HISE. I will frankly confess that probably I have consumed about three hours and a half, two and a half of which were occupied in the discussion of the President's message in Committee of the Whole, when it is supposed that young members might be quite discursive and immethodical in the presentation of their views. But it will be observed that notwithstanding I had, under the practice and rule of the Committee of the Whole, that latitude of discussion, I confined myself in a close and what I believe to have been a logical argument on the sole question of the constitutional right of the southern States to representation on this floor. I did not wander from it for a moment. There were other measures, it is true. For instance, the bill introduced for the disfranchisement of the southern States by depriving them of their political right of representation, and at the same time of their right to their due weight in the election of President of the United States.

Mr. HILL. Will the gentleman allow me a question?

Mr. HISE. Not till I have answered the gentleman's first question. [Laughter.] On another question I got the floor on the reconstruction bill. I had a word to say and was cut off right in the midst of my argument. [Laughter.] I had barely time in the one

hour allowed me by what is called the hour rule to set forth the basis of the argument I intended to make on the subject when down came the hammer. [Laughter.]

Mr. GRINNELL. I rise to a point of order, whether the gentleman is speaking under the hour rule now. [Laughter.]

The SPEAKER. The gentleman is speaking under the hour rule.

Mr. HISE. On another occasion some gentleman was kind enough to allow me, as I understood fifteen minutes. It turned out it was only eight minutes, so that in the very midst almost of my first sentence down came the hammer. [Laughter.] That is about all the opportunity I have had for public discussion upon the floor of a Republican Congress or of a Congress of a republican Government. So it goes. [Laughter.]

Now, in respect to my friend from Ohio, [Mr. SCHENCK.] I think he ought to consider my age and my inexperience as a member of this body. But, sir, I have no idea the gentleman was in earnest—not the least; because if he was in earnest, and the proceedings of this House are to be stopped during their progress by calling a member to order for using abusive epithets, and a motion is to be made that a fine shall be imposed upon gentlemen for the use of unbecoming and improper language, why, sir, we would have a fund in the Treasury before the end of the session, provided gentlemen paid their fines in all cases, that would pay all the contingent expenses of the House. [Laughter.]

I am sure that if gentlemen here were to be punished for all their personal abuse and for all their violations of order by the use of invectives and abusive epithets, as the gentleman proposes to punish me by the infliction of a fine, why it would make a sum total that would relieve the distress of all the poor, black and white, in the city of Washington during this winter. That is my opinion.

Having said thus much, I have nothing more to say, unless the gentleman will learn to understand what we mean by liberality and courtesy, and consent that this measure now before the House be postponed to some day certain for the purpose of discussion, and enable me to add two other hours to the four that I have already occupied. [Laughter.]

Mr. SCHENCK. I was about to bring this matter, I thought, to a close, and an amicable one, when I yielded the floor for a moment to the gentleman from Massachusetts, [Mr. BOWWELL.] I have already stated to the House that I did not put the vote which I propose to give upon reconsideration—for I have made no motion—upon the ground of the personal attack made upon the gentleman from Massachusetts, but upon the ground that what was said about the gentleman from Massachusetts was incidental to an explanation made by the gentleman from Kentucky, in which he arraigned this House, as I thought, for its tyrannical course; whether he used that precise word or not I do not know, under the pretext of giving an excuse for his absence. The gentleman from Kentucky has made, however, so frankly and so fully, I think I may say, an explanation of his entire want of personal animosity toward anybody upon this side of the House, and that his disposition to arraign the House as tyrannical was only Pickwickian, that I feel bound to accept that explanation, and for one I shall not press the motion to reconsider further, and I hope the House will take into consideration, as I do, the want of experience of the juvenile member from Kentucky, which he has pleaded here. I am disposed, for one, to accept that explanation and be satisfied; and if the House will excuse me for having turned the faucet on this occasion, I promise never to set it running again. [Laughter.]

Mr. WILSON, of Iowa. In order to close the faucet I withdraw the motion to reconsider.

The Sergeant-at-Arms appeared at the bar of the House, and reported that in obedience to the warrant of the Speaker he had arrested

and had in custody at the bar Messrs. MORRILL, PLANTS, HUBBELL, of Ohio, McRUER, STILLWELL, ANDERSON, of Missouri, PIKE, BEAMAN, EGGLESTON, GOODYEAR, STARR, BIDWELL, BAXTER, and WASHBURN, of Indiana.

The SPEAKER. Mr. MORRILL, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. MORRILL. I think, Mr. Speaker, that if you will examine the record you will find that I was absent with the leave of the House.

The SPEAKER. The Committee of Ways and Means has a right to sit during the sessions of the House. If the committee was in session the gentleman had a right to be absent. When a gentleman who is on that committee desires to vote the Chair always presumes that he was absent on official business; but on a call of the House that permission does not apply unless the gentleman himself states that he was absent in attendance on the committee.

Mr. MORRILL. I have no other excuse to offer.

Mr. GRINNELL. I move that the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. EGGLESTON, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. EGGLESTON. At the place where I am taking my meals I find that the boarders fare best who get there early. The first table is always the best. I was very hungry, and did not think that we should get a vote upon this bill, so I went down to get my dinner and was arrested at my boarding place. That is the only excuse I have to offer.

Mr. ROLLINS. I move that the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. GOODYEAR, you have been absent from the House without its leave. What excuse have you to offer for your absence?

Mr. GOODYEAR. My only excuse is that I had an engagement in the city at six o'clock, and went down for the purpose of meeting it. I was about coming back when the Sergeant-at-Arms notified me that I was wanted.

Mr. RADFORD. I move that the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. STILLWELL, you have been absent from the House without its leave. What excuse have you to offer for your absence?

Mr. STILLWELL. About half past four o'clock, the usual time for adjournment, I left the House, being quite hungry. I went to my hotel to get my dinner, expecting to return afterward if the House should remain in session. While at the hotel I was called for by an officer of the House and brought up here in a carriage—a mode of conveyance which I do not often use.

Mr. INGERSOLL. Would it not be in order to move that all the culprits at the bar be excused *en masse*? [Laughter.]

The SPEAKER. The Chair cannot recognize that they are culprits. They are members who have been absent from the session of the House without leave. Each gentleman has the right to render his excuse. Some gentlemen may have been absent on account of illness.

Mr. JULIAN. I move that my colleague, Mr. STILLWELL, be excused on the payment of the usual fine.

The motion was agreed to.

The SPEAKER. Mr. BEAMAN, you have been absent from the House without its leave. What excuse have you to render for your absence?

A MEMBER, (to Mr. BEAMAN.) Throw yourself on the mercy of the court.

Mr. BEAMAN. No, sir; I propose to justify my conduct. Mr. Speaker, I am not entirely satisfied that I have been disobeying or disregarding any of the rules of this House in

being absent in this instance without leave. During the Thirty-Seventh and the Thirty-Eighth Congress I was absent only three days, and in those instances my absence was in consequence of serious sickness in my family. During the last session I was absent, I think, three days at one time, and afterward about two weeks, in consequence of sickness. I make these remarks for the purpose of calling the attention of the House to the fact that, as I suppose, I know more of the common law of this House than most other gentlemen here present. During all these six years I have observed closely the proceedings of this House, and I have discovered that we are in the habit of having a very questionable quorum during a great portion of the time. In view of this fact, Mr. Speaker, that we are, day after day, week after week, and month after month without a quorum, you and my fellow-members will readily perceive that I had good reason to suppose it had become the common law of this House not to punish anybody for so purely fictitious a violation of the rules.

Having made this statement, I do not, as my friend has suggested, "throw myself on the mercy of the court," but I suggest that those gentlemen who can show a clearer and a better record than I can will be very proper judges as to the condign punishment to be inflicted upon me.

Mr. NIBLACK. In consideration of the gentleman's good behavior, I move that he be excused upon the payment of the usual fees.

Mr. HOTCHKISS. Mr. Speaker, I think that no fine should be imposed upon the gentleman from Michigan. He has within this session handed over to the Treasurer of the United States more than \$500, which he was justly entitled to retain—

Mr. BEAMAN. I call the gentleman to order.

The SPEAKER. The gentleman from Michigan is still under arrest, and cannot call a member to order.

Mr. BEAMAN. I am on my defense; and I submit that I have a right to defend myself.

The SPEAKER. The gentleman, while under arrest and before his case is decided, cannot call a member to order.

Mr. HOTCHKISS. That the gentleman from Michigan has been conscientious in this matter no one can doubt, though he has shown himself more sensitive than other gentlemen of the House.

Mr. BEAMAN. Has the gentleman the right to slander the members of this House? [Laughter.]

Mr. HOTCHKISS. I move to amend the motion of the gentleman from Indiana [Mr. NIBLACK] by striking out the provision for the payment of the usual fees.

The amendment was not agreed to.

The question recurring on the motion of Mr. NIBLACK, it was agreed to.

The SPEAKER. Mr. ANDERSON, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. ANDERSON. I do not know, Mr. Speaker, that I have any very good excuse. I have observed, sir, that in this city a gentleman must be on time if he wants to get anything to eat. I stayed here until half-past four o'clock watching the bad conduct of my Democratic friends until I became so thoroughly disgusted that I thought I would retire.

Mr. ELDRIDGE. I call the gentleman to order.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] excepts to the remarks of the gentleman from Missouri. The Chair thinks that they are not in order.

Mr. ANCONA. I move that the gentleman from Missouri be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. PIKE, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. PIKE. I have no special excuse.

Mr. BROOMALL. I move that the gentleman be excused upon the payment of the usual fees.

Mr. WILSON, of Iowa. The gentleman was so frank in his response to the Chair that I move to amend the motion by striking out the provision for the payment of the usual fees.

Several MEMBERS. Oh, no.

Mr. HIGBY. If we adopt that amendment all the rest of the prisoners will make the same response that they may get off without paying anything. [Laughter.]

Mr. HALE. I move to amend the amendment so as to provide for the payment of half the usual fees.

Mr. WILSON, of Iowa. I withdraw the amendment.

The SPEAKER. The amendment being withdrawn, the amendment to the amendment falls.

The motion of Mr. BROOMALL was agreed to.

Mr. RANDALL, of Pennsylvania. I rise to a privileged question. I wish to know from the Chair what is the amount of the usual fines.

The SPEAKER. That is not a privileged question. The Chair will state, however, that the amount is not very large. The members interested will readily ascertain the amount.

Mr. RANDALL, of Pennsylvania. I would like to know whether this fund goes into the Treasury of the United States or into the hands of officers of this House.

The SPEAKER. The gentleman will find all the information he desires on this subject on page 176 of the Digest.

Mr. RANDALL, of Pennsylvania. Well, I will not press the inquiry.

The SPEAKER. Mr. PLANTS, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. PLANTS. I believe I have no sufficient excuse. I think, however, I shall have to put in a plea to the jurisdiction of the court. I left the House, I acknowledge, for the purpose of fulfilling a previous appointment; but I came back promptly, without any notification and without any compulsion. I was not brought back in a carriage nor under any warrant. I went away quietly and voluntarily, and I came back in the same manner. I knew nothing of all these proceedings until I was met at the door by an officer of the House and informed that I was under arrest. When I left I supposed there was no special reason why I need remain. I have no other excuse to present.

Mr. TAYLOR, of New York. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. McRUER, you have been absent from the House without its leave. What excuse have you to offer for your absence?

Mr. McRUER. None. [Laughter.]

Mr. MORRIS. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. JAMES R. HUBBELL, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. HUBBELL, of Ohio. I remained here until half past four o'clock, when it was understood that the gentleman from Massachusetts [Mr. BOWTWELL] would make a motion to adjourn, which would be adopted. I remained in the House until the motion to adjourn was made. I then left supposing that the House would adjourn immediately. This is all the excuse I have to present.

Mr. FINCK. I move that my colleague be excused on the payment of the usual fine.

The motion was agreed to.

The SPEAKER. Mr. STARR, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. STARR. Mr. Speaker, I ask to be discharged from arrest on the ground of my

privilege as a member. The Constitution provides that members shall be privileged from arrest while going to and returning from the sessions of the House. [Laughter.] I had been home, and was returning when I was arrested. [Renewed laughter.]

The SPEAKER. The Chair overrules the point raised by the gentleman. The same Constitution which the gentleman has quoted provides that less than a quorum of either House shall have the power to compel the attendance of absent members. The House has prescribed this method of compelling their attendance.

Mr. STARR. There was no compulsion necessary in my case. I was at the door desiring to come in.

Mr. MILLER. I move that the gentleman be excused on the payment of the usual fees.

Mr. INGERSOLL. I rise to a question of order. Is it not competent for the Speaker to issue a general amnesty proclamation to all these culprits? [Laughter.]

The SPEAKER. It is not.

The motion of Mr. MILLER was agreed to.

The SPEAKER. Mr. BIDWELL, you have been absent from the House without its leave. What excuse have you to render for your absence?

Mr. BIDWELL. Early in the day I notified my committee of a meeting to-morrow morning. It was necessary that I should have time to prepare certain papers in order to be ready for the meeting of the committee.

That is my main reason. The next reason is that I saw it was a question of filibustering, and being no filibuster, having no sympathy with filibustering, I did not think I could do any good by remaining, especially as I supposed the House would adjourn. That is all of my excuse.

Mr. MILLER. I move that the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. BAXTER, you have been absent from the House without its leave. What excuse have you to offer?

Mr. BAXTER. I have no excuse to offer.

Mr. PERHAM. I move the gentleman be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. WASHBURN, of Indiana, you have been absent from the House without its leave. What excuse have you to offer?

Mr. WASHBURN, of Indiana. I remained here until half past four, and supposed the House was about to adjourn when I left.

Mr. TAYLOR, of New York. I move the gentleman be excused on payment of the usual fees.

The motion was agreed to.

Mr. SCHENCK. Will it be in order to move that the fees paid by absentees shall be devoted to pay for the dinners of the members who have remained? [Laughter.]

Mr. HOGAN. That is right.

The SPEAKER. The fees are provided for in the statutes, and an order of the House cannot suspend the operation of the statutes.

The SPEAKER. Mr. HART, you have been absent from the House without its leave. What excuse have you to offer?

Mr. HART. I have no excuse. I remained here until five o'clock, and aided in filibustering until the gentleman from Massachusetts voted for the adjournment three times, and then I left, supposing the House would soon adjourn.

Mr. RADFORD. I move that my colleague be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. WARNER, you have been absent from the House without its leave. What excuse have you to offer?

Mr. WARNER. No excuse. I remained here until I thought all of us ought to be at home.

Mr. DEMING. I move that my colleague be excused on the payment of the usual fees.

The motion was agreed to.



The SPEAKER. Mr. BARKER, you have been absent from the House without its leave. What excuse have you to offer?

Mr. BARKER. None.

Mr. BROOMALL. I move that my colleague be excused on payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. MAYNARD, you have been absent without leave of the House. What excuse have you to offer?

Mr. MAYNARD. It was important to my personal matters I should spend the evening in my room writing. I left at a pretty late hour and took one of my colleagues on the other side with me; and as an appeal to the magnanimity and generosity of the House I will say I gathered up a distinguished gentleman of Massachusetts, whom I have here to exhibit. [Laughter.]

Mr. MORRIS. I move the gentleman be excused on payment of the fees.

The motion was agreed to.

The SPEAKER. Mr. RICE, of Massachusetts, you have been absent from the House without its leave. What excuse have you to offer?

Mr. RICE, of Massachusetts. I retired to the room of the Committee on Naval Affairs when I supposed the final vote was being taken on the adjournment, and after some twenty minutes went home. Finding the House had not adjourned I returned voluntarily, and am not under arrest, so far as I know.

Mr. CULLOM. I move that the gentleman be excused on payment of fees.

The motion was agreed to.

Mr. BINGHAM moved to dispense with all further proceedings under the call.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were ordered.

The question being taken; it was decided in the affirmative—yeas 74, nays 55, not voting 62; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Baker, Baxter, Bingham, Boutwell, Brandegee, Buckland, Reader W. Clarke, Cobb, Conkling, Cullom, Dawson, Delano, Dixon, Dodge, Donnelly, Eckley, Eliot, Farquhar, Goodyear, Griswold, Hale, Hawkins, Hayes, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelso, Ketcham, Kootz, Laffin, George V. Lawrence, Loan, Lynch, Marshall, Marston, Maynard, McClurg, McIndoe, Mercur, Miller, Myers, Newell, O'Neill, Paine, Pike, Price, William H. Randall, Raymond, Scofield, Shellabarger, Sloan, Spaulding, Francis Thomas, Trowbridge, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Whaley, James F. Wilson, and Winfield—74.

NAYS—Messrs. Ancona, Anderson, Banks, Barker, Beaman, Bergen, Bidwell, Boyer, Broomall, Campbell, Cook, Cooper, Deming, Driggs, Eggleston, Eldridge, Ferry, Finck, Glossbrenner, Grinnell, Abner C. Harding, Hart, Higby, Hise, Hogan, Humphrey, Kerr, Le Blond, Longyear, McRuer, Morris, Niblack, Nicholson, Noel, O'Neill, Orth, Perham, Plants, Price, Radford, Samuel J. Randall, Alexander H. Rice, Ritter, Rogers, Rollins, Sawyer, Schenck, Shanklin, Starr, Stilwell, Strouse, Nelson Taylor, Trimble, Upson, Warner, Wentworth, and Williams—55.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Benjamin, Blaine, Blow, Broomall, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Denison, Dumont, Farnsworth, Garfield, Aaron Harding, Harris, Henderson, Holmes, Asahel W. Hubbard, Hulburt, Johnson, Jones, Kelley, Kuykendall, Latham, William Lawrence, Leftwich, Marvin, McCullough, McKee, Moorhead, Morrill, Moulton, Patterson, Phelps, Pomeroy, John H. Rice, Ross, Rousseau, Sitgreaves, Stevens, Stokes, Taber, Nathaniel G. Taylor, Thayer, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, Windom, Woodbridge, and Wright—62.

So all further proceedings under the call were dispensed with, and the doors were reopened.

The question recurred on the motion that the bill be laid on the table, on which the yeas and nays had been ordered.

Mr. FINCK. I move that the House adjourn, and on that I demand the yeas and nays.

On ordering the yeas and nays, there were—yeas twenty-five.

Mr. BROOMALL demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. BROOMALL and HISE.

The House divided; and the tellers reported—yeas thirty-two; noes not counted.

So (one fifth of the members present having

voted in the affirmative) the yeas and nays were ordered.

The question being taken on the motion to adjourn, it was decided in the negative—yeas 84, noes 99, not voting 58; as follows:

YEAS—Messrs. Ancona, Beaman, Bergen, Bidwell, Boyer, Campbell, Conkling, Cooper, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Hart, Hise, Holmes, Edwin N. Hubbell, Hunter, Kuykendall, Marshall, McKuer, Morrill, Nicholson, Samuel J. Randall, Ritter, Scofield, Shanklin, Stilwell, Taber, Trimble, Trowbridge, Andrew H. Ward, Whaley, and Winfield—84.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Dawson, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Jenckes, Julian, Kasson, Kelso, Kerr, Ketcham, Kootz, Laffin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, Mercur, Miller, Moorhead, Morris, Moulton, Myers, Newell, Niblack, Noel, O'Neill, Orth, Paine, Perham, Plants, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Spaulding, Starr, Strouse, Francis Thomas, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Welker, Wentworth, Williams, and James F. Wilson—99.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Denison, Dumont, Eldridge, Farnsworth, Garfield, Harris, Henderson, Asahel W. Hubbard, Humphrey, Ingersoll, Johnson, Jones, Kelley, Latham, William Lawrence, Leftwich, Marvin, McCullough, McKee, Patterson, Phelps, Pike, Pomeroy, Rogers, Ross, Rousseau, Sitgreaves, Stevens, Stokes, Nathaniel G. Taylor, Nelson Taylor, Thayer, John L. Thomas, Thornton, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, Windom, Woodbridge and Wright—58.

So the House refused to adjourn.

The question recurred on the motion to lay the bill on the table.

Mr. ELDRIDGE. I move that when the House adjourns it adjourn to meet on Thursday next.

Mr. HILL. The House having once refused to-day to adjourn to meet on Thursday next, I inquire if it is again in order to make it.

The SPEAKER. It is in order, having been renewed at a subsequent stage after the vote has been taken on a motion to adjourn.

Mr. RADFORD. I demand the yeas and nays.

Mr. PAINE. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. PLANTS and HUNTER.

The House divided; and the tellers reported—yeas thirty-one; noes not counted.

So (one fifth of the members present having voted in the affirmative) the yeas and nays were ordered.

Mr. NIBLACK. I ask to be excused from voting.

Mr. RADFORD. I demand the yeas and nays on excusing the gentleman.

The SPEAKER. The question cannot be taken by yeas and nays to excuse a member from voting on a motion to adjourn.

Mr. FINCK. I move that the House now take a recess till ten o'clock to-morrow morning.

The SPEAKER. The Chair cannot entertain that, because a motion to adjourn till a day fixed has priority.

Mr. ANCONA. I move a call of the House, and on that I demand the yeas and nays.

Mr. ROGERS. Upon that motion I ask to be excused from voting; and upon that I call for the yeas and nays.

The SPEAKER. The Chair cannot entertain the motion of the gentleman; otherwise, as members will see, during the pending of a motion to adjourn, or of any question growing out of it, a hundred members might ask to be excused from voting, and the yeas and nays might be ordered in each case, and so piled up that the House could not adjourn even if a majority should wish to do so. Therefore the Chair cannot entertain the motion of the gentleman from New Jersey, [Mr. ROGERS.]

Mr. WILSON, of Iowa. I desire to say to

the House that if there can be a general understanding by which a vote can be had upon this bill after the reading of the Journal to-morrow, or say at the end of the morning hour, I think a motion to adjourn would be consented to by this side of the House.

Mr. RANDALL, of Pennsylvania. With one hour allowed for debate.

Mr. WILSON, of Iowa. I will restate my proposition in the original form in which I proposed it. It is that if we can have a general understanding that the House will come to a vote upon this bill to-morrow immediately after the reading of the Journal, I will move to adjourn.

Mr. ELDRIDGE. The vote to-morrow to be taken without any debate whatever?

Mr. WILSON, of Iowa. No debate would be in order, for the previous question is now pending.

The SPEAKER. That would require unanimous consent.

Mr. FINCK. I object.

The question was upon the motion for a call of the House, upon which the yeas and nays had been demanded.

Mr. GRINNELL. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. GRINNELL and KERR were appointed.

The House divided, and the tellers reported that there were—yeas twenty-seven; noes not counted.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

Mr. BOYER. Is a motion to adjourn now in order?

The SPEAKER. It is not, because the pending motion to fix the hour to which the House will adjourn takes precedence of the motion to adjourn.

The question was taken; and it was decided in the negative—yeas 19, nays 109, not voting 63; as follows:

YEAS—Messrs. Ancona, Bergen, Bidwell, Boyer, Campbell, Dawson, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Hunter, Kerr, Shanklin, Stilwell, Trimble, Andrew H. Ward, Warner, and Winfield—19.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Goodyear, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburt, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Kootz, Kuykendall, Laffin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, Noel, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Starr, Strouse, Taber, Nelson Taylor, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—109.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Blaine, Blow, Buckland, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Delano, Denison, Dumont, Farnsworth, Ferry, Garfield, Harris, Henderson, Holmes, Asahel W. Hubbard, Humphrey, Johnson, Jones, Ketcham, Latham, William Lawrence, Leftwich, Marshall, Marvin, McCullough, McKee, Patterson, Phelps, Pomeroy, Radford, William H. Randall, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Sloan, Stevens, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Whaley, Stephen F. Wilson, Windom, and Wright—63.

So a call of the House was not ordered.

During the call of the roll,

Mr. WASHBURN, of Indiana, said: I desire to state that Mr. HENDERSON is so unwell as to be unable to leave his room.

Mr. FINCK. I wish now to submit a proposition to the House. We on this side of the House appreciate very fully that we are unable to resist the final passage of this bill; and we have not sought during the day to interrupt the proper business of legislation, except for the purpose of obtaining an opportunity to be heard upon the bill; and we now say to the gentlemen who have the charge of the bill that if

they will agree to adjourn now, with the understanding that we are to have an hour for debate immediately after the reading of the Journal to-morrow we will consent.

Mr. WASHBURN, of Indiana. I object.

The question was upon the motion that when the House adjourn to-day it be to meet on Thursday next.

Mr. LE BLOND. I move to amend that motion by striking out "Thursday" and inserting "Friday."

Mr. ANCONA. On that motion I call for the yeas and nays.

Mr. HIGBY. I would like to submit the proposition that, instead of taking an hour to-morrow morning, it be taken now.

Mr. ELDRIDGE. We are a little out of breath now.

Mr. HIGBY. That shows how ready you are for a compromise.

Mr. HISE. I ask the House to excuse me from further attendance on to-day's session.

No objection was made; and Mr. HISE was excused.

The question was upon ordering the yeas and nays upon the motion of Mr. LE BLOND.

Mr. LYNCH. I call for tellers upon ordering the yeas and nays.

Tellers were ordered; and Messrs. LYNCH and COOPER were appointed.

The House divided; and the tellers reported that there were—ayes thirty; noes not counted.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

Mr. MAYNARD. I may be permitted to do so, I will make a suggestion which, perhaps, may meet with approval. It seems that it is desired to debate this bill which has already passed its third reading. I suggest, that as this is a very full House, and there is a very full attendance in the galleries, by common consent we devote the remainder of the present session of the House to the discussion of this bill, and continue it to as late an hour as may be desired, with the understanding that the vote on the passage of the bill shall be taken to-morrow after the morning hour.

Mr. WASHBURN, of Indiana. I object.

The question was taken on Mr. LE BLOND's amendment; and it was decided in the negative—yeas 10, nays 110, not voting 71; as follows:

YEAS—Messrs. Ancona, Bergen, Finck, Glossbrenner, Goodyear, Hogan, Hunter, Le Blond, Shanklin, and Stilwell—10.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawson, Delano, Deming, Dixon, Dodge, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Grinnell, Griswold, Hale, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburt, Humphrey, Ingersoll, Jencks, Kasson, Kelley, Kelso, Koontz, Kuykendall, Ladin, Loan, Longyear, Marston, Maynard, McClurg, McIndoe, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Taber, Nelson Taylor, Trimble, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—110.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Bundy, Campbell, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Denison, Donnelly, Dumont, Farnsworth, Garfield, Aaron Harding, Harris, Hart, Henderson, Hise, Holmes Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Johnson, Jones, Julian, Kerr, Ketcham, Latham, George V. Lawrence, William Lawrence, Leftwich, Lynch, Marshall, Marvin, McCullough, McKee, McKuer, Neill, Phelps, Pike, Pomeroy, William H. Randall, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stokes, Strouse, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburn, William B. Washburn, Whaley, Stephen F. Wilson, Windom, Winfield, and Wright—71.

So the amendment was disagreed to.

The question recurred on Mr. ELDRIDGE's motion, that when the House adjourns it adjourn to meet on Thursday next.

Mr. BOYER. I move that the House do now adjourn.

The SPEAKER. That motion is not in order, because a motion to fix the time to which the House shall adjourn, has priority of a simple motion to adjourn.

Mr. WASHBURN, of Indiana. I desire to withdraw my objection to the proposition of the gentleman from Tennessee, [Mr. MAYNARD.]

The SPEAKER. The Chair will state that proposition again. It is that the remainder of this day's session be devoted exclusively to debate upon this bill, and that the vote shall be taken on the passage of the bill to-morrow, immediately after the morning hour, without further dilatory motions.

Mr. ELDRIDGE. I desire to say, in response to the gentleman from Tennessee, that those gentlemen who desired to debate this question are completely exhausted by the labors of this day. They cannot speak to-night. They have had no dinner, having had to remain here all day, and they simply ask that you shall give them one hour to-morrow.

The SPEAKER. Does the gentleman from Wisconsin object to the proposition of the gentleman from Tennessee?

Mr. FINCK. I do.

Mr. HILL. I move that these gentlemen have leave to print all they desire to say upon this question.

Mr. FINCK. We ask no such right.

Mr. LE BLOND. No, sir.

The SPEAKER. The Chair hears no objection, and the leave is granted.

Mr. ELDRIDGE. I move to amend the pending motion so as to provide that when the House adjourn it adjourn to meet on Saturday next.

The SPEAKER. That would not be constitutional. [Laughter.]

Mr. ELDRIDGE. Then say on Friday at ten o'clock.

The SPEAKER. It would require unanimous consent to change the rule that the House do meet at twelve o'clock each day.

Mr. ELDRIDGE. I move to suspend the rules.

The SPEAKER. That will not be in order until after the morning hour on next Monday.

Mr. ELDRIDGE. Well, then, let us go on and vote on the pending proposition; I do not care what it is so long as it occupies time.

The question was taken; and it was decided in the negative—yeas 14, nays 96, not voting 81; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Eldridge, Finck, Glossbrenner, Goodyear, Le Blond, Niblack, Ritter, Rogers, Shanklin, and Winfield—14.

NAYS—Messrs. Allison, Anderson, Baker, Barker, Baxter, Beaman, Benjamin, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawson, Dixon, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Hale, Abner C. Harding, Hawkins, Hayes, Higby, Hogan, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburt, Hunter, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, Loan, Longyear, Lynch, Maynard, McClurg, McIndoe, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Taber, Nelson Taylor, Trimble, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Welker, Whaley, Williams, James F. Wilson, and Woodbridge—96.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Bidwell, Bingham, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Delano, Deming, Denison, Dodge, Donnelly, Dumont, Farnsworth, Garfield, Griswold, Aaron Harding, Harris, Hart, Henderson, Hill, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Humphrey, Jencks, Johnson, Jones, Kerr, Latham, William Lawrence, Leftwich, Marshall, Marston, Marvin, McCullough, McKee, Neill, Phelps, Pike, Pomeroy, John H. Rice, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Strouse, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburn, William B. Washburn, Wentworth, Stephen F. Wilson, Windom, and Wright—89.

So the motion of Mr. ELDRIDGE was not agreed to.

The question recurred on the motion that

the bill be laid on the table, on which the yeas and nays had been ordered.

Mr. TRIMBLE. Mr. Speaker, I rise to a question of privilege. I desire to make a correction of the Associated Press report of yesterday's proceedings of this House. This is a question personal to myself. I am reported as having said in the speech which I made last night—

Mr. UPSON. I rise to a question of order. I submit that this is not a question of privilege.

The SPEAKER. The gentleman from Kentucky [Mr. TRIMBLE] is out of order. In the first place, it is not a question of privilege to correct the Associated Press report; and in the second place, the gentleman cannot take the floor pending the motion to lay the bill on the table, unless he moves to adjourn or to fix a time to which the House shall adjourn.

Mr. TRIMBLE. Can I not make the statement by unanimous consent?

The SPEAKER. Only by unanimous consent.

Mr. TRIMBLE. I hope there will be no objection.

Mr. UPSON. I object.

Mr. FINCK. I appeal from the decision of the Chair that this is not a question of privilege.

The SPEAKER. The Chair decides further that, pending the motion to lay the bill on the table, no gentleman can take the floor for debate on a question of privilege or for a personal explanation, except by unanimous consent.

Mr. FINCK. I appeal from the decision of the Chair; and on that question I call for the yeas and nays.

The SPEAKER. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. PAINE. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. PAINE and FINCK were appointed.

The House divided; and the tellers reported—ayes twenty-six, noes not counted.

So the yeas and nays were ordered.

Mr. ANCONA. I move that the appeal be laid on the table.

Mr. FINCK. On that motion I demand the yeas and nays.

Mr. ECKLEY. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. ECKLEY and CAMPBELL were appointed.

The House divided; and the tellers reported—ayes twenty-six; noes not counted.

So the yeas and nays were ordered.

The SPEAKER. The Chair will state the question. The gentleman from Ohio claims it is a question of privilege to correct the report of the Associated Press. The Chair decides it is not, and that even if it were it could not be entertained pending the motion that the bill be laid upon the table, except by unanimous consent. From this decision the gentleman appeals, and the gentleman from Pennsylvania moves the appeal be laid upon the table.

The question was taken; and it was decided in the affirmative—yeas 112, nays 1, not voting 77; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bergen, Bingham, Boutwell, Boyer, Bromwell, Broomall, Buckland, Campbell, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grinnell, Hogan, Abner C. Harding, Hawkins, Hayes, Higby, Hogan, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, McKuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, Niblack, Nicholson, Neill, O'Neill, Paine, Patterson, Perham, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Spalding, Starr, Strouse, Taber, Nelson Taylor, Francis Thomas, Trimble, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Williams, James F. Wilson, Winfield, and Woodbridge—112.

NAYS—Mr. Ritter—1.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos

R. Ashley, James M. Ashley, Baldwin, Bidwell, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Cullom, Culver, Darling, Davis, Dawes, Dawson, Deffrees, Deming, Denison, Dumont, Farnsworth, Garfield, Griswold, Aaron Harding, Harris, Hart, Henderson, Hill, Hise, Holmes, Hooper, Hotchkiss, Asahel H. Hubbard, James R. Hubbell, Hulburd, Humphrey, Hunter, Johnson, Jones, Latham, William Lawrence, Leftwich, Marshall, Marvin, McCullough, McKee, Orth, Phelps, Pike, Pomeroy, John H. Rice, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stillwell, Stokes, Nathaniel G. Taylor, Thayer, John L. Thomas, Thornton, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Whaley, Stephen F. Wilson, Windom, and Wright—77.

So the appeal was laid upon the table.

Mr. NIBLACK. I ask to be excused from voting on the pending question; and demand the yeas and nays.

The yeas and nays were ordered.

Mr. ANCONA moved that the House adjourn.

Mr. ELDRIDGE moved that when the House adjourns to-day, it adjourn to meet on Friday next, and demanded the yeas and nays.

Mr. BENJAMIN demanded tellers.

Tellers were ordered; and Mr. BENJAMIN and Mr. NICHOLSON were appointed.

The House divided; and the tellers reported—ayes twenty-six.

So (more than one fifth of those present having voted in the affirmative) the yeas and nays were ordered.

Mr. FINCK moved to strike out "Friday" and insert "Thursday," and demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK. I move there be a call of the House.

The SPEAKER *pro tempore*, (Mr. ROLLINS in the chair.) It is not in order.

Mr. FINCK. I appeal.

The SPEAKER *pro tempore*. The Chair cannot entertain the appeal.

The question was taken; and it was decided in the negative—yeas 3, nays 93, not voting 95; as follows:

YEAS—Messrs. Bergen, Boyer, and Niblack—3.

NAYS—Messrs. Allison, Ancona, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bingham, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farquhar, Ferry, Glessbrenner, Grinnell, Griswold, Hale, Abner C. Harding, Hawkins, Henderson, Higby, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, Longyear, Lynch, Marston, McClurg, McIndoe, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Nowell, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Francis Thomas, Upson, Burt Van Horn, Warner, Henry D. Washburn, Welker, James F. Wilson, and Stephen F. Wilson—92.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Beaman, Bidwell, Blaine, Blow, Bundy, Campbell, Chanler, Sidney Clarke, Cooper, Culver, Darling, Davis, Dawes, Dawson, Deffrees, Denison, Dumont, Eldridge, Eliot, Farnsworth, Finck, Garfield, Goodyear, Aaron Harding, Hart, Hayes, Hill, Hise, Hogan, Holmes, Hooper, Asahel H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Johnson, Jones, Kasson, Kerr, Koontz, Latham, William Lawrence, Le Blond, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Noell, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Sloan, Stevens, Stillwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Williams, Windom, Winfield, Woodbridge, and Wright—96.

The amendment was disagreed to.

Mr. BERGEN. I move a call of the House.

The SPEAKER *pro tempore*. It is not in order during the pending of a motion to adjourn.

Mr. RANDALL, of Pennsylvania. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. The Chair will not entertain such an appeal pending the question on the motion to adjourn, otherwise the House might remain in session against the will of the majority.

Mr. RANDALL, of Pennsylvania. The motion to adjourn having been voted down, and

there appearing to be no quorum present, at what other time would a call of the House be proper if not now?

The SPEAKER *pro tempore*. The motion that has been just voted down was to adjourn till Thursday next; the pending motion is simply to adjourn, and no call of the House can now be entertained.

Mr. ELDRIDGE. Does the Chair decide that a call of the House is not in order on the motion to adjourn to a day certain?

The SPEAKER *pro tempore*. The Chair decides that a call of the House is not in order during the pendency of a motion to adjourn.

Mr. ELDRIDGE. Does the Chair decide that the House can fix a day to which it will adjourn other than to-morrow without a quorum?

The SPEAKER *pro tempore*. Less than a quorum can adjourn simply; it requires a quorum to adjourn till some other day. The motion pending is to adjourn, on which the yeas and nays have been ordered.

The question being taken on the motion to adjourn, it was decided in the negative—yeas 8, nays 73, not voting 110; as follows:

YEAS—Messrs. Farnsworth, Hale, Hogan, McRuer, Miller, Niblack, Nicholson, and Taber—8.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Benjamin, Brandegee, Broomall, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Deming, Dixon, Dodge, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hawkins, Higby, Hill, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kelley, Kelso, Ketcham, Ladin, George V. Lawrence, Longyear, Lynch, McClurg, McIndoe, Mercer, Moorhead, Morrill, Moulton, Myers, Nowell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Spalding, Starr, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, and James F. Wilson—73.

NOT VOTING—Messrs. Alley, Ames, Ancona, Arnell, James M. Ashley, Baldwin, Barker, Beaman, Boyer, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Bromwell, Buckland, Bundy, Campbell, Chanler, Sidney Clarke, Cooper, Culver, Darling, Davis, Dawes, Dawson, Deffrees, Delano, Denison, Driggs, Dumont, Eckley, Eldridge, Finck, Garfield, Glessbrenner, Goodyear, Aaron Harding, Harris, Hart, Hayes, Henderson, Hise, Holmes, Hooper, Asahel H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Johnson, Jones, Kasson, Kerr, Koontz, Kuykendall, Latham, William Lawrence, Le Blond, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, Morris, Noell, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Shellabarger, Sitgreaves, Sloan, Stevens, Stillwell, Stokes, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Williams, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—110.

So the House refused to adjourn.

Mr. RANDALL, of Pennsylvania, (at ten o'clock and fifty-five minutes p. m.,) moved a call of the House.

The motion was agreed to.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. Anderson, James M. Ashley, Baldwin, Blaine, Bromwell, Bundy, Chanler, Davis, Dawes, Deffrees, Dumont, Garfield, Aaron Harding, Hart, Holmes, Hooper, Edwin N. Hubbell, James R. Hubbell, Kasson, Latham, George V. Lawrence, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Phelps, Pomeroy, Ross, Rousseau, Sitgreaves, Sloan, Stillwell, Stokes, Nathaniel G. Taylor, John L. Thomas, Thornton, Andrew H. Ward, Hamilton Ward, William B. Washburne, Wentworth, Stephen F. Wilson, Woodbridge, and Wright.

Mr. HALE. I rise to a privileged motion: that the House do now adjourn.

The question being put, there were—ayes 23, noes 52.

Mr. ANCONA demanded tellers.

Mr. BROOMALL. I desire to submit a proposition that I think ought to meet the approbation of the House.

Several MEMBERS. No compromise.

Mr. BROOMALL. Hear my proposition. Certain gentlemen on the other side desire to be heard on the pending bill, and it seems to me but fair that they should have an opportunity. I therefore propose that the vote be taken at once upon the bill, and that those

gentlemen be allowed to print their remarks in the National Intelligencer at their own expense. [Great laughter.]

Mr. ELDRIDGE. That is as much as you could expect from that gentleman.

Mr. BROOMALL. Is the proposition accepted?

Mr. ELDRIDGE. Oh, of course it is accepted. [Laughter.]

Tellers were ordered; and Messrs. KETCHAM and ANCONA were appointed.

The House divided; and the tellers reported—ayes 20, noes 50.

So the House refused to adjourn.

The doors of the Hall were then closed, and the Clerk proceeded to call the list of the absentees for excuses:

GEORGE W. ANDERSON. No excuse offered.

JAMES M. ASHLEY. No excuse offered.

JOHN D. BALDWIN. No excuse offered.

JAMES G. BLAINE. No excuse offered.

HENRY P. H. BROMWELL. No excuse offered.

HEZEKIAH S. BUNDY. No excuse offered.

JOHN W. CHANLER. No excuse offered.

THOMAS T. DAVIS. No excuse offered.

HENRY L. DAWES. No excuse offered.

EBENEZER DUMONT.

Mr. WASHBURN, of Indiana. General DUMONT is sick and unable to be present. I move that he be excused.

The motion was agreed to.

JAMES A. GARFIELD.

Mr. GRINNELL. I present the same excuse on behalf of General GARFIELD that was presented before by General SCHENCK, his family difficulties. I move that he be excused.

Mr. ELDRIDGE. I do not think General GARFIELD is very sick. He has certainly had time to get well, and to say that he has difficulties in his family is an imputation which the gentleman from Iowa ought to withdraw. [Laughter.]

The question was taken on Mr. GRINNELL's motion, and it was sustained.

AARON HARDING.

Mr. RITTER. My colleague, Mr. HARDING, being quite unwell, retired to his lodging a few moments ago, and I hope the House will excuse him. I move that he be excused.

The question was put; and there were—ayes 63, noes 30.

Mr. FINCK. I demand the yeas and nays.

Mr. LE BLOND. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. GRINNELL and BOYER were appointed.

The House divided; and the tellers reported—ayes 26, noes 2.

So (one fifth of those present voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 10, not voting 94; as follows:

YEAS—Messrs. Allison, Ancona, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bingham, Boutwell, Boyer, Buckland, Campbell, Cobb, Cook, Cooper, Cullom, Dawson, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Eliot, Ferry, Glessbrenner, Grinnell, Hawkins, Hayes, Higby, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Ketcham, Koontz, Ladin, Longyear, Lynch, McClurg, McIndoe, McRuer, Mercer, Miller, Morrill, Morris, Moulton, Nowell, Niblack, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Samuel J. Randall, Raymond, Alexander H. Rice, Ritter, Rollins, Schenck, Shellabarger, Starr, Strouse, Taber, Nelson Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburne, Welker, Whaley, Williams, and James F. Wilson—87.

NAYS—Messrs. Bergen, Finck, Goodyear, Hunter, Le Blond, Noell, Rogers, Sawyer, Shanklin, and Trimble—10.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Bidwell, Blaine, Blow, Brandegee, Bromwell, Broomall, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Conkling, Culver, Darling, Davis, Dawes, Deffrees, Deming, Denison, Dumont, Farnsworth, Farquhar, Garfield, Griswold, Hale, Aaron Harding, Abner C. Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Hotchkiss, Asahel H. Hubbard, James R. Hubbell, Hulburd, Humphrey, Johnson, Jones, Kasson, Kelley, Kelso, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, Moorhead, Myers, Phelps, Pomeroy, Radford, William H. Randall, John H. Rice, Ross, Rousseau, Scofield



Sitgreaves, Sloan, Spalding, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—94.

So Mr. HARDING, of Kentucky, was excused from further attendance during to-day's session.

Mr. SPALDING, I move that further proceedings under the call be dispensed with.

Mr. ANCONA. I call for the yeas and nays on that motion.

Mr. NOELL (at eleven o'clock and fifty five minutes p. m.) moved that the House adjourn.

The question was taken; and upon a division, there were—yeas 32, noes 58.

So the motion to adjourn was not agreed to.

The question recurred upon the motion of Mr. SPALDING, that further proceedings under the call be dispensed with.

Mr. SPALDING. I withdraw that motion. The Clerk resumed the call of the list of absentees for excuses.

ROSSELL HART. No excuse offered.

SIDNEY T. HOLMES. No excuse offered.

SAMUEL HOOPER.

Mr. CONKLING. Mr. HOOPER, of Massachusetts, is a member of the Committee of Ways and Means, which committee has leave to sit during the sessions of the House. He left the House a short time ago, saying that as a sub-committee he had to prepare a matter for the committee by the time it meets tomorrow. I therefore move that he be excused.

The motion was not agreed to.

EDWIN N. HUBBELL. No excuse offered.

JAMES R. HUBBELL. No excuse offered.

JOHN A. KASSON. No excuse offered.

GEORGE R. LATHAM. No excuse offered.

GEORGE V. LAWRENCE. No excuse offered.

JOHN W. LEFTWICH.

Mr. COOPER. My colleague, Mr. LEFTWICH, is in very feeble health, and has been for some weeks past.

Mr. ELDRIDGE. He is perfectly well, I know. [Laughter.] He has been here a long time to-day.

Mr. COOPER. I move that my colleague, Mr. LEFTWICH, be excused.

Mr. ROGERS. On that motion I call for the yeas and nays.

Mr. GRINNELL. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. ROGERS and PRICE were appointed.

The House divided; and the tellers reported—yeas twenty-three; noes not counted.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

Mr. GRINNELL. I ask leave to make a statement. I understand there will be no objection to taking a vote to-morrow without any dilatory motions. Therefore I move that the House now adjourn.

Mr. RANDALL, of Pennsylvania. We have made no such proposition.

Mr. FINCK. There is no such understanding.

Mr. GRINNELL. Then I withdraw my motion to adjourn.

Mr. INGERSOLL. I desire to make a motion. It is now after midnight—

The SPEAKER *pro tempore*, (Mr. ROLLINS in the chair.) Debate is not in order.

Mr. INGERSOLL. I am satisfied we will reach a vote sooner by an adjournment till to-morrow.

Mr. SCHENCK. How does the gentleman know that? We have no assurance to that effect from the other side.

Mr. INGERSOLL. I do not want any more assurance than I have.

Mr. UPSON. You have enough already. [Laughter.]

Mr. INGERSOLL. I make the motion that the House adjourn.

Mr. ANCONA. I call for tellers.

Tellers were ordered; and Messrs. ANCONA and TROWBRIDGE were appointed.

The House divided; and the tellers reported—yeas 46, noes 51.

So the House refused to adjourn.

Mr. WILSON, of Iowa. I desire to ask unanimous consent to be excused from further attendance on the session of the House to-night. I have been unwell all day. I received an injury this morning from a fall, and it has been with the utmost inconvenience that I have remained here.

The SPEAKER *pro tempore*. If there be no objection, the gentleman from Iowa will be excused.

There was no objection.

Mr. SPALDING. I also ask unanimous consent to be excused from further attendance to-night.

Several MEMBERS objected.

The question recurred on the motion of Mr. COOPER, that Mr. LEFTWICH be excused; on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 16, not voting 103; as follows:

YEAS—Messrs. Allison, Ancona, Delos R. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Boutwell, Boyer, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dixon, Donnelly, Driggs, Eckley, Eliot, Ferry, Grinnell, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hogan, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Ketcham, Laffin, Longyear, Lynch, McClurg, McIndoe, McRuer, Mercur, Miller, Morris, Moulton, Newell, Nicholson, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Alexander H. Rice, Ritter, Sawyer, Shellabarger, Spalding, Starr, Strouse, Taber, Nelson Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, and Whaley—72.

NAYS—Messrs. Barker, Bergen, Bidwell, Dawson, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Koykendall, Le Blond, Niblack, Shanklin, Trimble, and Warner—16.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Brandegee, Bromwell, Broomall, Bundy, Campbell, Chanler, Sidney Clark, Culver, Darling, Davis, Dawes, Defrees, Delano, Deming, Denison, Dodge, Dumont, Eggleston, Farnsworth, Garfield, Griswold, Hale, Aaron Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Johnson, Jones, Kasson, Kelley, Kelso, Kerr, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, Moorhead, Morrill, Myers, Neell, Patterson, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, John H. Rice, Rogers, Rollins, Ross, Rousseau, Schenck, Scofield, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—103.

So Mr. LEFTWICH was excused.

Mr. BOUTWELL. Believing that by adjourning now we shall save the legislative day to-morrow, I move that the House adjourn.

Mr. EGGLESTON. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 48, nays 55, not voting 88; as follows:

YEAS—Messrs. Allison, Ancona, Bergen, Bidwell, Boutwell, Boyer, Campbell, Conkling, Cooper, Dawson, Dodge, Eckley, Eldridge, Finck, Glossbrenner, Goodyear, Hawkins, Hogan, John H. Hubbard, Hulburd, Humphrey, Hunter, Julian, Kerr, Ketcham, Kuykendall, Laffin, Le Blond, Marston, McRuer, Miller, Morrill, Niblack, Nicholson, Neell, Samuel J. Randall, Alexander H. Rice, Ritter, Rogers, Shanklin, Spalding, Strouse, Taber, Nelson Taylor, Trimble, Trowbridge, Upson, and Whaley—48.

NAYS—Messrs. Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Delano, Donnelly, Driggs, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hayes, Higby, Hill, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Kelso, Koyntz, Lynch, McClurg, McIndoe, Mercur, Morris, Moulton, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Starr, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Welker, and Williams—55.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Brandegee, Bromwell, Broomall, Bundy, Chanler, Sidney Clark, Culver, Darling, Davis, Dawes, Defrees, Deming, Denison, Dixon, Dumont, Farnsworth, Garfield, Griswold, Hale, Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell,

Ingersoll, Jenckes, Johnson, Jones, Kasson, Kelly, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Longyear, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Myers, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, John H. Rice, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—88.

So the House refused to adjourn.

The SPEAKER *pro tempore*. The Clerk will proceed to call the roll of absentees for excuses.

BENJAMIN F. LOAN. No excuse offered.

SAMUEL S. MARSHALL. No excuse offered.

JAMES M. MARVIN. No excuse offered.

HORACE MAYNARD. No excuse offered.

HIRAM MCCULLOUGH. No excuse offered.

SAMUEL MCKEE. No excuse offered.

JAMES K. MOORHEAD. No excuse offered.

CHARLES E. PHELPS. No excuse offered.

THEODORE M. POMEROY. No excuse offered.

LEWIS W. ROSS. No excuse offered.

LOVELL H. ROUSSEAU. No excuse offered.

CHARLES SITGREAVES. No excuse offered.

THAMAR C. SLOAN. No excuse offered.

THADDEUS STEVENS.

Mr. MORRILL. I move that Mr. STEVENS be excused.

The motion was agreed to.

THOMAS N. STILLWELL. No excuse offered.

WILLIAM B. STOKES. No excuse offered.

NATHANIEL G. TAYLOR. No excuse offered.

M. RUSSELL THAYER.

Mr. HOGAN. It has been stated that Mr. THAYER is detained at home by sickness in his family, and I therefore move that he be excused.

The motion was agreed to.

FRANCIS THOMAS.

Mr. ECKLEY. I move that Governor THOMAS be excused: He is old and I believe not very well.

Mr. SHELLABARGER. I hope that will be agreed to.

The SPEAKER *pro tempore*. The motion is agreed to.

Mr. LE BLOND. I demanded the yeas and nays before the Chair announced the motion was agreed to.

The SPEAKER *pro tempore*. It is too late.

Mr. LE BLOND. I appeal.

The SPEAKER *pro tempore*. The Chair refuses to entertain the appeal.

Mr. LE BLOND. Upon what authority?

The SPEAKER *pro tempore*. The Chair has made its decision; gentlemen will resume their seats.

Mr. LE BLOND. I will resume my seat when my rights are guaranteed and not short of it. I appeal from the decision of the Chair, and demand the question shall be put to the House.

The SPEAKER *pro tempore*. The occupant of the chair refused to entertain an appeal for this reason: there are certain questions which the Chair must decide absolutely. Where three or four gentlemen rise and claim the floor the Chair must determine which gentleman is entitled to it, and there is no appeal. And the Chair must decide in reference to gentlemen rising in time to demand the yeas and nays, and there is no appeal.

The gentleman has the right to move to reconsider the vote if he thinks his right has been infringed.

Mr. LE BLOND. Then, Mr. Speaker, I move to reconsider the vote by which the gentleman from Maryland was excused.

The SPEAKER *pro tempore*. That motion is in order; but the decision of the Chair was correct in declining to receive the appeal of the gentleman after the Chair had declared that the gentleman from Maryland was excused by a vote of the House.

Mr. LE BLOND. With all respect I think the Speaker of the House would have done it. [Laughter.]

The SPEAKER. The gentleman moves to

reconsider the vote by which the gentleman from Maryland [Mr. F. THOMAS] was excused from voting.

Mr. FINCK. On that I demand the yeas and nays.

Mr. GRINNELL. I demand tellers on ordering the yeas and nays.

Tellers were ordered, and the Chair appointed Messrs. BAKER and HOGAN.

The House divided; and the tellers reported—yeas twenty-five, noes none.

So (one fifth of the members present having voted in the affirmative) the yeas and nays were ordered.

The question being taken on reconsidering the vote by which the House excused Mr. F. THOMAS, it was decided in the negative—yeas 18, noes 85, not voting 93; as follows:

YEAS—Messrs. Bergen, Eldridge, Finck, Good-year, Humphrey, Kerr, Le Blond, Niblack, Nicholson, Noell, Shanklin, Spalding, and Warner—13.

NAYS—Messrs. Allison, Ancona, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Boutwell, Boyer, Broomall, Campbell, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Dawson, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Glossbrenner, Grinnell, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hogan, Hotchkiss, Demas Hubbard, John H. Hubbard, Hulburd, Hunter, Jencks, Julian, Kelso, Ketcham, Koontz, Lafin, Longyear, Lynch, Marston, McClure, McIndoe, McKuer, Mercur, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ritter, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Starr, Strouse, Nelson Taylor, Trimble, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, Welker, Whaley, and Williams—85.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Bidwell, Bingham, Blaine, Blow, Brandegee, Bromwell, Buckland, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Deffrees, Dolano, Deming, Denison, Dumont, Farnsworth, Garfield, Griswold, Hale, Aaron Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Johnson, Jones, Kasson, Kelley, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, John H. Rice, Rogers, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Taber, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—93.

The Clerk resumed the call of the roll of absentees for excuses.

JOHN L. THOMAS. No excuse offered.

ANTHONY THORNTON. No excuse offered.

ROBERT T. VAN HORN.

Mr. HOGAN. I move that he be excused. He is absent from the city sick, and he was excused in the early part of the evening.

The motion was agreed to.

ANDREW H. WARD. No excuse offered.

HAMILTON WARD. No excuse offered.

WILLIAM B. WASHBURN. No excuse offered.

Mr. MORRILL. Mr. Speaker, I am quite anxious that we should adjourn. We have got an internal revenue bill to act upon in the next few days. The Committee of Ways and Means are very anxious to have the morning for committee work; the tariff bill is to be acted upon, and I have received such assurances that I am satisfied there will be no dilatory motions made to-morrow morning. I therefore move that the House adjourn.

Mr. SCHENCK. What assurances are they? I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question being taken; it was decided in the negative—yeas 38, nays 63, not voting 90; as follows:

YEAS—Messrs. Ancona, Bergen, Boutwell, Boyer, Campbell, Conkling, Cooper, Dawson, Dixon, Dodge, Eckley, Finck, Glossbrenner, Goodyear, Hawkins, Hogan, John H. Hubbard, Hulburd, Humphrey, Hunter, Kerr, Ketcham, Kuykendall, Lafin, Le Blond, Marston, McKuer, Miller, Morrill, Niblack, Nicholson, Ritter, Scofield, Shanklin, Strouse, Taber, Trowbridge, and Whaley—38.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Bidwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Delano, Donnelly, Driggs, Eggleston, Eldridge, Farquhar, Ferry, Grinnell, Abner C. Harding, Hayes, Higby, Hill, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Kelso, Koontz, Longyear, Lynch, McClure, McIndoe, Mercur, Morris, Moulton, Myers, Newell,

Noell, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Starr, Nelson Taylor, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, Welker, and Williams—63.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Benjamin, Bingham, Blaine, Blow, Brandegee, Bromwell, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Deffrees, Deming, Denison, Dumont, Eliot, Farnsworth, Garfield, Griswold, Hale, Aaron Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Jencks, Johnson, Jones, Julian, Kasson, Kelley, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Ross, Rousseau, Sitgreaves, Sloan, Spalding, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, Henry B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—90.

So the House refused to adjourn.

The Clerk resumed the call of the list of absentees for excuses.

STEPHEN F. WILSON. No excuse offered.

WILLIAM WINDOM.

Mr. DONNELLY. I ask that my colleague, Mr. WINDOM, be excused on account of illness in his family.

The motion was agreed to.

FREDERICK E. WOODBRIDGE.

Mr. GRINNELL. I move that the gentleman from Vermont [Mr. WOODBRIDGE] be excused on account of indisposition.

Mr. SCHENCK and Mr. ELDRIDGE. He is well enough.

The motion of Mr. GRINNELL was not agreed to.

EDWIN R. V. WRIGHT. No excuse offered.

Mr. SCHENCK. I now move that a warrant be issued for the arrest of such of the absentees as have not been excused, and that the Sergeant-at-Arms be directed to bring them to the bar of the House.

The motion was agreed to.

Mr. ALLISON. I rise to a question of order. I desire to know what becomes of the gentlemen who answered to their names on the first call of the roll, and then left the House. Are they to be included within this warrant?

Mr. WARNER. Certainly.

Mr. CONKLING. Not at all.

The SPEAKER *pro tempore*. The Chair will inform the gentleman that no member has left the Hall within the knowledge of the Chair except upon agreeing to return within five minutes, and not to leave the building.

Mr. ALLISON. I do not think the Chair quite apprehends my question. At the first roll-call a number of members answered to their names and then left the Hall before the doors were closed.

Mr. MORRILL. And some of them went out through the windows.

Mr. CONKLING. Did any go up the chimney? [Laughter.]

Mr. SCHENCK. I state from my personal knowledge, as a member of this House, that certain members who answered at the first call of the roll have since disappeared from the Hall. Now, I move that after the warrant just ordered shall have been issued, and while we are waiting for a return upon it, there be another call of the House, and an additional warrant be issued for those who left immediately upon the first call of the roll. [Cries of "That is right."]

The SPEAKER *pro tempore*. That can only be done by dispensing with the present call of the House, as there cannot be two calls of the House at the same time.

Mr. SCHENCK. Then I move to dispense with the present call, and that a new call of the House immediately take place.

Mr. ELIOT. I would ask of the Chair this question: suppose the present warrant be issued, and before the Sergeant-at-Arms make a return upon it the call be dispensed with and then a new call be ordered, would not the effect of that be to bring the absentees named

in the present warrant into the House to answer to the second call?

Mr. CONKLING. Those men coming in would be in time to answer to their names under the new call.

Mr. SCHENCK. I withdraw my motion for a new call.

The SPEAKER *pro tempore*. The result desired to be reached can be accomplished by unanimous consent, and all members not answering to their names on the new call, and not excused, can be included in the warrant.

Mr. SCHENCK. I ask unanimous consent that that be done.

No objection was made.

The Clerk then proceeded to call the roll again.

The following members failed to answer to their names:

Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Barker, Bingham, Blaine, Blow, Brandegee, Bromwell, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Deffrees, Deming, Denison, Dumont, Farnsworth, Garfield, Griswold, Hale, Aaron Harding, Harris, Hart, Henderson, Hise, Holmes, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Johnson, Jones, Kasson, Kelley, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, John H. Rice, Ross, Rousseau, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright.

Mr. TRIMBLE. My colleague, Mr. WARD, is confined to his room by sickness. He was excused on the first call. If it be necessary to make the motion again I move that he be excused.

The motion was agreed to.

Mr. MOULTON. I move that warrants issue for all the absentees except those who have been excused.

The SPEAKER *pro tempore*. An order of that kind, including all the absentees, has already been made by unanimous consent.

Mr. TAYLOR, of New York. I move that my colleague, Mr. JONES, be excused on account of sickness.

The motion was agreed to.

Mr. GRINNELL. I move that my colleague, Mr. A. W. HUBBARD, be excused. He has been absent during the whole session on account of sickness.

The motion was agreed to.

Mr. PRICE. I move that the gentleman from Oregon [Mr. HENDERSON] be excused. He is sick.

The motion was agreed to.

Mr. ORTH. I move that my colleague, Mr. DUMONT, be excused on account of sickness. The SPEAKER *pro tempore*. The Chair is informed that the gentleman from Indiana [Mr. DUMONT] has already been excused.

Mr. SHELLABARGER. I move that my colleague, Mr. WILLIAM LAWRENCE, be excused. He is absent from the city and is sick.

The motion was agreed to.

Mr. MOULTON. I move that my colleague, Mr. BROMWELL, be excused. He is at home sick.

The motion was agreed to.

Mr. BENJAMIN. I move that my colleague, Mr. Blow, be excused. He is detained at home by sickness in his family.

The motion was agreed to.

Mr. GRINNELL. I move that the gentleman from Pennsylvania, Mr. STEVENS, be excused.

The SPEAKER *pro tempore*. He has already been excused for the entire day.

The Clerk, by direction of the Speaker *pro tempore*, read the names of the members who had answered on the first call, but who did not respond on the last call. They were as follows: James G. Blaine, John A. Bingham, Augustus Brandegee, Henry C. Deming, John F. Farnsworth, John A. Griswold, Robert S. Hale, Ebon C. Ingersoll, William D. Kelley, James

W. Patterson, Frederick A. Pike, William Radford, Henry J. Raymond, John H. Rice, and Charles H. Winfield.

The SPEAKER *pro tempore*. Warrants will be issued for the members whose names have just been read.

Mr. VAN AERNAM. I move that my colleague, Mr. HOTCHKISS, be excused from further attendance at the session of to-night, on account of ill-health.

Mr. ELDRIDGE. Is the gentleman really ill?

Mr. HOTCHKISS. I have been in attendance all day, and I am unable to remain longer. I have already stayed longer than I ought to have done.

The motion of Mr. VAN AERNAM was agreed to. Mr. RANDALL, of Pennsylvania, (after a pause.) I move to reconsider the vote by which the gentleman from New York [Mr. HOTCHKISS] was excused.

The motion to reconsider was agreed to.

The question recurred on the motion that Mr. HOTCHKISS be excused.

On the motion, there were—ayes fifty, noes not counted.

So Mr. HOTCHKISS was excused.

Mr. NOELL. I move to postpone all proceedings in regard to the arraignment of the absentees until to-morrow at one o'clock.

The SPEAKER *pro tempore*. The gentleman must reduce his amendment to writing.

Mr. NOELL. I cannot do that just now.

Mr. ELDRIDGE. Would it be in order for the gentleman from Iowa [Mr. GRINNELL] to sing—

"John Brown's body lies a-moldering in the grave.  
But his soul is marching on?"

Mr. SCHENCK. Let us have it.

Mr. GRINNELL. I will do it, if the gentleman from Wisconsin will allow me to quote a verse for him to sing.

Mr. ELDRIDGE. What is it?

Mr. GRINNELL. The verse I would quote would be:

"And are we wretches yet alive,  
And do we still rebel?  
'Tis only by amazing grace  
That we are out of hell."

Mr. NIBLACK. That is swearing.

Mr. DRIGGS. I suggest that the gentleman sing—

"Oh, for a thousand tongues to sing!"

Mr. NOELL. I offer the following resolution:

*Resolved*, That the arraignment before the bar of the House of all persons for being absent without leave be postponed until Wednesday, the 23d, at one o'clock p. m.

Mr. VAN HORN, of New York. I object.

Mr. NOELL. I believe the resolution is in order. A case of this kind came up last year.

Mr. UPSON. I object; last year is played out. [Laughter.]

The SPEAKER *pro tempore*. The question is on the adoption of the resolution of the gentleman from Missouri, [Mr. NOELL.]

Mr. BROOMALL. I move to amend the resolution by striking out all after the word "Resolved" and inserting the following:

That the Sergeant-at-Arms be directed to bring the members now absent without leave before the bar of the House as soon hereafter as possible, and that they be then required to show cause why they should not be declared to be in contempt of the House, and to abide the order of the House.

The question was put; and there were—ayes 33, noes 38.

So the amendment was not agreed to.

The question recurred on Mr. NOELL's resolution.

Mr. BROOMALL. I offer the following amendment to the resolution:

*Resolved*, That the Sergeant-at-Arms be directed to bring the members now absent without leave, who are not previously arrested, before the bar of the House at one o'clock to-morrow, Wednesday, January 23, 1867; and that they then be required to show cause why they should not be declared to be in contempt of the House, and to abide the orders of the House.

Mr. SCHENCK. I move to lay the resolution and amendment upon the table.

Mr. NOELL. I accept the amendment of the gentleman from Pennsylvania.

The question was taken on Mr. SCHENCK's motion; and there were—ayes 39, noes 10.

So the resolution was laid upon the table.

Mr. NOELL. I rise to a question of order. I desire to know whether it is in order to smoke cigars and eat old cheese during the session of the House? [Laughter.]

Mr. McKEE. I ask a division of the question.

The SPEAKER *pro tempore*. The Chair is of opinion that it is not in order.

Mr. TRIMBLE. I feel, Mr. Speaker, no good can result to ourselves or the country by continuing this session longer, and I therefore move that the House adjourn.

Mr. SCHENCK. It would not be respectful to the members we have invited here. [Laughter.]

Mr. BROOMALL. I submit the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to bring all the members now absent, who shall not be arrested and brought before the bar of the House during this day's session, before the bar of the House at one o'clock p. m., Wednesday, January 23, and they then be required to show cause why they should not be declared in contempt of the House, and they abide the order of the House.

Mr. RANDALL, of Pennsylvania. I move to lay the resolution upon the table.

Mr. FINCK. I make the point of order that it is the same resolution already voted down.

The SPEAKER *pro tempore*. The Chair overrules the point of order. It is not the same resolution.

Mr. RANDALL, of Pennsylvania. I withdraw my motion.

Mr. BROOMALL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. ELDRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. O'NEILL. I hope we will take a recess till half-past three on the 23d, as these evening sessions are so pleasant and instructive we ought to have more of them.

Mr. ELDRIDGE. I move to take a recess till twelve o'clock m.

The SPEAKER *pro tempore*. It is not in order pending a call of the House.

Mr. BOYER (at twenty-five minutes to three a. m.) moved that the House adjourn.

The motion was disagreed to.

Mr. NOELL. I move that we direct the Sergeant-at-Arms to bring in the members from Arkansas, who are absent without leave of this House.

Mr. WARNER. That goes under the rule to the joint select Committee on Reconstruction.

Mr. BERGEN. I move that my colleague, Mr. HUNTER, have leave of absence till twelve o'clock m.

Mr. ELDRIDGE. I object.

Mr. STARR. I have the manuscript of a sermon delivered by our Chaplain not long ago; and I ask it be read, as I fear there were some members here who did not hear it.

Objection was made.

Mr. HARDING, of Illinois. I move the following resolution:

*Resolved*, That the Sergeant-at-Arms be instructed to return the writs against absentees under the pending call at nine o'clock a. m. to-day, it being now the hour of three o'clock a. m., until which time this House take a recess.

Mr. ELDRIDGE. I object.

The SPEAKER *pro tempore*. A motion for a recess is not in order pending the call of the House.

Mr. WASHBURN, of Indiana, (at five minutes past three o'clock a. m.,) moved that the House adjourn.

Mr. BENJAMIN called for tellers.

Tellers were ordered.

The House divided; and there were—ayes 15, noes 34.

So the House refused to adjourn.

Mr. WASHBURN, of Indiana. I would like to know what reason the gentleman from Dakota has for being present to-night? Let us hear him.

Mr. SCHENCK. Let us admit him as a State. [Laughter.]

Mr. BURLEIGH. I am sent here as a Delegate of a Territory, and not as a Representative of a State.

Mr. ELDRIDGE. Is Dakota loyal?

Mr. BURLEIGH. It never bowed the knee to the political Baal.

Mr. HILL. What do you mean by loyal?

Mr. BURLEIGH. My people stood by the Government in the hour of trial.

Mr. GRINNELL. How many of them?

Mr. BURLEIGH. I have not the honor to represent a State, but I represent a Territory of which I am as proud as any member can be of his State. If it has not a great population, it has resources to sustain the vast population to go there hereafter. I came here to-night to look after the interest—

A MEMBER. Of Indians? [Laughter.]

Mr. BURLEIGH. Yes, sir; I always look after their interest, and propose to do so.

A MEMBER. So we understand. [Laughter.]

Mr. BURLEIGH. Yes, sir; you understand it; from men who have dyed their hands in fraud and perjury. We have the evidence on this subject, and will show it to this House and to the nation. Yes, sir, I stand here to protect the Indians of the Northwest, and not only the Indians of the Northwest, but of the eastern slope; and I will stand here as long as I can stand at all [great laughter] for the rights of humanity.

Mr. WASHBURN, of Indiana. Would it be in order to allow the gentleman to tell us how he votes on the pending measure?

Mr. BURLEIGH. If it is in order I will state that I have always been in favor of organization, and I think—

Mr. ELDRIDGE. How is the gentleman on religion? [Laughter.]

Mr. BURLEIGH. If the majority here had only organized they might have put on two watches, one on the larboard and the other on the starboard side—one on duty while the other one rested—and have fought this thing out; while the minority, being small in number, could not have had enough on the watch to call the yeas and nays.

Mr. WASHBURN, of Indiana. They cannot call them now.

Mr. BURLEIGH. Any more questions?

Mr. GRINNELL. Talk about white people now.

Mr. BURLEIGH. If I had a vote I would vote for the country, the Constitution, and the rights of mankind.

A MEMBER. Do you leave the Constitution around?

Mr. BURLEIGH. I never "swing round the circle." [Laughter.]

Mr. HILL. I insist that the gentleman is not showing cause why he should not go out. [Laughter.]

Mr. BURLEIGH. All I have to say is, if my cause is not sufficient, the officers of the House may try the same means to eject me that they did on the man in the gallery. [Laughter.]

A MEMBER. How do you stand on the tax on whisky on hand? [Laughter.]

Mr. HUBBARD, of Connecticut. The speech of the gentleman seems to me entirely satisfactory, and I move it be accepted.

Mr. ELDRIDGE. I move to extend his time ten minutes.

The SERGEANT-AT-ARMS. Mr. Speaker, I have the honor to report to the House that one of my messengers has returned and makes the following report: that he visited the room of JAMES M. HUMPHREY, at the Seaton House, and was informed by Mrs. Humphrey that her husband must be in this House, or some other good place, [laughter,] for he had not been home this evening.



Mr. ELDRIDGE. I rise to a question of order. Just before the warrant was issued Mr. HUMPHREY appeared here and asked if his name was in the warrant, and was assured that he was reported as being present. He is in the House now, and I do not wish any imputation cast on him for being in "some other good place." [Laughter.]

The SERGEANT-AT-ARMS. The messenger also called at the Seaton House for THOMAS N. STILWELL and found his room vacant. He was not to be found there. The same messenger called at the Avenue House at the room of SIDNEY T. HOLMES, and found that he was absent. He also called at the rooms of THAMAR C. SLOAN and of STEPHEN F. WILSON at the same hotel, and they could not be found. He also called upon FREDERICK A. PIKE, who informed him that he desired a message sent to the House that he had left in consequence of being ill; that he was absolutely too unwell to return, and that he wished this excuse to be presented to the House.

Mr. TAYLOR, of New York. Mr. HUMPHREY is present in his seat.

The SERGEANT-AT-ARMS. The messenger called at the room of BENJAMIN F. LOAN, who reported that he had remained in the House as long as he possibly could; that he was sick in the early part of the evening, and had gone home and taken his bed, and was absolutely too sick to return to the House.

Mr. RANDALL, of Pennsylvania. I move that Mr. LOAN, in consideration of his recent great effort made here in relation to the impeachment of the President, be excused. [Laughter.]

Mr. SCHENCK. Before the motion is put I would inquire whether members are aware of any epidemic prevailing just at this time. [Laughter.]

Mr. LE BLOND. I am not sure but that trichina is afloat here.

Mr. SCHENCK. I notice that every one seems to be unwell. [Laughter.]

Mr. LE BLOND. I wish to say this in reference to Mr. LOAN, that for one I am opposed to excusing him, or excusing any other member who is as well able to be here as the rest of us. It is unfair, and especially so to excuse a man who had the physical ability to move in reference to the impeachment of the President to the extent that he went, and have the amount of bile that he poured forth upon us. He is certainly physically able to be here now, and I am opposed to his being excused. He relieved himself of that quantity of bile and must therefore be in better health to-day.

Mr. GRINNELL. I make the point of order that the amount of bile connected with the gentleman from Missouri is not under consideration, and that it is out of order to refer to his bile.

Mr. SCHENCK. I rise to a question of order, as to the regularity of any motion to excuse a member whose name is in the Speaker's warrant and for whose arrest an order is out, until the warrant is regularly returned with the body of the prisoner, and he is called upon to make an excuse. This is a sort of pardon in advance. [Laughter.]

The SPEAKER *pro tempore*. The Chair presumes that it is competent for the House to excuse a member.

Mr. RANDALL, of Pennsylvania. I withdraw the motion.

Mr. SCHENCK. I move that the name of Mr. HUMPHREY be stricken from the warrant, as it was erroneously inserted. I understand that he is represented as being here.

Mr. TAYLOR, of New York. Mr. HUMPHREY has been here all the evening.

The question was taken on Mr. SCHENCK's motion, and it was agreed to, and Mr. HUMPHREY's name was stricken from the record.

The SERGEANT-AT-ARMS. One of my messengers has also visited the Washington House and the room occupied by Hon. JOHN A. BINGHAM, [laughter,] and found him absent. He has not been found, and search will be made for him until he is found and presented at the

bar. I make this report, Mr. Speaker, that members may know what progress we are making. I have given the returns of four different messengers.

Mr. VAN HORN, of New York. How many members have been brought here?

The SERGEANT-AT-ARMS. This is the first return.

Mr. HILL. I understand that Mr. BINGHAM, with certain other gentlemen, escaped from the custody of the House to-night by climbing through the window of the barber's shop, and on account of the extraordinary agility shown by a gentleman of Mr. BINGHAM's age I move that his name be stricken from the warrant.

The motion was not agreed to.

Mr. FINCK. I wish to inquire if the Sergeant-at-Arms has made his report altogether? Has he got through with it? [Cries of "No, no."] I move, then, that he make another effort to get these gentlemen into the House.

The SPEAKER *pro tempore*. That motion has been made practically. The order of the House is that he shall bring them here.

Mr. ALLISON. He must execute the Speaker's warrant.

Mr. FINCK. Then what was the use of his making this return?

Mr. CULLOM. He reports progress so as to satisfy the House that he is at work.

The SPEAKER *pro tempore*. The Sergeant-at-Arms will, of course, continue his efforts to execute the order of the House and bring in members.

Mr. BURLEIGH. I have only to remark—

The SPEAKER *pro tempore*. The gentleman can proceed only by the unanimous consent of the House.

No objection was made.

Mr. BURLEIGH. I have only to remark that if the bill under consideration is just, it appears to me proper that it should pass, without keeping men out of bed at so late an hour, or so early an hour of the morning. If it is unjust, then it should be withdrawn by its author.

Mr. MILLER. I would ask the gentleman what the bill is.

Mr. BURLEIGH. I understand that the bill was reported from the Committee on the Judiciary by the gentleman from Massachusetts, [Mr. BOUTWELL,] and that it is intended to prescribe rules for the United States courts. Am I right? ["Yes," "yes."] I am not so oblivious as some gentlemen may suppose. [Laughter.] If the bill is not just, then let it be withdrawn. Why keep all these gentlemen here from their slumbers in view of their arduous duties of to-morrow? I do not know much about parliamentary usage here, but I know if a transaction of this kind was going on in the Territory of Dakota [laughter] it would be regarded as extremely disgraceful. [Laughter.] My impression is (knowing what I do of its Governor) that it would either cease before three o'clock in the morning or he would boot that august body out of the Capitol. [Laughter.] That is all I have to say.

The Sergeant-at-Arms appeared, and reported that in pursuance of the warrant of the Speaker he had arrested, and now had in custody at the bar of the House, Mr. HART, of New Jersey, and Mr. SINGREAVES, of New Jersey.

The SPEAKER *pro tempore*. Mr. HART, you have been absent during the session of the House without its leave. What excuse have you to render for thus being absent?

Mr. HART. Mr. Speaker, I do not know that I have any excuse that would be satisfactory to the House. I left the House at a time a vote was being taken; the vote was running in such a way that I got the impression that the House would probably soon adjourn. I thought that under the circumstances, in consideration of the delicate health of the Speaker, when it was generally known to the House that he had had a bad sore throat for the last three or four days, and that he was not in a condition to go through a night session, especially such a night session as we would probably have

here, the House would not insist upon his being kept here. And I supposed every one else in the House would feel as I felt.

Besides, it so happened that I had the misfortune to be once before absent during this day's session, and I was brought before the House to give my excuse for being absent. During the time I was then absent I made an engagement that was exceedingly agreeable. [Laughter.] The engagement was of such a character that I did not see how I could well avoid meeting it. I felt that I was bound to meet that engagement, because it involved some very important considerations. [Laughter.] But I have come here to show my respect to the House, although I felt that perhaps there may have been some unjust and unfair discrimination in my case. I was very comfortable in my bed, [laughter,] in a first-class public house, where I had retired with the consciousness of having done my entire duty as a public man, [great laughter,] and as has been suggested by a gentleman near me, not conscious of having been guilty of any offense before the law or before the country. But I was routed out of my bed, and brought here to answer for some high crime or misdemeanor, of which I am not conscious of having been guilty. At the same time I am ready here and elsewhere to answer for my conduct. I trust I have not been, even unconsciously, disrespectful to the House, and I am ready now to do my entire duty.

Mr. ELDRIDGE. I would ask the gentleman if he is ready now to take the test oath?

Mr. HART. Yes, sir; or any other oath that is reasonable.

Mr. ALLISON. I move that the gentleman be excused upon the payment of the usual fees.

Mr. HART. That proposition is very liberal. [Laughter.]

The motion of Mr. ALLISON was agreed to.

Mr. HART. If it is in order, I move to reconsider the vote just taken, and move to lay that motion on the table. [Great laughter.]

The SPEAKER *pro tempore*. That is not necessary.

The SPEAKER *pro tempore*. Mr. SINGREAVES, you have been absent from the session of the House without its leave. What excuse have you to render for your absence?

Mr. SINGREAVES. I have no excuse other than the fact that, having a previous engagement, I left the House under the supposition that it would soon adjourn.

Mr. ELDRIDGE. Almost every member when brought to the bar has stated by way of excuse that he had a "previous engagement." I would like to know what is meant by these "previous engagements."

Mr. RANDALL, of Pennsylvania. I move that the gentleman from New Jersey [Mr. SINGREAVES] be released on the payment of the usual fine.

Mr. WASHBURN, of Indiana. Mr. Speaker, I desire to inquire what would be the effect of the adoption of a motion to suspend operations under the call. Would it release from responsibility those members who are still out?

The SPEAKER *pro tempore*. It would not. The absentees arrested could be brought in at one o'clock to-morrow, under the resolution of the House.

Mr. BEAMAN. Would not an adjournment have the same effect?

The SPEAKER *pro tempore*. Precisely.

Mr. WASHBURN, of Indiana. Do I understand that those members who are not now arrested would not be arrested if the proposition I have suggested should be adopted?

The SPEAKER *pro tempore*. No more arrests could be made at present. The execution of the call would be suspended until to-morrow at one o'clock.

Mr. WASHBURN, of Indiana. I move, then, if it be in order—

Mr. ELDRIDGE. I ask the gentleman to yield to me that I may offer a resolution.

Mr. WASHBURN, of Indiana. I will hear it read.

The Clerk read the resolution, as follows:

*Resolved*, That this House has heard with intense satisfaction the eloquent speech of the Delegate from Dakota, and that five hundred thousand copies be printed in the English, German, and Choctaw languages.

Mr. WASHBURN, of Indiana. I cannot yield for that. I see that the Sergeant-at-Arms is ready to make a report. I defer the motion I was about to make.

The SERGEANT-AT-ARMS. I have the honor to report the action of a messenger who went in search of Hon. Mr. BRANDEGEE. Mr. BRANDEGEE was found in bed, and he assured the messenger that he had left the House on account of severe sickness, and that he was positively too unwell to come here.

I desire also to report that my messenger was obstructed. At Willard's Hotel he was prevented by the clerk from visiting the rooms occupied by members. The clerk refused to communicate to the messenger the number of members' rooms or to allow him to visit them. I will read the report of the messenger—

Mr. CONKLING. I beg leave to interrupt this report for the purpose of raising a point of order. I submit to the Chair that all these narrations of messengers are out of order. If there is anybody to be produced here under arrest, that is a different matter; but this history—this Pilgrim's Progress—which is related here by way of hearsay, is, I submit, not in order. I think that we get enough from this night session, without any more than properly belongs to it.

Mr. HUBBARD, of Connecticut. I believe that it is very proper for the Sergeant-at-Arms, in making his return to the House, to give a statement of what transpired while he was endeavoring to execute the commands of the House.

The SERGEANT-AT-ARMS. The Speaker and the House will pardon me. I may be in error in the execution of my duty; but on a former occasion, when I myself was out five hours without making a return to the House, it was attempted to cast censure upon me, and my name was attempted to be placed upon the Journal. I have therefore made these reports to obviate such objections.

Mr. CONKLING. It is quite proper, so far as the Sergeant-at-Arms is concerned, that he should set himself right. I do not mean to cast any reflection upon him; but it is hardly fair that narrations should be read here which in the estimation of some gentlemen's constituents may be a reflection upon them. I submit it is not worth while, nor is it called for, that we should have these narrations read.

The SPEAKER *pro tempore*. The Chair is informed by those who have larger experience here that the only parties who can address the Presiding Officer beside members are the messengers from the Senate and from the President of the United States. All others communicate in writing, even the Clerk of the House. The Sergeant-at-Arms is undoubtedly required to report in writing.

The Sergeant-at-Arms reports he has now in custody at the bar Mr. FARNSWORTH, Mr. GARFIELD, and Mr. STOKES.

Mr. FARNSWORTH, you have been absent from the House without its leave. What excuse have you to offer?

Mr. FARNSWORTH. I think I had better take the benefit of the presumptions in my favor and stand mute.

Mr. ALLISON. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER. Mr. GARFIELD, you have been reported absent without leave. What excuse have you to offer?

Mr. GARFIELD. I left the House at half past four with a bad headache, which I mentioned to Mr. ALLISON. I have been twice excused from attending this day's session, but the gallantry and pluck evinced in this fight have induced me to return, though not quite well.

The SPEAKER *pro tempore*. The gentleman has been excused, and will therefore be discharged from custody.

Mr. STOKES, you have been absent from the House without its leave. What excuse have you to offer?

Mr. STOKES. Mr. Speaker, I had a conversation with Mr. BOUTWELL, of Massachusetts, just before half past four o'clock p. m., and he thought the House would soon adjourn without difficulty. I went to my colleague, Mr. LEFTWICH, and proposed we should pair off, and we did pair off. I was not well, and Mr. LEFTWICH said he would make the statement to the House during the roll-call or immediately afterward. They were then calling the roll. I supposed the House would remain but a few moments longer, and I did not see any necessity for my staying. It is the first time I ever absented myself from the House. In the Thirty-Sixth Congress I never missed a roll-call but once during the whole time. If I had known the Opposition would have been so courageous, bold, and determined in standing out to thwart the legislation of the country I would have remained in my seat.

Mr. GRINNELL. I move the gentleman be excused.

Mr. LE BLOND. On the payment of the usual fees. I am not sure whether we ought to grant that, for the gentleman has reflected upon the motives of this side of the House. I do not presume our action is revolutionary or for the purpose of obstructing legitimate legislation. It is simply to let the country know what is proposed to be done under the gag-law. It is the only motive we have, and it is the right which belongs to us as members. The imputation undertaken to be sent out, I say, on behalf of the minority, is unfounded; we simply desire to have fair and equal justice.

Mr. STOKES. My remark was intended for the opposite side of the House, that they were endeavoring to prevent legislation so far as discussion was concerned.

The SPEAKER *pro tempore*. The gentleman must confine himself to the reasons why he should be excused.

Mr. STOKES. I have said all I want to.

The amendment was agreed to; and the motion, as amended, was adopted.

The SPEAKER *pro tempore*. The Chair will now entertain the point of order raised by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I was inquiring of the Chair whether the effect of the resolution already passed, to bring all the delinquent members not yet arrested to answer at the bar of the House at one o'clock to-morrow—

A MEMBER. To-day.

Mr. SCHENCK. No; this is a legislative day, and it is still yesterday. [Laughter.] My inquiry was whether that resolution will not stand even if we now dispense with the farther proceedings under the call. I suppose that a distinctive, substantive order of that kind under parliamentary law will stand.

The SPEAKER *pro tempore*. The Chair thinks it would stand.

Mr. SCHENCK. I move then that all further present proceedings under the call be dispensed with, leaving the resolution to stand, with a view to going on with the business before the House.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays on the motion.

Mr. GRINNELL. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. GRINNELL and ELDRIDGE.

The House divided; and the tellers reported—ayes twenty-five; noes none.

So the yeas and nays were ordered.

Mr. RANDALL, of Pennsylvania. I move that the House now adjourn, and on that I call the yeas and nays.

Mr. ORTH. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. ORTH and NOELL.

The House divided; and the tellers reported—ayes twenty-four; noes none.

So the yeas and nays were ordered.

The SPEAKER *pro tempore*. The Sergeant-at-Arms is ready to report to the House, and in the opinion of the Chair his report is in order.

The SERGEANT-AT-ARMS. I have the honor to report that I have brought before the bar of the House EBON C. INGERSOLL, JAMES W. PATTERSON, and GEORGE W. ANDERSON, being absent without leave.

The SPEAKER *pro tempore*. Mr. INGERSOLL, you have been absent from the session of the House without leave. What excuse have you to offer?

Mr. INGERSOLL. I would like before proceeding to understand my status, [laughter,] whether I am to be regarded as a belligerent or public enemy; and if a belligerent whether I am to be accorded belligerent rights; or whether I am an American citizen—

A MEMBER. Without distinction of color. [Laughter.]

Mr. INGERSOLL. I do not desire to waive any of my political rights. I want to know whether this is a proceeding *in rem* or *in personam* or a criminal proceeding; and if it be a criminal proceeding, whether I am not entitled to trial by jury? I wish the Chair to decide that question.

The SPEAKER *pro tempore*. The Chair has propounded the usual question to the member, to state the reason for his absence.

Mr. INGERSOLL. I submit whether I am to be deprived of my liberty. I understand I may be fined.

The SPEAKER *pro tempore*. The Chair has no authority to make any order in reference to a fine.

Mr. INGERSOLL. If I am without defense I will challenge the whole array. [Laughter.]

Mr. HIGBY. The gentleman says he does not want to waive his rights; I would like to know if anything waved when he went out of the cloak-room? [Laughter.]

Mr. INGERSOLL. To the best of my knowledge I saw two coat-tails waving in the air. [Laughter.] Mr. Speaker, I believe there is an old law of the District of Columbia which requires honest citizens to be in bed soon after twelve o'clock. In compliance with that law and my own wishes I left this House about that time, after all reasonable effort had been made, on my part, to adjourn. I thought after I had exhausted all effort to bring the parties to an agreement with reference to this bill I could be of no further service here, and so like a good citizen I went home to bed and was sound asleep when the Sergeant-at-Arms aroused me.

Mr. MILLER. I move that the gentleman be excused upon paying the costs and upon the promise that he will not jump out of the window again. [Laughter.]

Mr. INGERSOLL. I deny that I jumped out of the window.

The motion to excuse the gentleman was agreed to.

The SPEAKER *pro tempore*. Mr. ANDERSON, you have been absent from the session of this House without leave. What excuse have you to render?

Mr. ANDERSON. I do not know that I have any very good excuse to offer. I will only say to the gentlemen who live on the west side of the Mississippi river that I am chairman of the Committee on Mileage, and they had better vote right on this question of excusing me or their mileage may be cut down. [Laughter.]

Mr. BENJAMIN. I move that the gentleman be excused on the payment of the usual fees.

The motion was agreed to.

The SPEAKER *pro tempore*. Mr. PATTERSON, you have been absent from the sessions of this House without leave. What excuse have you to render for your absence?

Mr. PATTERSON. Mr. Speaker, it was

not out of any disrespect for the House that I left it, but purely out of respect to myself.

Mr. INGERSOLL. That is sound; do not say another word.

Mr. PATTERSON. Two other gentlemen went with me, the distinguished gentleman from Ohio, [Mr. BINGHAM,] who asserted that this was a clearly unconstitutional case, and that it was rather the duty of every good man in the House to absent himself; and then again the distinguished chairman of the Committee for the District of Columbia, who said there was a rule of the levy court of this District that every honest man should be at home before twelve o'clock, especially if he is a member of Congress, and for that reason I thought it was rather incumbent on me to escort the gentleman home. [Laughter.] That is the only excuse which I have to offer.

Mr. BROOMALL. I move that the gentleman from New Hampshire be excused on the payment of the usual fees.

The motion was agreed to.

The question recurred on the motion of Mr. RANDALL, of Pennsylvania, that the House do now adjourn, upon which the yeas and nays had been ordered.

Mr. FINCK. I move that when the House adjourn it adjourn to meet on Friday next.

Mr. ELDRIDGE. I demand the yeas and nays on this motion.

Mr. WASHBURN, of Indiana. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BROOMALL and FINCK were appointed.

The House divided; and the tellers reported twenty-four in the affirmative.

So the yeas and nays were ordered.

Mr. NOELL. I move to amend the motion of the gentleman from Ohio, [Mr. FINCK,] by striking out "Friday" and inserting "Thursday" in lieu thereof.

Mr. ELDRIDGE. Upon the motion I demand the yeas and nays.

Mr. WASHBURN, of Indiana. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. NOELL and WASHBURN, of Indiana, were appointed.

The House divided; and the tellers reported twenty in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 25, nays 68, not voting 98; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Eldridge, Finck, Glossbrenner, Goodyear, John H. Hubbard, Humphrey, Ingersoll, Le Blond, Marston, Niblack, Nicholson, Noell, Patterson, Samuel J. Randall, Ritter, Shanklin, Sitgreaves, Spaulding, Taber, and Williams—25.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Boutwell, Broomall, Buckland, Cobb, Conkling, Cook, Cullom, Dawson, Delano, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Hart, Hawkins, Hayes, Higby, Hunter, Julian, Kelso, Ketcham, Kuykendall, Laflin, Lynch, McIndoe, McRuer, Miller, Moulton, Newell, O'Neill, Orth, Paine, Perham, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Starr, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, and Welker—68.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Bidwell, Bingham, Blaine, Blow, Brandegee, Bromwell, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Culver, Darling, Davis, Dawes, Defrees, Deming, Denison, Dumont, Eckley, Griswold, Hale, Aaron Harding, Abner C. Harding, Harris, Henderson, Hill, Hise, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, James K. Hubbell, Johnson, Jones, Kasson, Kelley, Kelso, Latham, George V. Lawrence, Leftwich, Loan, Longyear, Marshall, Marvin, Maynard, McCullough, McKee, Mercer, Moorhead, Morrill, Morris, Myers, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, John H. Rice, Rogers, Ross, Rousseau, Sloan, Stevens, Stilwell, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—98.

So the amendment was disagreed to.

The SPEAKER *pro tempore*. No quorum having voted, the question recurs on the motion of the gentleman from Pennsylvania, [Mr. RANDALL,] that the House do now adjourn.

The question was taken; and it was decided in the negative—yeas 29, nays 56, not voting 106; as follows:

YEAS—Messrs. Ancona, Anderson, Benjamin, Conkling, Eckley, Farnsworth, Glossbrenner, Hawkins, John H. Hubbard, Humphrey, Hunter, Ingersoll, Ketcham, Kuykendall, Laflin, Marston, McRuer, Niblack, Nicholson, Noell, Patterson, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Spaulding, Taber, and Trimble—29.

NAYS—Messrs. Baker, Barker, Baxter, Beaman, Boutwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Dawson, Delano, Dixon, Dodge, Driggs, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Higby, Chester D. Hubbard, Demas Hubbard, Hulburd, Jenckes, Julian, Kelso, Koontz, Longyear, Lynch, McIndoe, Mercer, Morris, Moulton, Newell, Orth, Perham, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Starr, Stokes, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, Welker, and Williams—56.

NOT VOTING—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Bergen, Bidwell, Bingham, Blaine, Blow, Boyer, Brandegee, Bromwell, Bundy, Campbell, Chanler, Sidney Clarke, Cooper, Cullom, Culver, Darling, Davis, Dawes, Defrees, Deming, Denison, Donnelly, Dumont, Eldridge, Finck, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hayes, Henderson, Hill, Hise, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Johnson, Jones, Kasson, Kelley, Kerr, Latham, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Loan, Marshall, Marvin, Maynard, McClurg, McCullough, McKee, Miller, Moorhead, Morrill, Myers, O'Neill, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, John H. Rice, Ross, Rousseau, Sloan, Stevens, Stilwell, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—106.

So the motion to adjourn was not agreed to.

The SPEAKER *pro tempore*. The question recurs upon the motion of the gentleman from Ohio [Mr. SCHENCK] to suspend for the present further proceedings under the call.

The Sergeant-at-Arms appeared and reported that in pursuance of the warrant of the Speaker he had arrested and now had in custody at the bar of the House Mr. DEFREES, of Indiana.

The SPEAKER *pro tempore*. Mr. DEFREES, you have been absent from the session of the House without its leave. What excuse have you to render for your absence?

Mr. DEFREES. About fifteen minutes after four o'clock in the afternoon I inferred from indications here that the House would soon adjourn, and therefore I left. It was about the usual hour of adjournment, and I knew the House ought to adjourn about that time. I do not know that I have any other excuse.

Mr. ORTH. I move that the gentleman be excused upon the payment of the usual fees.

Mr. SCHENCK. Before the House acts upon that motion, I would like to know of the gentleman, if he will tell me, how he will vote if we let him off in this way. I have noticed this in regard to all the deserters here; after they have been arrested, brought here, discharged, and returned to the ranks, they go against us. That is a trait common to all deserters.

Mr. DEFREES. When my name is called upon any question I will show how I will vote.

Mr. SCHENCK. In the hope that this case will be an exception to the rule, I will not oppose the motion of the gentleman from Indiana, [Mr. ORTH.]

Mr. DRIGGS. Is it in order to move to amend so as to require that the gentleman from Indiana [Mr. DEFREES] shall be put in the old Capitol until twelve o'clock, so as to secure ourselves from this vote against us?

The SPEAKER *pro tempore*. The Chair is of opinion that such an amendment would not be in order.

The motion of Mr. ORTH was then agreed to.

The SPEAKER *pro tempore*. The question recurs upon the motion to suspend for the present the proceedings under this call, upon which the yeas and nays have been ordered.

Mr. FINCK. I would inquire how many votes were reported on the last call of the roll?

The SPEAKER *pro tempore*. Less than a quorum.

Mr. FINCK. Then I move a call of the House.

The SPEAKER *pro tempore*. There is one call still pending; the House is now acting under a call. There cannot be two calls of the House at the same time.

Mr. FARNSWORTH, (at fifteen minutes before five o'clock a. m.) Is a motion to adjourn now in order?

The SPEAKER *pro tempore*. That motion would be in order.

Mr. FARNSWORTH. Then I move that the House do now adjourn.

The question was taken; and upon a division, there were—yeas 42, nays 53.

Before the result of the vote was announced, Mr. FARNSWORTH called for tellers.

Tellers were ordered.

Mr. SCHENCK. We may as well have the yeas and nays on this question; and I therefore ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 58, not voting 76; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Benjamin, Bergen, Boyer, Campbell, Conkling, Cooper, Dawson, Defrees, Dixon, Dodge, Donnelly, Eckley, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Goodyear, Hawkins, Hogan, John H. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Julian, Kerr, Ketcham, Kuykendall, Laflin, Le Blond, Marston, McRuer, Miller, Morrill, Niblack, Nicholson, Noell, Patterson, Samuel J. Randall, Alexander H. Rice, Ritter, Rogers, Scofield, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, Nelson Taylor, Trimble, Trowbridge, and Whaley—57.

NAYS—Messrs. Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Bidwell, Boutwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cullom, Delano, Driggs, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Chester D. Hubbard, Demas Hubbard, Jenckes, Koontz, Longyear, Lynch, McIndoe, McRuer, Mercer, Morris, Moulton, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Rollins, Sawyer, Schenck, Shellabarger, Starr, Stokes, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, and Williams—58.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Brandegee, Bromwell, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Dawes, Deming, Denison, Dumont, Griswold, Hale, Aaron Harding, Harris, Henderson, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Johnson, Jones, Kasson, Kelley, Kelso, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marvin, Maynard, McCullough, McKee, Moorhead, Myers, Phelps, Pike, Pomeroy, Radford, Raymond, John H. Rice, Ross, Rousseau, Sloan, Stevens, Stilwell, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—76.

So the House refused to adjourn.

The SPEAKER. A quorum being now present, the question recurs on the motion of the gentleman from Missouri, [Mr. NOELL,] to amend the motion of the gentleman from Ohio [Mr. FINCK] by striking out "Friday" and inserting "Thursday," on which the yeas and nays have been ordered.

The question was taken; and it was decided in the negative—yeas 19, nays 83, not voting 89; as follows:

YEAS—Messrs. Ancona, Anderson, Bergen, Cooper, Eldridge, Finck, Goodyear, Humphrey, Kerr, Le Blond, Niblack, Nicholson, Noell, Samuel J. Randall, Ritter, Shanklin, Sitgreaves, Taber, and Trimble—19.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Dawson, Defrees, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Julian, Kelso, Ketcham, Koontz, Kuykendall, Laflin, Longyear, Lynch, McClurg, McIndoe, Mercer, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spaulding, Starr, Stokes, Strouse, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, and Williams—83.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Bingham, Blaine, Blow, Boyer, Brandegee, Bromwell, Bundy, Campbell, Chanler, Sidney Clark, Conkling, Culver, Darling, Davis,



Dawes, Deming, Denison, Dumont, Garfield, Glossbrenner, Griswold, Hale, Aaron Harding, Harris, Henderson, Hill, Hise, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Johnson, Jones, Kasson, Kelley, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, McRuer, Miller, Moorhead, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, John H. Rice, Rogers, Ross, Rousseau, Sloan, Stevens, Stillwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburn, William B. Washburn, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—89.

So the amendment was disagreed to.

Mr. INGERSOLL. I rise to a privileged question, and move that the House adjourn.

Mr. SCHENCK. I rise to a question of privilege, which takes precedence of a privileged question. There are certain members here who, by the rule, are not entitled to vote, because the fees due by them as delinquents have not been paid. I know that the Speaker has said there is a presumption, unless it appears to the contrary, that the fees are paid. The rule is distinct that the fees must first be paid before the member can vote. I will say, for instance, I have information from the Sergeant-at-Arms that Mr. FARNSWORTH has not paid his fees; and I move, as a test question, his name be stricken from the roll.

Mr. FARNSWORTH. The gentleman cannot prove I have not paid them.

The SPEAKER *pro tempore*. The Chair decides that the execution of the order of the House takes precedence of all other business except a motion to adjourn.

Mr. SCHENCK. I ask the Chair to look at the top of page 37 of the Manual.

The SPEAKER *pro tempore*. The motion to adjourn over is pending and must be first disposed of.

Mr. FINCK. I withdraw that motion.

Mr. ELDRIDGE. All we want is one hour for debate after the morning hour.

The SPEAKER *pro tempore*. The Sergeant-at-Arms reports he has Mr. WARD, of Kentucky, at the bar.

Mr. FINCK. He was excused from attendance on account of sickness.

The SPEAKER *pro tempore*. Only on the first call.

Mr. TRIMBLE. On both.

The SPEAKER *pro tempore*. That is not the record at the Clerk's desk.

Mr. WARD, of Kentucky, you have been absent from the House without its leave. What excuse have you to offer?

Mr. WARD, of Kentucky. I have been confined to my room for two days past, and only looked into the House for a few minutes last night and found the House was in the highest filibustering mood. I retired on the assurance I had been excused from further attendance.

Mr. FINCK. I move the gentleman be discharged.

The motion was agreed to.

Mr. INGERSOLL rose.

Mr. SCHENCK. I make a point of order: the gentleman cannot address the Chair, because I have inquired of the Sergeant-at-Arms and learned there has been no adjustment of fees.

The SPEAKER *pro tempore*. That cannot be received while the House is in the execution of its own order. The Sergeant-at-Arms has another absentee at the bar.

Mr. BROMWELL, you have been absent from the House without its leave. What excuse have you to offer?

Mr. BROMWELL. I stayed here as long as I was able, suffering, as I am and have been, from an injury. I left at half past five and went to my lodgings, thinking the House would soon adjourn. When informed the House was still in session I returned and remained till the last car, when I went home, satisfied if I did not do so the injury might become permanent.

Mr. HUBBARD, of Connecticut. I move the gentleman be excused.

The motion was agreed to.

Mr. INGERSOLL. I move that the House adjourn.

Mr. SCHENCK. I make this point: until a member pays his fees he cannot address the House or make a motion. Such is the language of the rule. I go further and say the member is presumed not to have paid it till the contrary is shown.

Mr. INGERSOLL. I have paid my fees.

Mr. COBB demanded the yeas and nays on the motion to adjourn.

Mr. SCHENCK. It may be useful as a record hereafter.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 63, not voting 77; as follows:

YEAS—Messrs. Ancona, Benjamin, Bergen, Boyer, Campbell, Conkling, Cooper, Dawson, Dixon, Dodge, Donnelly, Eckley, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Hawkins, Hogan, John H. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Julian, Kerr, Ketcham, Kuykendall, Latham, Le Blond, Marston, McKee, Miller, Morrill, Myers, Niblack, Nicholson, Noel, Patterson, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Nelson Taylor, Trimble, Andrew H. Ward, and Whaley—51.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Bidwell, Boutwell, Broomall, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Cullom, Deffrees, Delano, Driggs, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Hill, Chester D. Hubbard, Demas Hubbard, Jencks, Kelso, Koontz, Longyear, Lynch, McClurg, McIndoe, Mercer, Morris, Moulton, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Starr, Stokes, Trowbridge, Upson, Van Aernam, Henry D. Washburn, Welker, and Williams—33.

NOT VOTING—Messrs. Alley, Ames, Arnell, James M. Ashley, Baldwin, Beaman, Bingham, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Deming, Denison, Dixon, Dumont, Garfield, Griswold, Hale, Aaron Harding, Harris, Henderson, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Johnson, Jones, Kasson, Kelley, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, McRuer, Moorhead, Myers, Noel, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, John H. Rice, Rogers, Ross, Rousseau, Scofield, Sloan, Spalding, Stevens, Stillwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburn, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—77.

So the House refused to adjourn.

Mr. FINCK. I now move that when the House adjourns it adjourn to meet on Friday next.

Mr. SCHENCK. Is not that in the nature of business; and can it take precedence of the appeal upon the question of privilege that I took?

The SPEAKER *pro tempore*. The Chair is not aware that any appeal is pending.

Mr. SCHENCK. I have certainly attempted to appeal and was recognized once, but somehow the gentleman from Illinois [Mr. INGERSOLL] got an opportunity to move to adjourn.

The SPEAKER *pro tempore*. The motion of the gentleman from Ohio [Mr. FINCK] is in order.

Mr. HIGBY. The gentleman from Ohio [Mr. SCHENCK] certainly took an appeal from the decision of the Chair.

Mr. SCHENCK. The Speaker decided that my question could not be entertained pending the motion to adjourn to a day certain. From that I took an appeal, but about that time the motion to adjourn to a day certain was withdrawn, and then the gentleman from Illinois moved that the House adjourn. My question was, that the gentlemen who had not paid their fines were not entitled to make motions or to vote. I believe that motion is in order now, and I make it.

The SPEAKER *pro tempore*. The motion that when the House adjourns it adjourn to meet on Friday next takes precedence of the motion of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. FINCK. I demand the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move to amend by inserting Thursday instead of Friday, and on that I demand the yeas and nays.

Mr. McINDOE. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. McINDOE and LE BLOND.

The House divided; and the tellers reported—yeas twenty-six, nays none.

So the yeas and nays were ordered.

The question being taken; it was decided in the negative—yeas 13, nays 63, not voting 105; as follows:

YEAS—Messrs. Ancona, Bidwell, Boyer, Campbell, Cooper, Eldridge, Farnsworth, Glossbrenner, Goodyear, Humphrey, Kerr, Niblack, Nicholson, Samuel J. Randall, Ritter, Shanklin, Sitgreaves, Strouse, and Taber—13.

NAYS—Messrs. Anderson, Baker, Beaman, Benjamin, Bergen, Boutwell, Broomall, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Dawson, Deffrees, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farquhar, Finck, Abner C. Harding, Hart, Hayes, Higby, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Jencks, Julian, Kelso, Ketcham, Koontz, Latham, Longyear, Lynch, McClurg, McIndoe, Mercer, Miller, Morrill, Morris, Moulton, Newell, O'Neill, Orth, Paine, Perham, Price, Alexander H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Starr, Stokes, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, and Williams—63.

NOT VOTING—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Bingham, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Culver, Darling, Davis, Deming, Denison, Dixon, Dumont, Ferry, Garfield, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hawkins, Henderson, Hill, Hise, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Hunter, Ingersoll, Johnson, Jones, Kasson, Kelley, Kuykendall, Latham, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McCullough, McKee, McRuer, Moorhead, Myers, Noel, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, John H. Rice, Rogers, Ross, Rousseau, Scofield, Sloan, Spalding, Stevens, Stillwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Elihu B. Washburn, William B. Washburn, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—105.

So the motion was disagreed to.

The question recurred on the motion of Mr. FINCK, that when the House adjourns it adjourn till Friday next; on which the yeas and nays had been ordered.

The question being taken, it was decided in the negative—yeas 11, nays 77, not voting 103; as follows:

YEAS—Messrs. Boyer, Eldridge, Finck, Glossbrenner, Hogan, Le Blond, Samuel J. Randall, Ritter, Sitgreaves, and Andrew H. Ward—11.

NAYS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Beaman, Benjamin, Bidwell, Boutwell, Broomall, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cooper, Cullom, Culver, Deffrees, Delano, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hunter, Jencks, Julian, Kelso, Ketcham, Koontz, Latham, Longyear, Lynch, McIndoe, McRuer, Mercer, Miller, Morrill, Morris, Moulton, Newell, Nicholson, O'Neill, Orth, Paine, Perham, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Spalding, Starr, Taber, Nelson Taylor, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, Welker, Whaley, and Williams—77.

NOT VOTING—Messrs. Alley, Ames, Ancona, Arnell, James M. Ashley, Baldwin, Barker, Baxter, Bergen, Bingham, Blaine, Blow, Brandegee, Bundy, Campbell, Chanler, Sidney Clarke, Darling, Davis, Dawes, Dawson, Deming, Denison, Dixon, Dumont, Eckley, Farnsworth, Garfield, Goodyear, Griswold, Hale, Aaron Harding, Harris, Henderson, Hill, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Humphrey, Ingersoll, Johnson, Jones, Kasson, Kelley, Kerr, Kuykendall, Latham, George V. Lawrence, William Lawrence, Leftwich, Loan, Marshall, Marston, Marvin, Maynard, McClurg, McCullough, McKee, Moorhead, Myers, Niblack, Noel, Patterson, Phelps, Pike, Pomeroy, Radford, William H. Randall, Raymond, John H. Rice, Rogers, Ross, Rousseau, Shanklin, Shellabarger, Sloan, Stevens, Stillwell, Stokes, Strouse, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburn, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—103.

So the motion was disagreed to.

The Sergeant-at-Arms appeared and reported that he had, pursuant to the warrant of the Speaker, arrested and now had in custody

at the bar of the House Mr. RAYMOND and Mr. POMEROY.

The SPEAKER *pro tempore*. Mr. RAYMOND, you have been absent from this House during its session without its leave. What excuse have you to offer for being thus absent?

Mr. RAYMOND. None but fatigue, Mr. Speaker.

Mr. CULLOM. I move that the gentleman be excused upon the payment of the usual fees. The motion was agreed to.

The SPEAKER *pro tempore*. Mr. POMEROY, you have been absent from this House during its session without leave. What excuse have you to offer for being thus absent?

Mr. POMEROY. I went to New York on necessary and important business. I returned to this city by the night train, and seeing the Capitol lighted up, I came up here to see what was to pay.

Mr. TROWBRIDGE. I hope the Speaker will inform the gentleman that there is the sum of \$2 50 to pay. [Laughter.]

Mr. MORRIS. I move that the gentleman be excused without the payment of fees.

The motion was agreed to.

Mr. SPALDING. I desire to suggest to the House that we take a recess till twelve o'clock; or rather to have an understanding that there will be no vote taken till twelve o'clock, but that gentlemen may speak until that time.

Objections were made by several members.

The SPEAKER *pro tempore*. The question recurs upon the motion of the gentleman from Ohio [Mr. SCHENCK] to strike from the roll the name of the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. SCHENCK. I withdraw that motion.

The SPEAKER *pro tempore*. The question next recurs upon the motion of the gentleman from Ohio [Mr. SCHENCK] to suspend for the present further proceedings under the call.

Mr. SCHENCK. I withdraw that motion.

The SPEAKER *pro tempore*. No other business is now in order but proceedings under the call.

Mr. FINCK, (at ten minutes to seven o'clock a. m.) I move that the House now adjourn.

Mr. ORTH. Upon that question I call for the yeas and nays.

Mr. GRINNELL. I call for tellers upon ordering the yeas and nays.

Tellers were ordered; and Mr. GRINNELL and Mr. NICHOLSON were appointed.

The House divided; and the tellers reported that there were no votes in the affirmative and none in the negative.

So tellers were not ordered.

The yeas and nays were not ordered.

The question recurred upon the motion to adjourn.

Mr. FINCK. I call for tellers on the motion to adjourn.

Tellers were ordered; and Mr. RANDALL, of Pennsylvania, and Mr. MORRIS were appointed. The House divided; and the tellers reported that there were—yeas 24, noes 65.

So the motion to adjourn was not agreed to.

Mr. HUBBARD, of Connecticut. I rise to a privileged question. I would like to be informed by the Chair if there is any regular parliamentary mode by which a member may escape from this Hall. I went without my dinner yesterday and without my supper last night. Now, I would be very happy to be enabled to get my breakfast this morning; and I would like the Chair to inform me where I can find any hole through which I can lawfully escape from this Hall. I desire to be absent just long enough to get a breakfast.

The SPEAKER *pro tempore*. The gentleman can be excused by a vote of the House, or the House can adopt a motion to suspend all further proceedings under the call.

Mr. HIGBY. I hope the gentleman will not be excused; I never knew him to have so sweet a voice as now, and I think it must do him good to go without eating for a time.

The SPEAKER *pro tempore*. The only business now in order is the proceeding under the call.

Mr. SCHENCK. Would it now be in order for me to make a proposition?

The SPEAKER *pro tempore*. It would be by unanimous consent.

No objection was made.

Mr. SCHENCK. I propose that for a little while we refuse to suspend proceedings under the call until we have obtained a sufficient number of our members here to enable those on this side of the House to relieve each other so that we may wear out the other side.

Mr. RANDALL, of Pennsylvania. You have been doing that for a long time.

Mr. ELDRIDGE. I am only surprised at the magnanimity and generosity of the gentleman; it is more than he ever gave before.

Mr. SCHENCK. I know it is not usual to disclose one's plans to an enemy.

Mr. ELDRIDGE. That is a most remarkable thing.

Mr. NOELL. I rise to a question of privilege. If we are to remain here all day, I suggest that the doors of the galleries had better be opened so that we may have some fresh air.

The SPEAKER *pro tempore*. The Doorkeeper will be instructed to open the doors of the House.

Mr. RANDALL, of Pennsylvania. I desire unanimous consent to say one word. [Cries of "Proceed," "Go ahead," and "Say one word."]

The SPEAKER *pro tempore*. The Chair fears no objection.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, we have remained here engaged in what I may term an idle effort during sixteen hours, only a handful of Representatives contending against nearly fivefold their number. We have stood here for the purpose of demanding a discussion of a bill which you of the majority have said yourselves is most important, and which we, in like manner, consider of the utmost and the gravest importance. This is no less, sir, than a bill to interfere with the practice of the Supreme Court of the United States, and for the discussion of that question so important we have asked you for but one single hour, and we feel that having asked that single hour for the discussion of so important a question we shall not only stand right in our own estimation, but that we shall stand right before the country. The people of this country in no respect and at no time sympathize with the tyrannical majority of a legislative body which seeks to trample upon the rights of the minority and prevent a free discussion of any measure. And now, sir, after sixteen hours' contest we say to you again that we are willing to end this contest and adjourn now, provided you will give us that one hour after the morning hour to-morrow. [Cries of "No, no!" from the Republican side of the House.] Well, sir, it is your privilege again to refuse; it is our duty to ask.

Mr. HIGBY. That offer was made early last evening. [Cries of "No, no!" from the Democratic side of the House.]

Mr. RANDALL, of Pennsylvania. No, sir, I question that statement. There was never a time during this entire contest, since nine o'clock last evening when this side of the House was not willing to yield for one single hour's discussion.

Mr. HIGBY. Before nine o'clock I rose in my place and made that proposition, and it was objected to.

A VOICE. Objected to on your own side of the House.

Mr. RANDALL, of Pennsylvania. I have no such recollection; but if the gentleman acted in good faith last night in making that proposition, what objection can he have to renew it now? What has he to fear from a proper discussion of this bill?

Mr. BOUTWELL. I cannot speak for my friends, but if the gentleman opposite will take an hour now I shall not object.

Mr. RANDALL, of Pennsylvania. We cannot do it after nearly twenty-four hours labor here. We are not physical giants. We are asking nothing but what is right, nothing

but what I think gentlemen should award to us. We have been resisting here what we conceive to be a wrong.

Mr. COBB. I rise to a question of order. I desire to know what the question before the House is?

Mr. RANDALL, of Pennsylvania. I am speaking by unanimous consent of the House.

The SPEAKER *pro tempore*. The gentleman was allowed to proceed by unanimous consent.

Mr. SPALDING. How long does that consent last? Can he speak for an hour?

The SPEAKER *pro tempore*. The gentleman is entitled to one hour.

Mr. RANDALL, of Pennsylvania. Now, sir, how do we stand here?

Mr. RROOMALL. I rise to a question of order. I submit that there is no question before the House upon which the gentleman can speak.

Mr. FINCK. The bill is before the House.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania is proceeding by unanimous consent of the House.

Mr. RANDALL, of Pennsylvania. I rose, not for the purpose of aggravating this controversy, but rather with a view to arouse the magnanimity of the majority here. We feel that we can yet hold out much longer, and we mean to hold out; but I ask gentlemen what good will be done by the prolongation of this controversy? Let me say that the responsibility of this scene in the House of Representatives rests solely and entirely with the majority, who have denied to the minority one of the most reasonable requests ever made by a minority in any legislative body—that in the discussion of a question so important as this a single hour should be allowed them for discussion. We have asked for an hour.

Mr. SPALDING. I propose that we give to gentlemen on the other side from this time till twelve o'clock to-day to talk on this subject.

Mr. CONKLING. And that in the mean time the House adjourn. [Laughter.]

Mr. SPALDING. Yes, sir. [Renewed laughter.]

Mr. STROUSE. Mr. Speaker, I claim the floor, my colleague, Mr. RANDALL, having yielded to me.

The SPEAKER *pro tempore*. The gentleman's colleague had surrendered the floor, and the gentleman can proceed only by unanimous consent.

Mr. PAINE. I object.

Mr. INGERSOLL. I desire to submit a proposition which I think will satisfy both sides of the House.

Mr. FARQUHAR. I object to the gentleman from Illinois [Mr. INGERSOLL] speaking for the majority of this House. He is a traitor. [Laughter.] Of course I mean this in a Pickwickian sense.

Mr. FINCK. I rise to a point of order. I wish to know whether it is parliamentary for a member on this floor to call a brother member a traitor.

The SPEAKER *pro tempore*. In the opinion of the Chair it is not.

Mr. FARQUHAR. I meant the remark in a Pickwickian sense, as a matter of course.

Mr. MORRIS. I wish to make a suggestion.

The SPEAKER *pro tempore*. The gentleman can do so only by unanimous consent.

There was no objection.

Mr. MORRIS. Mr. Speaker, the majority of this House have denied the minority a hearing. A short time since the gentleman from Pennsylvania [Mr. RANDALL] who had the floor, yielded it, to my certain knowledge, to his colleague, [Mr. STROUSE.] It strikes me that the Speaker ought to have recognized the latter gentleman rather than any gentleman on the other side.

The SPEAKER *pro tempore*. The gentleman from New York [Mr. MORRIS] is not correct as to the matter of fact. The gentleman from Pennsylvania [Mr. RANDALL] who first addressed the Chair had the unanimous con-

sent of the House to proceed and would have been entitled to an hour if he had chosen to occupy it, or to yield it to any other gentleman. He, however, ceased speaking, surrendered the floor, and in the mean time the gentleman from Ohio [Mr. SPALDING] addressed the Chair and was recognized. This was some time before the gentleman from Pennsylvania [Mr. STROUSE] addressed the Chair. Hence the gentleman from New York [Mr. MORRIS] is mistaken in reference to the fact.

Mr. WHALEY. I ask unanimous consent to offer a resolution. I ask that it be read for information.

Mr. STROUSE and others objected.

Mr. HIGBY and Mr. SPALDING called for the regular order.

Mr. INGERSOLL. Mr. Speaker—

Mr. COBB. I rise to a point of order. Is all this debate supposed to be indulged in by unanimous consent?

The SPEAKER. It is.

Mr. COBB. Then I object to any further debate until there shall be some debatable question before the House.

Mr. INGERSOLL, (at half past seven o'clock a. m.) I wish to submit a motion to adjourn, or rather to take a recess.

Several MEMBERS. Oh, no.

Mr. INGERSOLL. I ask that I may be heard for a few moments.

Mr. HIGBY. I object to debate.

The SPEAKER, *pro tempore*. Objection being made, no debate is in order; nor would a motion for a recess be in order. A motion to adjourn would be in order.

Mr. INGERSOLL. If the House would take a recess—

Several MEMBERS. Order!

The SPEAKER *pro tempore*. Debate is not in order.

Mr. INGERSOLL. I move that all further proceedings under the call of the House be dispensed with.

The motion was not agreed to.

Mr. STROUSE, (at twenty-five minutes to eight o'clock a. m.) I now move in good faith that the House adjourn.

The motion was disagreed to.

Mr. SHELLABARGER. Mr. Speaker, I have understood from the beginning of our trouble that it has not arisen from any indisposition on the part of the majority to give the minority an hour or more for the discussion of this bill, but is owing to this fact: that in giving that hour it would deprive the Judiciary Committee of all the time they will have at this session to report to the House and have acted on the supremely important matters referred to that committee, and thus deprive the country of most vital legislation.

Mr. STROUSE. Such, for instance, as the impeachment of the President.

Mr. SHELLABARGER. I ask whether there is any way by which it can be arranged that gentlemen on the other side shall have an hour or more for debate, which I exceedingly desire they shall have, and yet not deprive the Judiciary Committee of the time allotted to it for making reports?

Mr. LE BLOND. That can be remedied by giving consent that they shall have an additional hour in which to make their reports.

Mr. SHELLABARGER. I consent to that, and think it a reasonable proposition.

Mr. BOUTWELL. I will make a suggestion to the House, and especially to gentlemen on this side. I have been as anxious as anybody to prosecute the public business, and in any part I have had in this matter I have had no purpose except to promote business under the rules of the House. We are in this difficulty. I do not say whether I am more to blame or other people; but I am willing to take the responsibility for this affair, having charge of the bill from the Committee on the Judiciary.

I think, sir, it will be wise, looking to the prosecution of public business, if we shall disregard for a moment the question whether the fault lies with this or the other side for our

present trouble; and I make the suggestion that we take a recess until eleven o'clock, and that from eleven to twelve o'clock be given to the other side for debate, with the understanding that no dilatory motions are to be made.

Mr. DAWSON. That is right.

The SPEAKER. The Chair will respond to the gentleman from Massachusetts. By the rules of the House each committee is entitled to two morning hours. The Judiciary Committee has already had one morning hour and is entitled to another, and this being the short session that committee will not be again reached in all probability for reports of a public nature. If the House adjourns the pending subject will come up after the reading of the Journal. By unanimous consent, the House can adopt the suggestion of the gentleman from Massachusetts or grant an additional morning hour to the Committee on the Judiciary.

Mr. LE BLOND. I want to meet the gentleman from Massachusetts with the same liberality and desire to consult the public interest which he has just now shown. The gentleman will see it is now nearly eight o'clock, and by the time we get our breakfast and return here it will be after eleven o'clock. I believe every member on this side will agree to extend to that committee an additional hour in which to make their reports.

Mr. SCHENCK. That would put back all other committees.

Mr. LE BLOND. I know some gentlemen on this side who desire to speak. I do not myself. I believe it is fair and right that they should be heard. This will obviate the whole difficulty, and when the hour expires the gentleman can have a vote on the bill, and that will end the controversy.

Mr. BOUTWELL. The difficulty is this: if the Judiciary Committee be allowed another hour it will set back the other committees which are to follow that committee and are ready with their reports. If gentlemen will subject themselves to a little inconvenience this morning and come here at eleven o'clock, we can go on.

Mr. LE BLOND. We can prolong our session. For one I am willing to meet of nights, and I believe the minority is also willing in order to make up this time.

The SPEAKER. The Chair understands the proposition of the gentleman from Massachusetts to be that the House take a recess till eleven o'clock, that from eleven to twelve be devoted to debate, and that at twelve the vote shall be taken.

Mr. FINCK. I suggest that we take a recess until half past eleven o'clock.

Mr. SCHENCK. I wish to say that it seems to me a little too late to go back now on what has been done. This bill was reported from the Committee on the Judiciary under circumstances which have been fully explained to the House, and which are well understood. Propositions were made, and there was no agreement under the lead of the Judiciary Committee representing the majority on this floor. We have labored here for hours against a minority which has been, if not factious, at least very obstinate in its determination that the majority shall not have its way, until now we have advanced into another day. Is it necessary that we should now wait till eleven or half past eleven o'clock, or accept any other terms that may be dictated to us by that minority, and ought we to do it? There are in this city a sufficient number of members agreeing with us in opinion constituting a majority of this House, and who have the responsibility of its legislation, who can be brought here within the next hour or so, and I am willing to wait for them to come here and pass this bill over the heads of any such minority.

Mr. FINCK, Mr. LE BLOND, and others. You cannot do it; you will not pass this bill to-day.

Mr. SCHENCK. Well, I am willing to test the question who shall make terms; who shall dictate and who shall control us.

Mr. LE BLOND. When my colleague fails

in parliamentary tactics to accomplish his end, what does he mean to do then?

Mr. SCHENCK. Ah, I have seen this thing before.

Mr. LE BLOND. I would like my colleague to answer this question: if he fails in parliamentary tactics to get a vote on this bill, by what means does he expect to get that vote?

Mr. SCHENCK. It is very possible we may be able to get a vote by continuing in our places here.

Mr. SPALDING. I demand the regular order of business.

The SPEAKER. The Chair understands that the call for the regular order of business interrupts this debate, and the Chair will again put the proposition of the gentleman from Massachusetts [Mr. BOUTWELL] to the House.

Mr. GOBB. I ask the gentleman from Ohio to yield to me a moment.

Mr. SPALDING. I object to any further discussion.

The SPEAKER. The gentleman from Massachusetts proposes that the House now take a recess till eleven o'clock a. m.; and that from eleven o'clock till twelve be devoted to debate upon this bill. Is there objection to the proposition?

Mr. ELDRIDGE. I object.

Mr. DAWSON. I think the proposition made by the gentleman from Massachusetts is a reasonable one and should be accepted, and I trust there will be no objection to it on this side of the House. I renew his proposition.

The SPEAKER. The gentleman from Pennsylvania [Mr. DAWSON] renews the proposition of the gentleman from Massachusetts. Is there objection to it? The Chair hears no objection, and the House now takes a recess until eleven o'clock.

Accordingly (at a quarter before eight o'clock a. m.) the House took a recess till eleven o'clock a. m.

#### AFTER THE RECESS.

The House reassembled at eleven o'clock a. m.

The SPEAKER. By an order of the House, adopted by unanimous consent before the recess, one hour is now to be devoted to debate upon the pending bill (H. R. No. 289) to prescribe an oath for public officers and members of the bar, and for other purposes.

Mr. FINCK. Mr. Speaker, the scene which has transpired in this House during its late session, occupying nearly twenty continuous hours, exhibits to the country and to the members of the House the fact that it is unwise for the majority to be illiberal or domineering to the minority in all legislative assemblies. If the gentleman in charge of this bill had been liberal enough to have allowed to this side of the House a reasonable time for discussion on yesterday, the scenes which we have witnessed during the night and morning, would not have been enacted in this Hall. This bill would have been disposed of. We should have had our usual sleep last night, and come here fresh this morning to discharge our duties.

Mr. Speaker, what is this bill? It is a bill introduced from the Committee on the Judiciary, one of a series of measures intended to invade the just jurisdiction of the Supreme Court of the United States and to subvert its just powers. This bill has not been printed; it was brought for the first time to the attention of the House on yesterday. From the moment of its introduction almost up to this time we have been employed in giving our attention to the session of this House, and so much so that I have been prevented by the labors of the session from making the preparation which is necessary in order to enable me to present my objections against this bill in such manner as I would desire.

This bill in my judgment seeks to avoid and set aside the decision of the Supreme Court of the United States respecting the test oath as applied to attorneys and counselors of law in the courts of the United States. It seeks to do that indirectly which by the decision of the



Supreme Court cannot be done directly. It seeks to deprive men who are now in the exercise and enjoyment of the right to practice in the courts of the United States from the exercise of that right. This bill, if it shall be enacted into a law, will be *ex post facto* in its operations.

What are the provisions of this bill? It provides that no person shall be permitted to act as attorney or counselor in any court of the United States who has been guilty of treason, bribery, murder, or other felony, or who has been engaged in rebellion against the Government of the United States, or who has given aid, comfort, or encouragement to the enemies of the United States in armed hostility thereto. The provisions of this bill relating to "bribery, murder, or other felony" are inserted for the purpose of covering the real intent and object of the bill. Its real purpose is doubtless to prevent men who have in any way encouraged the rebellion against the Government of the United States, or held office in the civil or military service of the so-called confederate States, or given it aid and comfort in any manner, from practicing in the courts of the United States.

Now, in my opinion, you cannot in this way prevent a man who has been admitted to practice in the courts of the United States from the exercise and enjoyment of the rights of his profession in these courts. Take the case of *ex parte* Garland, where the direct question was presented. Mr. Garland had held some office in the confederate States and could not therefore take the test oath. He had before that time been admitted as an attorney in the Supreme Court of the United States. After the termination of the rebellion, or perhaps during its existence, he had been pardoned by the President of the United States from any crime of which he may have been guilty in aiding the rebellion. He presented himself before the Supreme Court and asked to be allowed to practice in that court without taking the oath referred to. He was met by this oath provided by the law of 1865, the "test oath" as it is called, as applied to attorneys in United States courts. He and his counsel argued that that act was unconstitutional; that it sought to deprive him of the exercise of a right to which he was entitled by reason of having prior to that time been admitted to practice in the courts of the United States; and the court, on full argument and careful consideration, held, very properly, I think, that that oath was unconstitutional, that it was *ex post facto* in its operation, and sought to deprive a man of the enjoyment of the fruits of his profession as an attorney in that court.

Mr. Speaker, this is not an act proposing to operate only in the future; but it operates upon persons who already are practitioners in that court; and it seeks to deprive them of the exercise of a right which belongs to the profession. The position of attorney or counselor is, it is true, considered as an officer of the court, but it is not such a political office as our laws recognize. Attorneys and counselors of law are officers designated by the courts to aid them in the administration of justice. They are the agents of the clients whose interests are brought into these courts, for the purpose of properly presenting them for adjudication.

The gentleman from Massachusetts, [Mr. BOUTWELL,] in adverting to the Supreme Court of the United States, said that if there were five judges in the highest tribunal of the land who had not sufficient self-respect to enact rules and enforce regulations, that would protect themselves from the foul contamination of conspirators and traitors, it was the duty of the legislative branch of the Government to do it for them. Now, with all deference to the gentleman from Massachusetts, I think the Supreme Court is just as competent to protect itself and, maintain its self-respect, as is the gentleman from Massachusetts or the members of this body.

Let me here advert to a consideration which

I may not be able to take up so appropriately under any other branch of the argument. Political offenses have never been regarded in the same light as the offenses of murder, bribery, &c., named in this bill. They have been recognized by every one as constituting a different class of offenses. Why, sir, it will be remembered by you and by the members of this House that no longer than twelve or thirteen years ago this Government sent across the ocean a vessel of the United States, and was instrumental in procuring the release of Louis Kossuth from a prison in Turkey, brought him to the United States, and made him the guest of the nation. What had Kossuth done? He had tried to establish the independence of Hungary. He failed; and according to the laws of Austria he was liable to be arrested, tried, and convicted for treason. Yet he was received with the warmest demonstrations by the American people. But the majority of this House now seek to treat the people of the South, who are our countrymen, as public enemies, and deny to them the rights of citizens. Political offenses of the character referred to are not considered as affecting the moral character of the offender. Why, sir, let me put a case, and in referring to it I trust I shall not be considered as departing from the legitimate line of debate. There is a distinguished gentleman of the State of Massachusetts, who has been elected to the Fortieth Congress as the successor of the gentleman [Mr. ALLEY] who is now the chairman of the Committee on the Post Office and Post Roads. This gentleman is a distinguished member of the bar, practicing in the Supreme Court of the United States. Now, sir, I say that in my deliberate judgment three fourths of the lawyers of this country who have any distinction at the bar, and are looked upon as eminent in their profession, would prefer to appear in court as the professional associates of Alexander H. Stephens rather than with the gentleman to whom I refer.

Sir, does the gentleman really desire to protect this great court from contamination? Why does he not go further? If he proposes to take under his control and supervision the character of this august tribunal, he might extend his benevolent and patriotic efforts somewhat further. I understand that at a public reception given in this city not more than a year ago by a man whose talents and energy, more perhaps than that of any other person, aided in bringing about the suppression of the rebellion—I mean General Grant—Alexander H. Stephens was an invited guest; and men on this floor, of both sides of the House, if I am not mistaken, were in attendance and took Mr. Stephens by the hand. Were these men contaminated? Was General Grant contaminated? Did he lose his position and standing as a patriotic and devoted citizen? No, sir; like a brave and gallant soldier he understands how noble it is to be generous and magnanimous to a defeated people who are a portion of our countrymen. A great and brave nation will always be generous to a fallen foe.

Mr. Speaker, I do not make these comparisons for the purpose of exciting any bitter feeling. I merely advert to them for the purpose of showing that, in the estimation of the world and of Christian civilization, men who have been engaged in efforts to throw off the control of one Government and establish a new one, are not to be regarded in the same light with men who have been guilty of bribery, murder, or other high crimes. There always has been recognized a distinction between such crimes and political offenses.

But why should not these men practice in the courts of the United States? The laws of the several States require the applicant to be a man of good moral character. You are not satisfied with such a rule as that. You propose to go much further. You now propose to pass a law the like of which we have never seen before, either in State or Federal legislation. The specification of bribery, murder, or other felony embraced in this bill is

only used for the purpose of covering up a design to prevent the citizens of the southern States from practicing in the courts of the United States. You have shut the door against their representatives. You also propose to shut the door against those men in the South who may be elected to vote for President and Vice President. That is not fully up to the demands of aggressive radicalism, and we are to have this proposed legislation, and more in the same direction. I say that it is a part of that system of legislation so common here, which seems to have been conceived in a spirit of revenge and malignity.

Mr. Speaker, the men who organized the rebellion no doubt have been guilty of a great crime. That, however, is a question which is to be determined by the courts in the method provided for in the Constitution. I have always denounced secession. I denounce it now. It was a great and fatal mistake on the part of the people of the States who went into the rebellion. It was a crime. But, sir, do you believe that seven or eight million people like ourselves, loving free government as we do, could have been inspired to take part in a common cause, to organize a government of their own unless they had confidence in the cause which they espoused? You say they were wrong. I know they were wrong. I have always denounced the attempt to disrupt the union of these States. But I say that there was a belief existing in the minds of a great portion of the people of the southern States that a State had a right to secede from the Union; and I say, moreover, and charge it here without fear of contradiction, that leading men of the Republican party at the North encouraged this idea and encouraged the right of the southern States to withdraw from the Union. I suppose many of these people did really believe that they had a right to secede. You cannot look into the hearts of men and ascertain their belief. Sir, if they did in good faith believe in the right of secession the very essence of crime is absent, namely, the intention to commit it. They have, however, violated the Constitution and laws of the United States, but you do not propose to punish the entire people of the South. The most unbounded malignity would hardly be equal to that. Your legislation shows that during the war you passed an act sanctioning the executive use of the pardoning power. He has issued pardons to almost the entire people of the southern States. In this he has acted like a wise and patriotic Chief Magistrate.

Now, what is the effect of these pardons? Not only to relieve the party from punishment; not only, as the gentleman from Pennsylvania said last year, to take away the penalty and punishment of the crime; but, in the language of the books—and there is no conflict about it—to restore the pardoned man to the same position that he would have occupied had he never committed the offense. This is the law as plainly shown in both the English and American authorities. Blackstone says:

"A pardon may be pleaded in bar as at once destroying the end and purpose of the indictment, by remitting the punishment which the prosecution is calculated to inflict. The effect of such a pardon by the king is to make the offender a new man; to acquit him of all corporal punishment and forfeitures annexed to that offense for which he obtains his pardon."

This power of pardoning by the President, as has very justly been decided by the Supreme Court of the United States, may be exercised before the trial and conviction or after such trial and conviction. The pardoning power is an executive power; it is a plenary power, restricted only by certain limitations fixed by the Constitution of the United States itself. But you seek by your legislation to utterly ignore the effect of these pardons.

Take the case of a citizen of the State of North Carolina—a citizen of that State, and a lawyer practicing his profession. He did not aid in originating the rebellion; but in the progress of the war he may have accepted some civil or military office of the so-called confed-

erate States. The rebellion was overthrown, and those States have again become entitled to have their practical relations with the Federal Government fully restored. Their citizens always were and to-day continue to be citizens of the United States. Is that man who has been pardoned, whose character is pure and unblemished, except that he may have held some office under one of the States of the so-called confederacy, to be deprived and his family deprived of his just earnings in the courts of the United States?

Sir, I cannot dwell upon this point, for I do not desire to trespass long upon the attention of the House. But it seems to me that this legislation was conceived in a spirit of hostility to the people of the South. Who are these people of the South? They are the sons and daughters, and the children of the sons and daughters of the men who fought side by side with our fathers to achieve our independence and establish our Government. They are our brethren. You and I and our children who are to come after us for generations are to live with these people under a common Government, and unite in fidelity and support to the Constitution of the United States. Is it the part of wisdom for us to interpose obstacles to those friendly relations which ought to exist between all the citizens of the States?

Mr. Speaker, one or two other words and I will have said all I intend to say on this subject. I do not say it out of any disrespect personally to any gentleman upon this floor, but I say it nevertheless as my deliberate judgment, that the principles of the party in power and to-day controlling the legislative department of the Government are not in conformity with the principles of our Constitution and frame of Government; and in order that they may successfully establish the principles for which they are contending to-day they are compelled to change our Constitution and to invade the just jurisdiction and prerogatives of the executive and judiciary.

That is the reason why we find these measures trenching upon these different departments of the Government. Sir, a free Government like this can only be maintained by maintaining the just powers of each department of the Government. The great danger is to-day, as it has always been, that this, the more popular branch of the Government, will invade and usurp the rights which belong to the other departments of the Government. You see these things already in the proposed measures in this House. That august tribunal to whom the people have always looked with reverence and respect and confidence; that tribunal which is to decide as the last resort the great controversies growing out of our system of Government between the States and the people of the different States, and to construe and apply the great principles of our Government; that supreme tribunal is attacked, and why? Because it has been faithful while others have been faithless; because it has had the manhood and independence to rise above mere partisanship and to vindicate the great principles of the Constitution of our fathers. I trust that the Supreme Court will not be invaded by the proposed legislation of Congress. I trust it will be left as it was organized by our fathers, to exercise the jurisdiction and powers conferred upon it by the Constitution and laws of the United States. I believe while that court does exercise and discharge these duties faithfully, if this bill be passed, it will hold, as it held in reference to the test-oath, that it is unconstitutional.

Mr. ROGERS. Mr. Speaker, in the remarks I intend to submit to the House upon this important question I shall confine myself to the legal proposition involved. I know, as has been well remarked by the honorable gentleman who has just taken his seat, we have gone through a scene of great excitement to get our rights to be heard, and sir, I know the frailties of human nature are such that all of us say many things in the heat of extempore debate we would not say upon mature reflection.

And let me say, however much we may be excited in the heat of debate, and however much we may desire to be heard, or whatever we may say for the purpose of what we believe, we say it in no disrespect to any person who disagrees with us politically on the other side of the House. We ask no more in reference to propositions before the House than that a reasonable time will be allowed to the members on each side to discuss a question so new and important in its character for a limited period.

This bill cannot be legally passed by us for three reasons. First, there is no authority given by the Constitution for the legislative branch of this Government to interfere with the executive or the judicial branches; for when our fathers framed the Government, they so constituted it that it should consist of three separate and distinct jurisdictions and powers, to place the checks and balances in such equipoise that there would be no infringement of one by the other.

The three objections to which this bill is liable are: first, it is an *ex post facto* law; second, it is a bill of attainder; and third, it deprives the citizen in the investigation of his case of the estimable right of trial by a jury, a right descended to us from Magna Charta of England, sacred to every American as the palladium of our liberties.

This bill proposes to punish—because it is nothing more nor less than punishment—by preventing a person from exercising a calling which he had a legitimate right to follow at the time the offense was committed, for being engaged in armed hostility to the United States or for other acts named, unless the penalty attached to the offender at the time they were committed, cannot be now used as an excuse for adding to the punishment thus provided for. The Supreme Court of the United States, in two cases in which that question was presented, have just clearly and unequivocally decided and demonstrated that such an act is unconstitutional. In the cases to which I refer the court go into a thorough investigation of the question of *ex post facto* law and bill of attainder, and they decide that the refusal to take the test oath by a person who was engaged in armed rebellion and was a member of the legislative branch of the confederate government during the time that the rebellion was going on in the South, could not exclude him from the exercise of his calling as attorney or counselor, upon the simple ground, plainly stated, that it was inflicting upon him a new punishment by depriving him of a right, taking from him a privilege which had been lodged in him by the Constitution and laws of his country. The court, in the case of *ex parte Garland*, say:

"The statute is directed against parties who have offended in any of the particulars embraced by these clauses. And its object is to exclude them from the profession of the law, or at least from its practice in the courts of the United States. As the oath prescribed cannot be taken by these parties, the act, as against them, operates as a legislative decree of perpetual exclusion. And exclusion from any of the professions or any of the ordinary avocations of life for past conduct can be regarded in no other light than as punishment for such conduct. The exaction of the oath is the mode provided for ascertaining the parties upon whom the act is intended to operate, and instead of lessening, increases its objectionable character. All enactments of this kind partake of the nature of bills of pains and penalties, and are subject to the constitutional inhibition against the passage of bills of attainder, under which general designation they are included.

"In the exclusion which the statute adjudges it imposes a punishment for some of the acts specified which were not punishable, or may not have been punishable at the time they were committed; and for other of the acts it adds a new punishment to that then prescribed, and it is thus brought within the further inhibition of the Constitution against the passage of an *ex post facto* law. In the case of Cummings against The State of Missouri, just decided, we have had occasion to consider at length the meaning of a bill of attainder and of an *ex post facto* law in the clauses of the Constitution forbidding their passage by the States, and it is unnecessary to repeat here what we there said. A like prohibition is contained in the Constitution against enactments of this kind by Congress; and the argument presented in that case against certain clauses of the constitution of Missouri is equally applicable to the act of Congress under consideration in this case."

An attorney or counselor is not an officer of the United States. It is not an office created by act of Congress which continues its powers upon the will of its creator. Attorneys and counselors are not appointed in the manner prescribed by the Constitution for the election and appointment of officers. They are officers of the court, admitted as such by its order. Their admission and removal are judicial acts, and such acts cannot be controlled by Congress without the destruction of that branch of the Government. (*Ex parte Garland*, page 93.)

Will anybody in this House dispute the proposition that this is a punishment for the offense which is laid down in the bill, of which offense it claims the persons who may make application, or who have already made application, have been guilty. It deprives them of the exercise of a profession and business which may be their sole dependence, because many men have nothing but their legal practice to depend upon for subsistence. It would therefore be a punishment of a most serious character, indeed much more so to many than a mere fine that might be imposed by a court or even confinement in a jail upon indictment and conviction.

There is another ground on which this act is objectionable. It is a bill of attainder, because it assumes to pronounce upon the guilt of the person making application to be admitted to practice without judicial trial. What is a bill of attainder? It is nothing more nor less than the conviction of a party without the ordinary form of judicial trial which the Constitution of the United States has thrown around him as security for his life, property, and personal liberty. This bill, I say, lodges in the court the right to convict a man and to remove him from office for the high crime of felony, treason, or other offense, as stated in this bill, without allowing him the right of trial by a jury of his countrymen to have the question of his guilt or innocence fairly and legitimately passed upon. Now, sir, the Supreme Court has, in the Missouri case, decided that the test oath in Missouri is unconstitutional, because it allows a man to be convicted upon his own testimony, upon testimony unknown to the common law, upon testimony unknown to republicanism and liberty, upon testimony not to be submitted to a jury, but to be submitted merely to those holding the power by the bill to decide upon the guilt or innocence of the party.

The court says, in this *Garland* case:

"The attorney and counselor being, by the solemn judicial act of the court, clothed with his office, does not hold it as a matter of grace and favor. The right which it confers upon him to appear for suitors, and to argue causes, is something more than a mere indulgence, revocable at the pleasure of the court, or at the command of the Legislature. It is a right of which he can only be deprived by the judgment of the court for moral or professional delinquency.

"The Legislature may undoubtedly prescribe qualifications for the office, with which he must conform, as it may, where it has exclusive jurisdiction, prescribe qualifications for the pursuit of any of the ordinary avocations of life. But to constitute a qualification the condition or thing prescribed must be attainable in theory, at least, by every one. That which from the nature of things, or the past condition or conduct of the parties, cannot be attained by every citizen, does not fall within the definition of the term. To all those by whom it is unattainable it is a disqualification which operates as a perpetual bar to the office. The question in this case is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment, against the prohibition of the Constitution. That this result cannot be effected indirectly by a State under the form of creating qualifications we have held in the case of Cummings vs. The State of Missouri; and the reasoning by which that conclusion was reached applies equally to similar action on the part of Congress."

In the case of Cummings, lately decided by the United States Supreme Court, the court say:

"No State shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts."

"A bill of attainder is a legislative act which inflicts punishment without a judicial trial.

"If the punishment be less than death the act is termed a bill of pains and penalties. Within the meaning of the Constitution bills of attainder include bills of pains and penalties. In these cases the legislative body, in addition to its legitimate functions, exercises the powers and office of judge; it assumes, in the language of the text-books, judi-

cial magistracy; it pronounces upon the guilt of the party without any of the forms or safeguards of trial; it determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or otherwise; and it fixes the degree of punishment in accordance with its own notions of the enormity of the offense.

"Bills of this sort," says Mr. Justice Story, "have been most usually passed in England in times of rebellion, or gross subversion to the Crown, or of violent political excitement—periods in which all nations are most liable (as well the free as the enslaved) to forget their duties, and to trample upon the rights and liberties of others."—*Commentaries*, section 1,344.

"The purpose of the law-maker in the case supposed would be openly avowed; in the case existing it is only disguised. The legal result must be the same, for what cannot be done directly cannot be done indirectly. The Constitution deals with substance, not shadows. Its inhibition was leveled at the thing, not the name. It intended that the rights of the citizen should be secure against deprivation for past conduct by legislative enactment, under any form, however disguised. If the inhibition can be evaded by the form of the enactment, its insertion in the fundamental law was a vain and futile proceeding.

"We proceed to consider the second clause of what Mr. Chief Justice Marshall terms a bill of rights for the people of each State—the clause which inhibits the passage of an *ex post facto* law.

"By an *ex post facto* law is meant one which imposes a punishment for an act which was not punishable at the time it was committed, or imposes additional punishment to that then prescribed, or changes the rules of evidence, by which less or different testimony is sufficient to convict than was then required."

"The objectionable character of these clauses will be more apparent if we put them into the ordinary form of a legislative act. Thus, if instead of the general provisions in the constitution the convention had provided as follows: *Be it enacted*, That all persons who have been in armed hostility to the United States shall, upon conviction thereof, not only be punished as the laws provided at the time the offenses charged were committed, but shall also be thereafter rendered incapable of holding any of the offices, trusts, and positions, and of exercising any of the pursuits mentioned in the third article of the constitution of Missouri, no one would have any doubt of the nature of the enactment. It would be an *ex post facto* law, and void; for it would add a new punishment for an old offense."

And, sir, I deny the right of any tribunal of this country to degrade and break down a man's character and reputation, destroying his prospects for future happiness, by convicting him of a high crime like murder or treason, without allowing him to have his liberty, his reputation, and his life submitted to that tribunal which the Constitution has ordained, as the Magna Charta of England did, to decide upon the guilt or innocence of the party.

As I before said, this bill is unconstitutional upon another ground: upon the ground that these people who have been pardoned, either by general amnesty or by special grant, have had their guilt entirely wiped out. And from the earliest period of English jurisprudence down to this time the courts have gone so far as to decide that even to call a man who has been engaged in rebellion a "traitor" after he has been pardoned, either by general amnesty or by special act, would be an actionable offense.

The court in this case of Garland go over the ground of the power of the President to pardon. They say:

"The Constitution provides that the President shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."—*Article 2, section 2.*

"The power thus conferred is unlimited, with the exception stated. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon or exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offense and the guilt of the offender; and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense. If granted before conviction it prevents any of the penalties and disabilities consequent upon conviction from attaching; if granted after conviction it removes the penalties and disabilities and restores him to all his civil rights: it makes him, as it were, a new man, and gives him a new credit and capacity.

"There is only this limitation to its operation: it does not restore offices forfeited, or property or interests vested in others in consequence of the conviction and judgment. (4 Blackstone, 302; 6 Bacon Abridg., Tit. Pardon; Hawkins, Book 2, ch. 37, secs. 34 and 54.)

"The pardon produced by the petitioner is a full pardon for all offenses by him committed arising from participation, direct or implied, in the rebellion, and is subject to certain conditions which have been complied with. The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offense of treason, committed by his participation in the rebellion. So far as that offense is concerned he is thus placed beyond the reach of punishment of any kind. But to exclude him, by reason of that offense, from continuing in the enjoyment of a previously acquired right is to enforce a punishment for that offense, notwithstanding the pardon. If such exclusion can be effected by the exaction of an expurgatory oath covering the offense, the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation. It is not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency."

Are gentlemen to pay no respect to the decisions of the Supreme Court? Do they want to ride over what seems to be the only star left to guide the downtrodden people of this country to a safe and secure resting place of liberty? When the Supreme Court is stricken down, when that tribunal cannot in an impartial manner exercise the constitutional functions imposed upon it, then liberty can no longer live here, and we shall lose that Constitution and Government which our fathers made and cemented by their blood, and those principles which they laid down as the guarantees and safeguards of our liberties will be dead and gone. We know, as was well said by the court, that in times of excitement and passion reason appears to have flown and common sense to have gone, and nothing but partisan passion, usurpation, and despotism to take their place. But in these times, the only security which the citizens of this country can have for themselves, their property, and their families is by appealing to this august tribunal, which is unfettered by partisan feelings in its decisions, given in a legitimate and constitutional manner, to protect and defend them from impending ruin.

As a matter of policy the precedent which has been established for the courts of this country to admit such persons to practice in them as they please, should be continued, for it is older than the memory of man. You may look back through the jurisprudence of England in her darkest and her brightest days, before and after the Restoration, trace the course of our own system of jurisprudence down to this day, go back for a thousand years, and it will not be found that the attempt was ever made by legislation to deprive a court of the right which is necessary to enable it to exercise its proper power of appointing those persons who are to act as the attorneys and counselors of parties who have writs for its decision.

Why, then, at this time undertake to interfere with this right of the courts? Why not submit these constitutional questions to the Supreme Court of the United States? What has that court done to merit the punishment thus proposed to be inflicted upon them? Why should they be held up before the eyes of the civilized world as traitors and disunionists? The justice who delivered the two able opinions I have quoted was the appointee of the illustrious Lincoln, whose memory is revered by you all, was a native of Illinois, and never was the resident of any insurgent State. He is a true man—one who loves the Constitution of his country. He and a majority of that court are determined to stand by and sustain the immortal principles of fundamental jurisprudence and the organic law, which provide the only safeguards for human liberty.

Mr. WILSON, of Iowa. I desire to say to the gentleman that Judge Davis is one of the minority of the court in the Garland case.

Mr. ROGERS. I referred to the judge who delivered the opinion, Judge Field. He was an appointee of President Lincoln, and never was a resident or citizen of any rebel State. He has been always a loyal and true man. There can be no charge against him of conniving with the rebels for the purpose of giving them an opportunity to destroy his country. There is more danger of the destruction of this Government by such a movement as is going

on here than there was at any time during the hottest contest we had during the rebellion.

Do gentlemen recollect how the liberties of Rome and Greece were destroyed? Do they recollect how the liberties of many other countries for the last five or six hundred years were destroyed and overthrown? It was done by just such wild and revolutionary movements as are going on here. If we will only stand by and adhere to the system upon which our Government is founded our country will again become the first among the nations of the earth, and then the flag which now is spread above the Speaker's chair will wave in triumph over this degenerate race from one end of the country to the other, and we will become the wonder of the civilized world. The grandeur, greatness, and glory of this country will never again be established until we come back to the principles established by our fathers.

I now yield to the gentleman from Indiana, [Mr. NIBLACK.]

Mr. NIBLACK. Mr. Speaker, I will not detain the House for any length of time. As has been well said, this is a most extraordinary measure, one which calls for at least some resistance from those who regard it as I do this or any other similar legislation. In my judgment it is unnecessary, because the present condition of the country does not require it. I can see nothing in the past judicial history of this country, or of the courts of the United States, which calls for such legislation as this—nothing which demands the censure which is implied by the bill which I suppose will soon be passed by this body.

Sir, the judicial branch of this Government is one to which we have all looked with peculiar pride. In no court or system of courts has justice been administered more impartially; nowhere have the proprieties of professional and official life been more steadily observed than in the courts of the United States. Hence it is unjust to those courts to anticipate that they intend to do anything violative of the strictest rules of official and professional etiquette. The class of lawyers who practice in those courts compare favorably with those practicing at any bar in the country, and I may say the world. This bill, however, assumes that the courts of the United States are about to admit to practice a class of men who are unworthy to be the associates of those who are now practicing there; and it seeks by this sort of legislation to override the independence of the judiciary, to aim a blow at the pardoning power of the President, to subvert all the well-settled legal rules which have regulated the admission of attorneys so long as those courts and the courts after which they are modeled have had an existence.

But, sir, the method of reaching the end proposed is highly objectionable, if not impracticable. The mode in which the guilt of parties charged with offenses is to be ascertained raises a side issue, which a court cannot properly try. It is proposed to convict men of crime in a manner unknown to the law. The opinion is entertained by many high in authority in this country, and is held by a number of the gentlemen on the other side of the House, that no man who was connected with the late rebellion can be convicted of treason if he was in the army of the confederate States and recognized as a belligerent. I understood the gentleman from Pennsylvania, [Mr. STEVENS,] in an argument the other day, to admit, or rather to charge, that Jefferson Davis, the late president of the so-called confederate States, would not be convicted of treason in a civil court, for the reason that he was a belligerent and is now a prisoner of war, liable to be treated only as a prisoner of war by civilized nations. If this doctrine be true, he cannot be held by a civil court to be guilty of treason; and being a prisoner of war, he may, by many means known to the usages of civilized warfare, be incorporated into the body-politic and become entitled to all the rights and privileges in the courts or elsewhere of any other citizen of the United States.



If this doctrine as to the legal liability of those who were engaged in the late rebellion be correct—a question about which I express no opinion on this question, because it would not be germane to this discussion—the bill would be inoperative upon the very class of men whom it confessedly seeks to exclude from practice in the Federal courts. Before we attempt to legislate further upon the question of what is treason and what is not treason, making this offense the ground of exclusion from civil or professional privileges, let us have some decision of the courts upon this question of treason, and the legal guilt of those who have been engaged in the late rebellion, according to the ordinary definitions of the term "treason."

But, sir, the great and insuperable objections I have to the proposed bill are that it is an attempted encroachment on the judicial department of this Government; a blow at the independence of the judiciary of the United States; an attack on constitutional liberty itself. As one who has occupied a brief but humble judicial position, as an American citizen, as a Representative of a portion of the people of this country at least, I protest against the passage of this bill, and shall continue to protest against all such legislation.

Mr. Speaker, I would like to discuss this bill further, but I have already consumed the very short time allotted to me, and I yield the floor.

Mr. KERR. I ask leave to print some remarks upon this bill, but which I will not take up the time of the House by making now.

No objection was made, and leave was accordingly granted. [His remarks will appear in the Appendix.]

Mr. BOYER took the floor.

Mr. BOUTWELL. I ask the gentleman from Pennsylvania to yield to me to move that the House adjourn, so as to have another legislative day.

Mr. BOYER. I yield for that purpose.

The motion was agreed to.

And thereupon (at eleven o'clock and fifty-eight minutes a. m.) the Speaker declared the House adjourned till Wednesday, at twelve o'clock m.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of A. J. Kent, Z. Spitzer, J. B. Spotswood, and others, of Kent, Indiana, praying that there may be no curtailment or withdrawal of the national currency.

Also, the petition of John Collins, and others, of Angelica, New York, on the same subject.

By Mr. BEAMAN: The petition of John McDermid, and 40 others, citizens of Hillsdale county, Michigan, praying for the impeachment of the President.

By Mr. BIDWELL: The petition of A. C. Harding, and others, praying for the printing of the report of J. Ross Browne on the mineral resources of the country.

By Mr. DAWES: The petition of the fire insurance companies of Springfield, Massachusetts, for relief from internal revenue tax.

By Mr. DEMING: The petition of the fire insurance companies of the city of Hartford, for relief from tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. EGGLESTON: The petition of Henry Kessler, and 40 others, leather manufacturers of Cincinnati, praying for a reduction of the revenue tax on leather.

Also, the petition of the fire insurance companies of the city of Cincinnati, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. FARQUHAR: The petition of A. W. Bruce, and others, of Dearborn county, Indiana, praying for legislation to correct inequality of inspection, and adoption of specific tax of five dollars per thousand on all domestic cigars, and substitution of sale of stamps at five dollars per thousand to manufacturers instead of present system of stamping.

Also, the petition of Edward J. Oppelt, of Baltimore city, Maryland, with the resolutions adopted by sundry manufacturers and journeymen cigar-makers of said city, praying for legislation to correct inequality of inspection, and adoption of specific tax of five dollars per thousand on all domestic cigars, and substitution of sale of stamps at five dollars per thousand to manufacturers instead of present system of stamping.

By Mr. FERRY: The petition of Charles J. Church, Manning Rutan, and 54 others, citizens of Greenville, Michigan, protesting against legislation curtailing the national currency and compelling national banks to redeem their notes in New York city.

By Mr. FINCK: The petition of Schaefer & Kramer, and others, cigar manufacturers of Ohio, praying for a change of the tax on cigars, so as to make the same a specific tax, and not more than five dollars per thousand on all domestic cigars.

By Mr. HARDING, of Illinois: The petition of John H. Finlay, of Illinois, for a pension.

By Mr. HOGAN: The petition of over 800 cigar manufacturers of St. Louis, Missouri, praying for some modification of the income tax on the manufacture of cigars.

By Mr. HUMPHREY: The petition of Pratt & Co., of Buffalo, New York, to have the Government refund illegal duties which they were compelled to pay.

By Mr. KERR: The memorial of John Sedgewick, collector of the third district of California, for adjustment of his accounts and salary.

By Mr. KETCHAM: The petition of inspectors of customs of the port of New York, for increase of pay.

By Mr. LOAN: The petition of citizens of Worth county, Missouri, for the impeachment of Andrew Johnson, acting President of the United States.

By Mr. MORRIS: The petition of George Hyland, Esq., M. L. Davis, Esq., Hon. J. L. Endress, of Livingston county, New York, asking that the official conduct of the President of the United States may be inquired into by the grand inquest of the nation, and that if he is proved guilty of usurpation and other crimes a bill for impeachment for the same may be presented to the Senate of the United States, sitting as a high court of impeachment for action thereon.

Also, the petition of Adam Clark, Esq., and many others, of Yates county, New York, approving of the tariff bill agreed upon by the joint committee of wool-growers and manufacturers at the last session of Congress, and which passed the House of Representatives last winter, and asking that immediate action may be had thereon by the Senate of the United States.

By Mr. MOORHEAD: The petition of the fire insurance companies of the city of Pittsburgh, Pennsylvania, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. MYERS: The petition of Charles Dublin, and 182 others, manufacturers of cigars and cigar-makers, of the third district of Pennsylvania, for a specific tax of five dollars per thousand on all domestic cigars, to remedy the inequalities of the present system of inspection and taxation, approving the existing tariff on imported cigars, and praying for an alteration of the law permitting stamps to be sold for five dollars per thousand, and for increased penalties for violation of the revenue laws.

Also, the petition of David B. Champion, late a private in company A, one hundred and eighty-third Pennsylvania volunteers, (who while in the service lost an arm by the accidental discharge of his gun,) for an invalid pension.

By Mr. PLANTS: The petition of Lewis W. Bye, and 54 others, citizens of Marion township, Morgan county, Ohio, asking that the tariff upon wool, as adopted by the House of Representatives at its last session, may be retained upon any bill to be passed by this Congress.

Also, the petition of Jesse England, of Morgan county, Ohio, for a pension as a wounded soldier.

Also, the petition of F. A. Rathburn, and 30 others, citizens of Rutland, Meigs county, Ohio, against the reduction of currency, and compelling the banks to redeem in New York.

Also, the petition of W. Wilkes, and 120 others, asking for the establishment of a mail route from Young Hickory, in Muskingum county, via Sand Hollow, to Bristol, in Morgan county.

By Mr. RANDALL, of Kentucky: The petition of E. B. Caldwell, of Kentucky, for compensation for use of his property by the military authorities of the United States during the rebellion.

By Mr. SCHENCK: The petition of certain officers of the United States Army, praying that when officers are placed on the retired list they may be allowed to retain longevity rations.

Also, three petitions of officers of the United States Army, praying that the commutation price of the ration may be restored to fifty cents.

By Mr. SPALDING: The petition of the fire insurance companies of the city of Cleveland, for relief from tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. UPSON: The petition of E. S. Morse, H. L. Dickinson, and 29 others, citizens of Three Rivers and vicinity, praying Congress not to reduce the volume of the currency nor compel the national banks to redeem their notes at New York, nor prohibit them from receiving or paying interest on bank balances.

By Mr. WENTWORTH: The petition of the fire insurance companies of Chicago, Illinois, for relief from taxes imposed by the seventy-seventh section of the internal revenue law.

#### IN SENATE.

WEDNESDAY, January 23, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 4th of December, 1866, the report of the Secretary of War in relation to the amount of money paid, or ordered to be paid, since the 18th day of May last, to the several newspapers published in the District of Columbia for advertising notices

and proposals for the War Department; which, on motion of Mr. CONNESS, was ordered to lie upon the table, and be printed.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of officers of the United States Army, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented a memorial of citizens of Ohio, remonstrating against the passage of any law authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. HOWE presented a petition of citizens of Kingston, Green Lake county, Wisconsin, praying for the passage of House bill No 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

He also presented a memorial of the Legislature of the State of Wisconsin, in favor of the passage of a bill providing for placing on the pension-rolls all of the surviving soldiers of the war of 1812; which was referred to the Committee on Pensions, and ordered to be printed.

Mr. FESSENDEN presented a petition of citizens of New York, praying for an increase of the duty on all importations of foreign wool; which was ordered to lie upon the table.

Mr. EDMUNDS presented the memorial of the First National Bank of St. Albans, Vermont, praying that the Secretary of the Treasury may be authorized to issue the sum of \$28,650 of seven-thirty notes bearing date of August 15, 1864, in lieu of that amount belonging to the Government stolen from the bank October 19, 1864, by rebels in the St. Albans raid; which was referred to the Committee on Claims.

Mr. SUMNER. I present the petition of freedmen of the State of Georgia, in which they ask Congress for their protection to put the southern States into Territories. They say that "then you can enforce our right to suffrage on them and make us free, or rather complete our freedom." They also ask that the war debt shall be paid out of captured property, and they add: "You know the property of the conquered always belongs to the captor." This petition is signed by these freedmen who have made their marks. I ask its reference to the joint Committee on Reconstruction.

It was so referred.

Mr. RIDDLE presented the petition of Mrs. Olivia W. Cannon, widow of the late Joseph S. Cannon, United States Navy, who was honored by a vote of thanks by Congress and presented a sword for his gallantry in the battle on Lake Champlain, asking for a pension; which was referred to the Committee on Pensions.

Mr. TRUMBULL presented the petition of E. B. Phillips, President of the Michigan Southern and Northern Indiana Railroad Company, praying for a reduction of the duty on steel and iron used for railroad purposes; which was ordered to lie upon the table.

He also presented the petition of Thomas L. Morgan, praying that American registers may be granted to the following Canadian-built vessels, namely: the bark Arabia, of Montreal, the bark Valetta, of Saint Catharines, and the bark Pride of America, of Saint Catharines; which was referred to the Committee on Commerce.

Mr. HARRIS presented a petition of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. WADE presented a petition of citizens of Ohio, praying for the passage of House bill

No. 718, to provide increased revenue from imports, and for other purpose, now pending in the Senate; which was ordered to lie upon the table.

Mr. FRELINGHUYSEN presented a petition of citizens of Trenton, New Jersey, interested in the manufacture of chains, praying for an increase of the duty on all importations of foreign chains; which was ordered to lie upon the table.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 239) to prescribe a rule concerning members of the bar, and for other purposes, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 227,) authorizing the Secretary of War to transfer certain property to the National Asylum for Disabled Volunteers; and it was thereupon signed by the President *pro tempore* of the Senate.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 356) fixing the compensation of bailiffs and criers of courts in the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred a bill (S. No. 460) in relation to persons imprisoned under sentence for offenses against the laws of the United States, reported it with an amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 710) to pay and discharge certain debts and expenditures of the corporation of the city of Washington, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. JOHNSON. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 474) to authorize and require amendments and to cure defects in proceedings in the courts of the United States, to report it back, and to say that the law as it stands gives all the authority which the bill proposes, and the committee therefore recommend its rejection. I ask for its present consideration.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. WILLIAMS. I should like to examine the bill.

Mr. JOHNSON. I have no objection to allowing an opportunity for that purpose; but perhaps the Senator did not hear me when I stated that the committee recommended the rejection of the bill.

Mr. WILLIAMS. Then I have nothing to say. I supposed it was proposed to be put on its passage.

Mr. JOHNSON. Oh, no.

Mr. WILLIAMS. Then I withdraw any objections to its present consideration.

The PRESIDENT *pro tempore*. Does the Senator from Maryland move that the consideration of the bill be postponed indefinitely?

Mr. JOHNSON. I do.

The motion was agreed to.

#### WASHINGTON COUNTY HORSE RAILROAD.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred the bill (S. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia, which came from the House with certain amendments, have instructed me to make the following report: that the Senate concur in the second and third amendments of the House, and concur in the first and fourth amendments, with amendments.

I ask for the present consideration of the subject.

There being no objection the Senate proceeded to consider the amendments of the House of Representatives to the bill. The first amendment of the House of Representatives was on page 4, at the end of line twenty-four, to insert the words "shall call a meeting."

The Committee on the District of Columbia proposed to amend the amendment by striking out the word "shall."

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

The next amendment of the House was on page 5, line seven, to strike out the word "directed" and to insert the word "directors." The amendment was concurred in.

The next amendment of the House was on page 6, line two, to strike out the words "when requested" and to insert in lieu thereof the word "annually."

The amendment was concurred in.

The next House amendment was to add the following as a new section to the bill:

SEC. 19. And be it further enacted, That the levy court of the county of Washington are hereby prohibited from doing any act or thing to hinder, delay, or obstruct the construction or operation of said railroad as herein authorized.

The Committee on the District of Columbia reported an amendment to the amendment, adding to it the following:

But Congress may at any time alter, amend, or repeal this act.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

#### DEBTORS IN THE DISTRICT.

Mr. MORRILL. The same committee, to whom were referred the amendments of the House of Representatives to the bill (S. No. 218) exempting certain property of debtors in the District of Columbia from levy, attachment, or sale on execution, have instructed me to report them back with a recommendation that the Senate concur in the first and third amendments of the House, and non-concur in the second amendment. I ask for their present consideration.

There being no objection, the Senate proceeded to consider the amendments of the House of Representatives to the bill. The first amendment was after the word "library" in line twenty-four to insert "not exceeding in value \$400."

The amendment was concurred in.

The second amendment was to add to the bill the following proviso:

Provided, however, That this act shall not in any manner interfere in the collection of debt or in the enforcement of any contract made prior to the passage of this act, and shall apply to cases founded upon contract only. The officer charged with the execution of any writ of attachment or execution shall ascertain the value and amount of provisions to be allowed to any family under this act by summoning three householders of the District, who shall be first duly sworn by such officer faithfully to perform their duty, and proceed to set apart the provisions necessary for the debtor's family, according to this act, if such provisions be found on the premises or in possession of the debtor; and if not, they shall make out and return to such officer the value of such provisions, and the same shall be allowed in any property of the debtor.

The amendment was non-concurred in.

The third amendment of the House was to strike out the word "the" where it first occurs in the title and insert "certain."

The amendment was concurred in.

#### MISSOURI STATE MILITIA.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire if under the present legislation of Congress the ten regiments of United States troops, known as Missouri State militia, who were organized in said State and served for three years during the late war, are entitled to receive bounty, and if not, that said committee inquire into the expediency of so amending the bounty laws as to enable them to receive the same.

#### BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 526) to extend the time of letters-patent issued to Daniel Woodbury; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 527) to amend the postal laws, and for other purposes; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 528) to prevent abuses of the franking privilege; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 529) to incorporate the Howard University in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. NORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 530) amendatory of the homestead law, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### HEIRS OF JOHN E. BOULIGNY.

Mr. HARRIS. I move to take up for consideration Senate bill No. 438.

The motion was agreed to; and the bill (S. No. 438) for the relief of the heirs of John E. Bouligny was read a second time and considered as in Committee of the Whole. It proposes to confirm to Mary Elizabeth Bouligny, Corinne Bouligny, and Felice Bouligny, the widow and children of John E. Bouligny, deceased, the one-sixth part of the land claim of Jean Antoine Bernard d'Autrive, in the State of Louisiana, the one-sixth part amounting to seventy-five thousand eight hundred and forty acres. Inasmuch as the lands embraced in the claim have been already appropriated by the United States to other purposes, certificates of new location, in eighty acre lots, are to be issued to Mary Elizabeth Bouligny, for her own benefit and that of her minor children, to be located at any land office in the United States, upon any public lands subject to private entry at, a price not exceeding \$1 25 per acre.

Mr. HARRIS. I have given to this claim much more attention than I should otherwise have done but for the large amount involved. The bill proposes to grant to this family seventy-five thousand eight hundred and forty acres of land. It is a large amount; and I have examined it with great attention and with an anxious desire to get at the very right of the case. It is no new claim. It has been before Congress for a long while, and often presented for its consideration.

The claim has its foundation in a Spanish grant. Upon the first settlement of Louisiana the king of France granted to a person by the name of Duvernay a tract of land running from the Mississippi river to the Atchafalaya river, upon which he settled a colony. Afterward, when the territory of Louisiana came into the hands of the Spanish Government, the Spanish governor ordered this tract of land to be surveyed, and, upon a report of the survey to the Spanish governor he confirmed the grant; so that this claim has for its foundation a grant from the French Government, and then subsequently a grant from the Spanish Government. The tract was transferred to a person by the name of d'Autrive. He lived upon it during his whole lifetime and died upon it. After his death his widow married another person and

removed to another part of the territory, taking with her the infant children of d'Auville. This tract of land, therefore, was abandoned, and when the territory came into the hands of the United States it was unoccupied. The United States took possession of this tract of land and have disposed of it.

The matter was placed in the hands of Edward Livingston, who was a member of this body I believe at one time, and a member of the Cabinet in 1821, and remained in his hands for management and presentation to the Government for many years; but he neglected it, paid no attention to it, so far as the case shows. In 1835 an act of Congress was passed allowing claims under Spanish and French grants in Louisiana to be presented to the register and receiver of lands in that land district. This claim was presented to those officers and examined with great care obviously. Their report shows that they examined it with attention, and they reported in favor of the confirmation of this grant; but Congress never acted upon it. This report was made, I think, in 1837.

In 1844 another act of Congress was passed allowing claimants in Louisiana to present their claims to the district court of the district in which the lands were located. This claim was brought before the district court in New Orleans and very fully examined by Judge McCaleb, the judge of the district court at that place; and he wrote a very elaborate opinion on the subject, in which he confirms this grant. But there was an appeal from the decision of the district court, as was authorized by the law, to the Supreme Court of the United States, and the Supreme Court reversed that decision upon technical grounds, upon the ground that in this particular case the district court had no jurisdiction; not, however, having examined the case at all upon its merits; so that both these applications have in fact failed, although the reports were decidedly in favor of the claim upon its merits.

Then the case was brought before Congress, and it has been before Congress three or four times. In 1860 a full report was made by the Committee on Private Land Claims in the House, and the bill passed there. In 1863 another report was made in favor of the claim, and the bill again passed. On one occasion a report was made in this body in favor of the claim, and it passed here; but on all these occasions the bill failed to pass in the other House; so that it never became a law. Now, the Committee on Private Land Claims, upon a very full examination of the facts, have reported in favor of the claim. They report only in favor of one of the claimants. As to the claimants residing in Louisiana, the committee are not aware of their condition as to loyalty, and they therefore report for only one sixth of the claim, in favor of the estate of Mr. Bouigny, who, at the time of the breaking out of the rebellion, was a member of the House of Representatives, and a loyal man, and who died in this city in 1864, leaving a widow and two children. This bill awards to that family the one sixth of the claim.

Mr. HENDERSON. How much is that?

Mr. HARRIS. Seventy-five thousand acres.

Mr. WILLIAMS. I do not understand from the statement of the honorable Senator how the claimants in this case became entitled to this land. In what way were they related to the family that occupied the land and abandoned it?

Mr. HARRIS. Mr. Bouigny was one of the descendants of d'Auville, to whom the land was confirmed by the Spanish governor, and was entitled as heir-at-law of d'Auville to one sixth of the claim.

The bill was reported to the Senate without amendment.

Mr. BUCKALEW. I understand that this is for seventy-five thousand acres of land, and that it is only one sixth part of the whole amount which will be claimed if the other claimants come forward and show their loyalty. That will amount to over four hundred thou-

sand acres of the public lands appropriated to a claim which, upon its statement, is certainly very ancient in its origin, and I presume doubtful in character, from the fact that it has not heretofore received the indorsement of Congress, that is, of both Houses, when there was leisure for its consideration. Now, sir, I am unwilling to vote so large and enormous a claim upon a brief verbal statement made in this Chamber and without an examination of the papers. It seems, upon the very face of that statement, that the party or parties entitled to this land at one time abandoned it, gave up altogether their claim, went off to another section of the country; and that in that condition, when the lands were entirely abandoned, when there was no claim in behalf of any private party, the United States assumed jurisdiction over them and proceeded to sell them out, and the country was settled, improved, and brought into cultivation. When it became very valuable, at a subsequent period of time, we do not know how long, some of the parties came forward and revived their ancient pretensions.

I confess, sir, that I do not feel much inclined to vote for these ancient claims. We are asked to administer equity or favor in the third or fourth generation frequently on account of some alleged injustice committed upon the ancestors of a claimant two or three generations back—fifty years back, one hundred years back. I think we ought to confine ourselves to those cases of claims recent in their origin and unquestioned in their justice which are before Congress in both Houses. I believe the House of Representatives at the last session adopted a rule that they would investigate and pay no claim whatever if any of the States which were engaged in this rebellion, no matter whether the claimant was a loyal person or not. That House deliberately shut the doors of Congress against any claimant whatever for any claim of recent origin, any claim that is new, no matter how meritorious it may. That is the existing condition of this subject of claims. Why then, sir, you should pass by recent claims which you can investigate, why you should pass by claims in favor even of loyal persons in the southern country who have peculiar claims upon you, why you should pass by claims which you can investigate upon fresh evidence, and go back and revive these ancient claims, I cannot understand. I shall vote, at present, without an opportunity to investigate this subject further, to postpone this bill.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed and read a third time?

Mr. BUCKALEW. I move to postpone the further consideration of the bill for the present.

Mr. HARRIS. I hope the bill will not be postponed. The Senate is as ready to act upon it perhaps as ever it will be. All that can be said against the claim, all that is said by the Senator from Pennsylvania is, that it is an old claim. It has been examined very often and by different tribunals, by committees of this House, by committees of the House of Representatives, by the district court of Louisiana, by the receiver of the land office, and they have always, whenever it has been examined, reported favorably upon it. There has never been an adverse report, never been a word against the claim; and all that can be said against it now is that it is a large claim, and that it has been of long standing. I hope the Senate will act upon it.

Mr. BROWN. I have had my attention called to this case for the first time this morning by the statement of the chairman of the committee that has reported it. It is certainly a case of a great deal of magnitude and involving a great many questions that I am not prepared to pass upon at this moment. I think it would be better if it should be accompanied by some printed statement of the facts and of the evidence laid on our table, so that we may have some opportunity of examining it, and at least have an opportunity of reading and pon-

dering more carefully the statements which have been made in connection with it. I have no doubt but what the chairman of the committee is fully satisfied in his own mind of the propriety of this claim and the propriety of this action; but it is a matter which each of us I think ought to have some reasonable opportunity of satisfying ourselves about. I therefore hope that the motion which is made by the Senator from Pennsylvania, that this case be laid over or postponed until we have some report of that sort laid before us, may prevail.

Mr. CONNESS. It is just in this way that this claim has been postponed so long. If it be not passed upon until every member of Congress shall fully understand it and go through the voluminous examinations that have heretofore been made, it will never be passed upon at all. It will be remembered, Mr. President, that there is a constant tendency with our Government to postpone and procrastinate the determination of land titles, particularly titles that originated in former foreign territories before our Government came in possession of them. For instance, twenty and more years have already passed since the United States acquired the Territory, now the State, of California, from Mexico. The titles of American citizens to lands in that Territory could have been settled in two years after the United States obtained possession, justly to the Government and justly to the claimants; but twenty years of time have passed and those cases are far from being settled, and in the mean time many of the claimants have been reduced to utter beggary by the procrastination and the difficulties and the embarrassments placed in the way of their obtaining the most simple justice by the Government of the United States. Now, sir, what examination can we make of a case like this but to commit it to our most careful committees and receive their reports in the premises? I confess that I am indisposed to further delay the case, and I hope the Senate will vote upon it.

Mr. SAULSBURY. I recollect that this claim was thoroughly considered by Mr. Crittenden, of Kentucky, while he was a member of this body, and that he took great interest in it, and approved it, and desired its passage; and from what I have learned of the claim I have no doubt that it is just and proper. I shall therefore vote against any postponement, and in favor of the passage of the bill.

Mr. BROWN. I suggest to the Senator from Pennsylvania whether it would not be a more proper motion to move that this bill be recommitted, with instructions to the committee to make a written report setting forth the facts in the case.

Mr. BUCKALEW. If the Senator desires to submit that motion I will withdraw mine.

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania withdraw his motion?

Mr. BUCKALEW. Yes, sir.

Mr. BROWN. I move then to recommit the bill with instructions to that effect.

Mr. STEWART. I hope that motion will not prevail. The Senator from New York has said that he has made a very thorough investigation of the claim. I believe from what I know in such cases that these dilatory motions have produced the very results complained of here, that is, the presentation of old claims. After a Senator has taken great pains to investigate a subject of this kind, which requires lengthy investigation, and there have been several reports upon it, I think it should be acted upon.

Mr. HENDRICKS. I think I know enough of this class of claims to justify me in expressing the opinion that Senators individually will never be able to investigate this particular case. I suppose there is no Senator who would not be willing to leave the adjudication in regard to a piece of land to the distinguished chairman of the Committee on Private Land Claims, who came to this body from the supreme court of his own State; and I need not refer to the other gentlemen of the committee, gentlemen eminent in the profession. Their ad-



judication, so far as we are concerned, I think is entitled to almost the weight of a judicial determination of the question. I cannot undertake to examine this case. I know very well that we ought to examine such cases; at least that they ought to be examined in the Senate with care. I think I was satisfied of the improper decision of one or two cases while I was connected with the land office; but I do not believe that the fact that a claim has been postponed by the Government from time to time is a sufficient reason to defeat it.

Mr. HARRIS. I hope the motion to recommit will not prevail. There have been four or five elaborate reports on this claim, all in favor of it, and if it were recommitted with instructions it would be only to repeat in a new report what has been said half a dozen times in others.

Mr. GRIMES. But we have not seen them.

Mr. HARRIS. Those reports are on the files.

The PRESIDENT *pro tempore*. The question is on the motion to recommit the bill to the Committee on Private Land Claims, with instructions to make a written report of the facts involved in the case.

The motion was not agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILSON. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. BUCKALEW. I have done my duty in calling the attention of the Senate to this subject. I cannot vote for this bill, at least until I have time and opportunity to read some report on the subject. The idea of voting \$500,000, or voting a bill which will involve in connection with other bills an appropriation of \$500,000 out of the Treasury upon the verbal statement of a single member of this body that he has examined it and is satisfied with it is a mode of doing business which I cannot sanction by my vote.

The question being taken by yeas and nays resulted—yeas 30, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Dixon, Edmunds, Fowler, Frelinghuysen, Harris, Hendricks, Howard, Howe, Johnson, Lane, McDougall, Morgan, Morrill, Norton, Patterson, Poland, Ramsey, Biddle, Saulsbury, Sherman, Sprague, Stewart, Sumner, Wade, and Willey—30.

NAYS—Messrs. Brown, Buckalew, Fessenden, Fogg, Foster, Grimes, Henderson, Kirkwood, Williams, and Wilson—10.

ABSENT—Messrs. Cattell, Cowan, Davis, Doolittle, Guthrie, Nesmith, Nye, Pomeroy, Ross, Trumbull, Van Winkle, and Yates—12.

So the bill was passed.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 239) to prescribe a rule concerning members of the bar, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 253) to punish for the removal of dead bodies from the grave or other place of interment in the District of Columbia;

A bill (H. R. No. 668) to limit the time for bringing suits before the Court of Claims;

A bill (H. R. No. 901) to regulate the selection of juries for the several courts of the District of Columbia; and

A bill (H. R. No. 1038) providing for an additional term of the circuit court of the United States in the eastern district of Arkansas, and for other purposes.

#### THE TARIFF BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 718) to provide increased revenue for imports, and for other purposes, which is now before the Senate as in Committee of the Whole, and the Senator from Rhode Island [Mr. SPRAGUE] is entitled to the floor.

Mr. SPRAGUE. I do not intend to delay the action of the Senate on the amendments which I yesterday indicated my purpose to propose, but simply to say that I have given to the flax interest my most earnest and anxious consideration; I have spent days and nights in endeavoring to bring the provisions affecting it into such form and shape as would conform with the duties placed on other great interests by the bill. As to the proposition suggested by me yesterday in relation to exempting the raw material from duty, I will say that the consideration of it is simply a question of time. My own judgment is that to-day is the time when the tax should be withdrawn, and hereafter, when the manufacturing interest has been fully developed, the flax interest as well as the wool interest and the iron interest may come up and demand that their product shall receive the consideration of the Senate and of the country. I appreciate the position that is taken in the West and in the Northwest in favor of protecting these great interests. I believe they are as much entitled to protection, whether in the shape of a raw material or a manufactured product, as any articles that have received value from the best appliances of machinery. I am no advocate for receiving protection for one branch of American industry without conceding it to all; and I shall not at this time ask the Senate to withdraw the duty proposed by the Committee on Finance to be imposed on the unmanufactured flax. I now send to the Chair the amendments which I propose to the sixth section of the bill as reported by the Finance Committee.

The PRESIDENT *pro tempore*. The amendments proposed by the Senator from Rhode Island to the amendment reported by the Committee on Finance will be read in their order.

The Secretary read the first amendment of Mr. SPRAGUE, which was to strike out of section six of the amendment of the Finance Committee lines seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four, and in lieu of them to insert:

On burlap, canvas paddings, duck, cot bottoms, four cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

On all brown and bleached linens, damask table linens, damask brown holland, Spanish linens, blay linens, coatings, drills, diapers, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, hemp, or jute, or of which flax, hemp, or jute is the component material of chief value, valued at thirty cents or less per square yard, five cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over thirty cents and not over sixty cents per square yard, ten cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over sixty cents and not over one dollar per square yard, fifteen cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over one dollar per square yard, twenty cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

Mr. SHERMAN addressed the Senate. [His speech will be published in the Appendix.]

Mr. CATTELL. The Senator misstates me when he says that I stated \$305,000,000 to be the amount of foreign goods imported last year. That was the amount imported into the port of New York alone at the gold value, and I showed by a calculation further on that when you add to that amount the usual quantity imported at other ports, as shown by the averages of other years, and when you then add to that the estimate which the Secretary of the Treasury himself makes, that there is a loss of twenty per cent. by undervaluations and smuggling; and then when you reduce this result to our currency value, the aggregate reaches between six and seven hundred million dollars of importations, instead of three hundred millions, which is a very different figure. And I suggest here again, as I did yesterday, that no careful observer of the financial affairs of our country will admit that we can afford to continue to import even at currency value the enormous amount of six or seven hundred million dollars of foreign goods.

Mr. SHERMAN. I certainly did not wish to do my friend injustice, but I quoted the gold value of the productions of this country as given by him at \$6,700,000,000, and conse-

quently I had a right to give the amount of importations at the gold value also. If you reduce both to the currency value the effect will be the same. I have before me a table of the importations, including specie and articles admitted free of duty, amounting to \$437,000,000. It is in Mr. Wells' report. From that ought to be deducted articles admitted free of duty and bullion sent backward and forward to pay the balances on importations, probably about three hundred and fifty millions.

Mr. CATTELL. I beg to say in reply that the statement which I made was for the calendar year 1866, and not for the fiscal year; and that it was based upon statements received from the New York custom-house for the calendar year 1866. The enormous increase of importations was in the last half of the calendar year 1866. The figures stated by the Senator from Ohio are true in regard to the fiscal year ending June 30, 1866; but the calculations I made were based upon figures I obtained of the importations in the calendar year 1866, ending on the last day of December. The importations were very largely increased during the latter part of the calendar year for reasons which I gave in the course of my remarks yesterday. The apprehension or the supposition that the Senate would probably pass the House bill, or something in the shape of it, stimulated importation to a very large amount, and consequently the sum total of importations for the calendar year 1866 is very much greater than for the fiscal year ending June 30, 1866, which included only six months of 1866, and six months of 1865.

Mr. FESSENDEN. Mr. President, the amendment pending has reference entirely to the section of the bill which relates to linens. The honorable Senator from Rhode Island has moved a very essential change in that particular section—section six. I have no intention to make a general speech upon the bill; what I may say will be confined to details as we go along; but I am very glad that the general principles applicable to the whole subject have been so ably laid down by my colleagues on the Committee on Finance, the Senator from New Jersey [Mr. CATTELL] and the Senator from Ohio, [Mr. SHERMAN.]

With regard to this particular amendment I wish to say that it varies very essentially from the provisions of the House bill on the same subject. The Senator from Rhode Island, to accomplish what he desired in reference to the protection of the linen manufacture, was at first disposed to strike out entirely the duty laid on what I must continue to call the raw material (though a product of labor) out of which linen is manufactured. I understand him, however, to have withdrawn that or not to insist upon it. It is very obvious that he is right in the latter conclusion, because if it is important to encourage the linen manufacture in this country it is also important to encourage the growth and preparation of the article from which linen is made. Up to this time, as I understand, we have in this country no growth of flax to any extent that is used or could be used as it has been operated in the manufacture of linens.

Mr. SHERMAN. Allow me to state to the Senator that the ordinary flax produced in this country is precisely like the flax made in Ireland, except that the fiber is allowed to ripen to secure the seed.

Mr. FESSENDEN. That is exactly what I was about to say. The flax is grown in this country merely for the production of seed, and is therefore permitted to ripen, and it becomes unfit in that process for use in the manufacture of linen. The farmers in this country have found their profit in raising flax for seed, thus permitting it to become a coarse and rough fiber. It grows until it becomes ripe, and of course is unfit for manufacture. We have been obliged, for the purpose of the linen manufacture, so far to import flax which has not gone to that degree of ripeness, not advanced to that period when it is no longer fit for the uses to which this section particularly refers.

Mr. SPRAGUE. Permit me to interrupt the Senator. I desire to state that there are two stalks produced by the flax seed, one upon which the seed grows, and one upon which it does not; and the custom in countries where they cultivate it for the fiber is to pull that stalk on which there is no seed before they take that upon which there is seed.

Mr. FESSENDEN. I am obliged to the Senator for his information; but it only goes to sustain the position that in this country we have confined ourselves thus far very much to the growth of flax for the purpose of seed. But although that is the case, yet if we are to encourage the manufacture of articles from flax in this country it is very proper to make it an object to the farmers or growers of flax to raise it and take it at that particular period of its growth when it is used for that purpose, and that is the object of the section. But up to this period the linen manufacture has made no very great advance here; and it is hardly worth our while with reference to a revenue tariff to take all at once such action as will effectually cut off the importation of these articles; while at the same time it is advisable so far as we can to encourage reasonably a commencement upon this very important manufacture.

There is the distinction, as I apprehend, between the House bill and the Senate bill, which latter bill is founded mainly upon the report made by the Commissioner who examined the subject with very great care, and received a great deal of evidence upon it on both sides. The Committee on Finance did not think it worth while on this point to be prohibitory. And they took into consideration another question in several parts of this bill—and I would direct the attention of the Senate to that, because there are portions of the bill which are founded upon that idea—that while we are protecting the manufactures of the country, which is a matter of great importance, which I have always sustained and probably always will sustain, there is one great interest that should not be forgotten that has been heretofore considered by all nations as a very important part of national wealth, a great national arm; and that is the foreign commerce of the country.

It is obvious that if we carry our tariff system so far in the protection of manufactures and in the excluding of articles from foreign countries as to cut off importations, leaving out of view the revenue question, which has been so well discussed by my honorable friend from Ohio, we in fact destroy our foreign commerce, for if nothing be imported we are not in a condition to export to any great extent, and if we have no trade with foreign countries so far as purchasing any of their products is concerned we shall be very likely to have no commerce. That is now not exactly the condition of our foreign commerce, but it is tending to that with such rapidity that every man who feels that commerce is a great arm of national wealth must also feel that it is necessary to do something with reference to that interest, and that in protecting manufactures we should not destroy what certainly is of equal necessity to the country as any one manufacture or perhaps any considerable number of manufactures.

We had reference to that consideration somewhat in going through this bill. When we looked at certain articles which form a considerable item in our commerce with foreign countries, we inquired whether on the whole it was worth our while to go so far as to prohibit the importation of all articles of that description and thus end our commercial relations with those countries.

In regard to these very articles of linens we get from a Power which is certainly as friendly to us as any Power on the face of the earth, as was shown during our late troubles—I allude to Russia—a very important article of linen manufacture, crash and coarse linen, which is made by the peasantry there. In fact we have very little trade left with Russia except in these articles. Indeed, I am informed that the House bill will pretty much put an end, not only to

this trade, but to our trade with Germany. I do not think it will, because all experience has shown that no matter how high you put the tariff, even if you go to such an extent as to make it what is called prohibitory, it does not in the end turn out to be actually prohibitory, but there will be some trade left. I would not, however, for light considerations undertake to interfere with an important article of trade with an important and friendly Power unless I saw that it was a matter of extreme necessity with reference to some particular manufacture in our country which it was essential to support, so that it became on the whole advisable.

I am a protective tariff man, and I believe I am an older protective tariff man so far as congressional action is concerned than any member of the Senate, and probably older in years than most members, for I happened to be a member of the Congress that passed the celebrated tariff act of 1842, and I lent my feeble aid to its passage, and on every occasion since when I have had an opportunity such aid as I could render has not been wanting to sustain the same principle and the same idea. But with regard to the doctrine of protection *per se*, I do not go so far as to say that whatever may be the condition of the country it is advisable at any and all times, when an interest springs up which may be valuable in itself, to put an end to all trade which might interfere with that interest. I hold that with regard to some great interests of the country protection is so absolutely necessary that, if there were no other way of accomplishing the object, I would go to the length of prohibition for the sake of protecting them, because they are essential to national protection as well as to national wealth. In this list I would include iron and the manufactures of iron, and wool and woolen manufactures. I might name others, but these two are sufficient.

But the idea has seemed to prevail of late that if any body chooses to start a new manufacture by way of experiment, thinking he can succeed in it, forthwith it becomes the duty of the country, whatever may be the effect on foreign commerce, or whatever may be the effect by way of taxation upon the individuals using the article; to at once place such duties on the foreign article as will effectually prevent the importation of that article if it interferes in any way with the prosperity of the manufacture thus started. I do not go so far as that. I think we must conform to circumstances and proceed gradually in reference to such matters.

I hope I shall be excused for making these general observations; I do not intend to repeat them. With regard to this matter of linens, I can only say that I hope the amendment proposed by the Senator from Rhode Island will not be adopted. In the first place—he will excuse me for referring to it again—it is perfectly obvious that we should protect the raw material. We do not go near so far in that respect as the House bill, and yet we furnish what would be unquestionably an adequate protection. With reference to the manufactured articles, the Senator complains that we put very low duties on low-priced articles, and he has singled out one, the article of burlaps. Its use, as I understand, is principally confined, almost exclusively, to the manufacture of cotton bagging, as it is called, that is, bagging used for cotton bales. We do not think it advisable just at present to heap any more burdens upon the cotton business of the country than we are obliged to do. It is in a very depressed condition. It is unquestionably an important article, an agricultural product intimately connected with the national wealth; and it being a coarse article, hardly manufactured here at all, we do not think the time has come to lay a heavy duty on it.

Then take the article of crash, which I before mentioned. It is an article not made in this country, and will probably never be made here. The crash made here is a mixture of linen and cotton, a totally different article from

the coarse crash made by the Russian peasantry, and which goes into the hands of every individual almost. It would be laying a heavy burden on everybody who uses a towel or any cloth made from this coarse crash to put a high duty on it.

We place an *ad valorem* duty of thirty-five per cent. on all these articles, but Senators will see at once that as the article grows in fineness, and consequently in price, the duty becomes higher; for instance, upon a handkerchief which costs a dollar, thirty-five per cent. is thirty-five cents, which would seem to be a pretty good protection. These articles are not manufactured in this country at present. The protection afforded by this section, as we think, is sufficient—sufficient to accomplish the purpose of starting the business in this country if anybody is disposed to start it.

The Senator says certain machinery has been purchased under the encouragement of Congress providing that it might be imported free of duty. Well, they have got the machinery in free of duty, but they imported it under the existing tariff, knowing what the duties were. Knowing what the duties were and asking that they might be permitted to import that machinery free of duty, they must be understood as saying that they could get along under the tariff as it stood at that time. It seems, however, from their present statements that they were wrong in their calculation. But however that may be, we have put the duties as high as we think the article will bear. The Commissioner had all these people before him—I do not mean everybody engaged in the trade, but large numbers; he examined the matter carefully, and he informs me that a considerable majority of those interested in the manufacture of linen told him that thirty-five per cent. placed upon the manufactured article would be sufficient protection. This was only last summer. He reported thirty per cent., but we have raised it to thirty-five. They were satisfied with that, though certain individuals claim more, and those individuals come here and are persistent in their claim.

I have great respect for the manufacturers of this country, as much as I have for any other class of men; they are intelligent, and they understand their own interests. But I tell the Senate now, from the testimony before the committee, and from all the information we have, that it will not do for us to leave the formation of a tariff to the manufacturers themselves. They have too much interest in it, and, as Sam Patch used to say, there is a great deal of human nature in men, and there is no end to the claims they will put forward for protection. We must exercise our own judgment upon the question.

On this point the Commissioner examined the matter with great care; he received testimony; and he came to the conclusion that he did. The committee have examined it, and they are satisfied with the section on the reasons stated and the information afforded to them. It is best, in my judgment, to let the section stand as we have reported it. If, when it goes back to the other House, that House, on reexamination, should think we have not gone high enough they will change it, and then the committee of conference, which will undoubtedly be appointed, will agree upon something that will be just to all parties. I am satisfied with it as it is, and I hope the Senate will not agree to the amendment proposed.

Mr. JOHNSON. Mr. President, as is the case with my friend from Maine, I have from the first been in favor of protecting the domestic industry of the country by Congress, having no doubt either as to the power or as to the expediency of doing so. It is useless now to say anything on the subject of the power or in relation to the expediency, as it is true that, since 1828, to go no further back, Congress at various times have exerted the power; and as far as I am advised, and as I believe, the prosperous condition of the country, and that condition which enabled it to go through the late war, through which we have gone successfully,

is to be referred in a great measure to the existence of that system. No country in the world could get on without the power to adopt it; nor, as I believe, without exercising that power from time to time, as the exigencies of every country would require it to be exercised. The States before the adoption of the Constitution had undoubtedly the power, and that power consisted in their authority to legislate in relation to commerce and their authority to lay duties. When the power of regulating commerce between the United States and foreign nations was conferred upon Congress, and from its very nature became exclusive of the same power in the States, and when the power to levy duties was vested in Congress with no limitation at all except that of requiring them to be uniform throughout the United States, the States ceased to have that power. If there is no authority under either of these branches of power to protect the domestic industry of the country the result would be that it cannot be protected at all.

But I agree with my friend from Maine that the protection may be carried to a very mischievous extent, and that that is particularly the case in the existing condition of the country. We have now a debt of thousands of millions, and the greater portion of that debt we have promised to pay in gold. The war made it necessary for us to issue a currency not redeemable in gold, and to make it available in the discharge of individual debts and in the discharge of Government debts, as between the Government and its individual citizens; but the character of the Government—I mean its character abroad—and the necessities of the Government, when they were obliged to contract loans, demanded, in order that they should sustain the one and contract the other upon better terms than they could otherwise do, that they should promise to pay the interest of the debt, and eventually when it should fall due the debt itself in coin; and they have provided that, for that purpose, the duties upon imports shall be paid in coin. There is not now upon our statute-book any other recourse which the Government has to receive the coin with which to pay its debts, unless you force it to go into the market and buy it; and I do not suppose that any Senator would desire to see the country in that situation.

The practical working of the system as it now stands has been to satisfy the public creditors, and to satisfy those who may wish to invest their funds in the stocks of the United States that the faith of the Government, as to the mode of paying the debt when it matures and the intervening interest, will be strictly observed. We have now in the Treasury some one hundred millions I believe of coin, and we can go on from time to time to enlarge it if it shall be necessary, and in that way to prepare certainly the means of meeting our engagements with the public creditors, and eventually to enable us to return to a specie paying currency.

If this bill, therefore, has the effect materially to reduce the revenue from imports, it is, in my judgment, injudicious. Whether it will materially reduce that or not I am not sufficiently acquainted with the subject to say. The Commissioner, to whose intelligence every one bears testimony, and the Committee on Finance of the Senate, who are known to us to be familiar with the subject, think that the passage of the bill in the present form will not materially affect the revenue from imports. If they are right in that judgment, and it is not for me to say they are wrong, then the danger in which the country would be involved if the revenue from that source was materially diminished does not exist, and that being the case in their judgment, and I have faith in their judgment, I shall support the present tariff bill in its leading features.

There are some provisions in the bill which do not meet exactly with my approval. I do not mean those portions of the bill which impose a tax upon foreign importation exclusively, except only in relation to certain

articles. My friend from Ohio has, I think properly, stated that in principle there is no distinction between the labor which man employs in producing one commodity for practical use and that which he employs in producing any other commodity for practical use. In his State they raise sheep; and they are very rapidly increasing in the culture of sheep. The same thing is true of several of the western States. If it true, as we know, of the State of Vermont. In order to make that source of wealth remunerative it costs a great deal of time and labor. If it be right in itself, as I think it is as a general principle, to protect the commodity which the time and labor of the manufacturer in the ordinary sense of the term have bestowed on the manufactured article, it is equally right and proper to protect the grower of the wool whose time and labor have been used for that purpose.

That is not the only commodity. In Maryland and in other States there is an article which enters into the use of every family as well as every manufacturer, more or less, finds its way across the ocean on board our steamers, that is produced through the time and labor of the men who are engaged in it, the miners. The wealth is almost incalculable, or rather will be incalculable if the commodity be reasonably protected; and in Maryland it is to be found some three hundred miles more or less from the sea-board. At the mine it can be produced ready for shipment as cheap as can the coal of the neighboring islands, Nova Scotia, and other places; but the difficulty of getting to market because of its distance from the port of exportation to the rest of the country is such as to require a very large disbursement; and if our miners are brought into competition without any protection at all with the miner who has nothing to do in the way of expense but to send his commodity here on ship-board with little or no railroad transportation, they enter in the market with a competition which they are unable successfully to meet.

The anthracite coal of Pennsylvania requires no protection. There is no anthracite imported into the United States, I believe; certainly very little if any; but there is a large quantity of bituminous coal imported. Now, in the bill as it passed the House of Representatives at the last session the duty upon bituminous coal imported was fixed at \$1.50 a ton. This bill proposes to reduce it to fifty cents. I will not say that this will entirely destroy the coal trade of Maryland and of West Virginia, in which a very large amount of capital is invested, but it will very materially injure it and prevent that further development of that article which is sure to be the result provided the owner of the mine sees before him something like a certainty of profit.

Now, it so happens that Maryland can, I believe, bring her coal to market so as to supply the State of Delaware and perhaps the State of Pennsylvania with her bituminous coal; but she cannot go to New York or to Boston or any of the eastern cities and compete with the foreign article, except at a sacrifice. As I understand, under the present duty she can sell coal in the markets, including New York and north of New York; but pass this bill as it now stands, and that demand, as I am advised, will be, if not entirely cut off, very much diminished.

I am aware that the New England manufacturers (I do not speak of New England with any view of disparagement) and all other manufacturers would desire to have the duty upon the imported article diminished, or, if they could, entirely taken off, because it lessens to them the expense of the production of the articles which they are engaged in manufacturing. But if it be right to encourage the New England manufacturer so as to enable him to compete with the foreign manufacturer, is it not equally just and right to encourage the domestic miner to enable him to compete with the foreign miner? What reason can be given for excluding the one from the benefit of the

protection and admitting the other? How have the manufacturers of New England grown up? They have grown up under the benefit of the protective system. What has been their experience during the last war? Foreign trade being more or less entirely cut off they have been making enormous profits. They stood in need of no protection then. The papers of the day which disclosed to us their dividends from time to time told us that they were dividing twenty-five, thirty, forty, fifty, and as high as seventy per cent. Nobody complained of that. That grew out of the actual condition of the country. But the country now is in a state of comparative peace, and as I hope, is soon to be in a state of actual peace throughout all our limits. Our relations with the European world are resumed, and now she stands in need, as she says, of additional protection. I am willing to give it to her, perfectly willing; but in giving her additional protection do not accomplish it in part by taking away from us the protection which we have heretofore had, and without which we cannot live unless we live in a lingering condition.

It is impossible almost for those who have not studied the wealth which lies in the mountains of Maryland and in West Virginia and in Kentucky, and in several of the western States, to compute the value of the coal mineral which lies imbedded in their respective mountains. All that is necessary to bring them into actual operation, and to diffuse that wealth practically among all the citizens of the United States, is to encourage the miners to mine by holding out to them a prospect that they will be compensated for their labor; but the moment you reduce the duties upon the foreign article to an extent which will enable the foreign article to sell at prices which the domestic article cannot be sold for you break up the trade. Now what material difference does it make to the New England manufacturer; take the cotton or the woolen manufacturer? He wants to get coal free of duty or almost free of duty. Why? Because he can manufacture cheaper. That is one mode by which he is enabled to attain that end. The other mode is that by laying a duty upon the foreign article which he is engaged in manufacturing you enable him to sell advantageously in competition with the foreign article. The latter is all right. Why cannot both be protected? If the wool-grower is to be protected why should not the grower, so to speak, of the bituminous coal be protected? I think no sound reason can be given for the distinction; provided it be true, as we know it to be true in point of fact, that the coal in the state in which it is placed by nature is of no value to anybody. Its actual value is in its use, and its use depends upon its being brought into the market; and if you cannot bring it to market so as to enable its owner to compete with the owner of the foreign imported article, he lets it lie in the mountains where nature placed it.

I have said thus much, Mr. President, not because it is involved in the particular amendment, but following the example set by my friend from Ohio and my friend from New Jersey I supposed myself at liberty, even upon this amendment, to speak to the general question. Now, upon the particular amendment I agree with the honorable chairman of the Committee on Finance that it is not advisable to adopt it at this time. And as I am unable to give any reasons for that opinion even as satisfactory to my own mind perhaps as those assigned by the chairman of the committee, I content myself with saying in conclusion that I adopt, for the reasons he states, that opinion.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Rhode Island [Mr. SPRAGUE] to the amendment of the Committee on Finance.

Mr. SPRAGUE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 10; as follows:

YEAS—Messrs. Anthony, Chandler, Creswell, Dixon, Fogg, Foster, Frelinghuysen, Harris, Howe, Nesmith, Sprague, Stewart, and Wade—13.



NAYS—Messrs. Brown, Buckalew, Conness, Cowan, Edmunds, Fessenden, Henderson, Hendricks, Johnson, Kirkwood, Morgan, Norton, Ramsey, Riddle, Sumner, Trumbull, Wiley, Williams, and Wilson—19.

ABSENT—Messrs. Cattell, Cragin, Davis, Doolittle, Fowler, Grimes, Guthrie, Howard, Lane, McDougal, Morrill, Nye, Patterson, Poland, Pomeroy, Ross, Saulsbury, Sherman, Van Winkle, and Yates—20.

So the amendment to the amendment was rejected.

The Secretary read the next amendment of Mr. SPRAGUE, which was to strike out lines thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, and thirty-eight of section six of the amendment of the Committee on Finance, and in lieu of them to insert:

On jute, flax, hemp, coir, or cocoa-nut matting and carpeting, six and a half cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

On mats and on matting, not otherwise specified, of the same or other exclusively vegetable materials, six and a half cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*.

Mr. FESSENDEN. I will simply remark that all the duties in this section have been framed with reference to each other, and unless we are going to adopt all the amendments of the Senator it is not worth while to adopt any of them. This jute and cocoa-nut matting is a very coarse article and comes in competition with nothing produced in this country. We do not raise any jute here. We have put the duty very low on the original article, and these are predicated somewhat on that. I hope the Senate will not, unless they see very good reason for it, change the duty which we have reported. It is as much as the article will bear.

The amendment to the amendment was rejected.

The Secretary read the next amendment of Mr. SPRAGUE, which was to strike out from line forty-one to line fifty-one of section six and insert:

On threads, patent threads, saddlers' threads, shoe threads, gill-net thread or gill-net twine, pack thread, and sewing-machine thread, and all other threads, twines, and yarns, single and when advanced beyond single, made of flax, hemp, or jute, or the tow of flax, hemp, or jute, valued at thirty cents or less per pound, five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over thirty cents and not over sixty cents, ten cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over sixty cents and not over one dollar per pound, fifteen cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over one dollar per pound, twenty cents per pound, and thirty-five per cent. *ad valorem*.

Mr. CHANDLER. I see no reason why the product of linen should not receive the same protection that the product of cotton does. There is no country on earth where flax can be raised so cheaply and so abundantly as this country. It is grown now to a very considerable extent for the seed alone, and the fiber is thrown away, while we are importing millions of that same fiber which is thrown away, at an enormous expense to the nation and very little benefit to the Treasury. The cotton product has been protected until we can now successfully compete in some departments with foreign productions; though in the finer classes of goods we cannot yet compete with the foreign product; but from flax we produce nothing. I believe there is no successful manufacture of flax now in operation in the United States. I think the argument of the Senator from Rhode Island is conclusive that the product of flax should receive the same protection that the product of cotton does. There is not a State in the Union that cannot produce any quantity of tons of the raw material of flax, and aside from the difference in the value of labor we can manufacture it as cheaply in this country as anywhere else. But with the enormous prices we have now to pay—and I thank God we are enabled to pay good prices to our laborers—we cannot compete with the foreign production.

Now, the question is, whether we shall smother this infant enterprise or whether we shall grant it the same generous protection we grant to other branches of manufactures. I really hope that the Senate will review its judg-

ment in this matter, and vote with the Senator from Rhode Island to give the same protection to flax manufactures that is given to cotton manufactures in this bill. I shall therefore vote for this amendment; and I hope the Senate will reconsider the vote by which they rejected the previous one.

Mr. SPRAGUE. I desire to say that cotton thread of the corresponding class has a duty of forty cents and thirty per cent. *ad valorem*, and silk thread sixty per cent. *ad valorem* by the provision of the bill.

Mr. FESSENDEN. I have no doubt that we have capacity enough to raise flax, and I have no doubt that even the Senator from Rhode Island does not desire any change in the duty on flax itself; but with regard to this point if the Senate are disposed to throw away the evidence that has been received on the subject and the statement of the large majority of the manufacturers themselves as to what would be satisfactory to them, on the mere statement of the opinion of the honorable Senator from Michigan, they can do so. I can only say that the matter was so very thoroughly examined, first by the Commissioner on testimony, and then by the committee, that they made up their minds definitely; and I do not know what is the use of committees at all in reference to these matters if their judgment on the evidence they take is to go for nothing. If the Senate choose to adopt this amendment they had better revise the whole of section six and impose large additional duties, which the majority of the manufacturers say are not necessary, and which will undoubtedly, as we are informed, prohibit the importation altogether and cut us off from all revenue from this source.

Mr. JOHNSON. Will the Senator tell me what the revenue now is from linens?

Mr. FESSENDEN. The extent to which this amendment goes is to make a new classification, so as to place the duties we imposed on fine thread apply to thread of a coarser fabric.

Mr. JOHNSON. My question is, what is the present revenue from these articles?

Mr. FESSENDEN. That is more than I can tell you.

Mr. JOHNSON. Is it not about seven million?

Mr. FESSENDEN. I cannot now say. I hope the Senate will not change the duties as they are fixed in this section.

Mr. CHANDLER. I desire to ask the Senator from Maine if the manufacturers of flax are satisfied with the rates imposed in this section.

Mr. FESSENDEN. I state from the Commissioner that he had the manufacturers of flax before him in large numbers, and that a large majority of them said these duties were satisfactory.

Mr. CHANDLER. In the first place we have no fine manufactures of flax in the country.

Mr. FESSENDEN. Those who were intending to manufacture—those interested in the subject-matter.

Mr. CHANDLER. The Commissioner may have fallen in with some who professed to be satisfied, but my judgment is that the men with whom he conversed were importers and did not intend to manufacture.

Mr. FESSENDEN. The Senator's judgment is undoubtedly better than the opinions of all these gentlemen.

Mr. CHANDLER. My judgment is based upon actual knowledge that we produce immense quantities of the raw fiber of flax: we raise it for seed and export the seed in bulk and in seed-cake, and throw away the fiber because we do not furnish a sufficient protection to our own manufacturers to induce them to work it up, and they allow it to rot. Inasmuch as there are no manufacturers of the finer fibers of flax in this country and very few of the coarser, I must say that I doubt whether the Commissioner has consulted the manufacturers of flax.

Mr. WILLIAMS. I do not think that the argument offered in favor of this proposed amendment, derived from that part of the tariff imposing duties upon articles manufactured of cotton, is a very sound or logical one. We have been urged to impose a high tariff upon manufactured articles to protect the capital employed in the business and to furnish employment for laborers. Now, there is a vast amount of capital, as I understand, engaged in manufacturing cotton in the United States, and a very large number of people are employed in that business, and when you impose a tariff upon fabrics manufactured of cotton you protect that capital and you protect that labor. But it is acknowledged by those who advocate this amendment that there is very little capital engaged in this business at this time, and very few persons employed, and the object of the amendment is to impose this high duty upon the consumers before the country can satisfy the demand.

Under these circumstances it seems to me that a reasonable tariff—and the one that has been reported by the committee is regarded as reasonable—one sufficient to enable this business to start, is all that should be asked. To impose a tariff now as though the business in the country could supply the demands of the country, it seems to me, would be imposing a burden upon the consumers which they ought not to bear. The articles upon which it is proposed to increase this tariff are articles that are used in the manufacture of our shoes, articles that are needed for universal consumption, articles that are needed by all sorts of people. While I am in favor of a reasonable protection to all kinds of manufacturing in the United States, I contend that we ought not to lose sight of the vast mass of people who consume these articles.

Mr. CHANDLER. The Senator states truly that there is but a very small amount, if any, of capital invested in the manufactures of flax in this country; but, sir, if we ever intend to have capital invested in those manufactures, we must protect them in their infancy. After you have a large amount of skilled labor and a vast amount of capital invested in any given manufacture, they are more able to compete with foreign capital and foreign skilled labor than the infant manufactures are. The imports of flax now amount to a great many million dollars. It is perhaps next to cotton in the amount that we import, and we import the whole, and permit the raw material, more than enough to manufacture all that we consume, to rot because we will not protect the infancy of our manufactures in flax. That is the true state of the case. This is perhaps a sufficient duty for our revenue; it may be all that we require for that purpose; but it is not a protection to the manufacture of flax in its infancy.

Mr. CONNESS. The Senator from Michigan is very much in error on the point that he has twice presented, or else I am, as I have some knowledge from individual experience in this matter of flax. He has said that the flax is permitted to rot in America.

Mr. CHANDLER. The fiber.

Mr. CONNESS. The fiber, for want of protection. Not so, Mr. President. It is only fit to rot because it is used for the purpose of obtaining seed from it. The fiber is worth nothing for the purposes of the manufacture of linen after it has ripened its seed. Flax for linen manufacture is always pulled in the green state, then rotted, then dried, then broke, and then hackled and prepared to be made thread of; but when it is allowed to ripen for the purpose of obtaining a crop of seed it is of no value for the purpose of making linen. In proof of that I have but to state that Ireland, the great place for the manufacture of linen, where they excel in that manufacture, does not grow its own seed. They are large producers of flax, but they do not grow their own seed. They pull their crop before it ripens or produces seed; and in America the seed is raised for the Irish flax-seed, and has been for fifty years, and exported. I shall not discuss the question as

to whether it would not be more profitable or economical for both countries to reverse their practice, namely: for the Irish, who manufacture linen so extensively and excellently, to raise their own seed and not import it from America, and for America to raise its own flax and make its own linen and not import linens already made from Ireland. That is an economic question that I do not propose to enter into the discussion of. But what I state in regard to the point made so palpably by the honorable Senator I am quite aware is true; so that I apprehend his argument scarcely applies to the case.

Mr. CHANDLER. It is perfectly immaterial. It shows that this country is capable of producing flax to any extent.

Mr. CONNESS. There is no doubt of that.

Mr. CHANDLER. It does not change the argument at all.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island [Mr. SPRAGUE] to the amendment of the committee.

The amendment to the amendment was rejected.

The next amendment proposed by Mr. SPRAGUE was in section six, to strike out from line fifty-two to line fifty-seven inclusive, and to insert in lieu thereof the following:

On seines or nets made of flax, hemp, or jute thread, yarn, or twine, completed or in parts, valued at not over fifty cents per pound or less, ten cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at fifty cents and not over seventy-five cents per pound, fifteen cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over seventy-five cents per pound, twenty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

Mr. FESSENDEN. With regard to that clause, we have already raised the duties by an amendment from thirty to thirty-five per cent. It stands at thirty-five per cent. now. It was thought with regard to seines, nets, and fish-lines the duty placed upon them by this bill already was high, very considerable of a duty, and it comes very hard upon the poorest class of the community, probably, and that is the fishermen, who use the nets and fish-lines and things of that sort. All over the country where ever that class of men exist they are probably the poorest class in the community, and it would not do to tax them so heavily. I hope that the Senate will not adopt the amendment.

The amendment to the amendment was rejected.

The next amendment proposed by Mr. SPRAGUE was to strike out from line fifty-eight to line sixty-three, inclusive, of section six, and to insert in lieu thereof the following:

On fish-lines of linen, or twines of linen suitable for fish-lines, valued at \$2 50 or less per pound, forty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over two dollars and fifty cents per pound, sixty cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

The amendment to the amendment was rejected.

The next amendment proposed by Mr. SPRAGUE was to strike out from line seventy-three to line seventy-seven, inclusive, of section six, and to insert in lieu thereof the following:

On webbing, tapes, galleons, bindings, gimps, trimmings, braids, plain or otherwise, made of flax, hemp, or jute, or of parts of either, or of which flax, hemp, or jute shall be the component material of chief value, sixty per cent. *ad valorem*.

Mr. SPRAGUE. I will state that cotton articles of a corresponding nature bear a duty of sixty per cent.; and while I am up I will say in relation to the remark made by the Senator from Michigan as to the information derived by the Commissioner upon this matter, that there is a class of manufacturers who import the yarn and twist it and manufacture it into a twisted condition in this country, so that they are part importers and part manufacturers.

Mr. FESSENDEN. We have already advanced the duty in this clause ten per cent. It is high enough, and I hope it will not be changed.

The amendment to the amendment was rejected.

The next amendment proposed by Mr. SPRAGUE was in section six, line seven, after the word "thirty" to insert "five;" so as to read:

On jute yarns, single, thirty-five per cent. *ad valorem*.

Mr. SPRAGUE. As this clause now stands it reads, "On jute yarns, single, thirty per cent. *ad valorem*;" whereas in the portion of the bill in which threads are referred to it specifies "flax, hemp, and jute," and it would seem that this would be unnecessary. It seems to me unnecessary, because in the provisions of the bill with reference to twines and thread, flax, hemp, and jute are referred to.

Mr. FESSENDEN. But those are the ones advanced beyond single, and this is single.

Mr. SPRAGUE. As I have said before, there is no difference in these threads between single and double.

Mr. FESSENDEN. Then you have got too much duty on the double; that is all.

The amendment to the amendment was rejected.

The next amendment proposed by Mr. SPRAGUE was to strike out lines seventy-eight, seventy-nine, and eighty of section six, and to insert in lieu thereof the following:

On all other manufactures of flax, hemp, jute, or similar fibers not herein otherwise specified, fifty per cent. *ad valorem*.

Mr. FESSENDEN. Those are predicated upon the others. It is best to let it stand as it is.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. That concludes the amendments proposed by the Senator from Rhode Island.

Mr. FOSTER. I move to amend the amendment of the committee on the eighty-sixth page by striking out "twenty-four," in line sixty-three of section thirteen, and inserting "eighteen;" and by striking out "thirty" in line sixty-four, and inserting "twenty-four." It is in reference to the duties on salt. The clause as it stands reads thus:

On salt in bulk, and on all rock salt or mineral salt, twenty-four cents per one hundred pounds.

I propose to strike out "twenty-four" and to insert "eighteen."

On salt in bags or sacks, thirty cents per one hundred pounds.

I propose to strike out "thirty" and insert "twenty-four."

Mr. FESSENDEN. I will simply say in explanation that this is a matter for the Senate to judge. The report of the Commissioner was precisely as the honorable Senator moves now to amend. The committee, however, raised it somewhat and put it up to its present position. The committee were not unanimous on the subject, but the majority of the committee thought it best to propose these duties instead of those recommended by the Commissioner. This is one of those cases in which we varied from his report.

Mr. FOSTER. I really hope, Mr. President, that the amendment will be made, for I think the present duty is altogether too high. The duty of eighteen cents per one hundred pounds on salt in bulk is a duty enormously high. The duty of twenty-four cents per one hundred pounds on salt in sacks or otherwise than in bulk is enormously heavy also; and it is on an article, not of luxury, not an article used by the rich alone, but which enters into the consumption of daily life of the poorest of our people; an article of prime necessity.

Mr. JOHNSON. What is the present duty?

Mr. FOSTER. The present duty is eighteen cents per one hundred pounds in bulk and twenty-four cents per one hundred pounds in sacks or in any other manner than in bulk; and that I repeat is an enormously high duty. Senators scarcely realize how heavy it is. In 1861 the duty was only four cents per bushel in bulk and six cents per bushel in sacks, and it has now run up to eighteen cents per one hundred pounds—that is more than a bushel, it is true—in bulk, and twenty-four cents per one hundred pounds in sacks. That is more

than one hundred per cent., and the amount of salt imported has fallen off since this increase of duty. In the port of New York, where a very large portion of the foreign salt imported is entered, the importation was two million two hundred and fifty eight thousand eight hundred and twenty-four bushels less in the years 1864 and 1865 than in the years 1862 and 1863. I have a memorandum which shows the percentage which the present rates of duty—eighteen cents and twenty-four cents—make on cargoes imported into the port of New York under the present law.

The ship *Intrepid*, from Cadiz, arrived in New York, February 1, 1866, with a cargo of salt. That cargo cost at Cadiz, in gold, \$3,490.

The owners of the salt paid duty in New York upon that at the rate of eighteen cents per one hundred pounds, and the amount of duty thus paid on a cargo which cost only \$3,490 was \$5,629 14, being over one hundred and sixty per cent. duty on a prime necessary of life.

So, again, the bark *Emily*, from Turk's Island, brought a cargo of salt to New York, which cost in Turk's Island \$1,329 58. The duties on that cargo, in gold, at the port of New York, were \$2,122 20, being over one hundred and sixty per cent. on that cargo. That was all salt in bulk.

The ship *La Gloire* brought over fifteen hundred tons of common salt from Liverpool, which cost in that market \$4,504 in gold. The duty on that in gold at New York was \$6,068, or about one hundred and thirty-five per cent.

I submit, Mr. President, that those duties are enormously high even as compared with our highest duties on luxuries; and to add now six cents to the eighteen cents per one hundred pounds on salt in bulk and six cents to the twenty-four cents per one hundred pounds on salt in sacks, making the duty twenty-four cents on salt in bulk and thirty cents on salt in sacks, would be a large addition to a burden which is already quite too severe. I hope that under these circumstances this amendment will be made. The honorable chairman of the Committee on Finance suggests that the committee were not entirely unanimous in regard to this clause; there was a difference of opinion; and I hope we shall be entitled to the difference for the benefit of all who eat salt, for that, I trust, is our whole population. That that article should now be subject to this increase of tax seems to me not called for by public necessity, and will be adding to the public burdens without really any good reason.

Mr. CHANDLER. Something more than a year ago there was a meeting called of the salt interest in the United States here, representing New York, West Virginia, Tennessee, Michigan, and other salt-producing districts, and it was then decided that forty cents was as low a duty as ought to be imposed upon foreign salt. The whole of salt is labor. Michigan possesses salt enough to supply the world for a million years. Our salt basin is one hundred and twenty miles in diameter, and you can bore anywhere and pump salt. All the salt water is of the very purest description; some of it as pure as ninety-five per cent. by the salt meter. In 1860, when, as the Senator says, the duty was six cents per one hundred pounds, we could produce salt for seventy-five cents a barrel and make money. It is all labor. To-day, with the internal revenue taxes that you have placed upon every article of consumption of the laborer we cannot produce it without a loss at two dollars per barrel. There is an actual loss to-day in manufacturing salt at two dollars per barrel, whereas in 1860 we could manufacture it at seventy-five cents.

Now, sir, instead of reducing this duty from twenty-four to eighteen cents, I had intended to move to increase it to thirty cents as a fair protection and the lowest protection the salt interest ought to demand; but upon consultation with my colleague we concluded to let it go as it is. However, if a change of the duties fixed in the bill is insisted upon, I shall then move to give a fair protection, which will be

thirty and forty cents. Now, sir, foreign salt is in direct competition. The great bulk of our freight is from the United States to Europe. Vessels actually pay for the privilege of taking salt as ballast on their return trip. I am so informed. It is so on the lakes. They pay for taking salt as ballast from Buffalo and Oswego to Chicago as high as six cents a barrel, because they have no freight; and I am informed it is the same on the ocean. My friend from New York [Mr. MORGAN] will assure you—and he has been engaged in this very trade himself—that the freight is so low that if freight is charged at all it will be merely nominal. You come in direct and immediate contact with the pauper labor of Europe, and it is all labor, without even freight as your protection. Now, sir, this duty is totally inadequate, and yet, as the committee had recommended it, I was willing to submit to it; but if it is touched at all, I give notice that I shall try my utmost to increase it to a fair protection, which will be thirty and forty cents per one hundred pounds.

Mr. FOSTER. If the honorable Senator from Michigan is right in his claim, it seems to me that the system which we have of raising money, either by internal revenue or by duties at the custom-house, needs an entire and thorough reform and change. He says that prior to our present difficulties salt could be manufactured in Michigan at a profit, if I mistake not, at seventy-five cents the barrel; and now, at two dollars the barrel it cannot be manufactured.

Mr. CHANDLER. Without loss.

Mr. FOSTER. Of course I mean without loss; and that, Mr. President, on an article which under all circumstances is agreed to be an article of necessity for the whole country. Our system of taxation has run a barrel of salt which could be manufactured at a profit at seventy-five cents up to such a rate that now it cannot be manufactured without loss at two dollars. I say, if that is the situation of our tax system, internal and external, it needs uprooting; the people cannot live under it; it is perfectly certain they cannot live under it; and the sooner we ascertain it the better, and—

Mr. CHANDLER. Will the Senator allow me a single moment?

Mr. FOSTER. Certainly.

Mr. CHANDLER. The same thing holds good of iron. I bought myself hundreds of tons of iron at twenty-four dollars a ton a few years ago, that cannot to-day be produced for forty-eight dollars. The same thing holds good of everything else. On the articles produced in your own State of Connecticut you came here and demanded for them suitable protection; and now, when we ask a suitable protection on our salt, after you have been protected in your manufactures, you say the system is bad. The system is bad on your part as well as on ours. If it is bad in one place it is bad all over.

Mr. FOSTER. No doubt, Mr. President. Salt, however, is manufactured in Connecticut, I will inform the honorable Senator, to a very considerable extent; and I know not whether my constituents would think I was favoring their interest in moving this reduction in the duty on salt or not. I am satisfied that it is a necessary thing to be done; and I am not attacking a western interest any more than I am attacking an eastern interest. Here are the honorable Senators from Massachusetts. I would inform the honorable Senator from Michigan that the eastern coast of Massachusetts is pretty largely engaged in the manufacture of salt. The gentleman has heard of Cape Cod. There is quite an amount of salt manufactured in that interesting locality; and in other portions of Massachusetts and along the coast of New England there is a large amount of salt manufactured. The honorable Senator is entirely hasty when he thinks, that in my own estimation at least, I am attacking a western interest. I disavow any such purpose in the first place, and the fact is entirely the other way in the next place.

Mr. FESSENDEN. Salt is manufactured very largely in New York.

Mr. FOSTER. And New York, which I suppose the honorable Senator does not count an extreme western State; he hardly speaks of it in that complaisant way as he does when he talks about the great Northwest, as part of the great Northwest—I suppose New York is about as largely interested in salt manufacture as almost any State.

Mr. HOWE. New York is a suburb of the Northwest.

Mr. FOSTER. The honorable Senator from Wisconsin says that New York is a suburb of the Northwest. Well, that is an honor for New York to have arrived at. He must settle that with the honorable Senators from New York.

Mr. President, I am not aware of being actuated by any local or sectional feeling in this matter. It seems to me, from what is said on all sides of the Chamber, that there is a necessity first of all upon us that we should reduce the cost of living. There is no greater necessity now in this country than that we should reduce the cost of subsistence. If any man can name anything more required than that I should like to know what it is. Now, to reduce the cost of subsistence, I submit that we begin properly by reducing the price of salt directly. The honorable Senator proposes to raise the price by putting the duty at thirty or forty cents per bushel in order to protect home manufactures. Mr. President, there is danger lest home manufacturers should get protected to death. That is the greater danger to-day in this country; not that the home manufacturers will not have protection enough, but that they will be protected so that they will be exterminated. The greater danger is in that direction to-day, and unless we can so vary our system as to make the cost of living in this country less than it is now it is as idle to talk of protection and of prosperity to our business, they will soon be unknown in the United States of America.

Sir, I do not, I cannot, believe that the manufacture of salt in this country, where, as the honorable Senator says, it can be manufactured so cheaply, requires a duty of two hundred per cent. to protect it. The honorable Senator talks about eastern manufactures to be protected. I ask him what article manufactured in the State of Connecticut, except salt, has a protection at all to compare with the protection on salt to-day, which is over one hundred and sixty per cent.? The most skilled and intelligent labor of Connecticut, where the workmen are paid three and four dollars a day, is not to-day protected by a duty of forty per cent. This is more than four times as much; and yet the honorable Senator says it is impossible for them to manufacture salt without a four-fold increase of duty. I trust, sir, that this duty will be reduced, not because it is a western interest, for I was quite hesitating whether I was not attacking a home interest, but if it were it would make no difference, because as I believe we have got to begin by reducing the cost of living, and unless we begin there our attempt to protect the labor of the country will be quite idle. We shall protect labor best by making subsistence cheaper; and unless we can make subsistence cheaper we may cover our laborers and their employers over with the mantle of protection, but it will be certain death to both.

Mr. CHANDLER. I congratulate the Senator upon his tremendous stride in reducing the cost of living, and I have no doubt the country will congratulate him and thank him. Each individual consumes per annum about ten pounds of salt. The Senator proposes to reduce the duty on salt six cents per hundred pounds. Well, sir, he will save every man, woman, and child in the whole United States one tenth of six cents per annum. [Laughter.] This is a commencement, and with such a tremendous start there is no telling how soon we shall get down the price of living. With this wonderful start, I congratulate the country that something is really going to be done.

Mr. WILLIAMS. The Senator from Michigan has anticipated one remark that I was about to make in reference to this proposition. There is the same reason, as it seems to me, for adding to the existing duty on salt that there is for increasing the tariff generally; and it seems to be admitted upon all hands that there ought to be an increase of the existing tariff. The argument which the honorable Senator from Connecticut offers in this case applies with equal force to nearly all the other parts of this bill. Those persons who are engaged in the manufacture of salt in the United States appeared before the committee, as did the men engaged in other pursuits which need protection, and represented that their business imperatively demanded an additional duty upon salt; that the business at this time was languishing; that a large amount of capital had been invested in the manufacture of salt; that the business employed a very large number of people; that in consequence of the importation of salt under the existing tariff many of the works that had heretofore been engaged in the manufacture of salt were idle; the capital was unproductive, and hundreds and thousands of laborers were in that way thrown out of employment. They made such representations to the committee as induced the committee to believe—and some members of the committee had personal knowledge as to some of the facts—that there was as much reason why the great business of manufacturing salt in the United States should be protected as why any other great business should be protected.

It is true that salt is an article of universal consumption, and it ought to be cheap, and it is cheap, and will be cheap under this tariff when you consider the price of the article. As has been suggested by the Senator from Michigan, the consumption of the article by each individual amounts to so little that this tariff will add imperceptibly to the burdens of each consumer in the United States. It is different from many other articles produced in the United States upon which additional duties are imposed. Where an article is of great necessity and costs a large amount when purchased, there a large addition to the tariff or any addition to the tariff is made sensible to the consumer; but when you consider that each individual in the United States consumes only about ten pounds of salt, then this additional duty affects his interest very little while it protects a great manufacturing interest of the United States.

It was suggested by the Senator that less salt had been imported in 1864 and 1865 than prior to that time.

Mr. FOSTER. I said at the port of New York.

Mr. WILLIAMS. At the port of New York. That is true, I suppose, of all or nearly all articles of importation, that there was less imported during those years than prior years because the condition of the country interfered with the business of commerce. That argument, it seems to me, has very little force so far as it applies to this article, no more than it has application to other articles. The statement that he has made is sufficient evidence, it seems to me, as to the cheapness of salt in foreign countries where a whole ship load costs only \$3,000. That argument of itself is sufficient to show that the manufacturers of salt in the United States cannot compete with those who produce the article in foreign countries unless they are protected. This is a large business. It is not confined to any one State; it is a business that extends into various States of the Union; and the simple question is, whether this business, in which there is so much capital invested, and which employs so many people, shall be abandoned; or whether, like the manufacture of cotton, of linen, and of iron, it shall be protected in the same way. It seems to me we ought to do justice by all interests. If we protect one interest we should protect another. Give every interest a reasonable protection; and then you put them all upon an equal footing.



Mr. FOSTER. If the honorable Senator will allow me, I will ask him why it is necessary, in order to put all upon an equal footing, to make the importer of salt pay one hundred per cent. duty when no other importer of the necessities of life pays the fourth of that?

Mr. WILLIAMS. I have only to say in answer to that argument that the practical experience of the men who are engaged in the business is better than any theory that can be advanced. If it be a fact that under the existing tariff the importations of salt are breaking down and destroying the business of its manufacture in the United States I care not what theory is advanced on the subject; the practical fact is evidence that the business needs protection; and that is the point upon which I rely. I believe that the representations that were made to the committee by these persons were reliable; and as all other articles are protected, as prices have greatly advanced, as the price of wood and the price of coal consumed in the manufacture of salt and the price of labor has advanced, and as all the other articles which are used by the men engaged in this business are taxed and their price increased by the addition of a higher tariff, it seems to me that these reasons ought to satisfy us that this bill is not an unreasonable bill in the protection it affords to salt manufacturers.

Mr. FOSTER. The honorable Senator from Michigan seems to think that a great deal is achieved by dividing the amount which would be saved by the reduction of this duty among all the population of the United States, and showing that a very insignificant fractional amount it is when apportioned to each individual of our population. It is very true that the sum is trivial, very trivial under those circumstances; but if the honorable Senator will weigh his argument a little he will find it, I think, much lighter even than the fraction which he has calculated. When really stated in its force and effect, it is that this burden is so universally diffused and diffused over every human being to such an extent that it is no burden at all, because everybody feels it. Suppose that all the salt in the United States costs forty cents per one hundred pounds more—not the few ounces or few pounds that each individual consumes, but the whole consumption of the country—compute forty cents per one hundred pounds, on the whole consumption of the country, and it would make an amount that would startle the honorable Senator from Michigan. He is accustomed to deal in large figures. I do not know that it would make much difference even if he had the whole to pay, but it would make a vast deal of difference with some humbler individuals of the Senate who do not handle quite as much money as the honorable Senator.

I suppose the fair statesman-like view to take of a question of this sort is, how much is saved to the country? How many thousands or hundreds of thousands of dollars are saved to the country? And although it may amount to but a few hundred thousand dollars saved to the country, and divided among thirty million people, to each individual it would be a very small amount, still I suppose statesmen regard legislation when it comes to hundreds of thousands of dollars as of some consequence. But divide it among thirty millions, and call upon each to pay his particular share, and it is quite laughable to say that it is worth talking about! But that I submit, Mr. President, is not statesmanship. We are here legislating for the benefit of the country; and if we can save the country—I mean the population, the people of the country—even the little pitiful sum of \$100,000, I think it is our duty to do it; if we can save them \$500,000 I think it is our duty to do it. On that basis my opinions rest, and not on the fact that when we come to divide the duty among thirty millions on the whole it will be quite light to each person.

Mr. WILLEY. Mr. President, West Virginia abounds in this mineral as well as minerals of almost every other character. Some of my constituents have their capital invested

in the manufacture of salt, and I suppose a great many more of them not so engaged are consumers of the article. I quite concur with the Senator from Connecticut that the burdens of Government should rest as lightly as possible on the necessities of life; but at the same time it appears to me that the necessities of life, because they are such, more especially need protection; that is to say, I think it would be bad policy to allow ourselves to become wholly dependent upon foreign Powers, upon importation, for any of the necessities of life; and therefore it involves the propriety, as I think, of affording to the manufacturers of salt, which is one of the necessities of life, such protection as shall enable them entirely to compete with the foreign article. What would be the result of allowing our manufactories of salt to go down? One result certainly would follow, and that is: that instead of reducing the price of this necessary of life, when there was no competitor in the market, the foreign producer or importer would most certainly increase the price. When there was no competition, of course the price of the article would necessarily be increased.

Again, sir, and more especially in time of war between us and any of those countries from which we derive this article, if the manufactories of salt at home should go down for want of protection, we should be in a very disagreeable situation. The point, therefore, that I desire to make is this: that because salt is a necessary of life, it therefore more especially requires protection to such an extent as will enable our manufactories of salt in this country fairly to compete with the foreign article. It seems to be conceded that our manufactories at home do need protection to some extent in order to enable them to do this. It is essential, therefore, to keep in operation our domestic manufactories in order that we may not be dependent upon the foreign article for this necessary of life.

There is another necessity that would necessarily ensue from a reasonable protection of the article at home, and that is it would attract capital and labor to the manufacture of this article; manufactories of it would be multiplied; the amount of the article produced would be greatly increased; the relation between the supply and the demand would be made different from what it now is. The supply would be greater than the demand, and that would bring down this necessary of life in its price, in its estimated value; and in that way this necessary of life would be furnished to the people at cheaper rates than it even now is.

This, sir, is no new idea. We have had it exemplified in almost all articles of New England manufacture. In the rough article of cottons, for instance, we can make them cheaper at home now than the foreign article can be introduced into our country without any tariff at all, duty free; and how has this resulted? It has resulted from the protection which we have afforded to our own manufactures here at home. The same result to some extent would occur in the manufacture of salt. Protection would attract capital to that business, increase the production, and decrease the price of this necessary of life. I hope, inasmuch as the committee have settled upon the duty as it now is in the bill, that it will be allowed to remain.

Mr. MORGAN. It must be evident to every one that in the bill which is reported by the committee the industries of the country are very largely protected. That fact must be evident from the debate which has taken place here to-day. No one can deny that all the industries of the country are protected, and probably protected to a greater extent in this bill than they have been in any former bill. The manufacture of salt is one of those industries—a very large interest in the State of New York. The arguments that have been presented here were presented to the Committee on Finance, of which I happen to be a member. Gentlemen appeared before the com-

mittee and made statements showing that the manufacture of salt required the duty which the committee finally agreed to impose. Those rates, as I understand, are precisely the same as those passed by the House of Representatives. They do not appear to be so in the bill as it came from the House; but I think that is a misprint. I think they passed in the House at twenty-four and thirty cents, although the latter rate appears in the House bill as printed at thirty-six cents. I believe the duty on salt in the bill as it passed the House of Representatives is precisely the same as reported by the Committee on Finance. I hope, therefore, as we have adhered, and I have myself, to the report of the committee on these other items, that the report of the committee will be adhered to on the article of salt.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Connecticut.

Mr. FOSTER. I ask for the yeas and nays upon that amendment. I do not wish to take up time, but the Senate is so thin that I must ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 18; as follows:

YEAS—Messrs. Anthony, Buckalew, Fogg, Foster, Henderson, Hendricks, Johnson, Norton, Patterson, Sumner, and Trumbull—11.

NAYS—Messrs. Cattell, Chandler, Conness, Creswell, Edmunds, Fessenden, Frelinghuysen, Harris, Howard, Howe, Morgan, Morrill, Poland, Stewart, Wade, Wiley, Williams, and Wilson—18.

ABSENT—Messrs. Brown, Cowan, Cragin, Davis, Dixon, Doolittle, Fowler, Grimes, Guthrie, Kirkwood, Lane, McDougall, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sherman, Sprague, Van Winkle, and Yates—23.

So the amendment to the amendment was rejected.

Mr. CRESWELL. I move to amend the amendment of the committee on page 68, line five hundred and forty-six of section nine, by striking out the word "four" and inserting "five;" so as to make the line read:

On chromate and bichromate of potassa, five cents per pound.

Mr. EDMUNDS. I suggest to the Chair that the word "four" has been inserted already in that clause by a vote of the Senate, and hence a motion to strike it out and insert another sum would not be in order at this time, I should suppose.

The PRESIDING OFFICER. The Senator from Vermont is right. An amendment has already been made in that clause. The Senator from Maryland can accomplish his object by making his motion when the bill comes in the Senate. It cannot be made in committee.

Mr. CRESWELL. I will make a motion, then, to strike out the whole of the five hundred and forty-sixth line.

The PRESIDING OFFICER. That amendment is in order.

Mr. CRESWELL. And to insert in lieu thereof:

On chromate and bichromate of potassa, five cents per pound.

Mr. FESSENDEN. That would not be in order any more than the other, I take it.

Mr. CRESWELL. The motion was not before to strike out the whole clause.

Mr. FESSENDEN. It is the same thing.

The PRESIDING OFFICER. Precisely the same question has been decided, and in the judgment of the Chair it would not be in order.

Mr. FESSENDEN. I will state with regard to that, that the rate of duty was three cents a pound; the House put it at three and half cents—

Mr. CRESWELL. I call the Senator from Maine to order. There is no question before the Senate. [Laughter.]

Mr. FESSENDEN. I submit. Is there no motion pending?

Mr. CRESWELL. No, sir; the Chair decides the amendment out of order. If I cannot speak you cannot.

Mr. FESSENDEN. I thought the motion was pending.

Mr. EDMUNDS. I move to amend the amendment on page 98, section eighteen, immediately after the fourth line, by inserting:

All books, maps, charts, and other printed matter specially imported in good faith for any public library or society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use of any college, academy, school, or seminary of learning in the United States.

Mr. FESSENDEN. I suggest to the Senator to move to insert his amendment after "bones" between the thirtieth and thirty-first lines.

Mr. SUMNER. It would better come in there alphabetically.

Mr. EDMUNDS. I have no objection to the transposition of place. I merely followed the old law in putting it in the place that I proposed. At the suggestion of my friend from Maine I will modify the amendment by striking out the word "all" at the beginning of it, and then proposing to insert it between the thirtieth and thirty-first lines. The amendment merely keeps the free list on this class of books just as the law now is. It is a literal transcript of the existing law, with the exception of the introduction of the words "public library," it being open to some possible doubts whether, under the phraseology without that, city and town or county libraries would come within the exemption provided.

Mr. FESSENDEN. The Senator has drawn his amendment much larger than I hoped he would draw it, and in its present shape I must certainly object to it. He includes all books imported for the use of schools. That would destroy all the publishing interests in the country pretty much. If he were to specify libraries and public institutions it would not be so objectionable; but as the tariff now stands, upon the principle the committee have adopted, to carry it so far, even although it may have been in the former tariff, would not meet with the approbation of the committee, and it would be striking a blow at the existence of the publishing interest which they could not stand. To exempt from duty all books for the use of schools would cover almost everything that would come in.

Mr. EDMUNDS. As I said before, the amendment that I propose has the effect merely to leave the law as to this free introduction of books just as the law is now. I do not think that the publishing interests of the country have been injured at all, and I think my friend from Maine will not say that they have been under the existing tariff by the introduction of free books, for the reason that books that are used as school-books, in the ordinary sense of that term, the general run of school-books, are almost always imported, as a general rule, by dealers and sold in the regular way, and pay the duties. This amendment is confined to that class of books which are imported in good faith for a specific school or academy. If it happens that an academy at Portland or at Burlington wants a rare foreign book to put in its library for the information of the people there, and its managers choose to go to the trouble and expense of sending for it abroad specially, and importing it specially themselves for the use of the academy, then it is to be received free.

But this amendment which I propose is not intended to operate upon school-books in general, imported generally for the use of schools. That is not the proposition; and I feel quite confident in saying that no mischief whatever of the kind that is suggested by the Senator from Maine has arisen under this law, that has stood for years and years on the statute-book, in this respect in the precise language of the amendment that I offer, because it must not only be a school-book, but it must be a book specially imported by the school or academy for its own private use. Now, in such a case I do not think that any injury to the revenue or to the book trade will result if these words are introduced.

Mr. FESSENDEN. I should like to hear the amendment read again.

Mr. SUMNER. It is the language of the old statute.

The Secretary read the amendment.

Mr. FESSENDEN. I think the last clause had better be stricken out.

Mr. WILLIAMS. I know that it has been represented, with how much truth I am not able to say, that the publishing interests of the country are suffering for the want of protection, and persons interested in that business have been very clamorous for an increase of the tariff. It seems to me that this amendment, notwithstanding it may be in the language of the old law, is exceedingly comprehensive, and it enables persons to import books into this country in large quantities to such an extent as to interfere with the book-publishing business greatly, in my judgment, to its detriment. Every society that is organized calling itself a literary, philosophical, or religious society may import any number of books professedly or really for its own use. I suppose that the society is to pretend that these books are for its own use until they are through the custom-house and into their hands, and then they can be used for any other purpose such as the society may think advantageous to their own interests.

Under this amendment, it seems to me, all the school-books of the country will be imported free of duty. Every school district in some of the large States has a school library. It is in the publication of those books that a large proportion of the capital engaged in this business is employed, and this amendment opens the door to the importation of an immense quantity of books from foreign countries to compete with the book-publishing business in the United States. I do not know of any particular reason why this exception should be made, why this business, which is a very extensive business in the country, should be subjected to greater disadvantages than any other kind of business; why these books should be allowed to be introduced here to compete with the books that are made in this country.

These societies are generally furnished with funds made up by contributions of individuals. One man may contribute a dollar and another man may contribute a dollar, and the society is just as able to buy its books as any individual is to buy his books. These colleges and societies can buy their books just as well as individuals can; and why, because a certain number of men associate themselves together and assume some high sounding name, call themselves some society, they should be allowed to import their books, their reading matter, free of duty, while an individual who does not happen to belong to that society must pay upon the book that he reads, is more than I can understand.

I know it appears to be entirely proper and desirable to be very liberal toward societies which are embraced in this enumeration of the honorable Senator, but it seems to me there is no substantial reason for it; and if the effect of it will be, as I believe, to injure the business of book publishing in the United States then it will only tend to increase the price of books to other people who have to purchase and pay without the privilege of this exemption from duty. There is an idea that has force in it, and that is, that under this amendment and through this door which is opened here, a large amount of books can be brought into this country without the payment of duty to be used not for the purposes contemplated in this amendment. It opens a door for importations of that description, and I have no doubt that importations have been made in that way, and will be made. This exception is a very large one, and it seems to me to be objectionable.

Mr. EDMUNDS. I do not believe the Senator from Oregon, or any Senator within the sound of my voice, can name an instance in which he has what he believes himself to be credible information of the statute which has been referred to, and which has been a statute a great while, having in any instance been abused or circumvented or defrauded.

Mr. FESSENDEN. We raise the duties very largely in this bill, and the temptation will be very much greater.

Mr. EDMUNDS. If we refuse to admit the introduction of knowledge into this country on the ground that possibly the tariff law on books in general may be defrauded we shall be assuming, as it seems to me, a singular attitude for legislators. Every law that we pass on every subject is capable of evasion; and I know of no law which has been less evaded than the very one which we are now discussing.

My friend from Oregon thinks it a hardship to the rest of mankind to allow the free introduction of foreign books, the production of foreign writers, the product of foreign intellect, because the private citizen, as he says, has to buy his own book. The theory upon which this exemption goes is, as I understand it, that the introduction of books of this description for the use of a public library, whether it is a school or a college or in some society which is organized solely for a library society, puts it within the reach of the poor man, who has not, like my Oregon friend, plenty of money to buy knowledge with, or who was not born with it, as he was, the means of improving his intellectual condition; and it is a well-known fact all over the country that there is no means so essential to the diffusion of knowledge among men, there is no means which has been so successful in diffusing intelligence among men, as the use of these very libraries.

I do not care by what name you call them, whether you call them school libraries or college libraries or libraries merely. They are bringing information to the doors of the poor, who then get it freely. They do not have to be members of library societies to be entitled to read these books. If it is a school library every child in the town, city, or district is entitled to consult those books, and to drink from the fountains of knowledge that they contain. That is the theory.

Now, I am not so much of a protectionist, although I was born in Vermont, as to believe in any prohibitory or any high tariff on knowledge. I am a free trader on the subject of knowledge; and I believe the more foreign books that we bring into the country that are fit to be used the better. The best foreign books, the productions of the best foreign intellects, do not come in competition with home intellect in the sense that we protect the productions of men's hands, because it remains to be demonstrated that the home intellect will produce the same sort of material that the foreign intellect does.

Mr. WILLIAMS. The Senator will allow me to state that I am advised, and I have no doubt of the fact, that persons send books from the United States over to England and have them published there and brought back here, the productions of American intellect; and in that way the business of making books in this country may be very greatly damaged. The gentleman is not arguing the whole question when he assumes that this applies exclusively to books produced in a foreign country, foreign books; and I very much doubt, notwithstanding the high respect I have for all literary attainments, whether it would not be better for us to know more about books of our own country and less of those of foreign countries.

Mr. EDMUNDS. That is a question of taste about which I will not dispute with my distinguished friend from Oregon. He may take his choice of reading, and I will take, as far as my means will allow me, mine. I cannot argue the whole question at once because I have not the diffusive faculty necessary to hit all the points which are raised here by one single observation. Now, it is true undoubtedly, coming to the point my friend refers to, that once in a while an American author has his book copyrighted and published abroad, and it is within the range of possibility that some college or some library or some institution may send abroad and get one copy of that book. If they should, there would be so much loss to the home industry of printing that book, the benefit

of which would have been received if it had been printed here. But we all know that objections of that kind are merely trifling, after all, because they are extremely exceptional; they are not general. The general rule, operating broadly and generally in favor of learning and the diffusion of knowledge everywhere, is that it has been the policy of this country and every other to permit the productions of foreign intellect to be brought in where they will be for general use, be put in a place where the poor can get them freely—to permit the introduction of such matter freely.

Now, all I ask of the Senate is, that they should adhere to the established policy and the just one upon this subject; and if you do not allow it only for those higher institutions, if you strike out schools and institutions of learning other than the colleges and seminaries of higher degree and the libraries proper, then you cut off from the common people and poor people in the villages of our country great sources of information that they ought to have; and the number of books in all that would be introduced under this provision, unless it is evaded and defrauded, would be so small as not to affect the revenue materially.

Mr. McDOUGALL. Mr. President, it is with great pleasure that I support the amendment of the Senator from Vermont. If you place a high tariff on everything, you should not in my judgment place a high tariff on knowledge. It is well known to all who have learned anything that it belonged to our early opportunities to pick up knowledge as derived from books from those which came from Europe. We have made an effort to bring books from the older countries to inform us. Probably none of the earliest reading of Senators in the very difficult parts of knowledge was in American publications. My doctrine is to protect knowledge and allow it to be free. I remember very well that I had my earliest discipline from free libraries when I was a lad, and I could not probably have commanded it otherwise.

This question is not a new one; it has been discussed before. I think there should be no tax upon the introduction of foreign literature. As to the suggestion that American books may be sold abroad, printed in London, and brought back here, that, as the Senator from Vermont says, may once in a while happen, but it does not belong to a business argument. Knowledge should be as free as the air and the water. I trust the amendment may be approved.

Mr. FESSENDEN. If the Senator from Vermont will strike out the last clause of his amendment, all after the word "arts," I shall vote for it; otherwise I shall be obliged to vote against the whole amendment, and hope it will not be adopted. The Senator from Massachusetts has an amendment which I think is better drawn, more carefully considered, which covers the same ground.

Mr. EDMUNDS. That modification would strike out colleges and societies of learning. I cannot accept it.

Mr. FESSENDEN. The Senator perhaps then had better withdraw his amendment for the present, and look at that which is drawn by the Senator from Massachusetts; which I think covers all the ground that ought to be covered.

Mr. EDMUNDS. The amendment of the Senator from Massachusetts does not cover the ground that I think ought to be covered, because I think these schools being kept within the limits of the law as to good faith—and the Treasury agents are pretty careful about free importations of every kind, as they ought to be; there is not much danger of fraud—these schools ought to be allowed to have one book of a kind, if they choose to send for it, for the free use of all their students. Differing, therefore, from my friend from Maine, I must insist upon a vote on the amendment as it stands.

Mr. FESSENDEN. I shall be obliged to oppose the amendment, although I am in favor of some amendment on this point. I think this goes too far.

Mr. EDMUNDS called for the yeas and

nays, and they were ordered; and being taken, resulted—yeas 9, nays 10; as follows:

YEAS—Messrs. Anthony, Dixon, Doolittle, Edmunds, Fogg, Foster, McDougall, Patterson, and Wiley—9.

NAYS—Messrs. Buckalew, Cattell, Chandler, Craig, Fessenden, Frelinghuysen, Morgan, Stewart, Wade, and Williams—10.

ABSENT—Messrs. Brown, Conness, Cowan, Creswell, Davis, Fowler, Grimes, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wilson, and Yates—33.

The PRESIDING OFFICER. There is not a quorum voting.

Mr. DOOLITTLE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 23, 1867.

The House met at twelve o'clock m.

### OATH FOR ATTORNEYS, ETC.

The SPEAKER. The first business in order is House bill No. 239, to prescribe an oath for public officers and members of the bar, and for other purposes, and by unanimous consent of the House the vote on the bill is to be taken at twelve o'clock m., without dilatory motion. The question is, Shall the bill pass? The motion to lay upon the table is considered as withdrawn.

Mr. BOYER. I ask unanimous consent to be allowed ten minutes.

There was no objection, and it was so ordered.

Mr. BOYER. Mr. Speaker, I had not intended originally to participate at all in the discussion of this bill; and during the very few minutes which are allowed to me now, it is of course impossible for me to present every view which, according to my conceptions of duty, ought to be presented if I were discussing the bill at length.

I am opposed to this bill because it is an attempt by legislative action to override an express decision of the highest tribunal of the country. I am opposed to it because it singles out one profession in the country to visit upon it unusual penalties for an offense which has been committed by men engaged in all occupations alike. I am opposed to it because it inflicts a penalty which involves the loss of the means of livelihood without a lawful trial or conviction of any crime. I am opposed to it because it is an *ex post facto* law prohibited by the Constitution. I am opposed to it because it makes no discrimination between those who voluntarily aided the rebellion and those who were compelled against their wills to enter its armies or to give aid and comfort to its cause. I am opposed to this bill also because, if it were perfectly legal in a constitutional point of view, it is not in accordance, in my judgment, with what ought to be the policy which should govern the legislation of this House. I do not know that I can better occupy the few moments accorded to me than to direct the attention of this House and the country to a portion of the opinion lately delivered by the Supreme Court in the matter of the petition of A. H. Garland, a lawyer who declined to take the test oath prescribed by this Congress, but who nevertheless was held by that tribunal to be entitled to pursue his legitimate profession. In that case the Supreme Court have said:

"The profession of an attorney and counselor is not like an office created by an act of Congress, which depends for its continuance, its powers, and its emoluments on the will of its creator, and the possession of which may be burdened with any conditions not prohibited by the Constitution. Attorneys and counselors are not officers of the United States. They are not elected or appointed in the manner prescribed by the Constitution for the election or appointment of such officers. They are officers of the court, admitted as such by its order upon evidence of their possessing sufficient legal learning and fair character."

"They hold their office during good behavior, and can only be deprived of it for misconduct, ascertained and declared by the judgment of the court,

after opportunity to be heard has been afforded. Their admission and their exclusion are not the exercise of a mere ministerial power. The court is not in this respect the register of the edicts of any other body. It is the exercise of judicial power and has been so held in numerous cases. It was so held by the court of appeals of New York in the matter of the application of Cooper for admission. Attorneys and counselors, said that court, 'are not only officers of the court, but officers whose duties relate almost exclusively to proceedings of a judicial nature, and hence their appointment may, with propriety, be intrusted to the courts; and the latter, in performing this duty, may very justly be considered as engaged in the exercise of their appropriate judicial functions.'"

"The attorney and counselor, being by the solemn judicial act of the court clothed with his office, does not hold it as a matter of grace and favor; the right which it confers upon him to appear for suitors, and to argue causes, is something more than a mere indulgence, revocable at the pleasure of the court or at the command of the Legislature; it is a right of which he can only be deprived by the judgment of the court for moral or professional delinquency. The Legislature may undoubtedly prescribe qualifications for the office, with which he must conform, as it may, where it has exclusive jurisdiction, prescribe qualifications for the pursuit of any of the ordinary avocations of life; but to constitute a qualification, the condition or thing prescribed must be attainable, in theory at least, by every one. That which from the nature of things, or the past condition or conduct of the party, cannot be attained by every citizen, does not fall within the definition of the term. To all those by whom it is unattainable it is a disqualification which operates as a perpetual bar to the office. The question in this case is not as to the power of Congress to prescribe qualifications, but whether that power has been exercised as a means for the infliction of punishment against the prohibition of the Constitution. That this result cannot be effected directly by a State under the form of creating qualifications we have held in the case of Cummings *vs.* the State of Missouri, and the reasoning upon which that conclusion was reached applies equally to similar action on the part of Congress."

Now, what action does this bill propose? The very thing which has been judicially decided by the highest tribunal in the country to be contrary to the Constitution of the land. It is a sad spectacle, Mr. Speaker, and prophetic of approaching peril when we find a political party represented by a majority in Congress reaching forth its hands to grasp both the judicial and executive as well as the legislative branches of the Government. This bill is only a part of that legislation which, during the existence of the present Congress, we have seen continually advocated and adopted by the majority in this House.

The time was when all parties respected, at least, the Supreme Court of the United States. Whatever vituperation and abuse politicians might heap on each other, whatever epithets might be applied to him who held the chief executive office of the country, the judges of the Supreme Court received from all parties the homage which was due to a tribunal distinguished during the whole history of the country for its learning and its purity. It has been reserved for our day and for this Congress to exhibit to the nation and the world a contempt even for that tribunal which hitherto has been regarded by the whole nation as the fountain of justice, purity, and law.

The Executive is a barrier to the designs of the majority in this House, the Supreme Court is another barrier; therefore war is made upon both the Executive and the judiciary. This Thirty-Ninth Congress has been engaged from the very earliest period of its existence in attempting to control and absorb, not only the legislative, but likewise the executive and the judicial branches of the Government. For this it is that the Judiciary Committee have reported a bill which provides that when the Supreme Court of the United States sit in judgment upon the constitutionality of an act of Congress, it shall require the unanimous opinion of all the judges to decide it unconstitutional. It proposes to enact that all the judges must unite in a judgment against Congress, but a bare majority may decide in its favor.

Mr. WILSON, of Iowa. I wish to correct the gentleman's statement as to the report of the Committee on the Judiciary. They have not reported any such bill as the gentleman mentions.

Mr. BOYER. Such a bill has at least been offered by a member of that committee, and



referred to the committee, and the House and the country will see whether the committee do not report it back to the House with a recommendation that it do pass. And I would ask the gentleman, as chairman of that committee, whether in his opinion that bill will not be reported by that committee to the House and put upon its passage here?

The SPEAKER. The gentleman's ten minutes have expired.

Mr. ELDRIDGE. Mr. Speaker, were the yeas and nays ordered on laying this bill on the table?

The SPEAKER. They were.

Mr. ELDRIDGE. I wish to withdraw the motion.

The SPEAKER. It was understood before the recess that the motion was withdrawn, also the yeas and nays.

Mr. ELDRIDGE. I now demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. BOUTWELL. I ask the indulgence of the House for about ten minutes to make a brief statement.

The SPEAKER. Is there objection. The Chair hears none.

Mr. BOUTWELL. I wish to state more distinctly than I have done the constitutional and logical argument by which this bill is supported. Among the enumerated powers of Congress is this:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Following the enumeration of judicial powers, the Constitution declares:

"In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make."

Secondly, further authority is given by the Constitution to Congress in these words:

"But the Congress may by law vest the appointment of such inferior officers as they may deem proper in the President alone, in the courts of law, or in the heads of Departments."

These provisions of the Constitution sustain Congress in the exercise of two kinds of power, namely: first, the enactment of all laws which Congress deem necessary and proper to carry into effect any of the powers vested in any department of the Government; and secondly, in the authority given to Congress to confer on the courts of law, as well as on the Departments of the Government, power to appoint such inferior officers as Congress may see fit.

We maintain this bill by maintaining the doctrine that an attorney in a court is an officer of the Government. We maintain it by the ancient theory, as old as the British law, of the official character of a counselor or attorney-at-law. From the very first he has been regarded as an officer of the court. The Supreme Court, in the decision which has been considered, maintain that doctrine, although they deny that he is an officer of the Government. That admission, as can be easily comprehended by any man, overturns this singular theory of the court. The Supreme Court itself is a department of the Government. Every court inferior to the Supreme Court is a branch or judicial agency of the Government, and therefore when you have demonstrated or admitted, as the Supreme Court in this decision have admitted, that an attorney is an officer of the court, it follows as a necessary consequence, from which there can be no logical, legal, or constitutional escape, that the attorney is an officer of the Government, because the court itself is either a department or a branch or agency of the Government.

Mr. ROGERS. Will the gentleman allow me to ask him one question?

Mr. BOUTWELL. I cannot allow myself to be interrupted, as I have but ten minutes of time. Under section thirty-five of the judiciary act of 1789 Congress provided by law for the appointment of these officers by the court; and as I said yesterday, the court derives its power to appoint attorneys from that act. But for that act they would be driven back upon the ancient

common-law doctrine, under which the party himself was required to appear in court and manage his cause. That section is as follows:

"And be it further enacted, That in all courts of the United States the parties may plead and manage their own causes personally, or by the assistance of such counsel or attorneys-at-law as by the rules of the said courts, respectively, shall be permitted to manage and conduct causes therein."

Therefore the authority of the court to appoint an attorney is derived from the judiciary act of 1789, framed by the fathers of the Constitution; and without the authority of that act it would not to-day have constitutional or legal power to admit a single attorney to the performance of his ordinary functions in any court of the United States. They are entirely devoid of power to enact rules for the government of the courts, except through the act of 1793, which provides—

"That it shall be lawful for the several courts of the United States from time to time, as occasion may require, to make rules and orders for their respective courts, directing the returning of writs and processes, the filing of declarations and other pleadings, the taking of rules, the entering and making up judgments by default, and other matters, in the vacation and otherwise, in a manner not repugnant to the laws of the United States."

That is their limitation. They have power by the authority of law to make their rules, and that is the only power they have on the subject. The law limits this power by declaring that they shall not make any rules except such as are in conformity to the laws of the United States. The Supreme Court of the United States, many years ago, through the decision of Justice Story, recognized the authority of the Congress of the United States in this matter. He says:

"So far as the acts of Congress have adopted the forms of process and modes of proceeding and pleadings in the State courts, or have authorized the courts thereof to adopt them, and they have been actually adopted, they are obligatory, but no further. But no court of the United States is authorized to adopt by rule any provisions of State laws which are repugnant to or incompatible with the positive enactments of Congress upon the subject of the jurisdiction or practice or proceedings in such court."—*Keary et al. vs. The Farmers' and Merchants' Bank of Memphis*, 16 Peters, p. 94.

It is from the Constitution and laws and decisions of the courts, then, that we derive authority to pass any rule which we think necessary and proper for the performance of the duties devolved upon the courts of the country. If we have authority to give the courts power to make their own rules, we have clearly authority to prescribe exactly and definitely the rules by which the courts shall be governed; and upon this statement of the matter I submit the bill to the House.

The question being upon the passage of the bill, the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 42, not voting 41; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bronwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Darling, DeForest, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelsey, Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, Mercer, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Seefeld, Shellabarger, Sloan, Starr, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Fink, Glossbrenner, Goodyear, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Latham, LeBlond, Leitch, Marshall, McRuer, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Stillwell, Taber, Nathaniel G. Taylor, Nathan Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—42.

NOT VOTING—Messrs. Alley, Allison, Ames, Arnell, Blow, Sidney Clarke, Conkling, Culver, Davis, Dawes, Dodge, Eskloy, Garfield, Harris, Haw-

kins, Henderson, Hise, Asahel W. Hubbard, John H. Hubbard, James B. Hubbell, Hulburd, Johnson, Jones, William Lawrence, Marston, McCullough, Morris, Noell, Plants, Pomeroy, Rousseau, Schenck, Spalding, Stevens, Strouse, Thayer, Upson, Robert T. Van Horn, Elihu B. Washburne, Whaley, and Wright—41.

So the bill was passed.

During the call of the roll the following announcements were made:

Mr. LAFLIN. I desire to state, in behalf of my colleague, Mr. HULBURD, that having spent the night here he was so indisposed this morning that he is unable to be present here at this time. If he was here he would vote in favor of this bill.

Mr. VAN HORN, of New York. I desire to state that Mr. CLARKE, of Kansas, is absent on leave. If here he would vote for the bill.

Mr. O'NEILL. My colleague, Mr. THAYER, is still detained at home by sickness in his family.

Mr. GRINNELL. I desire to state that my colleague, Mr. HUBBARD, of Iowa, is still detained from his seat by illness.

Mr. WASHBURN, of Indiana. I desire to state that Mr. HENDERSON is confined to his room by indisposition.

After the call of the roll was completed, Mr. MORRIS said: I desire to say that I would have voted for this bill if I had been here before the call of the roll was completed.

The result of the vote was announced as above.

Mr. BOUTWELL. I move to amend the title of the bill so that it shall read "A bill to prescribe a rule concerning public officers and members of the bar, and for other purposes."

The amendment was agreed to.

Mr. BOUTWELL. I move to reconsider the vote by which this bill has just been passed; and I also move to lay that motion on the table.

The latter motion was agreed to.

#### SOLDIERS OF THE WAR OF 1812.

Mr. COBB, by unanimous consent, presented a memorial to Congress from the Legislature of the State of Wisconsin, in relation to the surviving soldiers of the war of 1812; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

#### PROTECTION OF AMERICAN TONNAGE.

Mr. PIKE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to consider the propriety of protecting the interests of tonnage now afloat, as well as to relieve the ship-building industry of the country by drawbacks of duties on materials used in the construction of vessels; and to this end that they consider the expediency of abolishing in whole or in part the tonnage tax, and of adopting a system of differential duties with regard to American ships, so that our vessels may have a share in the transportation of foreign merchandise and business now confined almost wholly to foreign bottoms.

ALLEN WILSON.

Mr. STOKES, by unanimous consent, introduced a bill for the relief of Allen Wilson, of Wilson county, Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ORDER OF BUSINESS.

Mr. KASSON. I call for the regular order of business.

The SPEAKER. The morning hour has now commenced, and the first business in order is reports from the Committee on the Judiciary, where the call of committees last rested.

#### RIGHTS OF CITIZENS IN THE STATES.

Mr. WILSON, of Iowa. It is now about a week since the House, on motion of the gentleman from Ohio, [Mr. SCHENCK,] directed the Committee on the Judiciary to inquire into certain alleged illegal acts performed by parties in the State of Maryland; and in connection therewith the committee were directed to inquire whether any additional legislation is necessary to protect citizens of the United States in the enjoyment of their rights in the

several States. Upon the latter branch of the inquiry I am instructed by the Committee on the Judiciary to report a bill entitled "An act to declare and protect all the privileges and immunities of citizens of the United States in the several States." I move that this bill be recommitted and ordered to be printed. I will state that I intend to enter a motion to reconsider the recommitment. I shall take this course because, this being a bill of importance, members may desire to examine it, perhaps discuss it; and it would be impossible for me to afford during the morning hour that time which I desire to give to gentlemen, if they should express any wish to discuss the bill. I may state that this bill is the substitute reported by myself during the last session for the bill introduced by the gentleman from Ohio, [Mr. SHELLABARGER,] being substantially the bill introduced by him.

The motion of Mr. WILSON, of Iowa, was agreed to; and the bill was recommitted, and ordered to be printed.

Mr. WILSON, of Iowa. I now move to reconsider the vote by which the bill was recommitted.

The SPEAKER. That motion will be entered.

#### EIGHT-HOUR SYSTEM OF LABOR.

Mr. NIBLACK. I desire to take this opportunity to propound a question to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. I yield to the gentleman for that purpose.

Mr. NIBLACK. During the last session of Congress several propositions (including one submitted by myself) in regard to what is known as the "eight-hour system" were referred to the Committee on the Judiciary. I beg leave to inquire of the gentleman whether the committee of which he is chairman intend at the present session to report anything to this House upon that subject.

Mr. WILSON, of Iowa. I will state, Mr. Speaker, that if the committee shall have sufficient time to get through with their reports one of the measures they will bring before the House will be a bill on that subject.

Mr. NIBLACK. The gentleman will allow me to suggest that the committee should at least report back some one of the propositions for consideration, even if the committee are not prepared to make a recommendation upon it, so that the House may take some action upon the subject.

Mr. WILSON, of Iowa. I believe I stated during the last session that the committee had acted upon that bill, and it will be reported if we can have time to make the report.

Mr. NIBLACK. I so understood; and hence I wanted to know the reason of the delay on the part of the committee. I move that the committee have leave to report upon that subject at any time when it will not interfere with the morning hour.

Mr. WILSON, of Iowa. I certainly have no objection to that.

The SPEAKER. If there be no objection, the motion of the gentleman from Indiana will be considered as agreed to. It requires unanimous consent.

There was no objection.

#### CIRCUIT COURT IN ARKANSAS.

Mr. MORRIS, from the Committee on the Judiciary, reported back, with a recommendation that it pass, a bill providing for an additional term of the circuit court of the United States in the eastern district of Arkansas.

The bill, which was read, provides in the first section that a term of the circuit court of the United States for the eastern district of Arkansas shall be held at Little Rock, in that district, on the second Monday in October annually.

The second section provides that the salary of the United States district judge for the district of Arkansas shall hereafter be \$4,000 per annum.

Mr. MORRIS. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. Does that increase the salary of that judge, and how much?

The SPEAKER. Debate is not in order.

Mr. FARNSWORTH. I understand he draws \$2,500 now, and this increases it to \$4,000. It is a precedent to be followed in the case of all others. I am opposed to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRIS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. MORRIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. WILSON, of Iowa, moved that the title be amended by adding the words "and for other purposes."

The amendment was agreed to; and the title as amended was adopted.

#### DESECRATION OF GRAVES.

Mr. MORRIS, from the same committee, reported back House bill No. 253, to punish for the removal of dead bodies from the grave or other place of interment in the District of Columbia, with the recommendation that it do pass.

The first section provides that every person who, in the District of Columbia, shall remove the dead body of any human being from the grave or other place of interment for the purpose of selling the same, or for the purpose of dissection, or from mere wantonness, shall, upon conviction, be punished by imprisonment not exceeding five years, or by fine not exceeding \$500, or both such fine and imprisonment.

The second section provides that every person who, in the District of Columbia, shall purchase or receive the dead body of any human being, knowing the same to have been disinterred, contrary to the provisions of the preceding section, shall, upon conviction, be subject to the punishment in the said section specified.

The third section provides that every person who, in the District of Columbia, shall open a grave or other place of interment, with intent, first, to remove the dead body of any human being for the purpose of selling the same or for the purpose of dissection, or, second, to steal the coffin or any part thereof, or the vestments or other articles interred with any dead body, shall, upon conviction, be punished by imprisonment not exceeding two years, or by fine not exceeding \$500, or by both such fine and imprisonment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. MORRIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ELECTION OF SENATORS, ETC.

Mr. WOODBRIDGE, from the same committee, reported adversely on House bill No. 908, to amend an act entitled "An act to regulate the time and manner of holding elections for Senators in Congress," approved July 25, 1866; and the same was laid upon the table.

#### JUDGMENT LIENS.

Mr. COOK, from the same committee, reported adversely on a resolution to amend the law relating to judgment liens; and the same was laid upon the table.

#### RECORD OF DEEDS, ETC.

Mr. COOK, from the same committee, also reported adversely on a bill to enable citizens of the United States to record deeds of lands lying in States other than the States of their

residence in certain cases; and the same was laid upon the table.

#### PART OWNERS OF FORFEITED PROPERTY.

Mr. COOK, from the same committee, also reported adversely on House bill No. 72, for the relief of loyal and innocent part owners of personal property forfeited on account of criminal acts of the part owners of it; and the same was laid upon the table.

#### COURT OF CLAIMS.

Mr. COOK, from the same committee, also reported back House bill No. 668, to limit the time for bringing suits before the Court of Claims, with the recommendation that it do pass.

The bill provides that every petition or proceeding before the Court of Claims to recover any claim against the United States shall be filed or commenced within six years after the passage of this act if the claim in such petition or proceeding specified shall have already accrued, and if not, then within six years after such claim shall have accrued, and not after. But the provisions of this act shall not apply when the holder of such claim shall be under twenty-one years of age, insane or a *feme covert*; provided that the petition or proceeding to recover such claim shall be filed or commenced within six years next after such disability shall cease to exist.

Mr. COOK. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read a third time, and passed.

Mr. COOK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### FEES OF OFFICERS OF UNITED STATES COURTS.

Mr. COOK, from the Committee on the Judiciary, reported back House bill No. 872, to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1863.

The bill was reported; and during the reading thereof the hour of one o'clock arrived, which was fixed for the execution of the order of the House in regard to absentees.

#### MEMBERS UNDER ARREST.

The SPEAKER. The hour of one o'clock having arrived, the Sergeant-at-Arms will now proceed to execute the order made by the House yesterday in regard to absentees from its session. The Sergeant-at-Arms will produce at the bar of the House the members in his custody.

Mr. ORTH. Mr. Speaker, the unpleasant difficulties growing out of the proceedings yesterday having been satisfactorily and honorably adjusted, I presume there is no disposition on the part of the House to pursue this subject any further. I therefore move that the warrant of the Speaker in the hands of the Sergeant-at-Arms be set aside, and that all persons arrested by virtue thereof be discharged, and on that I demand the previous question.

Mr. WASHBURN, of Indiana. I move to lay that motion on the table.

The SPEAKER. The effect will be to dismiss the whole subject.

Mr. WASHBURN, of Indiana. Then I withdraw the motion.

Mr. ASHLEY, of Ohio. I rise to a point of order. There are some fifty of us that have been fined.

Mr. WASHBURN, of Indiana. I raise the point of order that the gentleman is under arrest, and has no right to speak. [Laughter.]

The SPEAKER. The arrest operates from this moment; therefore the gentleman is not entitled to speak.

Mr. ELDRIDGE. I rise to a question of order. Gentlemen under arrest by the Ser-

geant-at-Arms are in their seats in the House. [Laughter.]

The SPEAKER. The Chair sustains the point of order; the Sergeant-at-Arms will present the gentlemen in his custody at the bar of the House.

Mr. LE BLOND. I suggest to the gentleman from Indiana [Mr. ORTH] to modify his motion by making it simply to discharge the order of the House, and that the culprits be brought to the bar of the House so that we may see who they are. [Laughter.]

The SPEAKER. The gentlemen are not culprits; they are members of this House.

Mr. FARNSWORTH. I desire to know if members under arrest have a right to vote on this question.

The SPEAKER. They have not.

Mr. FARNSWORTH. For if they had they might vote down the motion.

Mr. SCOFIELD. I ask the gentleman to modify his motion by making it that they be discharged on paying the usual fee, except such of them as desire to come before the House and render their excuse.

Mr. ORTH. I accept the modification.

Mr. McRUER. I raise the point of order that they are not at the bar of the House.

The SPEAKER. They are supposed to be at the bar of the House; if not, the Sergeant-at-Arms will present them.

The Sergeant-at-Arms accordingly presented before the bar of the House the following members in his custody:

Messrs. James M. Ashley, Baldwin, Bingham, Blaine, Brandegee, Bundy, Chanler, Dawes, Deming, Griswold, Hale, Holmes, Hooper, Edwin N. Hubbell, James R. Hubbell, Kasson, Kelley, Latham, George V. Lawrence, Loan, Marshall, Marvin, Maynard, McKee, Moorhead, Pike, Radford, John H. Rice, Ross, Sloan, Stillwell, Nathaniel G. Taylor, John L. Thomas, Thornton, Hamilton Ward, William B. Washburn, Wentworth, Stephen F. Wilson, Winfield, and Woodbridge.

The SPEAKER. The motion is that they be all discharged except those who desire to render excuses. If the motion prevails, then gentlemen who desire a separate vote will remain at the bar of the House, and the Chair will ask what excuses they have to render for being absent from the session of the House.

Mr. BLAINE. Mr. Speaker, I wish to make an inquiry. I was never served with notice of arrest, and yet I find my name in the list of absentees under arrest. With due deference to the House, I present myself here, and I wish to know whether I am under arrest?

The SPEAKER. The Chair thinks the gentleman is under arrest and at the bar of the House. [Laughter.]

Mr. FARQUHAR. I ask my colleague to yield to enable me to offer an amendment, to make an exception in the case of those who have once been before the House and fined.

Mr. ORTH. I decline to yield.

Mr. RADFORD. Have we a right to vote upon this question?

The SPEAKER. The gentleman, as one of the members in custody of the Sergeant-at-Arms, has not a right to vote upon this question.

The question was taken on seconding the demand for the previous question; and there were—ayes 47, noes 51.

So the previous question was not seconded.

Mr. FARQUHAR. I now move to amend the motion of my colleague [Mr. ORTH] so as to except from his proposition those who were called before the bar and fined and also those who came—

Mr. HILL. I suggest to the gentleman that he include those who got out of the House by unusual routes.

Mr. FARQUHAR. I propose to increase the fines imposed upon those who come within the terms of my amendment.

Mr. FARNSWORTH. It excepts those who have not been fined; while it increases the fines upon those who have been fined. Does it propose to fine a man twice?

Mr. FARQUHAR. It is an exception in favor of those who have not been fined.

Mr. RANDALL, of Pennsylvania. I desire

to say that I do not think that any further possible good can result in continuing this prosecution, and I hope therefore that the House will put a stop to it by adopting the motion that these gentlemen be relieved from arrest and that their fines be remitted.

Mr. HIGBY. I would like to inquire what the condition of the question is?

Mr. RANDALL, of Pennsylvania. I will modify my motion so as to discharge them upon the payment of the usual fees.

The SPEAKER. That is the original motion.

Mr. RANDALL, of Pennsylvania. Very well, sir; I am satisfied with that.

Mr. HIGBY. Mr. Speaker, it would be utterly impossible for this House ever to do any business unless there should be some means found of holding members here when they are brought here under arrest. It is a notorious fact that within a very few minutes after members were brought here by the Sergeant-at-Arms last evening they left the House knowing we were here in session, and yet they treated the House with utter contempt. It is impossible for us to do business otherwise, and I hope that those members who have been brought here by the Sergeant-at-Arms and have then left the House will be fined.

Mr. MORRILL. The older members of this House know that in no instance has this penalty been enforced, and that it is an utter waste of time to attempt it; and in order that there may not be another day wasted I move to lay the whole subject upon the table.

Mr. WINDOM. I raise the point of order, that when the House adjourned all the proceedings under the call fell with the adjournment.

The SPEAKER. The Chair overrules the point of order. The Digest says that—

"By an adjournment pending a call all proceedings under the call are terminated; but where the House has previously passed an order especially directing otherwise, such special direction should doubtless be executed."

Mr. RAYMOND. What would be the effect of laying the whole subject upon the table?

The SPEAKER. The effect would be to relieve the members from arrest and dispose of the whole subject.

Mr. HILL. I wish to know further whether if this whole subject is laid upon the table, and these gentlemen are discharged, it will not be in effect an abandonment of the rules of the House.

The SPEAKER. The House has a right to abandon its rules if it sees fit.

Mr. BOYER. I desire to inquire whether the officer who makes the arrest would not in any event receive this pay? If these fines are remitted, will they not be paid out of the contingent fund of the House?

The SPEAKER. The Chair stated, in reply to a similar inquiry last evening, that these fees are settled by law, and that that law is to be found in the statutes-at-large, volume nine.

Mr. BROMWELL. If this motion to lay upon the table prevails will not these members remain under arrest?

The SPEAKER. They will not under the usage of the House.

Mr. HARDING, of Illinois, demanded the yeas and nays on agreeing to the resolution, and called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was put upon the motion to lay the resolution upon the table; and there were—ayes 32, noes 69.

So the House refused to lay the resolution upon the table.

Mr. FARQUHAR. I desire to call the attention of the House for a moment to the facts connected with the proposition which is now before this body for consideration. The pending proposition is to discharge all the gentlemen who are now at the bar of the House to answer for being absent without leave. I propose to amend that proposition so as to except from its operation those gentlemen who have previously been brought to the bar of the House

for the same offense, and after fines had been imposed upon them again left the House without leave; and also certain other gentlemen who were present at the first call of the House, and then absented themselves without leave.

My object in offering this amendment is for the purpose of vindicating the character of the House and rendering full justice to those members who remained here for sixteen hours during yesterday and last night to maintain the integrity and dignity of this body. We were led by gentlemen of the Judiciary Committee into a contest yesterday to sustain and carry through a measure which was regarded as of importance to the country. Many of the members now at the bar of the House united with us in the effort to sustain the character of this body and carry that measure, and then they abandoned us to maintain the contest during the night. Some of those members were arrested, brought to the bar of the House, and fined for having absented themselves without leave. Yet it is proposed that they shall now, after having again been brought to the bar of the House, be discharged without even the payment of the customary fines, which we imposed upon so many members last night.

Mr. INGERSOLL. Will the gentleman yield to me for a moment?

Mr. FARQUHAR. I cannot yield to the gentleman. The gentleman has justly been charged with being a deserter from his party in this struggle.

Mr. INGERSOLL. I rise to a point of order. My point of order is that the gentleman from Indiana, [Mr. FARQUHAR,] who is now addressing the House, was arrested last night, brought to the bar of the House, and fined, and he has not yet paid his fine. [Laughter.]

The SPEAKER. The Chair has no information to that effect. The presumption is that every member who has been fined has paid his fine.

Mr. HIGBY. I would ask the gentleman from Illinois (Mr. INGERSOLL) how many times he was arrested and brought into this House last night?

Mr. INGERSOLL. Once; and I paid for it. [Laughter.]

Mr. FARQUHAR. It is very easy for the gentleman to rise in his place in this House and make a charge; but it is a more difficult matter for him to prove it. But it would make no difference whether I was arrested last night or not; whether I was brought to the bar of the House or not; whether I was fined or not; all that would make no difference in regard to the facts which I am endeavoring to lay before this House in relation to those members who are now derelict. I was not brought to the bar of the House and fined. But some members were fined by the votes of the very gentlemen now here before us. Sir, I insist upon it that the character and dignity of this House shall be maintained, and in doing so I ask that the distinctions shall be made which I have undertaken to set forth in the amendment which I have submitted to the House. After this House shall have vindicated its dignity, after it shall have placed upon its records proper action upon this subject, then if it chooses it can relieve these derelict members; but I am opposed to their being relieved from arrest until its judgment upon the subject shall have been placed upon the records of the House. I now yield to my colleague in front of me, [Mr. HILL.]

Mr. HILL. I do not desire to take up the time of this House unnecessarily. The facts patent to every member present are simply these: last night a large number of us were compelled to remain here and sit out the entire night. Upon looking over the gentlemen now at the bar of the House any one can see at a glance that they are nearly all old members. Now, if it is true that by being here a few sessions they have learned ways of dodging and avoiding the rules of this House and compelling other members of not so much experience to remain here hour after hour the whole night



through, they themselves being quietly asleep in their beds at the time; if they can do all this and then come in here and enforce the rule upon and fine other members who were brought here in the early part of the night, then it is time that we should all understand it.

Mr. MORRILL. I rise to a question of order. I would inquire of the Chair if these members now under arrest at the bar of the House are to be required to stand there during all this discussion. If so, would it not be just that that should be reckoned in mitigation of their sentence? [Laughter.]

The SPEAKER. It is the order of the House that they be brought to the bar and kept there until some order shall be made in regard to them. If there is no objection they will be allowed for the present to occupy their usual seats.

Mr. HILL. If it does not relieve them from their liability I will not object.

The SPEAKER. It will not.

No objection being made, the members under arrest at the bar of the House were allowed to occupy their usual seats for the time being.

Mr. HILL. Now, Mr. Speaker—

Mr. FARNSWORTH. I rise to a point of order. My point of order is that the gentleman from Indiana [Mr. FARQUHAR] is himself in contempt of the House, having last night slipped through the door without the permission of the Sergeant-at-Arms after the doors were ordered to be closed.

Mr. HILL. I believe there is no evidence of that before the House.

The SPEAKER. The Chair will state that the House has no knowledge of the fact which the gentleman from Illinois [Mr. FARNSWORTH] states.

Mr. FARNSWORTH. I propose to prove it.

The SPEAKER. The Chair thinks that the point of order comes too late. It should have been made when the gentleman from Indiana [Mr. FARQUHAR] first rose to address the Chair. The Chair will state further to the gentleman from Illinois [Mr. FARNSWORTH] that members who have been fined are presumed to have paid their fines unless they state to the contrary. One case occurred in this House five or six years ago, where Mr. Cochrane, a member from the city of New York, being at the bar of the House, was subjected to a fine, which he in the presence of the House refused to pay. The House having this public notice of his refusal, he was not allowed to participate in the action of the House until the fine was paid. This, so far as the Chair is aware, is the only exception to the general practice. A member is supposed to obey the orders of the House; and so soon as an order has been made requiring him to pay a fine to an officer of the House, it is presumed, in the absence of evidence to the contrary, that the fine is paid.

Mr. HILL. Mr. Speaker, I said a moment ago that the delinquents now at the bar of the House included many of the old members, and also some gentlemen who were zealous at one time last night in moving to enforce the rules upon members who had been absent. In support of this statement, I read from the Globe of to-day:

"Mr. WENTWORTH. I demand that the Sergeant-at-Arms shall enforce the warrant of the House."

Yet the gentleman from Illinois [Mr. WENTWORTH] is brought in here this morning as one of the members under arrest for violation of the rules. And these gentlemen it is proposed to excuse *en masse* by a wholesale, sweeping resolution, without compelling them, as other gentlemen were compelled last night, to be called out individually by name, to be published in the Globe and heralded to the country as in contempt of the House. Sir, I insist that the ordinary rule of the House, to which other gentlemen last night were compelled to submit, no matter how disagreeable it was to them, ought to be enforced now against these delinquent members. I think that this is necessary to vindicate the authority of our rules. Let us either repeal the rule in regard to the attendance of members, relieving every gentleman

from the liability to such annoyance as being brought to the bar of the House to make his excuse; or else let us enforce the rule upon all alike. Do not allow it to be understood from the standing practice of this House that if members will trifle with the dignity and the rules of this body until they wear out its patience, they will be allowed to go scot-free. This is what I object to. I think that the proceeding which was carried into effect last night—the enforcement of the ordinary rule of the House—should be carried into effect this morning. For this reason I oppose the proposition of my colleague, [Mr. ORTH.] Time is precious, I admit; but when we consider how a large number of members, respecting the rules of the House, sat here all last night, during the long weary watches, answering to the roll-call time after time, while these gentlemen who are brought here this morning were sleeping comfortably in their beds, I think we should not begrudge the short time which may be necessary to enforce impartially the rules and vindicate the authority of the House.

I thank my colleague [Mr. FARQUHAR] for his courtesy in yielding me the floor to make these remarks.

Mr. FARQUHAR. I now yield the floor to my friend from Wisconsin, [Mr. COBB.]

Mr. INGERSOLL. I make the point of order that the gentleman from Indiana [Mr. FARQUHAR] has no right to retain the floor, as he is in contempt of the House, having violated its rules.

The SPEAKER. The Chair has already overruled that point of order. It is too late to make it even if it were well founded.

Mr. COBB. Mr. Speaker, I desire to say, although knowing most of the gentlemen now at the bar of the House, all of them personally, and agreeing with most of them politically, knowing all of them as honorable members of this body, yet I feel it to be my duty to vote against the motion of the gentleman from Indiana, [Mr. ORTH.] which would relieve them altogether of all the penalties consequent upon their absence without leave of the House.

I will confess I am somewhat envious of these gentlemen. I am envious of the happy state of mind in which they come to the House this morning compared with that of those of us who have been here all night. Although not possessed of a large amount of currency I would give much more than they are liable to be fined if I could feel the satisfaction I believe they do. While we were here struggling for sixteen hours they were at home quietly sleeping.

But my chief object in rising is to enter my solemn protest against this proposition. As stated by the gentleman from Indiana, [Mr. FARQUHAR,] some of the most prominent members of this House took the initiative toward forcing action on the bill which was pending without discussion. I speak for myself and many others who sit around me when I say we did then as we have been in the habit of doing, allowed ourselves without a great amount of knowledge of the merits of the case, without investigation of the question, to be led along in the course of conduct marked out by the Judiciary Committee. When, however, we had started in that course to accomplish the result desired by that committee we found ourselves deserted; that the members of the Judiciary Committee had backed down on the issue. Now, I served under McClellan and Burnside, but I never got into the habit of retreating so as to like it. No sooner was there danger than our leader here, as McClellan and Burnside did, retreated. If that is to be the tactics of the leaders of this House I for one am about done voting for the previous question to push forward the legislation of the House, which so far as my experience has gone has ended in shameless defeat on the part of the majority of this House. That is all I wish to say.

Mr. FARQUHAR. I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I have but a word or two to say. I understand a motion is now pending to

discharge without penalty of any kind, but on the mere payment of fees and without each one answering for himself, all these gentlemen who have been brought here under arrest. I wish it to be understood whatever others may do I will oppose it at every step. We were kept here a whole night on account of the absence of these men. We were kept here when in all human probability we would not have found it necessary to stay had they been in their places. And there are some of them, at least, who having appeared once and answered to the first and perhaps to the second call, withdrew from the House and slept quietly while others were remaining in their positions as members upon this floor.

It seems to me if this House is ever to assert its right to enforce the attendance of its members under proper proceedings it is at this time. If we are to dispense with the proceedings I do not see any reason why we should not at all times hereafter let gentlemen attend or not as it may suit their personal convenience. I do not know who the gentlemen are and cannot intend anything personal in these remarks, but let them be who they may, the more distinguished the members of this House the more important it becomes they should be made examples for the rest. If these gentlemen are to have the benefit of good suppers and sweet repose in comfortable beds, while we remain subject to the orders of the House, endeavoring to conduct its business, it is time for us to know so we may take a like advantage hereafter and stay away. I hope nothing will be done which will prevent the call of each member to assign the reason for his absence so that we may judge each case on its proper merits.

Mr. FARQUHAR. I now yield a very few moments to my colleague.

Mr. ORTH. Mr. Speaker, I think from the course matters have taken here that the object I had in view will be defeated. My object was to prevent the consumption of the time of this House in bringing before it some thirty or forty of its members, and putting them through a catechetical process in regard to their absence last night. And all this we are told is necessary in order to assert the dignity of this body. Sir, if any spectators were present yesterday long after midnight they must have come to the conclusion that some other process is necessary to be resorted to to assert and maintain our dignity. I was with my distinguished friend from Ohio [Mr. SCHENCK] during the whole of the watches of the night.

Mr. SCHENCK. I wish to correct the gentleman as to his having been with me through all the watches of the night. He was one of the first lot of prisoners brought in. [Laughter.] "A fellow-feeling makes us wondrous kind."

Mr. ORTH. It does so. The gentleman has stated no new fact to the House. It is true I was absent and I answered to the call of the House and submitted to its judgment, and that was, as the gentleman from Ohio well knows at a very early hour in the evening, as early as seven o'clock. I was with him from that hour till eight o'clock this morning, and judging from our proceedings a man might readily suppose that during the whole of this time all the dignified members had left except the gentleman from Ohio [Mr. SCHENCK] and myself. [Laughter.]

Mr. Speaker, I have seen since my service here several attempts at arresting members for temporary absence from this House. Your honor will recollect a scene that transpired here during the Thirty-Eighth Congress.

Mr. INGERSOLL. I rise to a point of order. Has a member a right to address the Chair as "your honor?" [Laughter.]

The SPEAKER. The Chair thinks it is not exactly correct.

Mr. ORTH. Well, then, I will transfer that expression from the Speaker to the gentleman from Illinois. [Laughter.] I desire to learn from the experience of the past, and I hope and trust that I have a due appreciation of what belongs to the dignity of this body.

Sir, what was my motion this morning? I am satisfied that the previous question was voted down because my proposition was not understood. What was it? It was that instead of having forty or more members arrayed before us and put through a sort of schoolboy process of answering all sorts of questions, for the purpose, no doubt, of adding to the dignity of this House—and no one is so fruitful in this mode of examination as my distinguished friend from Ohio [Mr. SCHENCK]—I desired that all the members under arrest should be discharged from custody upon payment of the usual fees. It is true the adoption of my motion would probably have robbed him [Mr. SCHENCK] and the world of those glittering witticisms with which, like lightning flashes, he has essayed from time to time to illumine this House. [Laughter.] The result of the adoption of my motion would have been to place these delinquents upon precisely the footing that all were placed last night—to discharge them upon the payment of the usual fees. But the previous question was voted down because my proposition was misunderstood by many and misrepresented by others. It was my desire simply to save time. Sir, we had been appealed to by the gentleman from Vermont [Mr. MORRILL] and by the chairmen of various committees, who stated that the business of the House was pressing, while the hours of the session were rapidly passing away.

Mr. GRINNELL. Then why does the gentleman consume the time himself?

Mr. ORTH. The gentleman from Iowa is the last man to talk to me in regard to the consumption of time. Mr. Speaker, I supposed this whole matter could be disposed of by my motion in the short space of five or ten minutes, and the dignity of this House asserted and maintained to its fullest extent.

Under the operation of my motion the Journal of this Congress will show that some forty of its members were arrested this morning for absents themselves without leave from our deliberations; it will contain the names of the delinquents; that they were discharged by order of the House upon payment of the usual fee. Will not this record satisfy gentlemen who seem to have the dignity of the House in their special keeping? We shall, by the adoption of this course, assert our power in the preservation of our rules, save time, now so precious for more important legislation, and vindicate our dignity to at least as full an extent as it was preserved during the twenty hours of our boisterous session of yesterday. I trust the motion will prevail.

Oh, says the gentleman from Ohio, we must punish these men. What is the punishment he proposes? He and I, sir, have stood at the bar of this House as mutual delinquents and enormous fees were imposed upon us, of which he and I up to this day have never paid the first red, [laughter,] and we never will.

Mr. HUBBARD, of Connecticut. I will ask whether the gentleman from Indiana, [Mr. ORTH,] not having paid the fine imposed upon him by this House, is entitled to address the House. I make that point of order.

The SPEAKER. The Chair overrules the point of order for the reason that the gentleman's fine was in reference to the first call at last evening's session, and that call was dispensed with by the House.

Mr. ORTH. I have no more to say.

Mr. FARQUHAR. I ask the House to hear my amendment as I have modified it. It excepts members fined under the first call, and also members who left the House after the first call of the House, and proposes that all those excepted shall be discharged upon the payment of double the usual fees.

Now, I desire to say but a very few words in answer to the remarks of my colleague, [Mr. ORTH.] I do not understand, nor did I at the time I moved this amendment, that it conflicted with his proposition in any manner whatever. It concedes as does his that those members of the House who have been arrested and brought to the bar of the House, and who

had no knowledge of the call of the House, shall be discharged on payment of the usual fees; but it provides that those gentlemen who had been brought to the bar of the House and had been fined for their absence, and who had knowledge of the call of the House, shall be doubly fined. I refer to the men who went away from the House in the midst of the struggle to carry through this measure and abandoned us.

My amendment provides: first, that those members who had no knowledge of the call of the House shall be fined in the usual amount; and secondly, that those members shall be doubly fined who had knowledge of the call of the House, and who left the House knowingly and willfully, leaving us here to struggle, as we did, for some ten or twelve hours, who, if they had been here as they ought to have been and had stood by us, would have saved us from the mortification and humiliation of that defeat which, I acknowledge, we received from the hands of the minority this morning.

Now, having said this much, I move the previous question on the resolution and the pending amendments.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. I withdraw my amendment. I am in favor of the proposition of the gentleman from Indiana, [Mr. ORTH.]

Mr. DELANO. What are the usual fees?

The SPEAKER. The gentleman will find that in the Statutes-at-Large, volume nine, and also in the Digest.

Mr. MORRILL. I desire to ask whether or not all these fees will not go into the pocket of the Sergeant-at-Arms?

The SPEAKER. The Chair has never investigated that point. It is a matter regulated by law. The rule in reference to that subject is to be found on page 176 of the Digest.

The question being on Mr. FARQUHAR's amendment, it was put; and there were—ayes 54, noes 43.

So the amendment was agreed to.

The question recurred upon the resolution as amended; and being put, said resolution was agreed to.

Mr. MOULTON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER. Any gentleman who has been arrested and who desires to make excuse and have a separate vote on his case, will now present himself at the bar to make that excuse.

Mr. TAYLOR, of Tennessee. I do, sir.

The SPEAKER. Mr. TAYLOR, you have been absent from the sessions of the House without its leave. What excuse have you to offer for that absence?

Mr. TAYLOR, of Tennessee. Mr. Speaker, I would state in vindication of myself that I am in the habit of attending very closely to my duties in this House. But for the last six weeks from one to three of my family have been sick. During that time I have lost a great deal of sleep and have given a great deal of attention to those that are sick. Under these circumstances I paired off with my colleague, Mr. MAYNARD, about five or six o'clock yesterday evening, not anticipating a long session of the House. I say this in justification of myself.

Mr. WASHBURN, of Indiana. I move that the gentleman be excused without payment of fees.

The motion was agreed to.

Mr. RANDALL, of Pennsylvania. I would suggest that the excuse should not occupy more than one minute in its statement.

The SPEAKER. No limitation of time can be imposed except by unanimous consent.

Mr. RANDALL, of Pennsylvania. I merely desired to make the suggestion.

Mr. BALDWIN, one of the absentees, presented himself at the bar of the House.

The SPEAKER. Mr. BALDWIN, you have

been absent from the sessions of the House without its leave. What excuse have you to render for having been thus absent?

Mr. BALDWIN. My only excuse is this: for some considerable time past I have been troubled with a very severe inflammation of the throat, and my physician has recommended me not to go out of doors at night. For that reason yesterday I went home before the night came on.

Mr. MILLER. I move that the gentleman from Massachusetts [Mr. BALDWIN] be discharged from the custody of the Sergeant-at-Arms without the payment of the usual fees.

The motion was agreed to.

No other of the absentees appeared at the bar to render an excuse for being absent without leave.

HON. JOHN H. FARQUHAR.

Mr. KASSON. I arise to a question of privilege, and offer for consideration at the present time the following resolution:

*Resolved*, That the Hon. Mr. FARQUHAR, a member of this House, from Indiana, having during its last session forced his way into this House without its permission during a call of the House, and after the doors had been closed by its order, be taken into custody by the Sergeant-at-Arms and brought to the bar of the House, to abide its order in respect to his contempt of its rules.

Mr. UPSON. The resolution assumes that which is not in evidence before this body.

Mr. KASSON. I charge the facts so to be upon direct information. Now, I wish to say that I regard myself, as well as the other culprits presented at the bar of the House with such extraordinary stringency this morning, as having a valid excuse for leaving the House at a very late hour last night, being unable to remain here without very great personal discomfort from physical prostration and fatigue. But I do not and did not present that excuse this morning; nor will I deny that my physical strength might have sustained me here through the entire session of yesterday. But when the gentleman from Indiana [Mr. FARQUHAR] gets up on this floor and with a voice that resounds throughout the Hall and the galleries of this Chamber, demands a vindication of the dignity and rules of this House, I cannot resist the inclination to call the attention of the House to the fact that there has been a violation of its rules committed by the gentleman from Indiana himself, much greater than passing out of the doors of this Hall after they have been opened.

By an order of this House, under proceedings instituted under a call of the House, the doors of this Hall were closed. I, with others, sat here continually from early morning until late at night for the purpose of getting on with the business. I sat at my desk here, working at intervals on matters connected with business before my committee. The gentleman from Indiana [Mr. FARQUHAR] was absent from the House without its leave. After the doors had been closed for the purpose of ascertaining who were within the Hall to aid in the transaction of the business of the House, and who were absent from its sessions without its leave, my friend from Indiana, instead of waiting for the order of the House to have its doors again opened, when he would have been brought in here by the Sergeant-at-Arms, "forced his way in," as one gentleman says, "slipped in," as another says, and thus evaded the responsibility which the rules of the House imposed upon him.

Now, I took the whole responsibility of absents myself last night, and when proceedings under the call were suspended at ten or eleven o'clock, and the doors were opened to everybody, I availed myself of the opportunity to retire and refresh my exhausted physical energies by getting something to eat.

Now, under these circumstances, I say it hardly lies in the mouth of my eloquent friend from Indiana [Mr. FARQUHAR] to demand a vindication of the dignity of this House and the observance of its rules by members. Let the responsibility rest where it belongs; but let not those who have themselves violated the

rules of the House rise here and demand that those who from physical necessity left the House through the open doors shall be brought to its bar and subjected to the action of the House.

Now, sir, I am of course ready to yield the floor to the gentleman from Indiana, [Mr. FARQUHAR,] if he desires to show cause why he should not present himself at the bar of the House. Otherwise I shall move the previous question.

Mr. FARQUHAR rose.

Mr. KASSON. I yield to the gentleman, retaining my right to the floor.

Mr. STEVENS. The gentleman from Iowa [Mr. KASSON] will allow me to suggest that, in presenting this resolution, he is asking the House to vote an affirmation of facts of which it knows nothing.

Mr. KASSON. It will know in a moment.

Mr. STEVENS. I do not know whether it will or not.

Mr. FARQUHAR. I desire to say, Mr. Speaker, that if I have been arrested by the Sergeant-at-Arms of this House I am prepared to go in custody of that officer to the bar of the House to answer any charge that may be made against me. Sir, I ask the gentleman from Iowa whether he makes the charge against me or against the Sergeant-at-Arms for dereliction of duty. If the Sergeant-at-Arms arrested me why was I not brought to the bar of the House? If I was in the custody of the Sergeant-at-Arms I am ready to appear at the bar.

Mr. KASSON. Mr. Speaker—

Mr. FARQUHAR. I do not yield to the gentleman now.

Mr. KASSON. I thought the gentleman asked me a question, and I wished to answer it.

Mr. FARQUHAR. The gentleman from Iowa rises in his seat and prefers charges against me—that I have been absent from the House without leave; that I have been arrested by the Sergeant-at-Arms, and that afterward I forced myself into the House in violation of its order. Sir, I deny this utterly. I appeal to the record to show whether I have ever been arrested by the Sergeant-at-Arms or have ever forced my way into this House. If I am not misinformed the records of this House show that on the first call last night I was present. I was absent from the House when the doors were closed; but I came here voluntarily, without being arrested. I came here seeking to take my seat. I came to that door, and the Doorkeeper informed me that I could not come in. I demanded it as my right to come into the Hall of the House of Representatives. [Laughter.]

Gentlemen will please hold a little while. When I shall have stated the case they will understand it. I am pleased, Mr. Speaker, that I am enabled to so edify and delight the distinguished gentlemen around me as to bring out such a burst of laughter when I tell them that I came to the door of the House and sought to come to my seat. I was informed by the Doorkeeper that the doors were closed, and that if I attempted to come in I might bring them into trouble. I turned away pleasantly, and they sent word to the Speaker, when the Sergeant-at-Arms stepped out and informed me that he had no warrant for me, invited me to my seat, and assured me that my record was all right. Now, sir, if that officer arrested me why was I not brought to the bar? He did not arrest me. I appeal to the Sergeant-at-Arms; I appeal to the record. Sir, I never flinch from any proper responsibility. If I am amenable to this House I am ready to go to its bar and answer.

But, sir, whatever may be the fact in regard to that matter, is that any reason why I should not rise in my seat and call the attention of the House to the facts with regard to the gentlemen who have been before its bar to-day? I have done this as a matter of duty. I have not done it for the purpose of mulcting these gentlemen, toward each of whom I entertain the kindest personal feelings, for the amount of their fines, because I know that they will never be required to pay them. I have done it, as I

before remarked, that the matter might go upon the records of the House as a precedent for the future. It was for this purpose, and this purpose alone, that I took the floor to move my amendment. If I am amenable to the House I am ready to go before its bar at any time.

The SPEAKER. The Chair will state that he has no recollection of having received any message from any of those gentlemen who were in arrest for absence from the House without leave.

Mr. GRINNELL. The gentleman from Indiana utterly denies the charge set forth in the resolution, and I make the point of order, therefore, that the resolution is not in order.

The SPEAKER. The Chair overrules the point of order, as that is a matter for the House to determine.

Mr. KASSON. The gentleman from Indiana so far from denying has admitted the charge.

Mr. FARQUHAR. I deny that I forced my way into the House.

Mr. KASSON. Why, there is not any question of the fact. It is proved by his own declaration. Is it not correctly incorporated in the resolution that he forced his way into the House?

Mr. FARQUHAR. No, sir.

Mr. KASSON. I will not force the House on that. His declaration now made is that when he appeared at the door the door was closed, and he was told that he could not come in. Afterward he appeared again and the Sergeant-at-Arms stepped out. What that means I have no power to say; but the gentleman from Indiana came in, and neither the Sergeant-at-Arms nor any other man had the right to revoke the order of the House closing the door. It was impossible for a member lawfully to come in after the doors were closed unless under the order that the Sergeant-at-Arms shall bring him in.

When thirty or forty members were this morning at the bar the gentleman was very willing and anxious that the full penalty should be imposed. If he puts the yoke upon our necks let him then gracefully bear it himself. I charge that the gentleman entered after the door was closed; that is the charge in the resolution, and he does not deny it.

One more word. He says that he has not been under arrest. I presume no one of the forty who were at the bar this morning was under arrest. The Sergeant-at-Arms came to my desk and said he had my name on his list, and then went away. That is an arrest by the common consent of the House; and when the gentleman was arrested he could not come into the House except on the order of the Sergeant-at-Arms. He could not have come in under the permission of the Speaker. The Speaker would not have granted it, for it would have been unjust to others. I say he had no right to come in. He said the Sergeant-at-Arms did not bring him in, and that is the only way he could come in. If that is not forcing one's way into the House in violation of its rules I do not know what is.

Mr. ORTH. Mr. Speaker, we are told "blessed are the peacemakers." I find myself now occupying precisely the same position before the House in regard to my colleague [Mr. FARQUHAR] which I occupied this morning in regard to the gentleman from Iowa, [Mr. KASSON.] I understand the resolution of the gentleman from Iowa charges that my colleague forced his way into this House. I understand, furthermore, that my colleague does deny the charge contained in the resolution of my friend from Iowa. I hope, therefore, he will not ask for its adoption at the present time. What I ask of my friend from Iowa is, that the mercy shown to him he ought to show to others.

My colleague denies the fact stated in every particular; and I ask the gentleman from Iowa whether, under this state of things, before proceeding to ask for the adoption of his resolution, it would not be better that the resolu-

tion should be referred to a select committee to examine and report on the facts?

Mr. KASSON. I think the facts already sufficiently appear to the House. At any rate, whatever facts the gentleman has he can state at the bar of the House in answer to the resolution. I say that is the place, at the bar of the House, for him to make his statement, and not here, in answer to the charge that he forced himself into the House. When he has made his statement he will be treated perhaps like all the others. That is all. He knows this is done in as good temper as anything which has been done this morning.

Mr. UPSON. The Journal shows that the gentleman answered to the roll-call, and he therefore cannot be held to be in contempt of the House.

Mr. STEVENS. I move that the resolution be laid upon the table.

Mr. ROSS. I would inquire of the Chair whether the effect of this will be, if adopted, to prevent the gentleman from Indiana from practicing in the courts of the United States? [Laughter.]

The SPEAKER. The Chair thinks it will not. Mr. STEVENS. I move to lay the resolution on the table.

The motion was not agreed to—ayes 61, noes 65.

Mr. ORTH. I would inquire, if the House refuse to second the previous question, whether it will not then be in order to move to refer the resolution to a select or standing committee?

The SPEAKER. It would be.

The previous question was seconded—ayes 74, noes 41.

Mr. LYNCH. I move that the House adjourn.

The motion was disagreed to.

The main question was ordered on the adoption of the resolution—ayes 81, noes 35.

Mr. MORRILL. I move to lay the resolution on the table.

Mr. WASHBURN, of Indiana. On that I demand the yeas and nays.

Mr. MORRILL. I withdraw the motion if it is to be taken by yeas and nays.

Mr. WASHBURN, of Indiana. I renew it.

Mr. ORTH. And on it I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 102, nays 48, not voting 41; as follows:

YEAS—Messrs. Allison, Ancona, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Broomall, Buckland, Chanler, Reader W. Clarke, Cobb, Cook, Cooper, Cullom, Darling, Deffrees, Delano, Deming, Denison, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hawkins, Hayes, Higby, Hill, Hise, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Humphrey, Ingersoll, Julian, Kelley, Kelso, Kerr, Ketcham, Kountz, Kykendall, Laffin, Le Bond, Loan, Longyear, Lynch, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Morrill, Morris, Moulton, Myers, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pomeroy, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rogers, Rollins, Sawyer, Scofield, Shellabarger, Starr, Stevens, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Warner, Henry D. Washburn, Welker, Wentworth, Williams, and James F. Wilson—102.

NAYS—Messrs. Bergen, Bingham, Boyer, Brandegee, Bromwell, Campbell, Dawes, Dawson, Farnsworth, Glossbrenner, Goodyear, Griswold, Aaron Harding, Hogan, Holmes, Hooper, Edwin N. Hubbard, James R. Hubbard, Hunter, Jenckes, Kasson, Latham, George V. Lawrence, Leftwich, Marshall, Marvin, Maynard, Moorhead, Nicholson, Piko, Plants, Radford, Raymond, Ritter, Ross, Shanklin, Sitgreaves, Sloan, Stillwell, Taber, Thornton, Trimble, Robert T. Van Horn, William B. Washburn, Stephen F. Wilson, Windom, Winfield, and Woodbridge—48.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, Baldwin, Blaine, Blow, Bundy, Sidney Clarke, Conkling, Culver, Davis, Dixon, Farquhar, Firee, Harris, Hart, Henderson, Asabel W. Hubbard, Hulburd, Johnson, Jones, William Lawrence, Marston, McCullough, Newell, Noell, William H. Randall, Rousseau, Schenck, Spalding, Strouse, Thayer, John L. Thomas, Van Aernam, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, Whaley, and Wright—41.

So the resolution was laid on the table.



Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. HARDING, of Illinois. I now move that the House adjourn.

The SPEAKER. The gentleman from Illinois [Mr. Cook] is entitled to the floor on the consideration of business which was interrupted at one o'clock by a question of privilege. He is entitled to the remainder of the morning hour.

#### RECORDING OF VOTES.

Mr. HISE. I ask the privilege of having my vote recorded on the bill which was before the House yesterday and this morning relating to the test oath.

The SPEAKER. The rule, to be found on page 192 of the Digest, adopted several years ago, forbids the Speaker entertaining such a proposition, even by unanimous consent, after the result of the vote has been announced. It can only be done by suspending the rules on Monday.

#### OFFICERS OF UNITED STATES COURTS—AGAIN.

The House resumed the consideration of House bill No. 872, to amend an act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853.

Mr. COOK. I move to amend the bill by inserting after \$2,000, in the second paragraph of the first section, the words "per annum, including fees and emoluments received for services rendered by deputies."

The amendment was agreed to.

Mr. COOK. I move to strike out section two, as follows:

That as part of the compensation before allowed, there shall hereafter be paid to each and every United States marshal for each and every day of the year a per diem compensation of five dollars, subject to no contingency whatever except removal from office, by death or otherwise.

And to insert in lieu thereof the following:

That when the entire compensation of any marshal, including the fees and emoluments received for services rendered by deputy, shall be less than \$2,000 per annum, the difference, to be ascertained and allowed by the proper accounting officer of the Treasury, shall be paid to him therefrom.

Mr. O'NEILL. I wish to call the attention of the gentleman from Illinois [Mr. Cook] to the second section of this bill, and to ask him whether the change proposed in that section will be likely to increase the salary of the United States marshal for the eastern district of Pennsylvania? I merely want to know, for I do not want the salary of that official increased. I move now to strike out section four of the bill, which is as follows:

SEC. 4. *And be it further enacted*, That the clerks and bailiffs of the courts of the United States appointed in pursuance of the act to which this is an amendment, shall be allowed the sum of three dollars per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands. The compensation to be given only for actual attendance; and when both courts are in session at one time to be paid but for attendance on one court.

And to insert in lieu thereof the following:

That in lieu of the compensation now allowed to the clerks and bailiffs of the circuit and district courts of the United States held in the cities of Boston, New York, Philadelphia, Baltimore, New Orleans, and San Francisco by the sixth section of the act of Congress entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys in the circuit and district courts of the United States, and for other purposes," approved February 26, 1853, the clerks and bailiffs of said courts shall be allowed and paid for their services the sum of \$940, to be paid by and included in the accounts of the marshal out of any money in his hands.

The object of my amendment is to change the phraseology of the law. These officials are now entitled only to so much per diem for an actual day's attendance, and so far as the district and circuit courts in Pennsylvania and New York are concerned these officials are actually in attendance almost every day. But

on account of the change in prices, and the increased amount of duties imposed upon these men, I propose that they shall have a permanent salary of \$940 per annum.

Mr. COOK. I move to recommit the bill with the amendments to the Committee on the Judiciary.

The motion was agreed to.

Mr. COOK. I desire to enter a motion to reconsider the vote by which the bill was recommended.

The motion was entered.

#### RETIREMENT OF TREASURY NOTES.

On motion of Mr. WILLIAMS, the Committee on the Judiciary was discharged from the further consideration of joint resolution of the House, No. 240, suspending the cancellation or retirement of legal-tender Treasury notes for the term of two years, and the same was referred to the Committee of Ways and Means.

#### JURIES IN THE DISTRICT OF COLUMBIA.

Mr. WILLIAMS, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, bill of the House No. 901, to regulate the selection of juries for the several courts of the District of Columbia.

The bill was read. It provides that all grand and petit jurors to serve either in the criminal, circuit, or district courts, in and for the District of Columbia, shall be selected and designated in such manner and at such times as the judges of the supreme court of the District of Columbia, or a majority of the judges thereof, may determine: provided that the persons so designated shall be citizens of the United States, resident within said District, and shall be returned as the said judges may direct upon writs of *venire facias*. And when, by reason of challenge or other cause, there shall not be a sufficient grand or petit jury, the marshal or his deputy shall, by order of the court wherein such defect of jurors shall happen, return jurymen *de talibus circumstantibus* sufficient to supply such defect; but in case the marshal and his deputy are interested in the event of the cause, or not indifferent, the jurors aforesaid may be returned by such disinterested person as the court shall appoint; and to which person the court shall first administer an oath or affirmation that he will truly and impartially make such returns.

Mr. WILLIAMS. I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIAMS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### VACANCY IN PRESIDENTIAL OFFICE.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back, with an amendment, House bill No. 2, to amend the act declaring the officer who shall act as President of the United States in case of vacancies in the office both of the President and Vice President, approved March 1, 1792, with a recommendation that the same do pass.

The bill was read. It provides that in case of removal, death, resignation, or inability, both of the President and Vice President of the United States, the President of the Senate *pro tempore*, and in case there shall be no President of the Senate then the Speaker of the House of Representatives for the time being, and in case there shall be no Speaker of the House of Representatives then the Chief Justice of the Supreme Court of the United States, and in case there shall be no Chief Justice then the justice of the Supreme Court of the United States who shall have been longest commissioned, shall act as President of the United States until the disability be removed or a President shall be elected.

The amendment reported from the committee was to add to the bill the following sections:

SEC. 2. *And be it further enacted*, That whenever the offices of President and Vice President shall both become vacant, the Secretary of State shall, if the Senate and House of Representatives by concurrent resolution so request and direct, forthwith cause a notification thereof to be made to the Executives of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State, specifying that electors of President and Vice President shall be chosen in the several States within thirty-four days preceding the first Wednesday in the December then next ensuing: *Provided*, There shall be a space of two months between the date of such notification and the said first Wednesday in December. But if there shall not be the space of two months between the date of such notification and the said first Wednesday in December, or if the term for which the President and Vice President last in office were elected shall not expire on the 3d day of March next ensuing, then the Secretary of State shall specify in the notification that the electors shall be chosen within thirty-four days preceding the first Wednesday in December of the year then next ensuing, within which time the electors shall accordingly be chosen, and the electors shall meet and give their votes on the said first Wednesday in December; and the proceedings and duties of the said electors and others shall be pursuant to the directions prescribed by law.

SEC. 3. *And be it further enacted*, That whenever the offices of President and Vice President shall both become vacant when Congress is not in session, it shall be the duty of the officer discharging the duties and powers of the office of President forthwith to issue a proclamation convening both Houses of the Congress of the United States.

Mr. CULLOM. Is it the design of the gentleman from Massachusetts [Mr. BOUTWELL] to put this bill upon its passage at this time?

Mr. BOUTWELL. That is for the members of the House to determine.

Mr. HALE. I perceive that the Committee on the Judiciary have gone back to the old law and provided for the choosing of electors within thirty-four days preceding the first Wednesday in December. For some years past we have had a law fixing the Tuesday after the first Monday in November. I would suggest to the gentleman the propriety of adopting that language in this bill.

Mr. BOUTWELL. I will briefly explain the provisions of this bill as proposed by the Committee on the Judiciary to be amended. It changes the succession in case of vacancies in the offices both of President and of Vice President by adding to the offices named in the existing law on whom the office of President would devolve, first the Chief Justice of the Supreme Court of the United States; and secondly, the associate justice of the Supreme Court whose commission shall be the oldest. Those are the only changes made in regard to the succession.

The existing law provides that whenever vacancies shall occur in the offices, both of President and Vice President, the Secretary of State shall issue his order—there is no discretion whatever vested in him—his order to the Executives of the several States, and an election for President must take place. There are no lawful means by which the election can then be avoided.

Now, the Committee on the Judiciary have examined the matter in reference to whether it is possible by law to provide for the election of President and Vice President to fill out the term for which the President and Vice President last elected were originally elected. I believe the committee are unanimously of the opinion that there is no power in Congress to pass a law to fill the vacancy by an election. If an election takes place under the existing law it must be for four years from the 4th day of the March next ensuing the day of election.

The objection to the existing law is this: the presidential term covers two Congresses. If a vacancy should occur at any time during the term of President and Vice President there are no means by which an election by the people can be avoided; and the persons elected would hold their offices for four years from the 4th day of the next March. As the vacancy may occur during the first year of a Congress, it will be seen that the symmetry of our Government, as shown by the presidential and congressional

terms, will be in danger of injury, and there will be no power by legislative action to restore the Government to its original harmony.

Now, sir, the bill proposes to change the law in this particular; it provides that whenever a vacancy shall occur in the office of President and Vice President during the recess of Congress it shall be the duty of the person performing the duties of the office of President to convene immediately both Houses of Congress. Then it is made the duty of the Secretary of State to issue warrants for an election, if he shall be required and directed so to do by a concurrent resolution of the two Houses of Congress. The effect will be to render it optional with the Congress of the United States to determine that there shall be an election, or to leave the executive department of the Government to be administered until the commencement of the next regular term by the officer who may be discharging the duties of the office.

Mr. HALE. The gentleman, I think, fails to appreciate the particular point to which I sought to call his attention. The old law in regard to the election of electors of President and Vice President provided that the electors should be appointed within thirty-four days preceding the first Wednesday in December. By the present law a specific day has been fixed—the Tuesday following the first Monday in November. This bill follows, in this respect, the provision of the old law. I suggest that it ought to be amended so as to conform to the present practice, by fixing the Tuesday after the first Monday of November as the day of election.

Mr. BOUTWELL. I should not object to that, although no action of the committee has been had in regard to that point. We left it according to the provision of the old law, supposing that the Secretary of State, under the direction of Congress, would designate some day within the limits specified. The committee thought it might be wise to allow him that discretion.

Mr. HALE. I would suggest to the gentleman that under the construction given to the old law, that discretion would reside with the States, and not with the Secretary of State.

Mr. BOUTWELL. With the consent of the House I will amend the bill so as to correspond with the existing law, in accordance with the suggestion of the gentleman from New York, [Mr. HALE.]

The amendment was read, as follows:

Strikes out the words "within thirty-four days preceding the first Wednesday in December" and insert in lieu thereof the words "the Tuesday after the first Monday."

The SPEAKER. The Chair hears no objection, and the bill will be so amended.

Mr. ROGERS. Mr. Speaker, this bill is of more importance than many members are probably aware. According to the explanation which the gentleman from Massachusetts [Mr. BOUTWELL] has given, it authorizes the Congress of the United States to determine whether a presidential election shall be held or not in case of a vacancy in the office of both President and Vice President. The result would be, that if a President and Vice President should die in the early part of the term, and the office should devolve upon a person who suited the views of Congress there would be no election; while if the person upon whom the office devolved was not satisfactory to the political opinions of Congress an election would be ordered. In other words, the bill proposes to allow Congress to control the whole question of whether a new election shall be held or not in case of the death of the President and Vice President. The taking away of this power from the people and lodging it with Congress may be productive of difficulty in the future. The real question—and it is one which ought to be fairly and fully considered—is whether by positive law the right should not be secured to the people of expressing, in case of the death of the President and Vice President, their preference as to who should occupy

the presidential office. The Constitution of the United States designates the Vice President to fill the office in case of a vacancy; but it goes no farther. All those who vote for President and Vice President understand perfectly well that in case of the death of the President the Vice President shall serve for the residue of the term. But no implication of the Constitution suggests that in case of the death of both President and Vice President the people shall be deprived of the right of deciding by their ballots who shall represent them as President for the remainder of the term.

Looking to the importance of that one point it strikes me this bill should be set down for some day when it may be discussed. I do not think this House is ready to adopt it at once.

I have no objection to the details of the bill. I think some law should be passed providing for the holding of an election to supply the vacancy occasioned by the death of the President and Vice President. It is an important matter and the people should be consulted, and the House should be consulted whether they will give to Congress, taking it away from the people, the power to say who will represent them in case of the death of the President and Vice President.

Mr. JENCKES. The act as drawn is based on the act of 1792, while the amendment suggested by the gentleman from New York is made to conform to existing law, and there is still retained the provision of the first Wednesday of December, instead of the time required by law, which is the second Wednesday in February. And there is no provision in this bill for the administration of the duties of President between the day the result is declared and the 4th of March following. It seems to me from a hasty glance to be imperfect. I do not suppose it is the intention to alter the commencement of the term.

Mr. BOUTWELL. The committee is of opinion whenever there is an election for President or Vice President that election is for the term of four years.

Mr. JENCKES. I agree that it is the commencement of a new term of four years. It is the intention to have the term commence on the 4th of March. The mode of counting the votes is the same as under the law, but there is no time prescribed when the President shall take the oath of office.

Mr. BOUTWELL. If the bill be ordered to be printed and postponed as in the morning hour I shall not object.

Mr. JENCKES. Let it be recommitted with a motion pending to reconsider.

Mr. BOUTWELL. I move that the bill and amendments be printed, and that they be committed to the Committee on the Judiciary.

The motion was agreed to.

Mr. BOUTWELL. I now enter a motion to reconsider.

#### J. ROSS BROWNE'S REPORT.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, and demanded the previous question on its adoption:

*Resolved*, That there be printed for the use of the House five thousand extra copies of the report of J. Ross Browne on the mineral resources of the country.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### FIRE-ARMS, ETC.

The SPEAKER laid before the House two communications from the Secretary of War, one respecting contracts for fire-arms made since April, 1864, and the other respecting small-arms fabricated at the Springfield armory and purchased elsewhere; which were laid upon the table, and ordered to be printed.

#### TENNESSEE CONTESTED-ELECTION CASE.

Mr. DAWES. I rise to a question of privilege, and call up the following resolution:

*Resolved*, That Dorsey B. Thomas, contesting the right of Hon. Samuel M. Arnell to a seat in this House as a Representative from the sixth congressional district of Tennessee, be, and he is hereby, required to serve upon the said Arnell, within eight days after the passage of this resolution, a particular statement of the grounds of said contest; and that said Arnell be, and he is hereby, required to serve upon said Thomas his answer thereto in eight days thereafter, and that both parties be allowed eighteen days, next after the service of said answer, to take testimony in support of their several allegations and denials in all other respects in conformity to the requirements of the act of February 19, 1851, except that not more than four days' notice shall be required for the taking of any deposition under this resolution.

Mr. Speaker, if these parties desire to go on with their contest they will conform to this resolution. I do not think there is any penalty attached to it. It is in the ordinary form, and the contestant is required to do this if he is to go on with the contest.

The resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### POST OFFICE APPROPRIATION BILL.

Mr. STEVENS moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and proceeded to the consideration of House bill No. 918, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868.

By unanimous consent the first reading of the bill was dispensed with, and the Clerk proceeded to read the bill by sections for amendment.

Mr. KASSON. I am instructed by the committee to move to amend section two by inserting after the clause "for the mail steamship service between San Francisco, Japan, and China, \$500,000," the following proviso:

*Provided*, That so much of the act of Congress approved February 17, 1865, authorizing said service, as requires the said steamships to touch at Honolulu, in the Sandwich Islands, shall be, and the same is hereby, repealed; upon the express condition, however, that the contractors for said steamship service shall enter into contract to the satisfaction of the Postmaster General, agreeing to establish within five months from the passage of this act, in lieu of said service released, a branch line of steamship service carrying the United States mails between the port in Japan used by the main line of steamships and the port of Shanghai, making continuous regular trips connecting with the main line, both on the outward and homeward voyages, under the direction of the Postmaster General, which services shall be performed by first-class American sea-going steamships, and without additional charge to the United States.

Mr. CHANLER. I suggest to the chairman of the committee that this amendment may perhaps not be sufficiently definite to cover the object which the committee have in view, which I think is a good one. I do not think the term "American steamship" is sufficient. I think that the words "built and owned in the United States" should be added. I make this suggestion in good faith.

Mr. STEVENS. We have used here the usual term, and not only that, but we sent the amendment itself to the company, and it was thoroughly examined and approved by them.

Mr. CHANLER. Very well, I only thought it might have been an omission.

The amendment was agreed to.

Mr. SLOAN. I move to amend the bill on page 2.

The CHAIRMAN. It would not be in order, that portion of the bill having been passed.

Mr. SLOAN. I raise the question of order that the bill was read through before gentlemen were able to find it on their printed files.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SLOAN. Another point of order. The bill has not been read by sections for amendment.

The CHAIRMAN. The first reading was dispensed with by unanimous consent, so the Chair overrules the point of order.

Mr. SLOAN. I ask unanimous consent to move an amendment.

Mr. CULLOM. I object.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 918, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, had made an amendment thereto, and had directed him to report the same to the House.

Mr. STEVENS. I call the previous question on the bill and amendment.

The previous question was seconded and the main question ordered.

Mr. SLOAN. I move that the bill and pending amendment be laid on the table.

The motion was disagreed to.

Mr. SLOAN. I call the yeas and nays.

The yeas and nays were refused.

The amendment reported from the Committee of the Whole was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS. I call the previous question on the passage of the bill.

Mr. HARDING, of Illinois. I move that the House adjourn.

The motion was disagreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### SMALL-ARMS.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That five hundred copies of the communication from the Secretary of War, in answer to a resolution of this House in reference to small-arms, be printed for the use of the members of the House.

#### THE MILITIA.

Mr. BAKER. I ask unanimous consent of the House to offer the following resolution:

*Resolved*, That the Judiciary Committee be instructed to inquire whether the public interests require any modification of the statute of February 28, 1795, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for those purposes;" and particularly whether any change should be made as to the first section of said act, and that said committee be empowered to report by bill or otherwise.

Mr. RANDALL, of Pennsylvania. I object.

And then, on motion of Mr. CULLOM, (at thirty-five minutes past three o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DEMING: The petition of the cigar manufacturers of Windsor and of the Connecticut Tobacco-Growers' Association for a reduction of tax on cigars.

By Mr. EGLESTON: The memorial of the Cincinnati Relief Union, in favor of granting a pension to Mrs. Elizabeth Staley.

By Mr. HOOPER, of Massachusetts: The petition of the trustees of the Museum of Comparative Zoölogy at Cambridge, Massachusetts, praying for the remission of the duty and tax on alcohol used in preserving and repacking specimens of natural history collected by Professor Agassiz in Brazil.

By Mr. HUNTER: The petition of the fire insurance companies of the city of Brooklyn, for relief from the tax imposed by the seventy-seventh section of internal revenue law.

By Mr. KASSON: The memorial of F. Harbach,

and others, of Polk county, Iowa, for specific instead of *ad valorem* duty on cigars and tobacco.

By Mr. KELLEY: The petition of 31 citizens of Pennsylvania, praying that Andrew Johnson, President of the United States, in consideration of his perpetration of certain crimes and misdemeanors during his term of office, be forthwith impeached by the House of Representatives of the United States.

By Mr. PAINE: A petition of manufacturers of white beer in the city of Milwaukee, for a modification of the internal revenue law.

By Mr. RANDALL, of Pennsylvania: The petition of the fire insurance companies of Philadelphia, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. STOKES: The petition of Dr. Thomas Haughey, for quartermaster and commissary's stores taken by General Wilson's command.

By Mr. VAN HORN, of New York: The petition of 72 citizens of Genesee county, New York, some of whom were soldiers in the war of 1812, asking that aid be granted to such soldiers by way of pensions or bounty, as Congress may deem best, as a recognition of their services.

Also, the petition of General Wood, of Lockport, New York, manufacturer in flax, for additional protection.

Also, the petition of 50 citizens of Genesee county, New York, asking additional protection on wool.

By Mr. WARNER: The memorial of Sprague, Boyden & Walton and other manufacturers of pocket cutlery, for reduction of internal revenue.

Also, memorial of Ethan Allen, and others, for the same purpose.

Also, memorial of A. I. Hiscock, and others, for the same purpose.

Also, memorial of the Middletown Tool Company, manufacturers of hardware and tools, praying for reduction of revenue tax on their commodities.

Also, a petition of the Fire Insurance Company of the city of New Haven, for relief from tax imposed by internal revenue law.

By Mr. WENTWORTH: The petition of citizens of Chicago, for a light-house and pier at Thunder Bay, Michigan.

Also, the petition of the leather manufacturers of Chicago, praying for a reduction of taxes.

#### IN SENATE.

THURSDAY, January 24, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Secretary proceeded to read the Journal of yesterday, but before concluding was interrupted by

Mr. CONNESS. I move that the further reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. It can only be dispensed with by the unanimous consent of the Senate. The Chair hears no objection, and the further reading is dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WADE. I hold in my hand nineteen petitions from various parts of Ohio, setting forth that in the belief of the petitioners the tariff bill agreed upon by the joint committee of wool-growers and manufacturers, and which passed the House of Representatives at the last session, was fair toward all other interests and afforded no more than a just and reasonable protection to the wool and woollen interests of the country, and therefore praying for its immediate passage into a law. As that subject is now pending before the Senate, I move that these petitions be laid upon the table.

The motion was agreed to.

Mr. WADE. I have also another petition of the same character precisely from the county of Lake, Ohio, signed I believe by more than a thousand petitioners, praying for the passage of the House tariff bill of the last session; which I move take the same direction.

The petition was ordered to lie upon the table.

Mr. WILSON presented three petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN presented the petition of Samuel T. Atkinson, praying for compensation for services rendered as assistant assessor of internal revenue in the first collection district of South Carolina; which was referred to the Committee on Finance.

He also presented an additional paper in relation to the claim of Thomas E. Dudley, for services rendered as assistant assessor in the first collection district of South Carolina; which was referred to the Committee on Finance.

Mr. LANE presented three memorials of citizens of Indiana, remonstrating against the passage of any law authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which were referred to the Committee on Finance.

Mr. MORRILL presented the petition of Harriet W. Pond, praying to be remunerated for money expended and services rendered by her in taking care of sick and wounded soldiers; which was referred to the Committee on Finance.

Mr. BUCKALEW presented a petition of naturalized citizens and immigrants who have declared their intention to become citizens of the United States, residing in Clinton county, Pennsylvania, praying for an amendment to the act to regulate the elective franchise in the District of Columbia, so as to put all white men who have declared their intention of becoming citizens and residents of the District of Columbia upon an equal footing with the negroes, and to extend to them the same privileges enjoyed by negroes; which was referred to the Committee on the District of Columbia.

Mr. KIRKWOOD presented the petition of Hiram W. Johnson, of Johnson county, Iowa, praying for compensation for losses alleged to have been sustained by him by reason of the occupation of certain land in Arkansas by United States troops, he having leased the same of Mr. Mellen, special agent of the Treasury Department; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 217) to allow members of Congress to inspect papers in the Post Office Department, reported it with an amendment.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (S. No. 501) amendatory of an act to provide a temporary government for the Territory of Montana, approved May 26, 1864, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 523) to provide for the registration of electors in the Territories of the United States, reported it with an amendment.

Mr. WILLEY, from the Committee on Claims, to whom was referred the petition of Ethan N. Jenks, late a captain in the seventh regiment of Rhode Island volunteers, praying for allowances for pay for certain services from May 4 to September 9, 1863, submitted a report, accompanied by a bill (S. No. 531), for the relief of Ethan N. Jenks, late a captain in the seventh regiment of Rhode Island volunteers. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE, from the Committee on Finance, to whom were referred the amendments of the House of Representatives to the joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia, reported in favor of concurring in the amendments of the House, with amendments.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print a memorial of the merchants, manufacturers, mechanics, and others, of the city of Baltimore, remonstrating against the passage of the bankrupt bill, have instructed me to report it back and ask to be discharged from its further consideration, under the general rule the committee have adopted not to print memorials unless there be some special reason for it.

The report was agreed to.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 896) making appropriations for the



legislative, executive, and judicial expenses of the Government for the year ending June 30, 1868, reported it with amendments.

#### PROSECUTIONS FOR SMUGGLING.

Mr. MORRILL. The Committee on Commerce, to whom was referred the bill (S. No. 625) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866, have instructed me to report it back with a recommendation that it pass, and I ask for its present consideration.

There being no objection; the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the act to prevent smuggling, and for other purposes, approved July 18, 1866, shall be so construed as not to affect any right of suit or prosecution which may have accrued under any prior acts of Congress repealed or supplied by that act previous to July 18, 1866, and that all such suits or prosecutions as have been or shall be commenced under prior laws for acts committed previous to July 18, 1866, shall be tried and disposed of and judgment and decree executed as if the act of July 18, 1866 had not been passed, anything therein contained to the contrary notwithstanding.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and read the third time.

Mr. MORRILL. Perhaps I ought to explain what this bill means before it is passed, and I shall do so in a single word. It is simply to supply an omission in the act of July 18, 1866. I will read the forty-fourth section of that act:

SEC. 44. *And be it further enacted*, That the provisions of this act shall not be deemed to affect any action or proceeding or indictment pending at the time this act shall take effect; but the same shall be tried and disposed of, and judgment or decree executed as if this act had not been passed.

The previous section repeals all the acts which were supplied by the act of July 18, 1866—repeals them absolutely—and this section saves the remedy where the actions had already been commenced. It will be seen, however, by the general repealing clause, that all causes of action were not saved unless process had been actually commenced. This bill is to supply that omission.

The bill was passed.

#### BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 532) for the relief of the inhabitants of cities and towns upon the public lands; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 533) to amend an act entitled "An act to incorporate the Washington Temperance Society of the city of Washington," approved July 27, 1866; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 534) to provide for the allotment of the members of the Supreme Court among the circuits, and for the appointment of marshals for the Supreme Court and for the District of Columbia; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### OFFICERS OF NEW REGIMENTS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate whether any of the officers appointed under the provisions of the act to increase and fix the military peace establishment of the United States, approved July 28, 1866, have not joined their regiments or stations, and if so, to report their names, rank, and the regiment to which they have been assigned, together with the reasons why they have not reported for duty as ordered.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 258) to punish for the removal of dead bodies from the grave or other place of interment in the District of Columbia, was read twice by its title, and referred to the Committee on the District of Columbia.

The following bills were read twice by their titles, and referred to the Committee on the Judiciary, namely:

A bill (H. R. No. 668) to limit the time for bringing suits before the Court of Claims.

A bill (H. R. No. 901) to regulate the selection of juries for the several courts of the District of Columbia; and

A bill (H. R. No. 1038) providing for an additional term of the circuit court of the United States in the eastern district of Arkansas, and for other purposes.

#### RAILROADS IN CALIFORNIA.

Mr. CONNESS. I move to take up for consideration Senate bill No. 461.

The motion was agreed to; and the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. The bill will be read at length.

Mr. CONNESS. There is a complete substitute for the bill reported by the Committee on Public Lands, and I hope the substitute alone will be read.

The PRESIDENT *pro tempore*. The committee to whom this bill was referred have reported an amendment, which is to strike out all after the enacting clause and to insert other matter. Only the words proposed to be inserted will be read, unless some Senator asks for the reading of the original bill.

The Secretary read the words proposed to be inserted, as follows:

That the right of way through the public lands be, and the same is hereby, granted to the State of California, in trust for the San Francisco Central Pacific Railroad Company, or for the California Pacific Railroad Company, corporations existing under the laws of the State of California, to construct either of the roads hereinafter named, and for the successors and assigns of that one of said companies as shall have first complied with the terms of this act, and shall first complete such road, for the construction of a railroad from the city of Sacramento, or Marysville, or from both of said points, through the counties of Yuba, Sutter, Yolo, and Solano, to a point at or near the city of Benicia or Vallejo, in the last-named county, in said State; and the right is hereby given to that one of said corporations as shall first comply with the terms of this act to take from the public lands adjacent to the line of such railroad material for the construction thereof; said right of way is granted to such railroad to the extent of one hundred feet in width on each side of such road where it may pass over the public lands; also all necessary grounds for station buildings, depots, machine-shops, switches, side-tracks, turn-tables, and water stations.

SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the State of California, to aid in the construction of that one of the above-mentioned railroads as shall be first completed according to the terms of this act, and to secure the safe and speedy transportation of mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land designated by odd numbers to the amount of ten alternate sections per mile on each side of said railroad line as said company may adopt, wherever in the line thereof the United States have full title thereto respectively; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold any section or any part thereof granted as aforesaid, or that the right of preemption, homestead settlement, or other private right has attached, or that the same has been reserved by the United States, then it shall be lawful for any agent or agents, to be appointed by the Governor of said State, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States (to which no right has attached and not being within the limits of any reservation as aforesaid) nearest to the tiers of sections above specified, so much land in alternate sections or parts of sections as shall be equal to such lands as have been sold, reserved, or otherwise appropriated, or to which the right of preemption or homestead settlement has attached, as aforesaid; which lands shall be held and disposed of by the State of California for the use and purpose aforesaid: *Provided*, That the lands to be so located shall in no case be further than twenty-five miles from the line of said road: *Provided further*, That the lands hereby granted shall be exclusively applied to the construction of said railroad for and on account of which the said lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever: *Provided further*, That any and all lands heretofore reserved

to the United States by any act of Congress, or in any other manner by competent authority, are hereby reserved from the operations of this act except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way only to the extent of one hundred feet wide shall be granted, subject to the approval of the President of the United States.

SEC. 3. *And be it further enacted*, That whenever the surveyor general of the United States for the State of California shall first certify to the Secretary of the Interior that such railroad is completed from Sacramento city or Marysville, or from both of said points, to a point at or near Benicia or Vallejo, in a good and substantial manner, and in all respects as required by this act, it shall be the duty of the Secretary of the Interior to transfer to the Governor of said State all the lands granted as aforesaid.

SEC. 4. *And be it further enacted*, That the said railroad shall be constructed in a substantial and workmanlike manner, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first-class when prepared for business; the gauge to be the same as the Central Pacific railroad.

SEC. 5. *And be it further enacted*, That as soon as the lines of said roads shall be surveyed and located the Governor of said State shall cause a map of the location to be filed with the Secretary of the Interior, who thereupon shall cause the lands not already surveyed within twenty miles of the line of said location, to be surveyed, and the odd sections and parts of sections not occupied by homestead settlements, or otherwise legally disposed of, to be set apart for the purposes contemplated by this act; and the sections and parts of sections of land which by the aforesaid grant shall remain in the United States, within ten miles on each side of said road, shall not be sold for less than double the minimum price of public lands when sold.

SEC. 6. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to said State for the purposes aforesaid upon and subject to the following conditions, namely: that the said companies shall commence the work on said road or roads within six months from the approval of this act by the President, and shall complete the road from Sacramento City to Benicia or Vallejo within three years thereafter, and the road from Marysville to Benicia or Vallejo on or before the 4th day of July, 1871; and the grant herein is upon the further condition that if any of said roads is not completed within the time specified in this act the remaining lands shall revert to the United States.

SEC. 7. *And be it further enacted*, That in case either of said companies shall elect and file such election with the Secretary of the State of California within six months from the passage of this act, to the effect that said company will only connect, by railroad, the said city of Benicia or Vallejo with the main road at a distance not exceeding twelve miles from the point to be so connected, and abandon the construction of the balance of the aforesaid road, then and in that event the company so electing shall be entitled to the benefit of one quarter of the grant hereby made, provided said connection is completed in the same manner as herein specified for the main road on or before the main road shall be completed from Sacramento City to a point at or near Benicia or Vallejo, and in case the said election shall not be filed as herein required, and the said connection shall not be completed as in this section provided, the whole of the hereby granted lands shall be held by said State for the benefit and use of the company complying with the terms of this act.

SEC. 8. *And be it further enacted*, That the lands hereby granted to said State mentioned as aforesaid shall be conveyed and transferred to said company as the Legislature of said State may provide for the purposes aforesaid.

Mr. STEWART. This bill in its present shape is a very slight aid to a very important railroad, running from Sacramento to the bay of San Francisco, at Vallejo, and also to Marysville. It grants no money and only twenty-nine thousand acres of land according to an exact report which I have from the Commissioner of the General Land Office. Most of the land on the route is either swamp or overflowed land belonging to the State, or private land held under grants from the Mexican Government, or absorbed by the grant to the Pacific railroad which goes by way of Stockton. The result is that the road provided for by this bill gets a very small portion of the land, only twenty-nine thousand acres for the whole length of the route. There would be several million acres for so long a route if we had the land to grant.

The bill further provides that none of these lands shall be conveyed until the road is entirely completed. It amounts to little more than a congressional recognition. The land is worth but a few thousand dollars. The bill also gives the right of way where the road goes over the public lands. The grant is to the State of California for the use of that railroad company which shall construct the road. It

will be perceived by the bill that there are two companies organized. They have made an agreement between themselves which is substantially embodied in the bill, and the company first constructing the road is to have the benefit of the grant. It is perfectly satisfactory to all the parties. It is a bill that is entirely inside of safe precedents. Nobody is likely to ask for another such bill because it makes a very lean grant.

Mr. EDMUNDS. This bill has only been reported for a day or two. It was reported from a committee of which I am a member, and with the understanding, as I understood, that it should lie long enough to let us have an opportunity of examining the printed substitute, as it is very long. I have not had that opportunity; but on running it over when it was not in print, it occurred to me that there were one or two amendments that ought to be made; and with a view to enable me to examine it, I move that the further consideration of the bill be postponed until to-morrow.

Mr. CONNESS. I have no objection to that if the Senator desires to examine it.

The motion was agreed to.

MARY J. DIXON.

On motion of Mr. WILLIAMS, the bill (S. No. 508) for the relief of Mrs. Mary J. Dixon, of Alexandria, in the State of Virginia, widow of the late Turner Dixon, deceased, was read the second time and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Mrs. Mary J. Dixon, of the city of Alexandria, and State of Virginia, widow of the late Turner Dixon, deceased, so much of the moneys received by the United States at the sale of a house and lot, situated in Alexandria, as his property by the direct tax commissioners for non-payment of the direct tax assessed on the premises, as the Secretary shall find to be in excess of the tax and the costs and expenses of the sale of the property.

The bill was reported to the Senate without amendment.

Mr. GRIMES. I call for the reading of the report in that case.

The Secretary read the following report, made by Mr. WILLIAMS on the 14th instant.

The Committee on Claims, to whom was referred the petition of Mrs. M. J. Dixon, respectfully report: That on the 5th of May, 1861, she, in company with her husband, left her residence at Alexandria, Virginia, to visit a brother-in-law in Fauquier county, Virginia.

That Mr. Dixon was afflicted with a chronic disease, and was accustomed at that season of the year, for the benefit of his health, to make a similar visit.

That after leaving as aforesaid the war broke out, and they were unable to get through the military lines so as to return, as they intended when they left.

That when the flag-of-truce system was established Mr. Dixon was too ill to return, and that he died on the 27th of July, A. D. 1864, at Charlottesville, Virginia, leaving no children, and bequeathing all his property to petitioner.

During the aforesaid absence of Mr. Dixon his house in Alexandria, worth \$5,000, was sold by the United States for direct taxes. The amount of the tax, including expenses, was \$19 24, and the house was sold for \$2,575. The amount of the tax after it was levied was tendered to the commissioner by the agent of Mr. Dixon; but the commissioner refused to receive it on the ground that the law required the payment of the tax to be made by the owner in person.

Mrs. Dixon did not hear of the existence of the tax law or the assessment of the tax until about the time of her husband's death. Immediately after his decease Mrs. Dixon became sick, and was confined to her bed for a long time with a serious illness, brought on by her exertions and anxiety about her husband. On the 17th of January, 1865, and while petitioner was in feeble health, she started from Charlottesville for her home in Alexandria. She was detained on the road by inclement weather, broken bridges, and illness, and after the most strenuous exertions and dangerous exposure she reached Alexandria on the 17th of February, 1865, just ten days after the time allowed by law for the redemption of her property had expired.

Petitioner prays that under these circumstances, after deducting the said \$19 24 from the amount for which the property sold, the balance may be refunded to her, and shows that by the loss of said property she would be left in destitute circumstances. Your committee are of the opinion that the absence of Mrs. Dixon from her home at the time of the rebellion broke out and afterward is not chargeable to any feeling of disloyalty, and that she ought to have the relief for which she prays upon the ground that she

started from Charlottesville in ample time to redeem her property from the tax sale, and would have so redeemed it if she had not been detained on the road by unforeseen and unavoidable accidents.

Mr. TRUMBULL. I have some recollection of that case. I think the papers were once before the Judiciary Committee. I did not hear all of the report; but according to my recollection of it, if we pass this bill it will be establishing a dangerous precedent. Is every party who has lost his title to land under the law to be permitted to come in after the time has expired and redeem it; or does this bill simply provide for paying money out of the Treasury which has been received? I will inquire of the Senator who reported it, whether the design of the bill is to revert the title in the party, or to refund the money?

Mr. WILLIAMS. This bill proposes simply to refund the money in excess of the amount of tax, costs, and expenses of sale. There is an arrangement between the man who purchased the property and Mrs. Dixon in consideration of her circumstances and misfortunes to allow her to redeem it in case she can obtain these funds from the United States, which I think she is entitled to. I will say before I sit down that I think this is not the case that was before the Judiciary Committee. I know that there have been two or three similar cases before different committees. One I know was before the Judiciary Committee; one was referred to the Finance Committee; but I believe they have now all been referred to the Committee on Claims.

I do not regard this case as a dangerous precedent for this reason, and the relief is put expressly upon this ground: that Mrs. Dixon started from Charlottesville with an intention to redeem her property in ample time to arrive there for that purpose, but the roads were almost impassable, the bridges broken down, and she was taken ill upon the road, and so was unavoidably detained, and did not reach Alexandria until ten days after the time when the two years allowed by law for redemption had expired. This relief is put upon the ground, which is frequently recognized in the court of equity, that she did all she could to redeem her property, but was prevented by unavoidable accident from doing so. The bill simply provides that, after deducting the amount of the direct tax, the amount of the costs, and the expenses of the sale, the Secretary of the Treasury shall refund back to her the amount of money actually received into the Treasury from the sale. The property sold was worth \$5,000. It sold for a little over two thousand dollars. It sold at a great sacrifice. Mrs. Dixon is a widow lady. Her loyalty is put entirely beyond question by the evidence in the case; and she is left by the death of her husband and by the loss of this property in destitute circumstances.

It was the opinion of the committee that these facts relative to her attempted return for the purpose of redeeming her property made this an exceptional case, and that it would not be a precedent that would authorize any interference by Congress in other cases where property had been sold.

Mr. TRUMBULL. Will the Senator allow me to inquire whether the husband was living when this property was sold, and whether he was not a disloyal man?

Mr. WILLIAMS. I am not advised as to the particular views or opinions of the husband; there is no evidence on that subject. I think in May, 1861, or early in the year 1861, this man, who was an invalid, who had a chronic disease, visited another part of Virginia for the purpose of improving his health. He had been accustomed to make that trip during the summer months. He fell sick, and was sick a long time, and died, and there was no opportunity for him to attend to the matter, because he was not only too sick to attend to it, but there was no communication between the place where he was living and the city of Alexandria. They left an agent in Alexandria to look after the

property, and he proposed to pay the tax after it was levied, but the commissioner would not receive it. The evidence shows that they left their household goods and effects there with an evident intention to return to Alexandria as soon as possible, but they were prevented by the breaking out of the war, by the sickness and death of the husband, and by the illness and misfortunes that attended the petitioner. I will say that the committee did not take into consideration the merits or demerits of the husband, for he died two or three years ago; but they were very unwilling to grant any relief of this kind until the loyalty of the petitioner was established beyond all question; and I think there is no doubt on that subject. I not only learn that from the evidence in the case, but I learn it from parties outside of the case.

Mr. TRUMBULL. It seems that the loyalty of the husband has not been inquired into. If this is the case that was once before the Judiciary Committee my recollection of it is not now sufficiently distinct to enable me to state the facts in regard to it; but it seems to me it might be a very important inquiry to ascertain whether the husband was disloyal or not. If he was a disloyal man, aiding the rebellion when this property was sold, it might be very questionable whether the proof that his wife was loyal would justify her coming in at a subsequent period and redeeming the land from sale.

Mr. WILLIAMS. I can say in answer to that that the husband gave the rebellion no aid and comfort, because he was a helpless invalid and unable to take care of himself, and his wife accompanied him for the very purpose of taking care of him. He had a chronic disease which was very debilitating, and he died from the effects of that disease. What his particular views or sympathies were as to the rebellion is not known to the committee; no inquiry was made upon that subject; but the evidence is perfectly conclusive that he gave no aid to the rebellion because he was not able to take care of himself.

Mr. HENDRICKS. I think this case ought to be a suggestion to the Committee on Finance to make some general regulation on this subject. Where a man's property is sold for taxes not paid, and a large amount of property is sold and there is a great excess, that does not belong to the Government. That excess, without any legislation on the subject, ought to be paid to the owner. A man's property is sold simply to make the taxes. That is the principle of all the State legislation that I am acquainted with, and it ought to be a general regulation. If a person's property is sold for taxes, and there is an excess, that excess should be paid to the owner.

Mr. FRELINGHUYSEN. It was on the principle stated by the Senator who has just addressed us that the committee were very much influenced. The whole tax is paid, and this bill only remits to a helpless widow woman, whose loyalty was established, and who made every exertion to reach Alexandria in time to redeem her property, the amount in excess of the tax and costs of sale; and it was looked upon by the committee as a harsh case for the Government to hold that excess in their hands.

Mr. HOWE. The committee did not consider the question suggested by the Senator from Indiana at all, and did not suppose that this was a case which would call for the application of any such rule if Congress should see fit to adopt such a one. The only thing the committee attempted to do by this report was, to relieve against the effects of a casualty, an accident beyond the control of the party seeking to reach her home in time to redeem her property under the law as it stood; but by a series of accidents, railway accidents and disease, she was prevented from getting there until ten days after the time expired. If she had been ten days earlier, as she would have been but for these casualties, she would have redeemed it under the law as it stands; and inasmuch as the only relief she asks for is the

refunding of the excess now in the Treasury, and as the party holding the estate, taking cognizance of these accidents, is perfectly willing to relinquish the title by getting back the money that he paid, we all thought it was only an honest act for the Government to refund that amount.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CREDENTIALS.

Mr. CATTELL. I ask leave to present the credentials of Hon. FREDERICK T. FRELINGHUYSEN, elected by the Legislature of New Jersey to fill the vacancy occasioned by the death of Hon. William Wright. The additional certificate required by the act of July 25, 1866, has been forwarded by the Governor of the State to the President of the Senate.

The credentials were read.

The PRESIDENT *pro tempore*. The Chair will state that he has received a certificate from the Governor of the State of New Jersey certifying to the same fact, and this certificate, together with the credentials, will be placed on the files of the Senate.

The oaths prescribed by law were administered to Mr. FRELINGHUYSEN, and he took his seat in the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, in which it requested the concurrence of the Senate.

#### PENSION AGENTS.

The message further announced that the House had disagreed to the amendments of the Senate to the amendment of the House to the bill (S. No. 69) to provide for the payment of pensions, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. SIDNEY PERHAM of Maine, Mr. JOHN F. BENJAMIN of Missouri, and Mr. NELSON TAYLOR of New York, managers at the same on its part.

The Senate proceeded to consider its amendments to the amendment of the House to the bill; and, on motion of Mr. LANE, it was

*Resolved*, That the Senate insist upon its amendments to the amendment of the House of Representatives to the bill of the Senate No. 69, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

#### THE TARIFF BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes, which is now before the Senate as in Committee of the Whole, the pending question being on the amendment proposed by the Senator from Vermont [Mr. EDMUNDS] to the amendment of the committee, to insert in section eighteen, after line thirty, the following:

Books, maps, charts, and other printed matter specially imported in good faith for any public library or society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use of any college, academy, school, or seminary of learning in the United States.

Mr. GRIMES. Mr. President, the man who opposes the passage of this bill must expect to be slandered. The "protectionists," as they choose to call themselves, have already opened the vials of their indignant wrath upon the heads of those whose opposition they anticipated. Threats of utter political extinction are hurled against every man who, in the exercise of an independent judgment, is not prepared to impose upon his constituents the burdens which the various manufacturing combinations demand. That portion of the public press sub-

orned to their interest is rife with charges that "the capital is thronged with freetraders, and that British gold is operating to secure American legislation for British interests." Every man is condemned in advance who would inquire before he would vote.

We know what all this means, and so far as I have the ability, I am resolved that the people shall know what it means.

It means that two or three large manufacturing interests in the country, not satisfied with the enormous profits they have realized during the last six years, are determined at whatever hazard to put more money in their pockets; and to this end they have persuaded some and coerced other manufacturing interests to unite with them in a great combination demand for what they call protection to American labor, but what some others call robbery of the American laborer and agriculturist. It seems that the men specially interested in the passage of this bill are bent upon taking the legislation of the country into their own hands; that they are unwilling that there should be impartial, free inquiry into the subject; that conscious of the interested motives from which their own action spring they cannot conceive it possible that those who disagree with them can be inspired by any other than selfish considerations; that having bought and paid for the support of a portion of the public press they cannot imagine that there is any longer such a being in existence as an independent, manly, honest editor of a newspaper.

Mr. President, this mad dog cry of "free trade and British gold" passes by me like the idle wind. The men who utter it follow their vocation and earn their bread by it. I would not disturb them.

Nor am I alarmed at the scheme now being carried into execution of sending free of charge to every prominent man in Iowa and elsewhere in the Northwest a weekly copy of a New York journal of what is called the "protectionist" school for the double purpose of building up a sentiment there in favor of high duties and of politically destroying such members of Congress as may not vote in favor of them. The men who pay for the papers can well afford the expenditure; and the results that will flow from this bill, which I doubt not is fated to pass, will be a sufficient refutation of all the arguments they contain.

I have known nothing so alarming in the whole history of legislation in this country as the methods that have been adopted to secure the passage of this bill. The people have not asked for it; they, so far as we know, are satisfied with the present tariff laws. The members of this Congress were not elected upon any issue of this kind. This enactment is solely demanded by the manufacturers of iron and a few wool agriculturists and speculators who call themselves the wool-growers of the country. They have organized associations, contributed large sums of money to mold public sentiment through the press, and have formed combinations with other interests to control the legislation of the country. The result of their labors is before us, and we are to determine whether we will permit these clubs and associations of interested parties to govern us in our action as the clubs and associations of revolutionary France governed the constituent assembly of that country.

It is the fashion to denounce every man who does not favor a prohibitory tariff as a free trader. The charge is made that free-trade agents are at work to influence Congress, and that our tables are encumbered with free-trade documents. Who has seen these free-trade agents? I have yet to see the first man who was in favor of free trade, nor have I seen any man who was opposed to a revenue tariff which should incidentally protect such branches of American industry as needed the fostering aid of the Government. It is on questions of detail that we differ. We disagree as to how much money shall be taken from the pocket of Peter to support and enrich his brother Paul.

We are told that for some centuries England maintained a protective system almost amounting to prohibition, and grew rich and powerful under it; and that example is presented to us as worthy of imitation, as though the world had made no progress in arts and sciences, in productive resources and machinery, no advance in the science of political economy and the application of its principles to practical life. God forbid that we should go back to the early days of the British Empire, or even to her more modern days, for laws or policies upon which to model our own systems, national, social, or economic. Besides, it is undoubtedly the fact that the prosperity, the wealth, and the renown of England are due in a far greater degree to her commerce than to her manufactures. It is commerce that is the great civilizer and elevator. It is commerce that has poured the wealth of the world into the lap of England. Yet the tendency of this measure will be to utterly destroy the commerce of this nation, already almost swept from the ocean by hostile legislation.

And now what is the measure before us? It purports to be a bill "to provide increased revenue from imports, and for other purposes." If this bill when passed into a law would indeed "provide increased revenue from imports" no man could support it more cheerfully than I would. That is precisely what my constituents desire, and which they believe the interests of the country demand. They would be glad to see that kind of legislation adopted which would secure such an "increased revenue from imports" as would be sufficient to pay the annual governmental expenses and the interest on the public debt without resort to internal taxes. True relief is only to be found in the abolition of the manufacturers' tax. But the friends of this bill do not support it upon any such theory as that. They do not pretend that it will "provide increased revenue from imports." If they thought it would, they would utterly and forever repudiate it. It is for precisely the reverse reason assumed in the title of the bill; it is because it will not "provide increased revenue from imports;" it is because they believe that under its provisions foreign products, coming in competition with American products, will be so excluded from our ports that no duty at all can be collected on them that they require its passage. The title is a misnomer. Before it passes from our hands let it be amended so as to read: "An act to prevent the collection of duties from imports and defray the expenses of Government by direct taxation."

This bill is said to contain a provision for the benefit of the wool-growers of the western States, and on that account my aid is invoked to secure its passage. No one could be more gratified to be able to render to that class of our people any legislative assistance in my power than I would be, provided I could do so without detriment to the common interests of the whole country, and not otherwise. Let us examine this subject of wool as exhibited in this bill.

The existing tariff fixes a duty of three cents per pound specific on wools costing twelve cents per pound or less, and six cents per pound on wools costing more than twelve cents and less than twenty-four cents. The bill before us declares—

That merino, mestiza, mets, or metis wools, or other wools of merino blood, immediate or remote; Down clothing wools, and wools of like character, with any of the preceding, including such as have been heretofore usually imported into the United States from Buenos Ayres, New Zealand, Australia, Cape of Good Hope, Russia, Great Britain, Canada, and elsewhere, and also including all wools not heretofore described, and upon Leicester, Cotswold, Lincolnshire, Down combing wools, Canada long wools, or other like combing wools, of English blood, and usually known by the term *merino* used; and also all hair of the alpaca, goat, and other like animals, the value whereof, at the last port or place whence exported to the United States, excluding charges in such port, shall be thirty-two cents or less per pound, the duty shall be ten cents per pound, and, in addition thereto, ten per cent, *ad valorem*; upon wools of the same class, unwashed, the value whereof at the last port or place whence exported to the United States, ex-



cluding charges in such port, shall exceed thirty-two cents per pound, the duty shall be twelve cents per pound, and, in addition thereto, ten per cent. *ad valorem*.

This is the demand of the Wool-Growers' Association.

Now, let it be borne in mind, that coupled with this demand and dependent upon it is the demand of the Wool-Manufacturers' Association, another society in full sympathy and accord with the Wool-Growers' Association, and cooperating with them to secure the adoption of this bill. They demand that for every cent of duty imposed on wool there shall be four cents per pound imposed on imported woolsens, and then thirty-five per cent. *ad valorem* added to that to cover the cost of chemicals, dye-stuffs, transportation, &c. Mr. Wells, the special commissioner of the revenue, in his very able report to the Secretary of the Treasury, seems to think that this is in some measure a reasonable demand, for he says:

"It must be evident, now, that to the extent to which the cost of wool is increased to the American manufacturer through the increased duties on his raw materials, it will be necessary to impose an equivalent increase of duties on the importation of foreign woolsens, otherwise the increased price of wool, growing out of the duty, would act as a bounty in favor of the foreign manufacturer, and prove speedily disastrous both to the American wool-grower and to the American woolen manufacturer."

To balance the duties proposed upon wool, the executive committee of the woolen manufacturers claim, and endeavor to prove it to be essential to the preservation of their industry, that for every cent of duty imposed on wool, four cents per pound must be charged on all woolsens imported. It is also clear that if the price is to be enhanced to the extent of the duty the advance must be estimated alike on goods made of domestic as well as of foreign wool. Consequently, for every cent of duty imposed on wool, the American consumer will be taxed four cents per pound on his manufactured woolsens; which tax on the present annual consumption of the country, namely, one hundred and fifty million pounds, would amount to the sum of \$6,000,000 for each cent of duty imposed on wool.

Assuming the existing rate of duty upon unwashed wool at six cents per pound, the present annual tax for the protection of this interest is, therefore, (\$6,000,000 × 6 cents) = \$36,000,000; but at the proposed rate, assuming eleven and a half cents as the minimum, this tax will be further increased: (\$6,500,000 × 5½) = \$35,750,000; or, in other words, the proposed tariff on wool and woolsens will tax the community (if it should have the effect sought by those who propose it) to the extent of \$71,250,000 per annum for the protection of an interest, the whole annual value of whose product as we have already shown, cannot be considered in excess of \$36,000,000 gold valuation. Can any such amount of taxation on an absolute necessity of life in this country be justified under the plea of protection to American industry, and that industry one which cannot claim high protection on the plea that it is not yet well established?

"Nothing less," say the committee of the wool manufacturers in their report, "than a specific duty of fifty-three cents per pound on their manufactures will be sufficient to place the manufacturer in the same position as if he had his raw material free of duty," a position which he must demand as an imperative necessity for the preservation of his industry, and added to this specific duty there is in the bill an *ad valorem* duty of thirty-five per cent."

Now, it must occur to the most casual observer that with this relative increase in the duty on woolen fabrics the manufacturer can import wool to compete with domestic wool to precisely the same advantage that he can under the present tariff. Yea, with greater profit, for the proposed duty on the manufactured goods is relatively greater than on the raw material.

What, then, will be the effect of this measure? Granted, for the argument, that it will immediately increase the price of both domestic and foreign wools to the temporary advantage off the home producer. But at whose cost will this increase be made? Of course every man knows that the profits of both the wool-grower and wool-manufacturer must be derived from the consumer. Let me illustrate how this is: The average weight of the ordinary clothing of the male population in the United States is made from cloth the average weight of ten to eleven ounces per yard of three fourths of a yard in width. If the average quantity for each person for a full suit be for a coat four yards, for a waistcoat three fourths of a yard, for trousers two and one fourth yards, for an overcoat four yards, making for the suit eleven yards; which would cost in England seventy

cents per yard, or \$7.70 in gold. To this under this bill must be added \$5.83 duty in gold, to which should be added the premium on gold, for it operates as a duty on the import, at thirty-five cents, amounting to \$2.05, making a total of \$7.90 duty, or twenty cents more than the material cost in England of which the suit was made. This is an example of the protection which the combination of wool-growers and wool-manufacturers demand that the common people of this country shall afford them. And this is a fair illustration of the increase of prices given by this bill over all imported clothing and woolsens.

But is it true that this increase of duty will permanently increase the price of wool? I had supposed it to be "an axiom in political economy that no amount of duty on any foreign product can permanently enhance, above the cost of production, the price of the domestic product so long as it could be produced to an unlimited extent." Does any one imagine that the increased price will not stimulate the production of wool in Iowa, Missouri, Kansas, and especially in New Mexico and Texas, where it can be produced as cheaply as on the Pampas of South America? I venture the prediction that the effect of this law would ultimately be, were it continued on the statute-book which I do not predict, to entirely destroy the wool-growing business east of the Mississippi river, in all of these States where wool-growing is conducted upon lands costing thirty dollars per acre and upward. Iowa, so far as I have heard, with her two million sheep demands no protection. That demand comes from the wool-growers of Ohio and the States east of them. I do not understand that we do not receive to-day a fair price for our wool as compared with the prices of other agricultural products. With the present price of sheep and labor we can as well afford to produce wool as we can corn, beef, and pork. During the war the producers received from sixty cents to one dollar a pound for wool. I agree fully with the commissioner when he says that—

"The low prices of wool at the present time are no legitimate arguments in respect to this question, inasmuch as they are abnormal in their character, and are due mainly to a general depression of business, consequent upon an anticipated reduction of prices, and to an over-importation of foreign wools in the spring and summer of 1866, stimulated by the prospect of an advance in the tariff."

And I further agree with him in his opinion that—

"The trouble under which the wool-grower at present labors is one and the same affecting every other branch of industry in the country, namely: a most extraordinary advance in the cost of all the elements entering into production. To remedy this state of things the wool-grower now proposes to make the cost of production still higher; for it cannot be supposed that he alone, of all the producers of the country, is to be allowed to advance the price of his products without submitting to an equivalent advance in the price of all others."

I wish it to be understood that I want to protect the wool-growers. I want to protect them against an enormous advance upon the necessities of life; against an increase of twenty-five or thirty per cent. in the cost of all of their agricultural implements; against an increase in the clothing they wear, the food they eat, the books they read. I would not advise or stimulate if I could the people of my State, under the stimulus of a high duty, to rush into attempts to produce wool on a large scale, which cannot be of advantage to the State, and must in the end be disastrous to them. From the time of the Shepherd Kings down to the present moment, no nation, people, or community that devoted their energies principally to the husbandry of flocks ever became rich or powerful. Providence has created certain regions on this continent, one would almost think, with a special reference to this kind of husbandry, and planted there both the shepherds and the sheep. When the Pacific railroad shall be pushed a little further to the Southwest, the wool of Santa Fé will drive many large wool-growers in this country from this avocation.

I admit that the agriculturist who diversifies

his labor and his productions, the farmer with his fifteen horses, his forty cattle, his fifty swine, and one hundred head of sheep is a benefactor, and should be encouraged. Let us see how this bill encourages him. His one hundred head of sheep will furnish him two hundred and fifty pounds of wool, which will be increased in value by the passage of this bill, if it does what its most ardent friends claim for it, fifteen cents a pound or \$42.50 on his clip. But in order to secure this, he must consent to be taxed six cents a bushel on the salt that he feeds to his sheep and with which he cures his meat and seasons his food; he must agree to an additional tax upon the plows, harrows, shovels, hoes, reapers, with which he cultivates his crops, and the engine that drags his products to market, upon his clothing, the household utensils used in preparing his food, and the table cutlery with which he eats it. I would be pleased to know where the net profit on the one hundred head of sheep would be found in this transaction; and if that would be small, where would the equally deserving farmer who was not the owner of sheep find a compensation for the additional taxation put upon him by this bill. And let it be remembered that those who raise wool are only as one in a thousand by the side of those who consume it. But the truth is, this bill will not cause any permanent and reliable advance in the price of wool. There may be a sort of spasmodic rise brought about for the benefit of the speculators holding large quantities of it, but it cannot last. This bill will only benefit the manufacturer by placing the consumer completely in his power. Never was the innocent sheep more completely shorn than the wool-growers have been in the nice little combination they entered into with the manufacturers to increase the price of wearing apparel and blankets on the consumer.

Why, I ask, is so high a duty placed upon the wool of Cotswold, Leicestershire, and other long-wooled sheep which are not produced in this country to any appreciable extent? I believe we have at this time a capital amounting to between five and eight million dollars invested in the worsted business. This wool is used solely for that purpose. The effect of this bill will be to root up and destroy that entire worsted business to the advantage of nobody in this country so far as I can learn; but to the great detriment of everybody who uses worsted fabrics by greatly increasing the price of them.

But the iron makers insist that they are in distress and must be relieved. It was for their benefit in the first instance that this bill was proposed. I do not profess to be as well informed upon the subject of iron manufacture as some others, or perhaps as I ought to be, but so far as my observation and inquiries have extended I am convinced that every iron establishment in the country, properly located and economically conducted, is yielding reasonable profits to its owners, and some of them yield enormous profits. By "reasonable profits" I mean what is considered by men engaged in other legitimate business to be fair returns for their capital invested.

The present duties on the leading descriptions of iron are:

	Per cent.
Iron, pig	52
Iron, bar, (common,) equivalent to	68
Iron, small, round and square, equivalent to	77
Iron, hoop, equivalent to	73
Iron, band, equivalent to	64
Iron, refined, equivalent to	58 to 86
Iron, best Yorkshire, equivalent to	36 to 40
Iron, best English boiler plates, equivalent to	33
Iron, sheet, Nos. 11 to 20 wire gauge, equivalent to	55
Steel, extra cast, equivalent to	41
Steel, blister, equivalent to	33 to 44
Steel, third quality spring, equivalent to	69
Steel tires for locomotives, equivalent to	45

To these rates freight, insurance, commissions, &c., must be added, thus to some extent increasing the duties above the rates here given.

The average varieties of iron used by blacksmiths, machinists, and ship-builders, now protected to the extent of fifty-five per cent., is advanced by this bill fifteen per cent. Nail

plate, hoop-iron, and small bar-iron now protected by sixty per cent. duty is directly advanced by the bill from fifteen to seventy-five per cent., and some of it over one hundred per cent. But the iron manufacturers are not satisfied with the monstrous duties apparent upon the face of the bill. By adroitly changing the classification of iron it will be observed that several descriptions have been carried from lower to higher classes, thus making an additional increase on plate-iron of two leading sizes of one fourth of a cent per pound, and on round and square iron of some sizes, namely, No. 9, wire gauge to less than five sixteenths of an inch an increase of three fourths of a cent per pound. This is not apparent on the face of the bill to a casual observer who does not compare the present tariff with the proposed one.

In order that the Senate may have a complete understanding what the duties proposed upon the various descriptions of iron will amount to, I lay before it a table that has been prepared with a great deal of care and for the accuracy of which I think I can safely vouch.

Table comparing the cost per ton, on board, at the port of shipment, including sixty cents per ton shipping charges, of iron imported into the United States, with the duties proposed to be charged on the same in the bill reported by the Senate Committee on Finance, January 11, 1867—reduced to United States gold.

	Duties proposed by Senate bill.		Cost per ton on board, at port of shipment, including shipping charges, reduced to United States gold.
	Per pound.	Per ton of 2,240 pounds.	
Bars, round or square, 1 1/2 cent.	1 1/2	\$28 00	Gold, \$38 11
Bars, round or square, 1 1/4	1 1/4	33 60	38 11
Bars, round or square, 1 1/2	1 1/2	39 20	38 11
Bars, round, 1 1/4	1 1/4	39 20	42 95
Bars, round, 1 1/2	1 1/2	39 20	47 80
Bars, round, 1 1/4	1 1/4	39 20	52 63
Bars, round, 1 1/2	1 1/2	39 20	57 47
Band iron—thinner than No. 8, wire gauge, and not thinner than No. 14.	2 1/2	50 40	44 16
Scroll iron, 2 1/2	2 1/2	50 40	45 37
Scroll iron, 2 1/4	2 1/4	50 40	46 58
Scroll iron, 2 1/2	2 1/2	50 40	47 79
Hoop iron, 2 1/4	2 1/4	61 60	45 37
Hoop iron, 2 1/2	2 1/2	61 60	50 21
Hoop iron, 2 3/4	2 3/4	61 60	55 05
Hoop iron, 3	3	61 60	74 45
Rods, 2 1/4	2 1/4	56 00	47 47
Rods, 2 1/2	2 1/2	56 00	50 21
Rods, 2 3/4	2 3/4	44 80	47 79
Rods, 3	3	44 80	45 37
Rods, 3 1/4	3 1/4	44 80	42 95
Rods, 3 1/2	3 1/2	44 80	38 11
Horseshoe, 3 1/2	3 1/2	33 60	45 37
Ovals, 3 1/2	3 1/2	50 40	42 95
Ovals, 3 1/4	3 1/4	50 40	45 37
Ovals, 3 1/2	3 1/2	50 40	47 79
Ovals, 3 3/4	3 3/4	50 40	50 21
Ovals, 4	4	50 40	52 63

The rates of duty average somewhat over one hundred per cent. on the cost on board. Of the twenty-eight specifications of duties, about thirteen are under and fifteen are over cost.

Is it possible that we are prepared to place such a tax as this upon iron which is the raw material for all our industries, and which it has been the policy of all civilized nations to afford to their people cheap? Can I justify myself to my constituents for voting to double the cost of iron by pleading that in their behalf we secured the blessed boon of compelling them to pay double for all the clothing they wear? Of the proposed duties on sheet-iron it is unnecessary to speak. Upon some descriptions they are confessedly prohibitory.

The steel manufacturers laid upon our desks yesterday a statement of their demands. They tell us that in 1859, under an *ad valorem* duty of twelve per cent., the manufacture of steel became an assured success; that the duty fixed by the act of 1861 was agreed on between the importers and manufacturers, and was well adapted to the then existing state of the manufacture in this country; and they now demand an increase of from forty-six to sixty-seven per cent. on the existing tariff. On this point

I submit to the Senate a table carefully prepared showing facts important to be known:

DESCRIPTION OF STEEL.	Cost per invoice per pound.	Duty before the war per pound.	Present duty per pound and 10 per cent. ad valorem on 31 cent. rate.	Proposed duty per pound and 10 per cent. ad valorem on 5 cent. rate.	Advance on present duty per pound.	Increase of duty by per pound by Senate bill over duty per pound existing before war.	Per centage of increase of duty by present bill over rates existing before war.	Per centage of increase by present bill over existing rates.
Extra cast steel, 11	11	1 1/2	3 1/2	5	1 1/2	3 1/2	280	46
Best cast and double shear steel, 10 1/2	10 1/2	1 1/2	3	5	2	3 1/2	300	67
Second quality cast and single shear steel, 9 1/2	9 1/2	1 1/2	3	5	2	3 1/2	397	67
Best blister steel, 9 3/8	9 3/8	1 1/2	3	5	2	3 1/2	160	17
Second quality blister steel, 9 1/8	9 1/8	1 1/2	3	5	2	3 1/2	375	55
Round machinery steel, 6 3/4	6 3/4	1 1/2	3	5	2	3 1/2	340	55
Best German steel, 6 1/2	6 1/2	1 1/2	3	5	2	3 1/2	375	55
Best German steel, 6 1/4	6 1/4	1 1/2	3	5	2	3 1/2	450	55
Third quality spring steel, 8 1/4	8 1/4	1 1/2	3	5	2	3 1/2	475	55

Table of costs based on the above, with actual duties before the war, present duties, and proposed duties, and advance on present duties per pound.

a single fabric the cost of which will not be augmented by this increased duty? The railroad iron-makers, content with the existing duty of fourteen dollars, insist that if the duty be raised on ordinary bar iron they must have an increased duty on their production to meet the increased cost of blooms and the increased wages of puddlers and other skilled laborers.

The manufacturers of every variety of hardware and cutlery asked with great justice that we should give to them an increased protection, because of the anticipated increase in the value of what is to them the raw material, iron and steel. There is not a single industry that does not demand and need greater protection, because of the increase you will give to these articles. The manufacturers of machinery require, they tell us, that the duty on machinery shall be raised from thirty-five per cent. to sixty-five per cent. *ad valorem*, at least a rate corresponding with no other articles in the present bill except upon silks and other articles of luxury, saving and excepting always iron and steel. They insist that a machine for spinning cotton yarn costing in gold \$10,000 shall have added to it a duty of \$6,500, and all other machinery employed in the manufacture of cotton, wool, &c., must be enhanced in a corresponding degree. Mills therefore already built will become monopolies.

Do the advocates of this measure insist that this is the way to build up manufactures and make cheap goods? Is this the way to spread prosperity through the land and make glad the hearts of the poor? Is there any one so blind as not to see that the effect of the bill will be to increase the colossal fortunes of iron and steel masters and of the owners of woolen and cotton mills at the expense of the consumers of their products? Is this the way to pay the interest on the public debt? Will an increase of the price of every necessary of life and of every consumable fabric enable the people to more easily pay their internal taxes or make them any more willing to do it? These are questions that it would do well for us to ponder. Yet we are expected to vote for all this, because we are permitted to have an increased duty on wool.

We were reminded the other day that the farmers' interests were to be specially protected under this bill, and so it contains a provision by which the duty on salt, an absolute necessity of life, is increased one hundred and sixty per cent. above its cost. We in the West produce beef and pork which are packed and sent to foreign countries, where they come in competition with beef and pork packed elsewhere, with salt that pays no tribute at all, free salt. Yet the farmers' interests are protected!

Mr. President, another effect of this bill will be to completely destroy the commerce of this country. I hold that no nation can be great and powerful and occupy a prominent and respectable position in the family of nations without commerce. When I said this to one of the gentlemen outside of the Senate who were advocating the passage of this bill he denied my proposition, and referred me to Austria as a great nation without commerce—priest-ridden, bankrupt, despotic, disintegrating Austria—as an example to the country!

Sir, you have already by your hostile legislation nearly destroyed your commerce. You have destroyed your business with Mexico and with Central America; your carrying trade is now to a great extent done in foreign bottoms. I am told by those upon whom I rely that where ten years ago there were ten vessels of this country in the South American ports there is not one now. This change has not been wrought by the Alabamas and Floridas, but by us. You have a little commerce with Calcutta and the East Indies; but before this bill passes, if I am not mistaken as to where the strength of the body lies on these questions, you will so amend it as to destroy that commerce also. This bill will effectually destroy your trade with the countries of northern Europe.

Mr. SPRAGUE. Let me ask the Senator

Upon Bessemer steel rails is fixed a duty of forty-five dollars per ton, doubtless intended to be, as it certainly will be, entirely prohibitory, all for the benefit of the rich monopolists who are the assignees of the patented process by which it is manufactured.

Now, what is to be the effect of this great increase in the price of iron and steel? Need any one be told that iron and steel are the bases of all production, and that the enhancement of their value will increase the cost of every variety of manufacture? Can any one name

to point me to a country that is not prosperous in its manufacturing which has a commerce. Where is the country divested of manufacture that has a commerce?

Mr. GRIMES. I do not know that it is necessary for me to answer interrogations of the gentleman. He is specially interested in the subject of manufactures. I am not interested either in manufactures or commerce. I speak from the knowledge of historic facts I have gathered in the course of my life. If I am in error I can be corrected.

Mr. President, I have no desire to weary the Senate by criticisms of other crudities, partialities, I may say enormities, contained in the bill. I leave to others who may follow me the discussion of other branches of this subject.

Why should we make haste to pass this measure? We were told yesterday by the Senator from Ohio that it was only necessary because of the high price of labor. Does he expect that this bill, when enacted into a law, will reduce the value of skilled labor, or that it will have a tendency in that direction? On the contrary, will it not have the effect to increase the value of that description of labor, and shall we not have the same manufacturing interests, with the same argument in their mouths, clamoring at our doors at the next session for increased duties on those provided in this bill?

He also told us that this tariff was not required by the iron masters to protect them against the pauper labor of Europe. This is undoubtedly so. The protection is required against the high prices of American labor, and nothing can show more thoroughly the absurdity of this measure. Why, we are told that the difference between the prices of labor in the iron works at Pittsburg and Johnstown in the same State of Pennsylvania, and within less than two hundred miles of each other, is sufficient to enable the Cambria works at Johnstown to divide a fair dividend on their capital, while in the Pittsburg works no profits are realized at all. In Pittsburg there are leagues and combinations and dissipation among the workmen, so that their labor is not as valuable as the same labor would be at other places, whereupon the employers post off to Washington to secure legislation, which in their judgment will protect them against high wages and unremunerative labor.

Our true policy is to wait. Let us make haste slowly. The financial and business affairs of this country will adjust themselves if we will only let them alone. Values of all kinds are falling, beginning with agricultural products, and will of their own momentum adjust themselves to the specie standard. Skilled labor will, like everything else, in a little while find its true reward. The true relief for the manufacturer and the people alike should be sought, and can only be found in a reduction of the internal taxes on manufactures. So much does the internal tax duplicate itself in the various forms in which it is imposed upon manufactures that a reduction of one cent from the internal tax would probably be of as much benefit to the manufacturer as the imposition of five per cent. duty under this bill.

But the passage of this bill will preclude us from making such a reduction of the tax, for its practical effect would be to increase the duty for the benefit of the manufacturer and throw so much greater burden upon the other sources of internal revenue. Surely we shall not be asked, after giving the manufacturers all they required under this bill, to the loss of the public revenue I am convinced of not less than fifty million dollars per annum, we shall not be asked to also reduce the tax on their manufactures and thus throw still greater burdens on the consumers.

Mr. President, were I an iron manufacturer I would protest against the passage of this bill. From the day of its enactment agitation for its repeal will begin. The greatest of all evils in business of every description are fluctuations and uncertainties. This measure will derange all the business of the country and afford relief to no considerable portion of the people. It

cannot remain long on your statute-book. Its atrocious inequalities and partialities and one-sidedness will attract the attention and receive the condemnation of the people whenever they shall have an opportunity to pass upon it.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Vermont to the amendment of the Committee on Finance.

Several SENATORS. What is it?

The Secretary read the amendment, which was to insert in the free list, after line thirty of section eighteen:

Books, maps, charts, and other printed matter specially imported in good faith for any public library or society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use of any college, academy, school, or seminary of learning in the United States.

Mr. EDMUNDS. Having examined these questions more critically since yesterday's session, I am satisfied that the amendment which I proposed will effectuate all the useful purposes I designed for it by striking out all that it contains after the word "arts," and I believe that will be satisfactory to the Committee of Finance.

The PRESIDENT *pro tempore*. The Senator from Vermont modifies his amendment by striking out all after the word "arts."

Mr. TRUMBULL. I should like to hear it read, then.

The Secretary read the words proposed to be inserted, as follows:

Books, maps, charts, and other printed matter specially imported in good faith for any public library or society, incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts.

Mr. HENDRICKS. I believe it is regarded as scarcely in good taste to oppose an amendment like this, because when a man speaks in the name of the colleges and the high schools of the country and the libraries of the country he is supposed to speak by such authority that no man should question what he says; but I must confess to a sympathy with the sentiments expressed yesterday evening by the distinguished Senator from Oregon, [Mr. WILLIAMS.]

There is no use to pretend that this is an amendment in the interest of the common schools and the common people of the country. It is not of that character, and it cannot be. The common schools of the country are supplied with their literature from the productions of the American press, and I am very glad that it is so. I do not know of a single foreign book going into the schools of the State of Indiana, and I suppose it is so most generally over the country. But there are colleges, well endowed institutions, and there are high schools, and there are select libraries to which it will be an advantage to be allowed to bring from foreign countries without any duty rare and costly books and maps.

Now, when everybody is taxed to bear the burdens of the Government, when every interest in society has to help to bear these burdens, why is it that even the literary taste of the country shall not bear its part? The humble laborer has to pay something on the salt that goes into the food for his children; and yet we are asked to say that the rich and endowed institution, the places of resort of the learned and wealthy as a general thing, shall have a peculiar privilege and exemption from the burdens of Government.

A man would do better, I suppose, not to entertain these sentiments; it would perhaps be more popular to just say that what the Senator from Vermont proposes is not to be questioned. If the burdens of Government were not heavy I would not care anything about it; but everybody has to come up to the work now, no interest escapes, and the college that wishes to secure for its library the rare works of European minds and European presses had as well pay upon the importation as the man who is required to pay a duty upon the salt that seasons the food for his family. I do not believe in many exemptions. When taxes are to be gathered I believe in the doctrine that

they shall apply to everybody and all alike. I think I appreciate the importance of seminaries of learning and of colleges as highly as any Senator; but I do not believe in exempting them from the burdens that all the people have to bear.

Mr. SUMNER. Mr. President, by the existing law it seems to me the Senator from Indiana forgot public libraries and literary societies receive books, maps, and engravings free of duty. It is now proposed to change the existing law, so that public libraries shall no longer receive books, maps, charts, and engravings free of duty. Now, it is a little curious that this moment is seized for this important change, which I must call retrogressive in its character. It seems like going back to the dark ages. We made no such change during the war. We went through all its terrible trials and the consequent taxation without any such proposition. Now that peace has come, and when we are considering how to mitigate taxation, it is proposed to add this new tax.

Mr. HENDRICKS. Will the Senator allow me to ask whether he regards this bill as a mitigation of the taxes upon goods brought from foreign countries?

Mr. SUMNER. I am not discussing the bill as a general measure.

Mr. HENDRICKS. I thought the Senator spoke of the present effort to mitigate taxation.

Mr. SUMNER. I believe I am not wrong when I say there is everywhere a disposition to reduce taxation, whether it may be on foreign or on domestic articles. It is the desire of the country and it is the irresistible tendency of things; and at this moment, when the country is filled with that desire, will they not be astonished if they find that instead of reducing a tax on knowledge you augment it?

I insist that in imposing this duty you not only change the existing law, but you depart from the standing policy of republican institutions. Everywhere we have education at the public expense. The first form of this is in the public school, which is open to all. But the public library is the complement or supplement of the public school. As well impose a tax on the public school as on the public library.

I doubt if the Senate is fully aware of the number of public libraries springing into existence. This is a characteristic of our times. Nor is it peculiar to our country. Down to a recent day public libraries were chiefly collegiate. In Europe they were collegiate or conventional. There were no libraries of the people. But such libraries are now appearing in England in France. Every considerable place or center has its library for the benefit of the neighborhood. But this movement, like every liberal tendency, is more marked in the United States. Here public libraries are coming into being without number. The public library of Boston and the Astor library of New York are magnificent examples, which smaller towns are imitating. In my own State there are public libraries; in Salem, Newburyport, New Bedford, Worcester, Springfield, indeed I might almost say in every town. But Massachusetts is not alone. Public libraries are springing up in all the northern States. They are now extending like a belt of light across the country. They are like a new zodiac, in which knowledge travels with the sun from east to west. Of course these are all for the public benefit. They are public schools, where every book is a schoolmaster. To tax such institutions now for the first time is a new form of that old enemy—a "tax on knowledge." Such is my sense of their supreme value that I should be disposed to offer them bounties rather than taxes.

In continuation of this same hospitality to knowledge I wish to go still further and relieve imported books of all taxes so far as may be not inconsistent with interests already embarked in the book business. For instance, let all books, maps, charts, and engravings printed before 1840 take their place on the free list. Publications before that time cannot



come in competition with any interests here. The revenue which they afford will be unimportant. The tax you impose adds to the burdens of scholars and professional men who need them. And yet every one of these books, when once imported, is a positive advantage to the country, by which knowledge is extended and the public taste is improved. I do not wish to claim too much for these instructive strangers belonging to another generation. I think that I do not err if I ask for them a generous welcome. But above all do not tax them.

It is sometimes said that we tax food and clothes, therefore we must tax books. I regret that food or clothes are taxed; because the tax presses upon the poor. But this is no reason for any additional tax. Reduce all such taxes rather than add to them. But you will not fail to remember the essential difference between these taxes. In New England education from the beginning was at the public expense, and this has been for some time substantially the policy of the whole country, except so far as it was darkened by slavery. Therefore I insist that because we tax food and clothes for the body this is no reason why we should tax food and clothes for the mind. The question being taken by yeas and nays, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Dixon, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Johnson, Morgan, Morrill, Patterson, Riddle, Saulsbury, Sprague, Sumner, Trumbull, Van Winkle, Wade, Willey, and Wilson—22.

NAYS—Messrs. Brown, Buckalew, Cattell, Conness, Doolittle, Grimes, Hendricks, Howard, Kirkwood, Lane, Norton, Ramsey, and Williams—13.

ABSENT—Messrs. Chandler, Cowan, Cragin, Creswell, Davis, Guthrie, Henderson, Howe, McDougall, Nesmith, Nye, Poland, Pomeroy, Ross, Sherman, Stewart, and Yates—17.

So the amendment to the amendment was agreed to.

Mr. BROWN. I desire to say in behalf of my colleague, [Mr. HENDERSON,] who is absent from the Senate to-day, that he is detained at his room by sickness.

Mr. SUMNER. I now offer an amendment which is naturally associated with the one on which the Senate has acted, to put maps, charts, and engravings executed prior to 1840 on the free list by inserting on page 102, between lines ninety-seven and ninety-eight of section eighteen, these words:

Maps, charts, and engravings executed prior to 1840.

I have no desire to say anything about this matter in addition to what I have already said. It seems to me a very plain case. There can be no competition with anything here at home; and I would give entire hospitality to every such product from abroad.

Mr. FESSENDEN. In regard to the amendment that has just been adopted, it was substantially, although not quite so extensive, what the existing law was, and as modified I have no particular objection to it. With regard to this motion of the honorable Senator from Massachusetts to place any of these matters upon the free list, I think the Senate had better not go any further in that direction. If the Senate will refer to the section which covers books, maps, charts, and engravings they will see that we have made a distinction which, after a great deal of deliberation, we thought would be a just and proper one, and afford all the protection that ought to be afforded and at the same time be sufficiently liberal toward these matters coming in.

We must raise revenue upon something. Maps, charts, and engravings are made in our own country. I do not know what particular advantage there would be, though I suppose there would be some, in picking up collections of charts prior to 1840. The Senate will observe that we put a duty of only fifteen per cent. on everything of that description executed prior to 1840. It is a very low rate of duty. I think they should pay some duty and the bill has been predicated upon that idea.

This is in the interest of knowledge, which my friend from Massachusetts and my friend from Vermont have so much at heart; and which I have somewhat at heart myself, al-

though I do not feel perhaps so delicate a sensibility upon that subject as they do, for the reason that I do not know so much about books and never expect to; and yet so far as the exemption has gone with reference to public libraries I voted for it. I think we should raise a revenue from this source and we fix a small amount of duty on articles of this kind executed prior to 1840, gradually increasing as we come to those which are most apt to be published at the present day for the purpose of affecting the publication of books in our own country. I do not feel disposed to discuss the question at any length; I simply state my objection. I hope the Senate will adhere to the report of the committee on this subject.

Mr. SUMNER. I do not wish to protract the discussion. I will be very brief. I have already said that in putting these on the free list you do not so far as I understand interfere with any existing interest of our country. Then again, the revenue that will be derived from these items would be very small, and such as it is it would be paid by persons who are bringing into the country something that we ought to thank them for introducing. When they are doing that I do not think it advisable for us to tax them. I would encourage them to bring into the country every map, chart, and engraving executed before 1840 because it will be for the public advantage; it will be valuable in every collection of books in every private library; it will be consulted by students, by scholars, and, as I said a moment ago, it will help to elevate the public taste.

Now, it so happens that these very articles become of additional value often from their very antiquity. The Senator says the duty is small; it is only fifteen per cent.; but suppose for instance an engraving or map, which from its rarity is worth fifty dollars—

Mr. FESSENDEN. Allow me. We act on a principle directly opposite to that with regard to works of art. Take for instance a painting by a master; it is valuable in proportion to its antiquity, to its age, sometimes. We impose there an additional duty according to the increased value of the work. We impose a duty of thirty dollars on every painting to keep out cheap paintings; and after that there is an increase of ten per cent., I think—I speak from recollection—upon the value as the value increases. That is on an exactly opposite principle to that now contended for; and if you are to carry this out you may just as well go back to valuable paintings and say "the more valuable the better; they should come in free." The object is in this particular revenue; and revenue should be paid when these things are imported by those who are able to import them and able to pay revenue. If they are imported for the use of libraries and societies of the kind named in the amendment of the Senator from Vermont they are covered by that amendment which has been adopted. But if people of wealth choose to import old and valuable books, engravings, &c., it is proper that they should pay a revenue duty; we do not impose a large one.

Mr. SUMNER. It is not a large duty, the Senator says. The duty on these valuable pictures he puts at ten per cent., but the duty on maps and engravings he puts at fifteen per cent.

Mr. FESSENDEN. There is a specific duty in the first place of thirty dollars on every painting.

Mr. SUMNER. But take one—a valuable painting; the specific duty of thirty dollars added to the ten per cent. would not be very much.

Mr. FESSENDEN. It is ten dollars on every hundred; it advances.

Mr. SUMNER. Take a very valuable painting when the price is thousands of dollars.

Mr. FESSENDEN. Ten dollars on the hundred would amount to a pretty large sum.

Mr. SUMNER. Still it is only ten per cent. The point on which I was when the Senator interrupted me was this: that there are many

maps and engravings of very great value from their rarity; \$50, \$100, \$200, \$500 are sometimes paid for these rarities. Now, the question is whether we will make the person who is disposed to purchase one of these works of art—such they are—pay an additional tax of fifteen per cent.

Mr. CONNESS. Whether we will cheapen them or not?

Mr. SUMNER. As the gentleman from California happily puts it, the question is whether we will cheapen them or not. I say cheapen them; I say bring them into the country, and be grateful to those who do bring them into the country. Now, I hope that the Congress of the United States, in this year of light, will not set up a Chinese wall against any such acquisitions. Let us invite them; let us receive them with open arms.

Mr. WILLIAMS. Mr. President, all the necessities of life are highly taxed by this bill. Every man pays a tax upon the salt that he uses. Every man pays a tax upon the bread that he and his family consume. Every man pays a tax upon the clothing of himself and his family. And now it is proposed, notwithstanding the necessities of the country, to demand high taxes upon these necessities of life to exempt what are luxuries to the rich in the country. I consider that an offensive discrimination against the people who are not able to purchase these valuable books and these fine paintings to which the Senator has referred. I appreciate the argument which he advances. I know how much advantage it is to the country, how much it would tend to improve the intelligence and taste of the country to have these valuable books and paintings introduced free of duty; but, sir, the necessities of the country require that we should raise a revenue, and I say that where ever it is practicable the duties should rather be imposed upon luxuries and the elegancies of life than upon the necessities and those things which are of universal consumption. It is upon that ground that I oppose this amendment and all such amendments. There is a great burden of public indebtedness upon the people of the United States, and every tariff, as far as practicable, should equalize that burden upon all classes, and not undertake to exonerate one part of the community and add to the burdens of another, and particularly exempt those who are best able to pay duties.

Mr. SUMNER. Mr. President, there is no question of the exemption of those who are best able to pay these duties; it is simply a question of a tax on knowledge. The Senator by his system would shut these out from the country and would say, "Hail to darkness!" Let me say, "Hail, holy light!" I do not wish to repeat what I have so often said in this Chamber; but the argument of the Senator has been made here again and again, and heretofore as often as it has been made I have undertaken to answer it. He says we put a tax on necessities now—on the food that fills the body; on the garments that clothe the body. Very well; we do. I regret that we do. I wish that we were in a condition to relieve the country of that taxation. But does not the Senator bear in mind that he now proposes to go further, and, in going further, to depart from the great principle which governs our institutions from the beginning of our history? We have had education free; in other words, we have undertaken to fill the mind and to clothe the mind at the public expense. We never did undertake to fill the body or to clothe the body at the public expense. I, sir, as a lover of my race should have been glad could the country have clothed the body and filled the body with food at the public expense. I should have been glad if it had society been in such a condition that that visionary idea could be accomplished; but we all know that it is not. Let us then be practical and stand on the ancient ways; seek the principle which governed our fathers, which enters essentially into republican institutions, and that principle I say is, that education and knowledge, so far as practicable, shall be free.

In order to make education and knowledge free you must so far as possible relieve all your books of taxation. I have already in what I said a moment ago said that I did not propose to interfere with any of the practical interests of the book trade; and where those interests are out of the way I insist that the great principle of republican institutions should be applied. This is my answer to the Senator from Oregon. I do not think that he has adequately considered this question. He has not brought to it that knowledge, that judgment which always commands my respect as often as he addresses the Chamber. He seems to me to have spoken hastily. I hope that on the present occasion he will withdraw or at least relax his opposition and think of the subject hereafter, and range himself, as he must, I know, with his large intelligence eventually, on the side of human knowledge.

Mr. CONNESS. In view of and in presence of these two angels of light and of darkness, I might reasonably be expected to be silent; but although I am complimented by being in such presence, I am not pleased with the disposition made of, and the location of, the angel of darkness on the Pacific coast, (I feel a little interest in that region,) while the angel of light is located, as my friend from Maryland [Mr. CRESWELL] suggests, at the "hub of the universe;" but I was going to locate him at Cape Cod. [Laughter.] The Senator from Iowa [Mr. GRIMES] suggests that they are respectively at the Orient and the Occident. The thing is capable of infinite illustration as presented. But, sir, to come to the facts on this subject: if we follow out the principle suggested by the honorable Senator who represents the excellent angel I do not know where we should stop. I should like to have the country have all the advantages that are promised it under this amendment and like provisions; but really in face of the taxes with which the country is burdened, with which the industries of the country are borne down, it does appear to me to be not wise, nay, in the face of our constituents and their needs, not in good taste at this time to admit luxurious articles free of duty. I join with the honorable Senator, to some extent at least, in the enjoyment of the articles that he proposed to admit free of duty; but I cannot vote for it under present circumstances; and I hope the Senator will not travel so far in the regions of light and knowledge that his friends who belong to the same party shall not be able to keep within reasonable reach of him.

Mr. SUMNER. Mr. President, it is because I hearken to the needs of my country that I make the proposition I do. I am not to be led aside by the picture the Senator draws of other necessities. Let us respect all the necessities of the people; but among the foremost necessities are those of public instruction, and it is of those I am an humble representative on this floor. The Senator from California may if he chooses treat that representation with levity; he may announce himself an opponent of the policy which I would try to establish for my country; he may set himself against what I insist is a fundamental principle of republican institutions, that knowledge should not be taxed; he may go forth and ask for a taxation on books and on public libraries, and if he chooses let him carry the principle still further and tax the public school. Let him do that to be consistent with himself. I hope that he will allow me, so far as I can, to speak for what I believe to be the true need of the country.

Mr. CONNESS. When we come to speak of needs, there are needs of many kinds. We have been treated to-day by the Senator to a speech to which I have listened certainly with great pleasure, as I always do to the eminent Senator. He has called the proposition he has put before the Senate "a fundamental principle." Well, sir, there is a great deal in a name. Now, it appears to me that if he had not breakfasted this morning we should scarcely have been treated to so good a speech; and that

breakfast, although it comes as a matter of course, may also be regarded as a fundamental principle. I think it is; and it is the basis of the excellent speeches we have received from the Senator. We tax nearly everything that that fundamental principle was made up of; and I presume the Senator pays his proportion of that tax. Because the graces of God come commonly to us we should not therefore forget them, nor forget to enumerate them, nor forget to take exact cognizance of them, nor constantly be kept in the dazzle of the light and splendor of those things that charm the mind. There are other considerations, though made common to us all by constant use, quite deserving of our consideration.

Mr. HENDRICKS. I do not choose, so far as I am concerned myself, to allow the statement of the Senator from Massachusetts to go without a response. He likens his proposition to the policy of supporting the common schools, and intimates that we who oppose his amendment should oppose the free-school system in the country. Sir, there is no comparison. It is not the same case at all. The common schools are to give an education to all the people, a system in which everybody has a benefit. But take the other case by which he illustrated his argument. He as a learned gentleman desires to purchase from Europe a rare map, published before the year 1840, costing fifty dollars, for the benefit, not of the common masses of the people, but for the gratification of his own individual cultivated taste. Now, I want to know, when everybody is being taxed, why he should be allowed to bring in a foreign map for his personal use and gratification, and not at all for the benefit or gratification of the people, free of duty, while the laboring man pays a tax upon the coat in which he labors. If he takes the school-books, I say to him that the school-books are not brought from abroad; they are from the American mind and the American press. These rare productions that he speaks of are not for the benefit of the masses, but for the gratification of the few; and his proposition is simply to exempt from taxation an intellectual luxury, thereby throwing an undue proportion of the burdens of Government upon the masses of the people.

The amendment to the amendment was rejected.

Mr. SUMNER. I now move to place books printed prior to 1840 on the free list, by inserting on page 99, between lines thirty and thirty-one of section eighteen, the words: "books printed prior to 1840."

Mr. LANE. I shall vote against this amendment as I voted against the amendment admitting free of duty books and charts for public libraries and college associations. I shall vote against this for the same reason, and for a still stronger reason, that it may interfere materially with the publishing houses of our own country.

The Senator from Massachusetts takes the ground that all those who vote against this exemption vote to lay a tax upon knowledge. That is a mere *ad captandum* expression, meaning nothing when it is analyzed. Every cent of tax that we assess here upon any article is precisely as much a tax upon knowledge as is the tax upon books. You tax the farming implements that the farmer uses; you tax every article of necessity that he uses; you thereby render his ability to educate his children less, and in precisely that proportion these are taxes upon knowledge. Every single tax that you assess is a tax upon knowledge, inasmuch as it lessens the ability of the parent to educate his child.

This is a tax upon knowledge, we are told, because books and maps and charts will be more expensive if the tax is levied than if they are admitted free. That is doubtless true; but every duty on any other article, the tax on which lessens the ability of the parent to educate his child, is precisely as much a tax upon knowledge as this.

The necessity for the tax grows out of the national debt. We have to provide for it in

some way. The most just and equitable way is to exempt no class, to tax all; and we shall have to resort to that if the public credit is maintained. For this reason I voted against the amendment of the Senator from Vermont; and I shall feel compelled to vote against this amendment, not because I want to vote a tax upon knowledge or a tax upon anything else if it be not necessary and if we could avoid it; but when taxes are necessary to sustain the Government I shall oppose every single class-exemption; and I warn the friends of the bill that if they shall go on excluding from taxation this class and that class and the other, leaving the burden to fall upon the people who have no representatives specially charged to look after their interests, I shall vote against the whole bill. I think the taxation should be apportioned equitably and justly, and the man or the association or the college or library able to buy rare books and rare charts and rare pictures is the very one who should pay taxes in preference to all others, because any tax that lessens the ability of the people for general education is as much a tax upon knowledge as this. I shall then stand by the bill as reported by the committee; but if this class-exemption is carried out, and carried much further, I shall be compelled, as a matter of protection to those whom I represent, the honest, humble, hard-working people, who are taxed to the very earth already, to vote against the whole bill.

Mr. FESSENDEN. I hope this amendment will not be adopted. It will be noticed that we have already adopted an amendment allowing associations for literary, scientific, and artistic purposes to import free of duty foreign books in good faith for their use. If they want rare books and valuable books they will under that provision import them and place them in their libraries. I am opposed to going further and exempting individuals who are able and may choose to import these old and valuable rare books from all duty upon them. I agree with what has been said by the Senator from Indiana [Mr. LANE] upon that subject. The duty as already laid is very low, only fifteen per cent., and I hope the Senate will adhere to the position which the committee have taken on the subject.

Mr. SUMNER. The argument of the Senator is that because the duty as already laid is low, therefore we had better adhere to it. Now, every argument for making the duty low is equally strong against having any duty on the subject. There is no reason that could have influenced the committee in favor of reducing the duty, which is not equally strong in favor of removing the duty.

Mr. FESSENDEN. The Senator will excuse me. We have to look to revenue. If you raise the duty very high on rare books they are not likely to be brought in, so that then we should not get revenue. We thought that a low duty might encourage importation and give revenue; but if you made them free we should get no revenue.

Mr. SUMNER. Now, the Senator declares that the object is revenue; but the revenue that will come from that source is very small; it is not large enough to compensate for the mischief that it will cause. That certainly is the conclusion which I am obliged to adopt from such opportunities as I have of investigating the question.

But the Senator from Indiana [Mr. LANE] has reminded us that he is against class-legislation, and he wishes to have all the interests of the country taxed. Sir, I believe all the conclusions of the best experienced in taxation are that we should seek as much as possible to diminish the object of taxation. Just in proportion as nations become experienced in imposing taxation do they limit the objects to which the taxes are applied. It seems to me we are strangely insensible to that warning of history. We seem to be groping about and seizing hold of every little object, every filament, if I may so express myself, which we

can grasp in order to drag it into the sphere of taxation.

Now, I think we should be better employed if we declined to tax a large number of articles which it is proposed to tax, and brought our taxation to bear on a few important articles which we should make contribute substantially to the resources of the country. The tax that is now proposed will contribute nothing of any real substance to the resources of the country, while to my view it is not creditable. That is my opinion. I say it frankly; I cannot help saying it, because I think it. It is not creditable to the civilization of our age, and least of all is it creditable to the civilization of a Republic?

That is my conviction. As often as I have thought of this question, I cannot see it in any other light; and I do think that money derived from such a quarter can only be vindicated on the principle of the ancient Roman emperor, who said, "Money from any quarter, no matter what it may be, for money does not smell." Now, it were better if we, instead of hunting up all of these several articles for taxation, running them down like game in order to bag them in the public Treasury, should confine ourselves to the great subjects, and make them productive. There are enough of them, and we can have revenue enough. Let us have all the revenue that we want; and having it, let us be hospitable to literature, to knowledge, to art; and now let me say, let us be hospitable to books, because through books you will obtain what you desire in literature, in knowledge, and in art.

Mr. HOWARD. If the principle which the honorable Senator insists upon be a correct one, I desire to ask him why he would limit the subject to the year 1840?

Mr. SUMNER. If the Senator wishes I will answer. I have already stated that I took the date of 1840, because I found it in the bill; it had been selected by the committee as the dividing line between different scales of taxation. I supposed, therefore, it had passed under the consideration of the committee, and I did not think it worth while to interfere with it. Then, as the Senator will see, between now and 1840 is near a generation; and it seemed to me that any work published one generation ago was so far removed that it could not interfere with what I call the practical interests of the book trade.

Mr. HOWARD. If the general proposition be true, that books imported into this country ought not to be taxed, the principle applies as well to books published since 1840 as to books published before 1840. I can see no reason whatever for drawing the line of demarkation between the two descriptions of books in the manner suggested by the gentleman's amendment. But, sir, in point of fact there is no such principle according to my judgment. I do not see any good reason in politics or morals why we should exempt books published in a foreign country entirely from taxation. I do not think there is any. If there be any force or validity in the idea of protection to our own domestic industries, there is as much necessity I apprehend for extending that protection to American publishing houses as to any other branch of American industry. Why not?

And, sir, I do not admit the principle that a tax upon books or maps or engravings is a tax upon knowledge. It is very easy, and there is no gentleman more dexterous at it than my friend from Massachusetts, to invent phrases; and he has furnished the Senate with a repetition upon this occasion of what he has done heretofore very frequently, by using this term, "a tax upon knowledge." I agree entirely with the views taken of this matter by my friend from Indiana, [Mr. LANE.] We tax almost every article that enters into the comfort and even subsistence of the school-boy or school-girl who attends the primary school, and the gentleman from Massachusetts makes no complaint against this; but when we undertake to tax foreign literature, books published in a

foreign country, none of which ever finds its way into a common school in this country, the Senator from Massachusetts makes the outcry that we are taxing knowledge! I do not so understand it.

Mr. SUMNER. The Senator does not mean to do me injustice; but of course he does not remember my votes here. I have always voted and spoken against any tax on school-books. We have taxed in our internal taxation school-books. To my mind the tax was odious; it was almost like the word "white" in a constitution.

Mr. HOWARD. I had not stated that the Senator from Massachusetts was in favor of taxing school-books, but I can draw no distinction myself, so far as taxation is concerned, between the ordinary means of subsisting a family and the means of giving that family an education at the common school or anywhere else. The phrase "a tax upon knowledge" has in my view very little meaning, and still it is one of those pleasant phrases which undoubtedly will have its effect in some quarters upon the public mind. If we are to raise a tax for the purpose of paying our debts, I am in favor of imposing that tax as equally as practicable upon all the branches of industry and production in the country; and I see no reason under Heaven, and think there is no reason, why foreign books published before 1840 or after 1840 should be entirely exempt from taxation. As to the amount of revenue to be derived from that source, I know but very little about it. I know, however, that some revenue would be derived from it, and that is sufficient for me.

The Senator from Massachusetts says that such a tax is a tax upon knowledge. Well, sir, the knowledge of books and the use of books is not the only knowledge pertaining to the human mind. Books are not the only means of knowledge communicated to the mind. Mathematical and philosophical instruments in the world of science are as necessary, let me say to the learned Senator, as books, and still this bill now before us imposes upon philosophical and mathematical instruments a duty of thirty-five per cent. *ad valorem*. Why does not the Senator complain of this? Is it not as necessary that our colleges and our lecture-rooms should be supplied with mathematical and philosophical instruments as that their libraries should be filled with foreign publications?

Mr. SUMNER. I intend to move an amendment on that point.

Mr. HOWARD. I dare say the Senator will move it. I should expect it as a matter of course; it would be entirely in harmony with his other motions; but I shall vote against all such motions, as I do against his motion to exempt maps and charts and engravings. The thing, in my mind, is absurd, and I shall therefore vote against his contemplated proposition as I shall against his pending one.

Mr. RAMSEY. We were told yesterday by the Senator from Ohio, [Mr. SHERMAN,] who is a member of the Committee on Finance, and has had some connection with this tariff bill, that the raising of revenue by increased duties on imported goods is not a matter of choice, but a matter of necessity; it is the tax which the patriotism of the country is called upon to pay to its necessities; and hence all the industries of the country must be taxed. The poor man in all his consumption and in all his avocations is compelled to contribute to these necessities caused principally by the derangement of the currency and the large internal taxation. This may not be so plain to many of our people who are called on to contribute their respective proportions, small though the mite of some may be, to the revenue which this bill provides for. It is not very plain to my own mind after listening to the argument which we heard this morning from the honorable Senator from Iowa, [Mr. GRIMES.] It is evident from what he said that he, at least, has serious doubts about it.

But, sir, there must be a large, intelligent,

and wealthy class in this country who ought to appreciate this fact, and I think it is that body of men that the honorable Senator from Massachusetts in his several amendments here this morning is representing. They, if any of our people, ought to appreciate the necessities of the country above all others; and if they are exempted it would seem to be very unfair to tax the less intelligent and less favored portion of the people. If any sacrifice is to be made, they can appreciate the necessity and are better able to endure it, and they ought to be the last to be putting in this perpetual claim for exemption.

I am the more strongly fixed in these views by a further reason: that as the revenue is necessary, if we exempt the rich we put greater burdens on those who are not so well able to bear them. A wise adjustment of the obligations which all owe to the Government to sustain it and to relieve it from the indebtedness which unfortunate circumstances have compelled it to incur is not only consistent with the lightening of the burden of those who have been less favored by fortune, but it is a duty on statesmen to see that labor is not crippled in its exertions while wealth is insensible to the hand of Government. Exempt the rich and injustice is done to the poor; for in that proportion you increase their taxes and depress their energies. You magnify the claim of the Government upon them and diminish the means by which they earn the necessities of life. If inequality be admitted the discrimination should be adjusted in proportion to the means to contribute, property should pay for its protection, and industry should be fostered and labor cherished.

With these views I shall certainly vote against this amendment of the Senator from Massachusetts, as I have voted against the others which he has proposed to-day.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. KIRKWOOD. I desire to ascertain if I am correct in the memorandum I have made with reference to this matter. I understand that the present tariff imposes a duty of twenty-five per cent. on the books now proposed to be exempted by the Senator from Massachusetts.

Mr. FESSENDEN. Fifteen per cent.

Mr. KIRKWOOD. No; that is the proposed tariff as reported by the Committee on Finance, but the present tariff is twenty-five per cent., I think.

Mr. FESSENDEN. The Senator is right.

Mr. KIRKWOOD. By looking at the report submitted by Commissioner Wells it will be seen that in the tabular statement in which he gives the present tariff the rates imposed by the House bill of last year and the proposed rates by his bill these books, which by the present tariff pay twenty-five per cent., are placed in the House bill at twenty per cent., and he proposed fifteen per cent., which rate the committee have adopted. Thus it is apparent that if the bill passes in the form proposed by the committee it is a reduction of ten per cent. on the existing rates of duty on these articles. I think the Senator from Massachusetts should be content with that. If he gets the rate reduced from twenty-five to fifteen per cent., when the taxes on everything we eat and wear are being raised twenty, thirty, forty, or fifty per cent., I think that he ought to be content.

Mr. SUMNER. Personally I am content with anything. I am trying to do what I think best for the people. I may be mistaken in my judgment; and when I see so many distinguished Senators so earnestly differing from me I certainly am led to call in question my conclusions; and yet considerable reflection and some experience in dealing with this question have always brought me around, if I may say so, still more strongly than ever before to the same unalterable conclusion. I feel that in imposing this tax you make a great mistake. The tax is small. When I say that it is a



great mistake I mean that it is because it is a bad example, and because just to the extent of its influence it keeps knowledge out of the country. However, I will not say anything more on that head.

The question being taken by yeas and nays, resulted—yeas 5, nays 32; as follows:

YEAS—Messrs. Dixon, Fowler, Patterson, Riddle, and Sumner—5.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Cragin, Creswell, Doolittle, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Nesmith, Norton, Poland, Ramsey, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—32.

ABSENT—Messrs. Brown, Chandler, Cowan, Davis, Grimes, Guthrie, Henderson, McDougall, Morrill, Nye, Pomeroy, Ross, Saulsbury, Sherman, and Yates—15.

So the amendment to the amendment was rejected.

Mr. SUMNER. I now propose to put mathematical instruments and philosophical apparatus, imported expressly and in good faith for any public, scientific, or collegiate institution, on the free list, by inserting on page 102, between lines ninety-eight and ninety-nine of section eighteen, these words:

Mathematical and philosophical apparatus imported expressly and in good faith for any public, scientific, or collegiate institution, incorporated or established by the United States or by any State, city, or town.

Without some such provision the Smithsonian Institution here in Washington, and colleges and other public institutions throughout the country importing philosophical apparatus, will be obliged to pay a tax. That is the whole case.

Mr. FESSENDEN. There is a double object here: first, to raise revenue, and second, to protect our own manufacturers.

The amendment to the amendment was rejected.

Mr. KIRKWOOD. I move to amend the amendment of the committee by inserting after "basswood" in line nine of section sixteen, on page 98, these words:

And fencing-boards of whatever material, from twelve to sixteen feet in length, not more than one inch in thickness, and not more than six inches in width.

Mr. FESSENDEN. I should like to hear some explanation of that.

Mr. KIRKWOOD. In section sixteen it is provided that there shall be a duty of one dollar per thousand feet "on sawed boards, plank, deals, and other lumber of spruce, hemlock, whitewood, and basswood." It is further provided in the same section that "on all other varieties of sawed lumber" there shall be a duty of two dollars per thousand feet, board measure. In the State where I live, it is well known perhaps to all members of the Senate, timber is very scarce. Pine lumber is mainly our fencing material. By the bill as it now stands pine lumber for fencing is taxed at two dollars per thousand feet. If the amendment which I offer shall prevail it will be taxed at one dollar per thousand feet.

It seems to me that this should be done. Fencing the prairie is a very expensive item to those who are making farms upon it. Without fencing we cannot produce grain. In order to fence our lands we must have pine. I do not see why basswood boards should come in at one dollar a thousand and pine boards at two dollars. Let us have the material we use for fencing our farms on the prairie and producing the grain you eat at as low a rate as we can have it.

Mr. WILLIAMS. I should like to inquire of the Senator if the people of Iowa use imported pine lumber for fencing purposes, or do they use the lumber produced in this country?

Mr. KIRKWOOD. We use pine almost exclusively, a large proportion of which I understand is brought from Canada to Chicago and then sent by railroad to our State. We do not ask that lumber for all purposes shall be thus favored; but it seems to me that fencing lumber alone, that which is essential to us in the production of our products, should be

placed as low as any other lumber that is produced. I have shown the Senate the discrimination that is made by the section as it stands; the first clause which I read imposes one dollar per thousand feet on spruce, hemlock, white-wood, and basswood lumber, and excludes that material which we use exclusively for fencing—pine. I propose to insert that in that class.

Mr. FESSENDEN. This matter is interesting to several sections of the country where they wish some protection upon lumber. We have already reduced the duty upon all varieties of lumber in point of fact somewhat from the existing tariff, and that is owing to the fact that so large a proportion of the community are interested in lumber for building purposes as well as other purposes all through the country. My own State is a lumber-producing region. The lumber from the adjacent Provinces of New Brunswick and Canada comes directly in competition with ours. And yet in considering this question, taking the interests of the whole country into view, the duties upon lumber should be placed as low as they can be placed consistent with affording a reasonable protection, considering the different rates paid for labor in our country and in the adjacent Provinces; and they are fixed therefore at the rates specified in the bill. The Senate will notice that on no description of pine does the existing tariff levy a duty below two dollars, and in some cases on some particular varieties it is carried up to three dollars. This bill brings it all down to two dollars.

But the great objection to the position assumed by the honorable Senator is this: supposing that there was any reason to discriminate between fencing lumber and lumber imported for the purpose of erecting houses, it would be very difficult to tell what kind of lumber was used exclusively for fencing and for nothing else; and when the pine lumber was imported it could be used for almost any purpose.

Mr. KIRKWOOD. My amendment describes the lumber fencing-boards from twelve to sixteen feet in length, not more than one inch in thickness and not more than six inches in width.

Mr. FESSENDEN. But when that kind of lumber was got in it could be used for a great many purposes besides fencing. The result might be to cover the West with imported pine lumber nominally to be used for fencing, but which would answer almost every conceivable use for finishing purposes in connection with buildings. It is very obvious that there should be a discrimination between the other kinds of lumber that are mentioned and pine. Pine is the most valuable for building purposes, the most valuable for all sorts of finishing. I cannot conceive why you should give to the farmers of the West a particular benefit with regard to fencing which you do not give them with regard to their houses. The first thing a man who emigrates to the West wants is a building to cover himself and his family and to live in. It is not proposed to relieve him from taxation upon the articles that enter into his house; but when he gets his house built, with everything comfortable about him, and when he comes to fencing in his land when he grows richer, you want to put the wood that he uses for fencing in the lower grade of duty.

The only way in which you can regulate the matter in order to prevent frauds is to describe the particular kind of lumber, so that there can be no mistake about it. The moment you begin to say that lumber of a particular description may be imported for some purposes and not for others, especially pine of the kind the Senator describes, which could be used for finishing purposes to a very great extent, you have no protection whatever.

The only way the Senator's object could be accomplished would be to give a drawback on the ground that fencing was so important that it should be particularly benefited and patronized, and provide that where a man had erected fences with imported pine lumber and could prove to the satisfaction of the collector that

he had used it for fencing he might have a drawback. If you carry the system of drawbacks to the prairies, I doubt very much whether, in the state of the collection districts in that region, it would be very easy to avoid the consequences which I have pointed out.

The only distinction, and a distinction which is run always in these bills in laying the duties upon lumber, is to distinguish the different kinds of lumber. Some are cheap, common, and do not pay and cannot pay so heavy a duty as others. Other lumber, like pine, is well known and its uses are well known.

I trust the amendment will not be adopted, because it would create infinite confusion in the collection of the duties; it would lead to innumerable frauds; it would be impossible to draw the distinction attempted to be made, and there is no reason why pine for one purpose should come in at a lower rate of duty than pine for any other purpose; why those who use it to build houses should pay more than those who use it to make fences.

Mr. KIRKWOOD. I certainly should be very glad to have the assistance of the Senator from Maine in reducing the duty upon building lumber as well as on fencing lumber; and if it will secure his support to the amendment I will modify it so as to cover ordinary lumber for building purposes as well as pine for fencing purposes.

Mr. FESSENDEN. In that case you might as well take off all the duties, and then our lumbermen would have no protection. That would be the result of it. They are entitled to a reasonable protection.

Mr. KIRKWOOD. This tariff bill, as I understand it, is framed on the principle of endeavoring to give protection to all parts of the country, and do justice to all parts of the country, so far as it can be done in framing a bill of this kind. I listened with considerable interest to the remarks of my colleague this morning, in which he endeavored to show to the Senate that the effect of this bill would be injurious to our people. I am free to say that I am not satisfied on that point, and have not yet determined how I shall cast my vote on the bill. The general tendency of the bill, however, so far as we are concerned, is to tax everything we use, and to afford very little protection to anything we produce, save and except the single article of wool.

Our position, as I before said, is somewhat peculiar with reference to timber. It is scarce, exceedingly scarce with us. We build our houses of sawed logs or lumber; we build almost all our fences with sawed logs or lumber. If, while you are taxing everything we use otherwise so highly, you impose heavy taxation on the material out of which we build our houses and our fences, I am afraid our people will become restless under the operation of such a bill.

The Senator from Maine thinks that my amendment would open the door for the introduction of pine lumber for building purposes. I think that cannot be. In looking over the quotations of lumber in Chicago and elsewhere I find that "fencing" is a distinct description of lumber by itself. It is recognized in the trade, and my amendment describes the particular quality of lumber, the particular length, and particular width. It is true, lumber of the same description may be used for flooring; but it will be a great relief to our people if the amendment I have offered should prevail.

There is another consideration. Our pine forests are becoming rapidly exhausted. The pine forests of Michigan and Wisconsin are becoming rapidly exhausted. Where shall we get lumber? Will it not be the part of wisdom to encourage the introduction of lumber from other countries and save our own?

It seems to me that these considerations are sufficient to justify the adoption of the amendment I have offered.

Mr. CHANDLER. I hope this amendment will not be adopted. I look upon the bill as it stands in this respect as too low, and I intended to move that this rate be raised to three dol-

lars instead of two. It is perfectly well known that all the great value of lumber is in the labor and in the transportation. The logs and stumps have merely a nominal value; but while we in the United States are paying to our common laborers two dollars a day; in the British Provinces they are to-day paying but from seventy-five cents to one dollar a day; and two dollars a thousand feet is not an adequate protection to the lumber manufacture. I will await the action of the Senate on this amendment; I had better leave my amendment for another time; but I was going to say that if it was in order I should move now to amend by inserting "three" instead of "two." That motion I shall make at the proper time. Our lumber dealers assure me that three dollars is as low a duty as ought to be affixed to lumber. I hope, therefore, that this motion will not prevail, and give notice that I shall move an increase.

Mr. HOWE. Mr. President, I wish to remind the Senate simply of this fact: that if protection is due as a matter of right from the Government to any interest, any business, any enterprise in the United States, it is probably due as much to this business of lumbering as to any other. It ought to be remembered that the Government has sold in certain portions of the country immense tracts of land valuable for no purpose in the world except for the timber there was on them. Now, the cost of turning that timber into lumber is very much enhanced; every article that is used by the lumbermen is very heavily taxed; the price of labor is very much increased; and still in most portions of the country where this timber is it is quite contiguous to large forests of the same kind of timber in Canada, which is being manufactured into lumber without experiencing these difficulties. The effect, therefore, of leaving this particular industry without protection is to substitute in the American markets the Canadian forests for the forests you have just sold and got the money and put it into the Treasury. I do not think that is the right thing to do.

This duty is but a very inconsiderable one, as has been said by the Senator from Michigan, and when applied to the particular variety or description of lumber which is included in the motion of the Senator from Iowa it is quite insignificant. His motion has reference to lumber described as six inches in width and of an inch in thickness, those kinds of lumber which are used for fencing and flooring, among the most valuable descriptions of lumber in the market, selling higher than any other description, except that which is denominated clear, and much of this is clear. Though flooring is often one and a quarter inches in thickness, it would include all the varieties of lumber which are used in sheathing, flooring, and fencing.

Mr. KIRKWOOD. Sheathing is over six inches wide.

Mr. HOWE. No; ordinarily not. Much of it is wider, but sheathing—I mean for close match work—should not be more than six inches in width. While the duty is not at all oppressive upon this variety of lumber, it is the judgment of those engaged in the business that it is bringing them in very severe competition with manufacturers on the other side of the line to reduce it to so low a figure as two dollars. I certainly hope that the Senator from Iowa will not insist upon the amendment, and that the Senate will not agree to it.

The amendment to the amendment was rejected.

Mr. WADE. I move to amend the bill on page 65, section nine, line six hundred and nine, by striking out "sixteen" and inserting "twenty-three;" so as to make the clause read:

On linseed or flaxseed, twenty-three cents per bushel of fifty-two pounds weight.

As is well known to the Senate we have received from Ohio and the adjoining States a great many petitions on this subject, perhaps as many as upon almost any other subject bearing on this bill. It seems to be a universal complaint among our agriculturists and oil

manufacturers in the West that they are not sufficiently protected under the provisions of the present law. This is a great and growing interest in the West, and enables them to diversify very much the system of their labor in raising wheat and corn. It gives them another valuable commodity, which, perhaps, under proper protection, would be much more profitable than to be so entirely confined to the two great staples of the West which I have named.

I suppose the object of the committee is, and I know it is the wish of the Senate, wherever they can do it without detriment to the public interest, to protect all interests, and as near alike as they can; but if any interest is peculiarly meritorious, the agricultural interest of the country ought certainly to receive as much consideration in this respect as any other, because when we come to enact a tariff that class of our community, although the most numerous and certainly as valuable as any other, have but very few opportunities to be protected. Now, this article comes in competition with the same article imported from India, a country where labor is exceedingly cheap. Our farmers are compelled to contend with the miserably paid labor of British India, from whence I believe most of the importation of flaxseed comes, and perhaps from some other places; and, therefore, I hope that it will be the desire of the Senate to endeavor to protect this kind of growing labor in our own country.

Let me say here that in our endeavor to raise revenue from customs on imported commodities I fear we are losing sight of another source of revenue to the country, which, with a little encouragement, will be infinitely more profitable. If you will foster these interests so that labor will become profitable in our own country, and permit us, if you please, to monopolize that profitable labor, instead of encouraging it abroad, you will build up interests and wealth here from which you can receive a much greater meed of revenue than you can get simply from importations.

I know gentlemen have spoken in very glowing terms of the prosperity which a country receives from commerce alone, as though commerce was the principal thing to be sought after. Why, sir, unless you encourage all kinds of labor you can have nothing to ground your commerce upon. What kind of a commerce would a people have that had no manufactures and but little agriculture? Could you get rich upon commerce alone? I have heard of two Yankees that got rich in prison by swapping jack-knives, [laughter;] and it would be just about as reasonable to suppose that as to suppose you could build up a great interest by commerce alone. Commerce is well enough, and it is necessary to carry off the surplus production of any country of great commodities. If a superfluity of them is produced by the encouragement of labor in any country, commerce is incident to it and takes place as a matter of course. It comes after, but it never goes before, and never can. Commerce itself is the most barren of all labor in the world; it never produces anything; and although it is convenient to have commerce, especially for the carrying of those commodities that are useful and beneficial to a nation, but which because of its climate and soil are not produced in its boundaries, and although the intercourse of nations upon those subjects is natural and right, yet no nation ever should adopt a policy that will encourage commerce to the detriment of its own productions of the commodities of commerce. Let commerce spring up from the encouragement of commodities produced by the labor of the citizen, and then it is legitimate; then it is right; then I have no objection to it; but when you thrust it in to the detriment of our own industry and our own productions you have begun at the wrong end. The wealth of a nation must consist alone in the products of her labor, and that nation that does the most profitable labor will be the richest nation.

I am not going into an extended argument on this subject; but I ask in this connection that this particular product, which is perfectly

congenial to our soil and climate, which can be produced here as well as in India, shall receive adequate protection. Give us an encouragement that will stimulate that labor, and let it all be done here; and as we grow rich upon the products of that labor, tax it and get three times more than you can get from the importations from abroad. That is my doctrine. That I believe is the true system of political economy. I know from the almost universal complaint among the producers of flaxseed that they do not, or they think they do not, receive that meed of encouragement which the nation can afford to them without loss, and in my judgment to great profit, even if you look barely at the sources of revenue alone. If we crash this commodity and make it into oil and grow rich upon it, tax that production at home. That is legitimate; that is proper; then you do not impoverish anybody. But when you adopt a policy that makes the production of it entirely dependent upon foreign labor and importations from abroad you get a small revenue, but you impoverish the nation because you do not encourage that kind of labor.

I do not wish to extend these remarks. What my colleague said in the course of the speech that he made on this subject yesterday was perfectly conclusive to my mind that this amendment ought to prevail; and I hope it will for the encouragement of those engaged in this production, not alone in the State of Ohio, for they do not seem to be in any more need of this protection there than they do in the adjoining States where this great and growing article has become one of great importance, and I think should receive the encouragement of Congress.

Mr. FRELINGHUYSEN. Mr. President, the subject that has been introduced by the Senator from Ohio is one in which many persons are interested. I had proposed, instead of the amendment which has been offered by the Senator from Ohio, to move an amendment making the tax on linseed twenty cents, instead of sixteen, and making the tax on the oil thirty-five cents instead of twenty-three, on the simple principle that as the duty on the seed is raised so that the crusher has to pay more for it, the duty on the manufactured article, the oil, should also be raised so that he may be protected. Of all the linseed crushed in this country I am informed by those who understand the subject that nearly two thirds of it comes from Calcutta and Bombay, and of course this extensive business of crushing linseed must be embarrassed and depressed if the crushers have to pay a high duty on the linseed. The crushers would be perfectly content, I suppose, if the duty had been left where it was. The duty, I think, was ten cents a bushel on the seed and twenty-three cents a gallon on the oil, but then there was a drawback. Now, I notice that the Commissioner, Mr. Wells, in speaking of this subject, says:

"On flaxseed, or linseed, and on linseed oil a large advance is respectfully asked."

He then goes on and considers the subject, and concludes with these remarks:

"It is his opinion, therefore, that the interests of the revenue and of the country generally would be best promoted by leaving the existing tariff rates on flaxseed and linseed oil unchanged."

But this bill does not do that by any manner of means. The crusher was protected under the old bill, for when he exported the cake made from the seed after the oil had been extracted he had a drawback which was equal to five and a half cents per bushel. This bill abolishes that drawback and makes the duty, even if it stood at the same rate, so much higher. Now I am informed that about two million gallons of oil are imported into this country, and about the same quantity manufactured from American seed. The drawback is gone by this bill, and I suppose properly so. The western grower objects that there shall be a drawback on imported seed, for that is the law. The drawback applies to raw material imported into this country and manufactured and then reshipped. They object to a drawback being

on imported seed while the home-crushed seed has no such drawback; and I understand that there has been an arrangement made between the western and eastern men, so that about such an amendment as that which I suggest would be agreeable to each party.

Mr. FESSENDEN. Thirty and thirty-five?

Mr. FRELINGHUYSEN. Twenty and thirty-five—twenty cents on linseed, and thirty-five cents on the oil. Of course the American crusher does not want so high a duty on the raw material, because he has to get it from abroad; but he does not care so much how high the duty on the raw material is provided there is a corresponding duty upon the oil, so that when he is obliged to pay the duty on the foreign seed he shall not be ruined by having the foreign oil come into the country. I suggest to the Senator from Ohio the acceptance of that proposition: twenty cents a bushel on the seed and thirty-five cents a gallon on the oil.

Mr. FESSENDEN. I am a little at a loss to understand the position taken by the honorable Senator from Ohio [Mr. WADE] when compared with that taken by his colleague. His colleague [Mr. SHERMAN] informed us, and he dwelt upon it with a great deal of force, that it was absolutely necessary to raise revenue for the Government, that we should have in a very short time one hundred and forty millions of money to pay in coin annually, beside coin for other purposes, which would bring up the amount to about one hundred and fifty millions, and hence he argued the absolute necessity of imposing duties for revenue; and he argued also the propriety of cutting down the internal revenue charged upon manufactures and various other things in this country. The honorable Senator on my right [Mr. WADE] argues precisely the other way. He says, cut off the revenue; exclude importations; build up a Chinese wall; put your duties so high that foreign articles cannot be imported at all; and then you encourage this great interest, and by and by, when it gets big enough, tax it; put on an internal revenue tax. It seems that the two gentlemen from Ohio who argue this matter do not agree in their general views. With regard to linseed both Senators agree. I believe the Senator from Ohio, [Mr. SHERMAN], after giving us the results of his deliberation on the general question, did make an exception in the case of linseed. "You cannot apply the same rules to linseed that you do to everything else," he says. I do not know that my honorable friend from Ohio would go any further than that.

My other friend [Mr. WADE] also treated us to a dissertation on commerce. There he disagreed with another eminent Senator, a representative from the West. My friend from Iowa [Mr. GRIMES] seemed to think that commerce was of some importance to this country. I believe other nations, if I recollect aright, have been pretty much of the same opinion; that if a country would be great it must build up its commerce as well as its agriculture and its manufactures. I think we have heard that Holland made itself for a time the richest country on the face of the earth with nothing but commerce, having the carrying trade of all the world pretty much. I think we all understand, too, that no nation encourages its commercial advantages or nurses them to a greater extent than England at the present time. It has now become the carrier of pretty much the whole world. We were so a little while ago, of a large portion of it at any rate, but we have dwindled down very much, and are dwindling more and more every day.

Now, sir, as I stated yesterday, in framing this bill, which is for the encouragement of manufactures and for the encouragement of agriculture also, we did take into consideration—perhaps we were wrong in that on my friend's principle—that it was of some importance to our character as a nation and our wealth that we should retain something of our foreign commerce; that where it existed it was of consequence and tended to strengthen the arms and encourage the hearts of the people of this country; and I must say, notwithstand-

ing the case of Austria which has been cited, that I think no nation can be really great without encouraging all the arms of national prosperity and of national defense.

I think that is a sufficient answer, so far as I am concerned at any rate, to the argument of my friend against commerce. He seems to think it amounts to nothing; that we should encourage agriculture, and commerce will grow up of itself, and if it does not, it is not of any very great consequence. I differ with him entirely in his views on these subjects; and while I would not encourage one largely at the expense of the other, I really believe it is advantageous to hold on to all.

Now, sir, a word with reference to this question of linseed. My friend does not propose to raise the duty upon the oil, but to put the duty upon the seed, the original article, at the same rate with the duty on the manufacture, both at twenty-three cents, because it stands on the oil at twenty-three now. Senators may just as well understand that in the first place we want some revenue. The House, I believe, put the duties up to twenty-three and thirty cents, if I recollect aright.

Mr. WADE and Mr. SHERMAN. Both the same.

Mr. FESSENDEN. I thought the rates were twenty-three and thirty cents, and I think now I am right.

Mr. WADE. I want them both on the same footing.

Mr. FESSENDEN. I know the Senator does, and he wants them on the same footing for this simple, selfish reason: that the trade of crushing seed and manufacturing oil on the sea-coast may be utterly destroyed for the benefit of the crushers of seed and the manufacturers of oil in the West. That is the simple truth about it; and there is no possibility of getting rid of it, in my view.

Mr. WADE. Your view is a very charitable one!

Mr. FESSENDEN. It is the fact. They claim to have the only thing in this tariff—the Senator cannot point to another one—in which an article out of which a product is made is taxed precisely at the same rate with the article manufactured from it, which is contrary to all the principles of the tariff as carried out in every other article, contrary to every other provision in it from the beginning to the end. Linseed is the only one where this is demanded. Why? For what other reason?

Now, let us look at the protection which the West gets so far as linseed is concerned. Take it at sixteen cents. We did have a drawback upon the foreign seed, or I should rather say on the product of the foreign seed. The gentlemen of the West objected to that, not on revenue grounds, not upon any ground except this: "You can export your cake that is made from linseed, what is called the oil-cake, and get a drawback amounting to about five cents or four and a half cents; while ours, being a native production, cannot be exported, and we cannot get the drawback; therefore it does not cost you so much as it costs us." Very well; we have yielded to that and struck off the drawback. Now what more do they get? They get ten cents upon every bushel of seed, or upon every gallon of oil. It costs that to carry, if they should attempt to carry, a bushel of seed from the sea-board to the West—to Cincinnati. They get their ten cents protection there. But the crushers of the West say, "It is a native production: we can raise the seed: you are bringing in seed from abroad, and we want to put it precisely upon the ground that you cannot manufacture except at such a disadvantage as will enable us to afford to send the oil we make down to the sea-board, and thus tax you with the additional sum that it costs to carry it;" because that is the result of it inevitably.

Now, let us look and see how it stands. There are some other people interested in this question. My friend from New Jersey says that these two interests have come together and agreed upon twenty and thirty-five cents.

In my judgment that is a little too broad a distinction; it should be twenty and thirty if anything. I do not know that I should object to that except that there was another party interested, which gentlemen seem to forget, as the wool-growers and wool-manufacturers forgot that there was a certain other party that was not represented in their convention larger than theirs, but which does not keep its agents always in the field, and that was the consumer. So here, what is this oil used for? It is used for paints all over the country wherever any paint is used, for every man's house, inside and outside, for all purposes, for everybody. It strikes me that that being the case, it is well to consider that the consumer has some interest in this question as well as the crusher, or as well as the man who grows the seed. That the honorable Senator from New Jersey did not take into consideration. I do not think, however, that the rates suggested by him are very unreasonable, except that they add just so much to the amount of expenditure which every man must be at who has occasion to use the article.

Then, sir, would it be reasonable for the West to claim, as they do, that they have a right to have duties imposed that shall give them the power to furnish this article exclusively by bringing up the oil and the seed and putting them upon the same level, and thus giving an advantage to those who have the seed at their own door by putting the duties so high on the seed that they may be able to send the product of their industry down upon the sea-board and charge every man there with the additional expense of the transportation? because that is the amount of it. My answer to all that is, that each section of the country is thoroughly and perfectly protected against the other as the law stands. The western crusher sends his cake abroad. We have taken off the distinction there. He sends it now at just as much advantage as the man of the East does; but neither party ought to be charged for the benefit of the other with the expense of the transportation of the seed from one section to the other. What is grown in the West can be used in the West, and there has not come a time yet when it could more than meet the great and growing demand for it there. It is not sent probably to any extent to the East. What is manufactured in the East is not sent to the West, and does not interfere with their sale there in any particular.

Why, then, should this discrimination be made against the large amount of capital that is already invested in the manufacture at the East, merely for the benefit of pushing the growth to a greater extent in the West? It looks to me like a selfish demand. Both are prospering. There is the answer to the whole. There is no complaint. There was no complaint before our committee. There was no pretense before our committee that the business of growing seed was suffering in the West, or that the business of making oil was suffering in the West. Oil commands very high prices both East and West. This last year there has been a large importation, because they were caught with not enough to be able to supply the country; but as a general rule we have had no complaint. Why, sir, I asked the question of a crusher—the only one who appeared before our committee—whether there was not a rapid and sufficient sale for all the seed raised in the West, and he admitted that there was. This proposition does not come from the grower of the West, from the farmer, except as he is induced to sign these petitions for the benefit of the crusher. It comes from the crusher who wishes to monopolize the business. That is the true statement of the fact with reference to it.

All admit—there is not a pretense to the contrary, because I questioned the gentleman who appeared there before the committee on the subject—that the business is flourishing at the West, both of growing seed and of manufacturing oil at the present day. He would like to have more protection; and so would they all. It proves what I said yesterday, and is one



illustration of it, that you cannot leave the framing of a tariff to the manufacturers alone; it is out of the question. I know that every Senator feels under obligation to make an effort, at any rate, to express the views and carry the points of a large interest in his own section of the country; but after all it is for the Senate to consider whether there is any such suffering as calls for anything of the kind.

Now, sir, the hundred vessels engaged in the India trade bring more or less of the India seed. It makes a little more oil, I am told, to the bushel than the western seed—about one pint; where one makes two gallons the other makes two gallons and a pint. The difference is not very great, at any rate. I think the advantage of having the seed grown at your own door and bought as you wish to get it is sufficient to counterbalance that.

I have stated the views which the committee entertained. They looked at this matter with a great deal of care. They heard testimony upon it. They waited several days before deciding upon it in order that a gentleman who wished to be heard might come before them, to whom I have alluded, and he failed to convince the committee by any statement of fact. He seemed to be very frank and honorable in admitting what was true as to the state of facts. But taking what he stated, the result was on the mind of the committee as I have said; and with the yielding of the point, which the manufacturers on the sea-coast very strenuously objected to as very injurious to them, of the drawback upon the cake we thought that the matter was left in a fair condition.

Mr. WADE. I certainly do not wish to prolong the discussion on this subject, but I do not like to rest under the imputation of acting upon merely selfish views. The gentleman himself has raised this sectional question. I do not know that I alluded in my remarks either to the East or the West, the North or the South. I stated some general principles that I thought were right and sound in political economy. I thought those principles applied to the question under consideration and favored my side of it. The Senator differs entirely from me on fundamental principles, I find.

I do not disguise the fact that I am what is called a protectionist. I will, so far as I can do it without detriment to the interests of the country or to any particular interest, protect the labor of our own citizens against that of any other nation in the world. If that be selfishness, I confess that in my progress I have not outgrown it. My first duty I conceive to be to my own country, and where protection comes in question or competition between the interests of my own country and a foreign country I am just so selfish as to prefer my own.

The gentleman also said that I was not only very selfish, but that I ridiculed the idea of the commerce of nations, and he cited some very prosperous countries that he supposed had become rich and powerful by commerce alone. Now, sir, that was a caricature on all that I did say. I said that commerce was a very good thing, a necessary thing to a prosperous nation, but that a nation that was not prosperous at home could never have any commerce; that it could have nothing to make commerce out of, unless in exceptional cases, as where a nation happens to be so situated between belligerents that on principles of international law it may become, as Holland did for a time, the carrier of the world, and as we did prior to the war of 1812. When Europe was in a blaze of war, and we were almost the only neutral commercial nation in the world, we did very much prosper by being the carriers of all Europe, and almost of the world; but that was a temporary condition springing from a peculiar state of circumstances that does not occur once in a century. For a gentleman to base himself upon that as a settled principle of political economy, that you must legislate to secure the carrying trade of the world, is a principle that I do not recognize as sound.

I said nothing detrimental to commerce. I

said that while different nations and different climates produced commodities that were consumed in all, commerce would spring up, and was legitimate and right upon those commodities; but I did doubt whether a Government would prosper the more because it legislated in favor of commerce in such commodities as she herself was as well calculated by soil, climate, and everything else to produce as any other nation. If you get commerce upon that, it is illegitimate; it is unsound; it is not good political economy.

But then I was selfish! I selfish for asking you to encourage the growth and production of this article of flaxseed! How many of my constituents are personally interested in this trade? Not one where there are a hundred engaged in other occupations. The Senator says I do not regard the rights of the consumer. Sir, are not my constituents, three millions in the State of Ohio, as much consumers of all kinds of products as anybody else? Why am I selfish and not regardful of the consumers? I stand here the representative of as many consumers almost as any other Senator, and I am as regardful of their rights.

But let me say to the Senator from Maine that he argues this question upon an exceedingly narrow basis. I look to the prosperous wealth of the country in the future as well as in the present. I know we have got to look for a large revenue to meet present demands; but I know we shall not prepare ourselves to meet these demands any the better by encouraging the growth and production of commodities that are exceedingly valuable in the quarter of the world the furthest removed from us, and in that way encouraging the miserable, starved coolie labor of India; for that is what we encourage by it. If I am selfish and my principles are selfish principles they are selfish, not for my particular constituents, but for the growth of my own country, choosing between that and a nation as far removed from us as the earth could make it.

Let me say in this connection also that I do not agree with gentlemen who are so desirous of sinking down to nothing the wages of labor. Labor commands no higher reward than I am glad to see it. I hope to God it never will be any cheaper than it is; for now the real manual laborer gets but a scanty portion of that which he earns. I hope the time will never be when he will be less rewarded than he is now. I am not one of those who will adopt a policy that will sink his labor one single cent less than it is now, if I can help it. Sir, on the prosperity of the laborer here depends the prosperity of your country; for, God be praised, we are pretty much all laborers, and I hope we always shall be. I am not in favor of monopolies. I will not advocate nor promote by my vote any doctrine that sinks the wages of the laborer of this country for the benefit of anybody else. I do not know what the price of labor in India is; I presume it is the merest pittance, from what I read in the newspapers this day, that a million of those poor inhabitants, probably engaged in the raising of this very article, have starved to death this very season, and thousands more of them are in that miserable condition to-day; and yet you want to bring their starved labor in competition with ours, and tell me I am selfish because I am not willing you should do it. Sir, I glory in that kind of selfishness.

Mr. FESSENDEN. What I said was, that the proposition was a selfish one, because it was an attempt to crush out all these manufacturers at the East for the benefit of the manufacturers of the West.

Mr. WADE. No, sir; I do not wish to crush out anybody. I derive my opinion on this subject from a great deal of conversation with people interested in it. Of course that is the only kind of proof I could have. I did not have the benefit of the opinion of the crusher who came before you. It seems that there was but one, and he was a very boon-companion, you say; you thought he was a very clever fellow.

Mr. FESSENDEN. I can inform the Senator that he was from his own State, and he was sent for at the request of a western Representative, because it was said that he represented the crushing interest of the West.

Mr. WADE. I do not know what he represented, and I had not the benefit of his advice, come from where he may; but I have conversed with a great many men who appeared to be very candid and not particularly selfish upon this subject, and they believed that the interest of the country and the interest of all concerned, consumer as well as producer, would be promoted by encouraging this production more than you have encouraged it by your bill; that is what they tell me; that is the information I get universally; that is the lesson taught us by the thousands of petitions that have been poured in upon our table and sent before you, [addressing Mr. FESSENDEN.] You say, however, they are not producers of this article, but mere petitioners signing petitions got at the beck of the crushers. I do not know anything about that. They do not say so on the face of the petitions. They seem to be an emanation from our respectable farming interest in the West, judging from the face of the papers. But you tell me that the few crushers got these men to send these petitions without any purpose or design on their part. I do not read them in that light. I believe it was the honest, the respectable farmers, the bone and sinew of our country, that sent you those petitions. Nor do I believe that any interest is to be affected detrimentally by all that I ask; and when you tell me that I stand here particularly for the West I say you have no right to charge me with that. When did I ever give a sectional vote on this floor? When your fishing bounties were up did I ever desert you? Whenever you had before us any proposition manifestly of a local character, particularly for the East, did I ever fail to encourage it when your proposition was right, and I was almost about to say even when you were wrong? And yet I am to be charged with selfishness and sectionalism upon this floor. Sir, you have got the wrong man. Look at the record and see how selfish I have been. I am none of that. I said nothing about the East or the West. I demand no more for the West, to which I belong, than I do for the East, to which you belong. Show me a principle that ministers to the growth and the welfare of this nation and I will not stand to inquire whether it affects particularly the West or the East. There is hardly a principle that we touch here that does affect one any more than the other. The tax on almost any commodity does not light upon the heads of those on whom the tax is first placed, but it diffuses itself all over the community, and if the price is enhanced by it the consumer pays it. When you ask us to tax foreign commodities for the encouragement of eastern manufactures is it selfish in you to demand it? Do we yield to your selfishness when we vote for that? Not at all. We know that at first at least, when we grant a tax upon foreign importations coming in competition with your manufactures at the East, we may for a moment enhance the value of these necessary commodities that you produce, our clothing and other indispensables, that we produce but very little of and you a great deal; but, sir, does it not affect us all alike? It does not stop with your manufacturers of the East, on whom the tax first lights, but we, the consumers of your productions in the West, have to make it good to you, and it distributes itself all over the continent; and you, sir, ought to view it so as chairman of the Committee on Finance, and not view it upon this miserable, narrow principle of saying that a man is selfish because he contends for the protection of an article the product of which may enrich those engaged in it, and the benefits of which will reach into every hamlet in the nation. It is not selfishness; that is not the name. It is but the carrying out of a principle for which I have ever contended.

I know very well there are gentlemen who do not agree with me on this subject. There

are gentlemen who think you should open the gates of trade to the whole world, perfectly regardless of all that we have going on at home, regardless of the interests invested in manufactures and everything else, when we know as well as we know we live that the effect will only be to pour our wealth into the arms of foreign nations, without redress and without any hope thereof. Sir, if we are to carry this great debt of ours it must be on broader principles than that; and that is why I argue in favor of building up all the interests that will set everybody in the nation to work, for the product of labor, I say again, is all that there is valuable in any country, and that nation which does the most of it is the wealthiest and can bear taxation the best. Let us adopt those principles, apply them to our own productions and to our own laborers as far as we can, and we shall find very soon that this nation will rise from her depressed estate like a rocket, and be able to bear cheerfully all the taxation that you will have occasion to visit her with. I have no doubt of that.

In the mean time, I am not the enemy of raising revenue from importations as much as you can. I really contend for that upon this bill. Why should I be charged with endeavoring to get rid of foreign importations when my very amendment contemplates a further taxation on a foreign importation, which I believe it can well bear; for I do not believe from all my inquiries on the subject that there is a single interest in the East more profitable to those engaged in it than the importation of foreign flaxseed and working it up into oil? I believe it is an interest that has advantages over almost any other, and can afford to part with some portion of its profits to encourage labor in the same production in the West, if you will have it so, or in the East if, you please, for I limit it to no section. If the eastern people could not raise other productions more profitably than they could this, I doubt not they would engage in it as quick as we would in the West; but your land is more valuable and better adapted to other products, out of which you make more than we can out of this. If it were as profitable you would engage in it as extensively as we do.

But I do not wish to prolong this argument, and I would not have said a word at present had it not been alleged that I was a very selfish man and adopted very selfish principles, and that I was for destroying all the commerce of the world. I say to the Senator again, if you want to promote commerce get something for commerce to operate upon. Have a surplus of everything that other nations want, and commerce, as I said before, will come of itself; you cannot keep it down.

But many gentlemen have spoken of the depression of our foreign commerce of late as though it was incident to or consequent upon some adverse legislation here. I do not think the Senator from Maine would like to admit that he had been a party to a kind of legislation that struck down commerce and had reduced it to its present miserable condition. He has not done so. That is not it. You have but recently emerged from a great war which drove your commerce from the ocean. Nine tenths of all your commerce was done in foreign bottoms, and your own vessels that covered the ocean before were driven from it by the pirates of the South, and thus our commerce was ruined; and our great arch-enemy, taking advantage of this and encouraging the pirates upon the seas, did help to sweep us from the ocean and reduce our commerce to a very low condition compared with what it was before the war.

But do not drag that in as though it were consequent upon some principle that I advocate, when you know, and every man knows, that it sprang from a cause entirely different. Let us stand by our own labor, produce our own commodities, and the Senator's own people up in Maine will furnish the shipping and the commerce to carry all our surplus to market. There will be no trouble upon that

score. Your commerce will flourish as it flourished before. But if you adopt a system that encourages foreign labor and brings it in detrimental competition with your own, I tell you as your country thus becomes impoverished your commerce will fail as quick as any other interest. You cannot have that commerce which you think belongs to a great nation unless your country is prosperous, independent of commerce, in producing the commodities out of which commerce grows.

Mr. FESSENDEN. I would not rise again, as I have said all I wanted to say on this particular subject, were it not that my honorable friend from Ohio is laboring under a very great misapprehension, and has poured out a good deal of bellowing indignation upon me for saying what I did not say at all. I did not say that he was selfish, and I did not mean to say he was selfish. I said that the proposition was a selfish one, but I almost in terms excluded him from responsibility for it, because I stated that I knew gentlemen were obliged to defend certain propositions because their people forced them to do so from their interest in the particular matter; and I supposed the Senator was bright enough and clear enough to draw the distinction. I made no charge upon him of selfishness in any shape or form. I trust I know too well what belongs to debate to use language so utterly unparliamentary as that; but I had a right to characterize the proposition, inasmuch as I went on to explain why I thought so, and how it worked. The Senator therefore is entirely out of place in supposing that I made any charge whatever upon him; and he has interested the Senate for half an hour, more or less, in repelling a charge that was never made.

Now, sir, I want to say once for all—I do not mean to argue the matter over again—that I never make a charge of that sort against my honorable friend from Ohio. He is in the habit of telling us that his motives are perfectly pure; that he always acts exactly according to his views of right, and that he is very certain he is right on all occasions; and I am perfectly willing to concede it to him. I concede now and hereafter all that he claims for himself of perfect purity and perfect knowledge of everything exactly as it should be. He cannot claim it any broader or more extensively than I am willing to give it to him.

Mr. MORGAN. If there really was any necessity for the proposition made by the Senator from Ohio for this increase of duty, I would have supported it in committee, and I would support it in the Senate; but there is really no necessity for it whatever. The Senators who represent the western States understand their interest very well, and do not often make a mistake; but I am sure they have mistaken their interest in the proposition that has been made by the Senator from Ohio. Now let us see how this matter came to us. There have been presented to the Senate several memorials, one of which I read:

"The undersigned, consumers of and dealers in linseed oil, respectfully memorialize your honorable committees against any increase of the tariff on foreign linseed, now fixed at sixteen cents per bushel of fifty-two pounds; which tariff, in addition to freight from the East Indies and the other necessary expenses and risk of importation, is abundantly sufficient as a protection to seed-growers in this country; and it is self-evident that as a matter of public policy the tariff on linseed should be kept as low as is consistent with revenue, because the article made from it (namely, linseed oil,) is raw material in the following widely-disseminated branches of business, namely: the manufacture of white lead, oxide of zinc, and all painter's colors; putty, varnishes of all kinds; japanned leather and cloth, floor cloths, and table covers; oil silk, oil clothing, and printer's ink; as well as house, ship, and carriage painting. And it is obvious that an increased duty on linseed would affect the cost of all the above articles, and thereby seriously diminish consumption."

These memorials were presented to the Senate and came from the manufacturers of New York, Newark, Boston, Philadelphia, Baltimore, Rochester, Harrisburg, Pittsburgh, Chicago, Detroit, Milwaukee, Buffalo, Albany, St. Louis, and Syracuse. There have also been presented petitions in favor of this pro-

posed increase of duty, one of which I will read:

"We, the undersigned, farmers and growers of flaxseed in the West, would respectfully represent to your honorable body that our climate and soil are well adapted to the cultivation of flax for both seed and lint, and that it prepares the soil better than other spring crop for sowing wheat in the fall; that in their opinion they will be able, if fairly protected against the cheap labor of Russia and India, to grow seed enough to supply the entire wants of this country; but in consequence of the importation of large quantities of foreign seed and oil the market is liable to sudden and grave fluctuations, being frequently depressed to a price that will not pay us for raising it. And we submit that it is not good policy to make us dependent on any foreign country for a crop that can be grown at home. We would, therefore, respectfully but earnestly, pray your honorable body to fix the duty on flaxseed at not less than thirty cents per bushel, and no drawback for cake, in accordance with the action of the House of Representatives at its last session, and thereby make the cultivation of flax in our country a permanent and profitable agricultural interest."

As has been stated by the Senator from Maine, there came before the committee a gentleman from Dayton, Ohio, engaged in crushing seed, and the question was put to him whether any of the foreign seed ever went to the West or in any manner interfered with them, to which he replied, "Not at all." He was then asked: "Does the foreign oil ever come in competition with your product at the West?" "Yes, very largely, and was sold last year in large quantities right in our own neighborhood at forty cents a gallon less than we were producing it." It seemed to me that he made an excellent argument against an increase of the duty on the seed and an equally excellent argument in favor of some increase of the duty on oil. I speak now entirely for the West. His argument was a very good one for increasing the duty somewhat on oil, but it was against any increase of the duty on seed, for the seed did not enter into competition with them at all. Formerly there was a duty of twenty-five cents per gallon on oil, when seed was free. Now it is sixteen cents a bushel; but in consequence of the drawback, which takes off about five and a half cents, it is actually but ten and a half cents. There have been during the last year two million four hundred thousand gallons of oil imported into the United States, and that oil finds its way, as I have stated, to the West and enters into competition with the oil manufactured by the crushers of the West.

Mr. HOWE. What was the importation of seed?

Mr. MORGAN. The importation of seed for the last year was about eleven hundred thousand bushels. If the proposition suggested by the Senator from New Jersey had been twenty cents for seed and thirty cents for oil that would be a little better, very little better, than the tariff as it was before these petitions were presented from the crushers of the various localities that I have mentioned representing that there must be an additional duty on oil or their business cannot be sustained. If the motion of the Senator from Ohio does not prevail, and the Senator from New Jersey will so amend his motion as to make the rates twenty and thirty cents, I shall be satisfied, for one, to give it my support.

Mr. FRELINGHUYSEN. It seems to me, Mr. President, that the West are just as much interested in the amendment that I suggest as the East, for this reason: the eastern crusher must at the present time import a considerable portion of seed any way. There is not a supply. They now import two thirds of it. If they are obliged to import the seed and the oil is imported at the same price, of course the manufactories at the East must go down; they cannot compete with the foreign oils. Therefore the West is interested in maintaining these manufactories at the East in order that they may have a market for their seed; and just in the same way the consumers all over the country are interested in maintaining these manufactories at the East, for they create a home competition East and West which keeps oil at a reasonable rate for them. I trust that the amendment offered by the Senator from Ohio will not be adopted, and I shall

then accept the amendment suggested by the Senator from New York, making the duty twenty cents on seed and thirty cents a gallon on oil.

Mr. MORGAN. And no drawback.

Mr. FRELINGHUYSEN. And no drawback. The drawback is out of the bill now.

Mr. SHERMAN. I shall detain the Senate but a moment, and that to correct what I think is a misapprehension in regard to the extent of this business. My friend from New York says that the importation during the last year was two million four hundred thousand gallons. It is true it was represented to the Committee on Finance that during the last year the importation of oil was two million four hundred thousand gallons; but it is proper to say that previous to the last year no importations of oil to any considerable amount were made into this country. I have before me the table of the importations of the year 1865, and the amount of oils of this kind brought into the country during the fiscal year 1865 was only fifty thousand gallons, and under the present tariff oils would not be brought here unless there was a vacuum in the market, as there was during the last year. There was an unnatural trade, and it would not be renewed. Probably oils would not under the present tariff be brought into this country to compete with our own.

Now, if I can get the attention of the Senate, I will try to give them the facts, because I think there is no conflict of interest in regard to this matter. We import from India about one million three hundred thousand bushels of linseed and rape-seed. It yields about two gallons and a quart of oil to the bushel. The present duty is about ten and a half cents on the seed, after deducting the drawback, and twenty-three cents a gallon on oil, making a discrimination in favor of the crusher of the India flaxseed in the city of New York of about forty cents a bushel. If the seed is brought into the country in the form of seed the duty is ten and a half cents per bushel; and if the same seed is brought in the form of oil the duty on it, according to the present tariff, is about fifty-one cents; that is, as one bushel yields two gallons and a quart of oil, the duty on the oil in the seed, at the rate of twenty-three cents a gallon, will be equivalent to about fifty-one cents; so that the result of the present law is a discrimination in favor of the crusher of the oil equivalent to forty cents a bushel, which is about the cost of the whole manufacture.

There was great complaint in the western States where this linseed is produced, mainly in Ohio and Indiana, I am told, against this discrimination; and it was also complained—although that is rectified in the present bill—that while all the cake made from either domestic or foreign seed is exported and sent to England, that which was made from the India seed had a drawback, and if they were lying side by side in warehouse in New York the cake made from the India seed was worth a considerable sum more than that made from the American seed, because on the one a drawback was given, and on the other it was not. That, however, has been corrected in this bill.

The duty as it now stands in the Senate bill is sixteen cents on a bushel of seed and twenty-three cents on a gallon of oil. That is a discrimination in favor of the crusher in New York amounting to about forty cents on a bushel of seed. I think that is too much. Whether we look at this question as a question of commerce, a question of revenue, or a question of protection it is too large a discrimination in favor of an industry which yields to the Government of the United States no profit whatever. Not one cent of profit is gained unless it is in the mere carrying trade, and that is done partly in American and partly in foreign vessels.

Mr. FESSENDEN. Is there not a profit in the duties we get on the seed?

Mr. SHERMAN. It is so small as hardly to be worth taking into account. It is the interest of the United States, under the present

tariff law, to have the oil brought over, because if the oil is brought we get fifty-one cents on the product of a bushel of seed in gold revenue, while if that same oil is brought over in the form of seed all the United States gets is ten and a half cents; so that this is a discrimination against revenue, and it is the interest of the United States to import it in the form of linseed oil rather than in the form of linseed. And this protection is given to a manufacture which does not add anything to the wealth of the country, but simply expresses the juice from the seed raised in India and sends the residuum to England. It is true that in the process it gives employment to our commerce, and if this trade was entirely broken up it would destroy that much commerce; but at the same time it must be remembered that if the American seed was used instead the same amount of money would be paid for transporting that from the place of production to the place of consumption, so that internal commerce would be benefited in the one case while external commerce might be injured.

But it seems to me that this matter might be settled upon a fair and just basis. The House of Representatives after a long discussion, because this brought in conflict in the House the same interests that are exhibited here, finally settled upon the rate of thirty cents a bushel on seed and thirty cents a gallon on oil.

The Senator from Maine seems to speak of that as an injustice to the American manufacturer; but in fact it is a discrimination to the amount of thirty-seven and a half cents a gallon in favor of the American manufacturer. Why? If the oil be brought here it would pay thirty cents a gallon, while if the seed be brought here it would pay but thirty cents a bushel; and that bushel of seed, producing two gallons and a quart of oil, would give to the crusher the benefit of the duty on one gallon and a quart of oil, which is equivalent to thirty-seven and a half cents a bushel. It seems to me this is enough. These gentlemen say it is not enough to sustain their business. I have no doubt that if the duty on the seed was put at the rate fixed by my colleague, twenty-three cents, and a small addition, say thirty cents put on the oil, you would protect every interest of the crusher largely, and you would not materially diminish the employment of our vessels in this trade.

This is not a matter which involves any great principle, but it is a matter of detail which involves a pretty large interest, because the amount of seed brought into the country averages pretty uniformly over a million bushels. The amount produced in the country, as near as we can get at it from the statements of the persons in the trade, is a little over that, although there is some discrepancy between the crushers in the East and the crushers in the West in regard to it. I suppose the domestic production is probably a little in excess of the foreign importation.

Mr. FESSENDEN. What the Senator says is right so far as his calculations go; but the same discrimination is as much for the benefit of the western producer as the eastern. If it operates precisely in the way he says it does, they have all the benefit because the duty is imposed and they manufacture the oil, so that it operates to the full extent in each case. It does not operate for the crusher who imports the seed any more than it does for the crusher who takes the seed on the spot where it is grown. But now it is raised to sixteen cents by our bill, so that matter is answered in that way.

Mr. SHERMAN. I have but one word to say in regard to that. The testimony was uniform that, with the exception of last year, the foreign never came into competition with the domestic linseed oil; but last year on account of the want of supply it did reach, so this gentleman stated, as far as Dayton or Cincinnati. The real competition in linseed oil is between that made out of India seed in the city of New York and that made out of western seed in the city of Dayton and some other places where it is made; but latterly the American production

is reaching the New York market, and I think that probably with a duty of thirty cents a bushel on the seed it would make a pretty fair competition with oil from the Indian seed along the coast. I do not think it is unjust because even at twenty-three cents it is less than ten per cent. *ad valorem*. If there is any other interest in this whole bill that is put off with a duty of ten per cent. *ad valorem* I should like to know what it is. The price of this seed delivered in New York is \$2 40, so that a duty of twenty-three cents, according to the proposition of my colleague, would be a little less than ten per cent. *ad valorem*, which is as low a duty I think as you can find in the schedule.

Mr. FESSENDEN. The answer to that is simply this: the question is how much protection it needs. If it flourishes under a certain percentage that is all it demands. I have no objection, if Senators think it advisable, to raising the duty to twenty cents on the seed; but the objection is to the western producers of oil insisting that the duty on oil should be the same precisely as on the seed, thus giving them all the advantage.

The PRESIDING OFFICER. (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Ohio [Mr. WADE] to the amendment of the Committee on Finance.

The amendment to the amendment was rejected.

Mr. FRELINGHUYSEN. I now offer the amendment of which I have spoken, to strike out "twenty-three" in line four hundred and fourteen of section nine, on page 57, and insert "thirty," so as to make the clause read: "on linseed, flaxseed, hemp-seed, and rapeseed oil, and on oil of sesame or bene oil, and on cotton-seed oil, thirty cents per gallon;" and in line six hundred and nine of that section, page 65, to strike out "sixteen" and insert "twenty;" so as to read, "on linseed or flaxseed, twenty cents per bushel of fifty-two pounds."

Mr. WILLIAMS. I believe, if I understand this proposition, it discriminates more in favor of the manufacturer and against the grower of the seed than the proposition submitted by the gentleman from Ohio.

Mr. FRELINGHUYSEN. About the same.

Mr. WILLIAMS. I think the tariff, as reported by the committee, fixed a duty of sixteen cents on seed and twenty-three on the oil, seven cents difference. This proposition proposes to put twenty cents on the seed and thirty cents on oil, making ten cents difference.

Mr. FESSENDEN. Both of them need that as against the foreign importer of oil.

Mr. WILLIAMS. I think, with all difference to all the gentlemen concerned, that there are two interests that were not consulted in this arrangement which has been made here as much as they ought to be. The one is the revenue of the United States, and the other is the interest of the consumer. I feel entirely disinterested in this question; I do not know that I belong to the East or to the West so far as the controversy about flaxseed is concerned, but I think that an article which is so universally consumed as linseed oil ought not to be made so very expensive by the imposition of this duty.

I heard all that was said upon this subject in committee, and my criterion has been in judging of these matters to decide from the practical facts that were submitted to the committee, and I have not yet been satisfied by any representations made to the committee that this flaxseed interest was suffering to any great extent in this country. Flaxseed, which brought a dollar and some cents before the war, now brings three dollars. There is demand for it and it is raised. Men go about in the country, as I am informed, where the flaxseed is raised and buy it of the farmers and pay large prices for it. It is manufactured into oil. Now, it has not been made apparent to me that this high tax upon seed is necessary to enable the farmer to prosecute the business of raising flaxseed; and if it is not necessary,



then it seems to me that we ought to take into consideration the revenues of the country and the interests of the consumers.

Where I find and am satisfied that for want of the necessary protection a certain business is languishing, is suffering, then I find a reason for extending protection; but when the business is a prosperous business, and the only object of putting on a high tariff is to make the men engaged in it richer, then I do not see any particular necessity for the proposed addition. I know that there are conflicting representations upon the subject, as there are on all others; but according to the best information that I can obtain the flaxseed interest is not suffering as much as some other interests in the country; and I know that the crushers along the sea-board here do say (with how much truth I cannot determine; I presume, though, they are entitled to as much confidence as other men who appear before us) that to increase the tariff on flaxseed is to ruin their business; and there is a good deal of reason in the statement to my mind. This seed is raised in the West; it is manufactured into oil there, and people who use the oil on the sea-board must either have it manufactured where they live and where they require it to be used or they must go West and buy of the men who manufacture the oil there; and according to my judgment—I may be mistaken; it is exceedingly difficult to form a correct opinion about it—this tariff, as we fixed it in committee, is as equitable and just as it could be arranged.

Mr. CATTELL. Several of my colleagues upon the Finance Committee have spoken upon this subject. I agree with them that we gave a great deal of time and attention to this subject of flaxseed and the oil produced from it, but it was finally a question of compromise without any one of us being satisfied with the result. The real difficulty in this case is just here: in order to produce oil from flaxseed you must find a market for the oil-cake. Very much the largest part in bulk of the production must be reexported from this country to Europe again, simply because our people have not yet become accustomed to the use of oil-cake as an article of food for cattle. As a consequence, it is absolutely necessary that something a little out of the ordinary course shall be done for the crushers. Under the old tariff the crushers of oil had a drawback as has been stated here, and that really reduced the duty on linseed to ten and a half cents. My own impression was at the time the committee made the report, and is now, that under the present rate of duty the important interests of the linseed crushers on the sea-board cannot live, and that they do need something more; the relative difference should be something more, and the proposition which has been made by my colleague to fix twenty and thirty cents respectively I think is one which could be fairly accepted without doing any damage to the western interest at all, and one which would just about save the interests of the crushers on our shore and really do nothing more. I am perfectly satisfied that under the arrangement of sixteen cents for the seed and twenty-three cents for the oil, withdrawing the drawback, you close our oil factories on the sea-board.

Besides, while I am on my feet I will say in reply to my colleague on the committee, the Senator from Oregon, [Mr. WILLIAMS,] that my impression is that we shall benefit the revenue by putting the duty at twenty cents. As many bushels will be brought into the country under that rate of duty as there will be if you put it at sixteen cents. Consequently we shall be doing two good things: increasing the revenue and permitting the linseed crushers upon the sea-board to exist; and without such an arrangement I do not believe they can exist. Therefore, although I agreed to the report, I feel very much as if I should be glad if the Senate would accept the suggestion of my colleague. I think it is perfectly fair.

Mr. HOWE. I should like to have a division of the question. I believe the pending

amendment embraces two propositions. It is therefore divisible.

Mr. FRELINGHUYSEN. It is one proposition; both branches of it go together according to my idea.

Mr. HOWE. If I understand the facts—and I gather all I know about them from the debate as it has gone on—it proceeds upon the assumption that consumers can stand a tax equal, according to the calculation of the Senator from Ohio, [Mr. SHERMAN,] to sixty-seven and a half cents a bushel on seed, because the eastern crushers are willing to have a tax of thirty cents a gallon imposed on the oil, and that is equal, as I understand, to about sixty-seven and a half cents a bushel on the seed.

Mr. SHERMAN. Yes, sir.

Mr. HOWE. I think that is too large a discrimination between the business of crushing in the East and in the West. My only point is that I do not think, in a revenue tariff bill or in any kind of a tariff bill, you ought to make a provision especially for the purpose of bringing this product into the country for the mere object of manufacturing it into oil; and that seems to me to be the view of the proposition submitted by the Senator from New Jersey.

Mr. FRELINGHUYSEN. I understand the fact to be, that from necessity, two thirds of the seed is imported because the West does not supply it. If they would supply it we should not want to import any.

Mr. HOWE. It is said that two thirds, or at least more than half of this seed, is imported from abroad. Why? Because we do not furnish the amount required; and yet the Senator from Oregon says it is a profitable business, and we have untold millions of acres of land unoccupied. Now, if it were profitable to raise this seed, I think there are men enough out of employ or not in profitable employ, men enough ready here in this Congress, if it was actually a profitable business, to take this unoccupied land and furnish the seed that we want. Wisconsin raises a little of this seed; Wisconsin raises a little wool; but I do not think because I ask not that she, but that the lands of the United States, shall have the right to raise flaxseed for the country that I am open to the charge of defending a sectional interest. I expect, when you get this bill perfected, to vote for it; and yet almost every single article in it that you tax is an article that Wisconsin consumes and does not produce. This happens to be an exception. She does produce something of this; she would produce more of it if it were profitable to produce it. She does not find that it is profitable, or she would produce more, because she has got an abundance of land on which to produce it. While that is the fact, I do not like to be told that you let our lands go unoccupied and our labor unemployed and import two bushels from foreign countries while we produce one at home.

Mr. FRELINGHUYSEN. In the mean time, while the West promises to produce this seed, the eastern manufacture goes down and perishes. We cannot make oil out of the fair promises of the West. If the West would produce the seed, there would be no occasion to import it; but they have not done it and just as the West encourage the eastern manufacture at this period, just so much they benefit themselves by creating a market for their seed hereafter. It is a perfectly plain proposition. Our interests are the same.

Mr. HOWE. Let me say to the Senator from New Jersey that if you put up the duty on the seed to thirty or forty cents a bushel, it does not prevent you from buying it in foreign markets. There is a demand for so much oil here. We must have that oil, and if it cannot be had at one price it will at another. If we do not perform our promise—I do not speak now on behalf of Wisconsin, I speak on behalf of the soil of the United States; it is the lands that I want to be secured in the privilege of raising this seed—if the lands do not redeem my obligation in the first year or the second

year, the eastern crushers do not suffer, because they can bring still their seed from abroad, and Wisconsin, which uses your oil, will pay for it. We will pay the penalty.

Mr. CATTELL. But they will import it in the oil and not in the seed. That is the very trouble. As far as the question between the two sections is concerned, we do not care what amount of duty you put upon the seed provided a relative duty is put upon the oil.

Mr. HOWE. Then we are agreed; but as I understand the calculation, the difference provided for in this proposition exceeds very much, according to the calculation of the Senator from Ohio, the whole cost of manufacture, the whole cost of crushing. Whatever that difference is, I am perfectly willing should be provided for. I do not want the oil introduced here, though. The Senator from Ohio says that ordinarily we have only imported about fifty thousand gallons of oil in former years. There was a large importation last year, which he says was owing to peculiar causes. I do not understand it; I am no more an advocate for the importation of oil than I am of the seed; but I do not think either ought to be introduced to the extent that it is said to have been introduced last year.

Mr. FRELINGHUYSEN. The duty that is by this amendment suggested on the seed is no matter of interest to the eastern manufacturer at all. That is put in because it is fair. The matter that they are interested in is having the relative duty between the seed and the oil kept so that they can live. That is all.

Mr. SPRAGUE. I have not much, if any, opinion on this amendment; but as the Senate is about to adjourn—

Mr. FESSENDEN. I hope not.

Mr. SPRAGUE. That they may have something to reflect on, I desire to say a word. Commerce has been discussed here this afternoon, and the Senator from Maine has defended commerce. Sir, this is a commercial tariff; it is made in the interest of commerce and of the importer. It will be surprising to Senators no doubt to be told that upon cotton goods, instead of an increase of duty, there is a reduction of twenty-five per cent. upon goods that are more produced in this country than any other one quality. Then upon goods a little lighter than those on which there is a twenty-five per cent. reduction there is also another reduction of twenty-five per cent. less than the present tariff. I desire also to state that upon linen goods, lawns, handkerchiefs, and the higher-priced goods, there is a similar reduction of twenty-five cents. The Senator has instanced Holland as being a nation that was commercially prosperous without manufacturing. I appeal to history, which determines the fact to the contrary, that while Holland was most prosperous commercially she was more developed in manufacturing industry than all Europe besides. Sir, I denounce this tariff as a commercial tariff. Instead of increasing duties it reduces duties, and upon interests now hardly able to sustain themselves.

The amendment to the amendment was agreed to.

Mr. DIXON. Mr. President, section twenty-one, on page 107, provides for a drawback on certain articles, namely, "Mowing-machines, reaping-machines, plows, axes, hatchets, scythes, cotton-gins, shovels, spades, hoes, hay and manure forks, chisels, augurs, and carpenters' tools." I move to amend by adding to that list, "fire-arms, swords, and matchets." A matchet is a species of Spanish knife which is very much imported.

The amendment to the amendment was agreed to.

Mr. JOHNSON. I wish to offer an amendment.

Mr. SPRAGUE. I move that the Senate adjourn.

Mr. FESSENDEN. I hope the Senate will not adjourn so early. I think we had better sit another hour or two. We must get the bill through some time. I call for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 16; as follows: YEAS—Messrs. Buckalew, Chandler, Criswell, Fogg, Harris, Lane, Ramsey, Sprague, Van Winkle, and Willey—10.

NAYS—Messrs. Cattell, Cragin, Dixon, Fessenden, Foster, Frelinghuysen, Howe, Johnson, Kirkwood, Morgan, Morrill, Sherman, Stewart, Trumbull, Williams, and Wilson—16.

ABSENT—Messrs. Anthony, Brown, Conness, Cowan, Davis, Doolittle, Edmunds, Fowler, Grimes, Guthrie, Henderson, Hendricks, Howard, McDougall, Nesmith, Norton, Nye, Patterson, Poland, Pomeroy, Riddle, Ross, Saulsbury, Sumner, Wade, and Yates—26.

**THE PRESIDING OFFICER.** The Senate refuses to adjourn, but the vote discloses the fact that there is no quorum present.

**Mr. SPRAGUE.** I move that the Senate do now adjourn.

**THE PRESIDING OFFICER.** That motion is not now in order.

**Mr. SHERMAN.** I move that to-morrow the Senate take a recess at half past four o'clock; and pending that motion, I move that the Senate do now adjourn.

**Mr. FESSENDEN.** You cannot order a recess without a quorum.

**THE PRESIDING OFFICER.** The Chair understands the Senator from Ohio to move an adjournment?

**Mr. SHERMAN.** Yes, sir.

**THE PRESIDING OFFICER.** The motion is in order.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 24, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### A RECUSANT WITNESS.

**Mr. HALE.** I rise to a privileged question. I am instructed by the joint select Committee on Retrenchment to submit a preamble and resolution, as follows:

Whereas J. F. Tracy was duly summoned to appear before the joint select Committee on Retrenchment to testify relative to an inquiry directed by a resolution of this House; and whereas the said Tracy has refused or neglected to obey the subpoena duly served upon him: Therefore,

*Resolved,* That the Sergeant-at-Arms be directed to produce the body of said J. F. Tracy before the bar of the House to answer for his said contempt.

I have here the process duly returned and personally served.

The resolution was adopted.

### INDIAN APPROPRIATION BILL.

**Mr. KASSON,** from the Committee on Appropriations, reported a bill making appropriation for the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1868; which was read a first and second time, referred to Committee of the Whole on the state of the Union, made the special order for Tuesday next after the morning hour, and ordered to be printed.

### CIRCUIT COURTS IN PENNSYLVANIA.

**Mr. SCOFIELD,** by unanimous consent, introduced a bill directing a circuit court to be held at the city of Erie, in the State of Pennsylvania; which was read a first and second time, and referred to the Committee on the Judiciary.

### DUTY ON WAGONS, ETC.

**Mr. DEFREES,** by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved,* That the Committee of Ways and Means be instructed to inquire into the expediency of placing on the freelist wagons, wagon and plow harness, common bedsteads, chairs, and tables.

### THE BOUNTY BILL.

**Mr. SCHENCK.** Mr. Speaker, it will be remembered that the Committee on Military Affairs had authority to report back what is known as the bounty bill at any time. I have been waiting patiently for some days now for action of the House upon the reconstruction

bill, but I am anxious to proceed and I intend to proceed speedily with the bounty bill, and I now give notice that I will endeavor to report it to-morrow or on Saturday.

### PENSIONS TO SOLDIERS OF 1812.

**Mr. PERHAM,** by unanimous consent, from the Committee on Invalid Pensions, submitted a report in writing in regard to the bill granting lands to the soldiers of the war of 1812; which was recommitted to the committee, and ordered to be printed.

### PRINTING OF A REPORT.

**Mr. PERHAM,** by unanimous consent, introduced the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved,* That five thousand extra copies of the report of the Committee on Invalid Pensions on the bill granting pensions to the soldiers of the war of 1812 be printed for the use of the House.

### WITHDRAWAL OF PAPERS.

On motion of **Mr. MILLER,** leave was granted for the withdrawal from the files of the House of the papers of Dr. Alcon, copies being left.

### DISTRIBUTION OF DOCUMENTS.

**Mr. WENTWORTH,** by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved,* That all documents ordered by the present Congress to be published, and which are actually printed before the 1st day of December next, shall be allotted as heretofore to the members of the present Congress, and transmitted to their residences as fast as possible unless otherwise ordered by the members themselves.

**Mr. WENTWORTH** moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The morning hour now commenced, and the House resumed the call of the committees for reports.

### AGRICULTURAL COLLEGE IN TENNESSEE.

**Mr. BIDWELL,** from the Committee on Agriculture, reported back, with an amendment in the nature of a substitute, joint resolution of the House No. 213, to extend the provisions of the acts in regard to agricultural colleges to the State of Tennessee.

The substitute was read, and is as follows:

That the provisions of the act of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and of the act to amend the fifth section thereof, approved July 23, 1866, are hereby extended and made applicable to the State of Tennessee.

**Mr. BIDWELL.** I think there can be no objection to the passage of this substitute.

The substitute was agreed to.

The question was upon ordering the joint resolution, as amended, to be engrossed and read a third time.

**Mr. LE BLOND.** I did desire to ask the gentleman a question before the substitute was agreed to. I see this is a proposition to extend the benefits of the land-grant act to the State of Tennessee; and if I recollect correctly a bill was passed some time ago conferring the benefits of the land-grants upon all States, including all the States lately in rebellion. Some time during this session a resolution was passed denying the extension of this privilege to the States lately in rebellion. If I understood the joint resolution now before the House when it was read, it proposes to extend this privilege to the State of Tennessee alone out of all the States lately in rebellion. Am I correct?

**Mr. BIDWELL.** If the gentleman is through I will answer him.

**Mr. LE BLOND.** That is the point I want first to know.

**Mr. BIDWELL.** I will ask the Clerk to read the bill which passed at the last session of Congress; it is a very short one.

The Clerk read as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time in which the several States may comply with the provisions of the act of July 2,

1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby extended so that the acceptance of the benefits of the said act may be expressed within three years from the passage of this act, and the colleges required by the said act may be provided within five years from the date of the filing of such acceptance with the Commissioner of the General Land Office: *Provided,* That when any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of the said act of July 2, 1862, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act: *Provided further,* That any State which has heretofore expressed its acceptance of the act herein referred to shall have the period of five years within which to provide at least one college, as described in the fourth section of said act, after the time for providing said college, according to the act of July 2, 1862, shall have expired."

**Mr. BIDWELL.** Now I presume the gentleman from Ohio [Mr. LE BLOND] is familiar with the act of 1862. That act provided that its provisions should not be applicable to a State while in rebellion. In order that there might be no doubt as to the extension of the provisions of that act, and of the act which has just been read, to the State of Tennessee, it was thought proper to pass this special resolution making the provisions of the act of 1862 and the act of 1866 applicable to the State of Tennessee. Whether or not that be the best mode may be a question. If it be not the best mode, in order to clear up every doubt which may exist there certainly can be no harm in this action. If the law of 1862, and the law of 1866 amendatory thereof, do already apply to the State of Tennessee, as well as to all the other States which were in rebellion, then this joint resolution can have no bad effect. Therefore I hope this joint resolution will be put upon its passage now.

**Mr. LE BLOND.** By permission of the gentleman I would like to add another remark. I understand the original act to apply to all the States lately in rebellion. This joint resolution proposes to put Tennessee in advance of the rest of those States, thus making an invidious distinction between the other States which have been in rebellion and the State of Tennessee.

Now, sir, the original act was for the purpose of advancing the interests of agriculture and arts. It does seem to me that this joint resolution should be so amended as to embrace every State in this Union, and not make any of these distinctions. There is no reason why Tennessee should be made an exception to the State of Virginia or Georgia or North Carolina. Every one of these States, upon a question of this kind at least, ought to be put upon the same footing in regard to the benefits of this land grant. There certainly has been no reason offered by the gentleman why that should not be done. I know of nothing that Tennessee has done which entitles her to more of our consideration than the other States should receive from us.

I believe that this act of 1862 was infringed upon by a resolution introduced into this House some time ago; but whether it has been passed by the Senate or not I am not able to say. I am in favor of giving this privilege to all of the States, to extend it to all which may within five years come forward and signify their acceptance of the terms of the law.

**Mr. MAYNARD.** Will the gentleman from California [Mr. BIDWELL] yield to me for a few moments?

**Mr. BIDWELL.** I will yield to the gentleman for five minutes.

**Mr. MAYNARD.** I have nothing to say about the other States. If any gentleman thinks the provisions of this law should be extended for their benefit, then let him introduce a bill to that effect. But I protest against the State of Tennessee being at all complicated in any way with any of the other States lately in rebellion. As I have often stated before, she stands in a different attitude, moral, political, and in every respect, from the other of those States. I desire that she shall be heard

and judged upon her own merits. She has organized a government which Congress has recognized as one which it is willing in the name of the United States to guaranty; and in consequence of this her Senators and Representatives have been admitted to seats in Congress. This is not the case with the ten other States. Tennessee stands before the country in an attitude as far removed from that which they occupy as

"From the center thrice to the utmost pole."

I desire in behalf of the State of Tennessee and of my colleagues, including the one now absent, who introduced this proposition, that the case of Tennessee shall be decided upon its merits; and let every other State through its advocates or its representatives be heard in the same way and upon the same principle. "Let every tub stand upon its own bottom" is an expression that has more force and justice perhaps than rhetorical beauty. On this principle I hope the House will accept the report of the Committee on Agriculture, adopt this bill applicable to our State; and if gentlemen think it should be extended to other States, let them bring in a proposition for that purpose, and we will consider it respectfully and decide upon it justly; but I do hope that our claims will not be prejudiced or embarrassed by having those ten unrepresented States tied on to a proposition of this kind, introduced for the benefit of our State.

Mr. LE BLOND. Will the gentleman from California [Mr. BIDWELL] yield to me five minutes?

Mr. BIDWELL. Yes, sir.

Mr. LE BLOND. Mr. Speaker, nothing that has been presented by the gentleman from Tennessee [Mr. MAYNARD] is sufficient in my judgment to induce us to make an exception in this case in favor of Tennessee. The bill, as I understand, proposes simply that we shall grant to that State an extension of the time in which she may signify her willingness to accept the grant under the law of 1862. Sir, the fact that Tennessee has undertaken to change her form of government furnishes no reason, in my judgment, why this extension of time should be given to that State. In my judgment, it is a matter of no consequence. Laying aside every political consideration, it is no reason why Tennessee should be made an exception. This act of 1862, the time for the acceptance of which it is now proposed to extend, is a benevolent grant of lands to the States and Territories, for the purpose of encouraging agriculture and the mechanic arts. This being the fact, then, even on the theory of the gentleman from Pennsylvania, [Mr. STEVENS,] who declares ten States of this Union "dead States" or "Territories"—and we expect to vote to-day upon a bill based on this doctrine—still, under the act of 1862 those States would be embraced as Territories and are entitled to the grant contemplated by that law. Sir, if an extension of time is to be granted it ought to be granted to every one of the States lately in rebellion. I am unwilling to make Tennessee an exception to the general rule that is to govern those States. All that Tennessee has done in the way of changing her State organization entitles her, in my judgment, to no preference in regard to the grant proposed by the act of 1862. I hold that every one of the ten States now denied representation in Congress is to-day a State within this Union, able to signify, under its present organization, its acceptance of this grant and entitled to receive it. Nothing that any of those States has done should in my view deprive them of the privilege of accepting the tendered grant; and to my mind it is an illustration of the vicious system of legislation prevailing here that this House is willing to strike down the means of communicating intelligence to the people of that country simply because they have been charged with having been in a state of rebellion. Sir, my feelings upon that subject are not going to carry me so far as to induce me to destroy or withhold the means of educating the children in those States because the fathers erred.

Mr. GRINNELL. Will the gentleman allow me to ask him a question?

Mr. LE BLOND. Yes, sir.

Mr. GRINNELL. I wish to inquire of the gentleman whether he has seen or heard of any request from those other ten States such as has been presented from the State of Tennessee in regard to this grant.

Mr. LE BLOND. It is not necessary that there should be such a request or application. If you pretend to legislate for the education of the people and sincerely desire that intelligence should be disseminated, why should you not extend the time for the acceptance of the grant so that those States may enjoy its advantages? Why should not the time be extended for the benefit of those States as well as for the benefit of Tennessee? It ought not to be necessary that they should ask before we will do them justice. Why, sir, by this act they propose to hold the children responsible for the misdeeds of the parents. The day for any such doctrine has gone by. They have no Representatives here from those States to ask for the benefit of this act, and the gentlemen on that side do not propose to give them a Representative here to speak for themselves as the gentleman from Tennessee has spoken for his State.

Mr. GRINNELL. Let me ask a question. I should like to ask the gentleman from Ohio whether that is the fault of Congress or of the ten southern States which are not represented here? Did they themselves declare they were out of the Union and aliens?

Mr. LE BLOND. Is it the fault of the children in those States that those States are not now represented? That is the true question, and not whether the adults are not represented. This act is for the benefit of the rising generation, and not for the benefit of those who have grown up into manhood and womanhood. But, sir, the gentleman by this very legislation proposes to inflict the punishment of the parents upon the children that were unfortunately born in the States lately in rebellion.

[Here the hammer fell.]

Mr. BIDWELL. I will say a word, and then yield to the gentleman from Tennessee, [Mr. STOKES.]

I wish to say, in reply to the gentleman from Ohio, that I had no idea a simple report from the Committee on Agriculture would reopen the entire question of reconstruction of the southern States. Still I believe that in this manner, by this precise question, the whole question of reconstruction can be settled—the question whether a State is or is not entitled to receive lands donated for agricultural colleges. I believe if a State is entitled to receive that donation at the hands of the Government, then that State is entitled to and should be represented in this Congress. By the act of 1862 it was provided that no State then in the condition of rebellion and insurrection against the Government of the United States should be entitled to the benefit of this land. Now the question would arise as to the precise point of time when the State ceased to be in rebellion against the United States; whether it was the moment Lee surrendered, the moment Johnson surrendered, or any other moment of time since the rebellion began in 1861. That is the question for us to determine.

It appears now to be the opinion of Congress that the rebellion has not wholly disappeared. Admitting that its armies have disbanded, the guerrillas, a considerable portion of its force, have not all retired from the occupation of murdering freedmen and Union men. And I hope, Mr. Speaker, this question will be settled precisely in this way: that whenever a State shall be deemed entitled to receive this donation at the hands of the Government, that moment that State shall be entitled to representation in Congress. I believe that is as safe and speedy a mode as any other to determine this question.

The act of 1862 further provided that no State shall be entitled to the benefits of this act unless it shall express its acceptance thereof

by its Legislature within two years from the date of its approval by the President. Did any of the southern States which were in rebellion express their acceptance within two years of the date of this act? If they did not, then they were not entitled to the benefits of its provisions.

The act of 1866, extending the provisions of this same law, made no provision for the States which were not represented in the Congress of the United States; and consequently there is no law upon the statute-book making provision applicable to the States in rebellion except it may be for the State of Tennessee. It makes no provision for any State not represented, and Tennessee even could not be entitled to the benefits of it because she had not expressed her acceptance. This resolution is for that purpose and no other.

Mr. LE BLOND. Let me ask a question.

Mr. BIDWELL. I yield for one question.

Mr. LE BLOND. I ask the gentleman what was the necessity of the resolution that was introduced by my colleague [Mr. DELANO] during this session denying to the States lately in rebellion the privileges under that law until otherwise provided by Congress?

Mr. BIDWELL. Mr. Speaker, I think the first difficulty, as I understand the question, is due to the unconstitutional and unjustifiable action of the Executive of this Union. I understand steps were being taken to issue agricultural scrip to the States in rebellion, which was unjustifiable and not provided by any law upon the statute-book. Now I yield for a few moments to the gentleman from Tennessee.

The SPEAKER. How many?

Mr. BIDWELL. Ten.

Mr. STOKES. Mr. Speaker, I hope the resolution as reported by the committee will be adopted. The gentleman from Ohio [Mr. LE BLOND] holds that there ought not to be any difference made between Tennessee and the other States that have been in rebellion. I differ with him in that regard; there ought to be a difference made by this House between Tennessee and those other States. As the gentleman from California [Mr. BIDWELL] has very truly remarked, if the other States will adopt the policy that has been pursued by Tennessee since the close of the war, I have no hesitation in saying that this House will accept their State governments and admit their Representatives upon this floor.

Why, sir, the idea of not making a difference between Tennessee and the other States is absurd. When you come to compare the act of the people of the loyal State of Tennessee and the people of the other States, how is it? Before the rebellion closed the loyal people of Tennessee ordered a convention of five hundred and twenty delegates, who assembled, amended their State constitution, submitted it to the loyal people, and on the 22d of February, 1865, the loyal people went to the polls and ratified the constitution. They then elected a loyal Legislature, and that Legislature, by virtue of power delegated to them by our amended constitution, and after having enfranchised the loyal men of the State, has prohibited all disloyal men from voting or holding office. And yesterday the lower branch of that Legislature passed a bill to organize the militia and to organize a regiment of cavalry subject to the order of the Governor in each congressional district. And they have gone further. They have passed a bill striking out the word white and have thus enfranchised every loyal man in the State regardless of color. They have thus placed the government in the hands of loyal men, and by the God that made them they intend to keep it there.

Now, I say let the other States do what Tennessee has done, and I have no doubt that this side of the House will vote to a man to recognize their State governments and admit their Representatives who are loyal.

A MEMBER. And give them the land.

Mr. STOKES. Yes, sir; and give them the land scrip. But I appeal to the House not to trammel this resolution with an amendment



including all the other States lately in rebellion. If they have no Representatives here, let them present themselves through the gentleman from Ohio, [Mr. LE BLOND,] and I have no doubt they will be dealt with fairly. Tennessee came forward with a resolution obeying the orders and wishes of the loyal people of the State. We simply ask the House to extend the time which was granted under the act of 1862. We could not accept the grant of land; we were prohibited from accepting it, and after having done what we have we come forward and ask Congress to grant us time in order that we may accept this liberal grant of land.

Mr. Speaker, we ought not to be trammelled with the proposition to add the ten States. You may remember there was a school fund in the State of Tennessee that did belong to the poor children, but it went with the rebel governor of the State; the poor children were divested of their just rights by the act of the rebels. And now it is proposed to invest the loyal people of Tennessee with this fund, to confide it to them, so as to keep the rebels from running off with it again. Suppose you were to extend it to the ten unreconstructed States, have you any guarantee that they would take care of it and not squander it again? I think this House ought not to trammel this resolution with any amendment of that sort, and I appeal to the House to sustain it as reported from the committee.

Mr. LE BLOND. I would like to ask the gentleman a question. I understand him to say that Tennessee has recently amended her constitution so that none but the loyal people of the State are now permitted to participate in the elections. Now, I wish to know from the gentleman, taking into consideration the letter that he wrote some time ago stating that he was for the patriot Davis and against the tyrant Lincoln, on which side he is now left by that constitutional amendment—the side of Davis or the side of the Union. [Laughter.]

Mr. STOKES. The gentleman has alluded to what is called the Duncan letter again. It was alluded to on the last day of the last session. That sir, is the only letter, the only word, of mine that any man can put his finger on where I have deviated from the track. I will state that that letter was written on the 10th day of May, and on the 12th day of May I took the stump in favor of Lincoln and this Government. But not satisfied with even canvassing my district and filling my appointments up to the 8th of June, and voting against secession, I went to Nashville and there entered the Federal Army. I took my position in the Federal Army under the old flag, and I fought out of that Duncan letter as you ought to have done out of your Copperhead connections. [Great applause on the floor and in the galleries.]

The SPEAKER. The House cannot be insulted by the spectators in the galleries. The assistant doorkeepers are instructed to remove from the galleries all persons manifesting either applause or disapprobation.

Mr. LE BLOND. We, upon this side of the House have no rebel letters to explain or defend. [Shouts of "Order!"]

The SPEAKER. Gentlemen upon the floor will set a good example to the spectators in the gallery by themselves observing the respect due to the House, and abstaining from demonstrations of applause. The respect due to the House must be observed both by members on the floor and by those in the galleries.

Mr. SPALDING. I object to this discussion as not pertinent to the issue before the House.

The SPEAKER. The Chair sustains the point of order; it is not pertinent to the issue.

Mr. STOKES. The gentleman from Ohio was permitted to draw these remarks from me by his reference to my Duncan letter.

The SPEAKER. That may be, but when the point of order is made the debate must be confined to the bill before the House.

Mr. STOKES. I hope then the House will sustain the joint resolution reported by the Committee on Agriculture. And all I wish to

say in conclusion is, that I shall stand upon the same side and be ready to take the saddle again when the time comes, if it ever does, and I am well and hearty and able to do service for three years and three months again in the Federal Army.

Mr. BIDWELL. I will now yield for five minutes to the gentleman from Iowa, [Mr. GRINNELL.]

Mr. JOHNSON. Will the gentleman from Iowa yield to me for a moment?

Mr. GRINNELL. I will.

Mr. JOHNSON. I am entirely ignorant upon this subject or I would not ask for the information that I am about to ask for. I desire to inquire of the gentleman from California what became of the bill which passed the House at the last session providing for the education of children in these southern States, without distinction as to those which had passed ordinances of secession, whether that bill ever passed the Senate or became a law? I refer to the bill introduced by the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. BIDWELL. That was a different bill altogether. It has no relation to and no bearing on this bill that I know of.

Mr. JOHNSON. It strikes me that if it was proper to pass that bill last session providing for the education of children throughout the Union it is proper now that we should put these means of education in the hands of the people of these States.

Mr. BIDWELL. I regret as much as any one can do that any State should be deprived of the benefits of institutions established by the Government for the purpose of extending the privileges of education. But if they are deprived of those benefits who is to blame for it but they who attempted to destroy the best Government on earth?

Mr. JOHNSON. That is entirely irrelevant to the question before the House. The gentleman is speaking about the punishment due to the fathers. My point is this: that if it was proper last summer to pass through this House a bill to provide an educational bureau for the purpose of educating the children of the South and to raise up the coming generation to be what they ought to be, why should we not to-day extend to those children the benefit of this land grant which we have heretofore made?

Mr. BHELLEY, of Ohio. We will do it as soon as they are reorganized.

Mr. BIDWELL. I have only to say that I will go as far as he who goes farthest to extend the benefits of education to the people of the South, for I believe that one of the chief causes of the rebellion was the want of intelligence among the people. And I believe the great preventive will be to extend to them by every practicable mode the means of education. But I do not believe we should begin by these munificent grants of land for the purpose of establishing colleges of agriculture; we ought to begin with the school-book, with a kind of missionary enterprise.

Mr. JOHNSON. Will the gentleman tell me how it is he makes a distinction between grants of land for this purpose and grants of money as in the proposition of the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. BIDWELL. The difference is very great. Grants of land are not available until they are disposed of, and in order that they may be properly disposed of the person receiving the grant should be loyal to the Government making the grant. The question must be settled whether this donation shall fall into the hands of persons who are truly loyal, and who will make proper use of it and educate their children in such a way that they will be loyal to the Government.

I now yield to the gentleman from Minnesota [Mr. DONNELLY] for a few minutes.

Mr. DONNELLY. Mr. Speaker, as my name has been referred to by the gentleman from Pennsylvania, [Mr. JOHNSON,] it is perhaps proper for me to say in reply that the bill to which he alludes as having been passed at the last session was a bill introduced by a

member from Ohio, [Mr. GARFIELD,] and that bill does not in any sense provide for the education of the children of the South, either white or black. It simply provides for the creation of a Bureau of Education with supervisory powers only; to supervise and superintend the institutions of education which may now exist or hereafter be established in the South as well as the North. I do not understand that it has any connection with or any bearing upon the joint resolution now before the House. That resolution is merely a provision, as I understand it, to extend to the State of Tennessee the benefits of the acts already passed, making grants of land for the establishment of colleges in the several States for instruction in agricultural and mechanical arts and sciences. The bill passed at the last session of Congress made no grant of money or land. It was entirely of a supervisory character, and requires a very small annual appropriation to carry it into effect. That bill is now pending in the Senate, and I trust it will become a law before the close of this session.

As I understand it this bill comes as a largess or grant from the victorious section of the nation to a State of that section which has offended against the laws of the nation. It is given to the State of Tennessee because Tennessee has placed herself in accord with the wishes and desires of the majority of this nation. And I have no doubt that the magnanimity of the dominant party of this country and of the entire people of the North will sanction all such largesses and gifts to all the States of the South which shall, like Tennessee, place themselves in accord with the desire and will of the nation. But for one I will never vote for any such grant of land to any of the pretended State governments now existing in the South, organized as they are without the authority of Congress, and existing in defiance of its will, and which will undoubtedly use the same for the oppression of a large portion of its own population. Whenever the people of any southern State shall come before the people of the North upon a basis of equality and fair play, I do not think they will be met by any niggardly, limited, or ungenerous policy on the part of the representatives of the nation.

Mr. BIDWELL. I now yield for five minutes to the gentleman from Iowa, [Mr. GRINNELL.] After he shall have concluded, I will yield five minutes to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. GRINNELL. As a member of the Committee on Agriculture, I desire to say that this is a very distinct and plain proposition. This joint resolution proposes that the loyal State of Tennessee shall have the advantage of the three hundred thousand acres of land granted to it under the law of 1862 for the purpose of establishing an agricultural college. Now, sir, I am utterly opposed to the rider proposed by the gentleman from Ohio, [Mr. LE BLOND,] that the ten still unreconstructed States, without representation here, shall have the advantages accorded to the loyal State of Tennessee.

I am most happy to be in accord with the eloquent gentleman on my right, [Mr. STOKES,] and to mention here, as it seems to be the most opportune occasion, that we will give the benefits of these land acts to Tennessee, because they are about to make education in that State, not select and partial, but universal. They are about enfranchising the black and the white people there, and providing a general system of common-school education; and they wish also to have a local agricultural college. I shall act with the gentleman from Ohio in conferring these benefits upon those ten States when they establish loyal State governments and send here loyal Representatives; not before.

The gentleman from Pennsylvania [Mr. JOHNSON] asks why we should refuse to educate the children in those ten States. Sir, at the last session of Congress we voted money to feed their children, white and black. This illustrates the charity which Congress is willing to extend, and this Congress will be equally

ready to grant land or money for education when we can have assurance that the land and money granted will be devoted to universal education, the education of all, whether white or black.

Mr. LE BLOND. I desire to say to my friend that I think he has mistaken the object of this grant for educational purposes. It is a grant for the benefit of the youth of the States and Territories, and not for the benefit of the States or the Territories proper.

Mr. GRINNELL. Mr. Speaker, the answer to that is that it is not the youth themselves who are to assemble in their Legislatures and appropriate the proceeds of the land we may grant; it is the fathers. If this land should be granted to South Carolina for the education of her youth, the fathers in that State—traitors still in spirit, I regret to say—would vote away this land for purposes foreign to those designed by Congress, or would put it forever beyond the reach of the poor and loyal people of those States. I will ask the gentleman whether he would be willing to extend the benefits of education universally to the people of those States that he is now pleading for.

Mr. LE BLOND. Universally?

Mr. GRINNELL. Yes, sir.

Mr. LE BLOND. That means to the negroes?

Mr. GRINNELL. To all.

Mr. LE BLOND. Why, sir, I should leave that question to the States, where it belongs. However they might decide it I should be content.

Mr. GRINNELL. Yes, sir; and the gentleman in leaving it to the States knows that those States would hunt down the black man because he is loyal and poor—would not place the spelling-book in their hands. He knows that those States would establish no institution for the promotion of agriculture in which the laborers who hew down the forests and reap the fields would enjoy any advantages.

Mr. JOHNSON. I desire to inquire of the gentleman from Iowa [Mr. GRINNELL] whether any condition was imposed upon Pennsylvania or any of the northern States as to the class of persons to be educated under this grant?

Mr. GRINNELL. No, sir; but Pennsylvania was a loyal State; Pennsylvania was not on trial before the country.

Mr. JOHNSON. But my colleague [Mr. STEVENS] says that Pennsylvania must be reconstructed.

Mr. GRINNELL. Pennsylvania had an educational institution, an agricultural college, which will be supported the better, I trust, by reason of this donation. On the other hand, the States that engaged in the rebellion are not asking this act of liberality from Congress. They are not in a condition to receive it. They must first reconstruct themselves on a loyal basis before they can be entitled to any favors at the hands of Congress.

Mr. BIDWELL. I yield five minutes of my time to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. Mr. Speaker, I think that the very language of the law to which this resolution refers demands that we should adopt it. I think, too, that the course of things in Tennessee demands it. Congress made provision for the education of the youth of the country by means of agricultural colleges or universities, and in doing so declared that States should be the trustees of the fund. Tennessee is a State with her representatives in this Hall and in the Senate Chamber. More than that, sir, she has shown her fitness as a State to administer a fund of this kind. She has established an educational system which embraces all her people, and I see by the papers of to-day that that is to be the governing law of all her institutions. She is organizing a militia with cavalry regiments for each county, and is enrolling alike the black and the white citizen to serve side by side in the cause of order and law.

Therefore I say there is a trustee that may accept the fund for Tennessee. But I affirm

that gentlemen use erroneous terms when they speak of ten other "States." There is no other "State" to which the resolution under consideration will apply. There is no "State" of South Carolina or of Georgia or of Texas. There were State governments there; but they were overthrown. Andrew Johnson—not a very good authority in general, but one that may be accepted on this point—has told the world that the people of what were those "States" have been deprived of all civil government. Since the overthrow of those States took place the law-making power has never reorganized them. The bastard States, as they are called, are but a work of usurpation, and are in the hands of people who have shown themselves, not only once, but a hundred times, unfit to administer a fund for educational purposes. Sir, the statute-books of the country are swollen with grants of land to the old southern States for educational purposes; and I challenge gentlemen to show that any one of the grants was ever faithfully administered and applied within those ten overthrown States.

As much land has been given to the southern States for educational purposes as to those of the North, and yet where are their common schools? They had none, but they had laws prohibiting Christian benevolence from teaching children or adults to read the Lord's Prayer and the Ten Commandments, while they were squandering rich grants of lands made for educational purposes.

Mr. ELDRIDGE. Will the gentleman yield to me?

Mr. KELLEY. I cannot in a five minutes' speech.

Mr. Speaker, how is it that if such grants were faithfully applied whole regiments of white soldiers in the confederate army, when called upon to sign their names, had to employ other than their own hands, and to attest the signatures by their marks? Why? Because the men who are wielding Andrew Johnson's usurpations had corruptly used for other purposes, private or public, the grants of land for educational, common school, college, and university purposes. The intellectual eyes of the masses of the South were put out; their intellects were benumbed; their passions were excited by the men to whom we are asked now to grant lands for educational purposes. Sir, a man who has proven himself to be a false trustee shall never by my vote be made the custodian of a trust for the people of the South, or any State which may be established there. I shall vote for the resolution making the grant to Tennessee. Her schools, like her militia, are to be open to every child born in the Commonwealth or coming to it as an immigrant. Therefore let us give this land to her; and let us show to the people of the insurrectionary districts that when they too shall have organized republican constitutions such as the Congress of the United States can accept these beneficent grants will be open to them.

[Here the hammer fell.]

Mr. BIDWELL. I yield to the gentleman from Minnesota, to submit an amendment to the bill.

Mr. DONNELLY. I offer the following amendment:

*Provided, The grant of land so made by the act to which this refers and is amendatory shall be held by the State of Tennessee subject to this condition: that no person shall ever be employed as a professor or teacher in the said agricultural college for the State of Tennessee who ever held any military or civil office in the so-called confederate government or in the rebel government of Tennessee.*

Mr. BIDWELL. I now call for the previous question.

Mr. CHANLER. I hope the gentleman will not insist on it.

Mr. BIDWELL. I will give the gentleman five minutes after the previous question has been seconded.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from California, who reported the bill, is now entitled to one hour in which to close the debate.

Mr. BIDWELL. In reference to the amendment offered by the gentleman from Minnesota, I have only to say that I consider the bill all right without it; but there can be no serious objection to it with it. The State of Tennessee is loyal to-day, and I entertain the hope she will ever remain so; but if there be any doubt of it, if there be any fear the State of Tennessee may at some time fall into the hands of those who entertain rebellious sentiments against the Government, then as a safeguard I will not object to the amendment of the gentleman from Minnesota. Still, I am not tenacious of the amendment. I will now yield for a short time to the gentleman from Tennessee. I am pressed on all sides to call for a vote.

Mr. HILL. I wish to move to reconsider the vote by which the previous question was seconded if it be decided that the result will be now to give the Judiciary Committee three instead of two morning hours.

The SPEAKER. That motion can be made after the hour of the gentleman from California.

Mr. BIDWELL. I yield to the gentleman from Tennessee five minutes.

Mr. COOPER. Mr. Speaker, the original resolution as reported by the committee in my opinion should be adopted. I think it is necessary and right that it should be. By the act of 1862 the donation of land was made to Tennessee, but owing to the rebellion the Legislature of that State did not accept it within the two years provided by the act. By the act of 1866 that limit was extended alone to those States at that time represented upon the floors of Congress. The State of Tennessee was not then represented, and that grant thus made to the State fell through; and now, sir, unless the time be extended to the State to accept it we shall lose the grant. This gives the proper authority, and that is all we ask.

Mr. Speaker, I differ widely with the gentleman from Pennsylvania [Mr. KELLEY] in the views he has presented to this House in regard to these questions, but that does not interfere with my voting for a proposition right in itself, and when he charges the President of the United States as a usurper, if it were permitted I would say, as Marmion said to Lord Douglas—

"Lord Angus, thou hast lied."

I believe the resolution to be right, and I ask the House to adopt it.

Mr. BIDWELL. I now yield to the gentleman from New York, [Mr. CHANLER.]

Mr. CHANLER. I cannot allow an opportunity so favorable as this for advocating the cause of universal education to pass without saying a word. I must point to the distinguished gentleman from Pennsylvania [Mr. KELLEY] as the barrier to universal education on this question to-day. I support the resolution, and ask for its extension to the people of this Union without regard to sex, race, or color. I ask it for the benefit which we all know education confers upon the people in every walk of life. But the policy suggested by the gentleman from Pennsylvania would debar the children of the southern States from the advantages of education, so necessary for the management of their own affairs and for their defense against the force of armed militia under the Republican organization, which is sought to be imposed upon the southern States.

Sir, what is the core, the center, the vital principle of that organization as declared by its journal in this city? It is that none but soldiers are to be elected to office by the suffrages of the grand army of the Republic. It is an easy transition from the militia organization to the ballot-box, and the tenacity and persistency of the gentleman from Pennsylvania in excluding the white race from the advantages of education will, if successful, result in the degradation of the white men in the southern States. If his system has any other object, let him declare it. If the policy of this Government is to extend the benefits of education to all, then in the name of the Constitution, which is based upon the intelli-

gence of the people, do not shut out the ten States or Territories, or whatever you may see fit to call them, from education simply because the people of that section differ from you on political questions. They have been arrayed in battle against you for want perhaps of that superior education which you have received. I ask, is it wise or just to exclude from the advantages of knowledge the children of the soldiers who were in the rebel army? Sir, extend to them kindness and give them the opportunity of acquiring an education that shall fit them for becoming good citizens of the Republic in future.

The gentleman says the trustee has been false to the trust. He looks upon these States as trustees and as having violated their trust, and to maintain his own consistency, with loud-mouthed denunciation of the men who fought, he proposes to exclude the children of those men from the benefits of education. Sir, if the gentleman has seen in the city which he represents here, and of which he is a worthy ornament, the advantage of public education, if he has seen it in other cities, notwithstanding the disturbances which arise from the great diversity of population and the variety of nationalities there, what in the name of sense will be the result throughout the vast region of country lately in rebellion? The light of the truth carried by the printing press throughout that section is by the action of that gentleman and his friends to be excluded from the southern people. Why does he exclude them? That he may maintain a concentrated political organization within this body, where he may speak all he knows, while those he assails are without a Representative on this floor. He would continue the tyrannical supremacy of Congress over a downtrodden, ignorant people, excluded from opportunities of education more dear to the patriot and the Christian than the ballot itself. The very Bible, about which that gentleman prates with such a pretense of philanthropy as being excluded from the black man, he would by his system exclude from the white people of those States. Oh, hypocrisy! thy name is politics; and when thou arrayest thyself in human form thou speakest in the loud-mouthed words of the gentleman from Pennsylvania. [Laughter.]

Mr. KELLEY. Will the gentleman from California yield to me a moment?

Mr. BIDWELL. Yes, sir.

Mr. KELLEY. I desire to catch the ear of the gentleman from Tennessee [Mr. COOPER] a moment. I did not, in the confusion around me, hear his language exactly. I want to ask him whether those around me are right in saying that he impugned my veracity.

Mr. COOPER. Mr. Speaker, I said that when the gentleman from Pennsylvania charged Andrew Johnson with being a usurper, if I were permitted to quote the language of Marmion to Lord Douglas I would say—

"Lord Angus, thou hast lied."

Mr. KELLEY. If I were permitted! Sir, while the usurpation was plotting he was the confidential paid agent of the usurper, and knew all the secrets of the usurpation, and if conscience has not been extinguished in him he is not permitted to deny my allegation.

Mr. COOPER. Mr. Speaker, the gentleman is mistaken as to his facts. While I was the confidential agent and friend of the President of the United States, and I glory in the fact, not one dollar of his money has ever been handled by me; and when the gentleman says that I was his paid agent he lies again.

The SPEAKER. The gentleman is out of order.

Mr. KELLEY. It was not Andrew Johnson's own money he handled; it was ours and that of the people of the United States. The gentleman from Tennessee was a member of the President's household, and was paid for his services. I will not bandy blackguardism with him on this floor.

Mr. JENCKES. I call these gentlemen to order. I submit that these remarks do not apply to the bill now before the House.

The SPEAKER. The Chair sustains the point of order.

Mr. BIDWELL. I will now yield for five minutes to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. I have offered an amendment to the joint resolution, which has been read at the Clerk's desk. I did not offer it without having first submitted it to the consideration and approval of some of the Representatives from Tennessee upon this floor.

The resolution under consideration will give the State of Tennessee three hundred thousand acres of the Government lands. These will not be to any extent lands located within the State of Tennessee, but they will be taken from the great West. It is a grant, therefore, given by the nation to the State of Tennessee. It will create a college there, a great institution of learning erected by the beneficence of the nation. It is just and right that that institution so existing by virtue of a grant made by the nation shall not foster or encourage the enemies of the nation. I have, therefore, offered this amendment that no man who has been an officer, civil or military, under the so-called confederate government or under the rebel government of Tennessee shall hold office in the college as professor or tutor.

I urge this in no spirit of persecution, but it is just and right if we by our grant create an institution that our very grant shall not be turned into a means whereby the enemies of the country may teach their damnable heresies to the rising generation.

We have already seen that in the State of Virginia the great military chieftain of the rebellion (General Lee) has been appointed a professor in one of its colleges; and it is within the probabilities that the time may come in the State of Tennessee when the author of the Fort Pillow massacre might preside over the college created under the very grant we are now engaged in making. I therefore trust that the amendment I have offered may be added to the bill, so that if we make this grant and create this institution rebels shall not be its professors.

Mr. LE BLOND. I would like to ask the gentleman from Minnesota whether his amendment would not be an attempt on the part of Congress to regulate the management of the affairs of a college which is under State jurisdiction, and whether that would not be a usurpation on the part of Congress of a power that does not belong to the General Government.

Mr. DONNELLY. I would say, in answer to the gentleman, that if we make a grant we have full power to affix the conditions upon which it shall be held. If the conditions do not suit the State she may refuse the grant. I would call the attention of the House to the fact that the State of Maryland has but the other day, almost within sight of this Capitol, appointed a son of General Lee as one of the principal professors in one of its agricultural colleges; and we will be false to our duty as Representatives of the loyal people of the United States if we do not prevent such a contingency in the State of Tennessee.

Mr. BIDWELL. I now call for the vote.

Mr. ROGERS. I desire to move an amendment to the amendment.

The SPEAKER. That cannot be done, as the previous question is operating.

Mr. ROGERS. Then by what right does the gentleman from Minnesota offer his amendment?

The SPEAKER. If the gentleman from New Jersey had been observant of the proceedings of the House he would have known that the amendment was offered some time since, and before the previous question was seconded.

Mr. LE BLOND. Upon the adoption of the amendment I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 35, not voting 42; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ash-

ley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Culom, Darling, Dawes, Deuing, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburt, Jenckes, Julian, Kelley, Kelso, Ketcham, Kootz, Laffin, George V. Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shelbarger, Sloan, Spaulding, Starr, Stevens, Stilwell, Stokes, Francis Thomas, Trowbridge, Upson, Van Aernam, Bart Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—114.

NAYS—Messrs. Ancona, Bergen, Chanler, Cooper, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Edwin N. Hubbell, Humphrey, Johnson, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Neell, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—35.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos R. Ashley, Blow, Boyer, Campbell, Sidney Clarke, Culver, Davis, Dawson, Defrees, Delano, Farquhar, Hale, Henderson, Hogan, Asahel W. Hubbard, James R. Hubbell, Hunter, Ingersoll, Jones, Kasson, Rykendale, Latham, William Lawrence, Marston, McCullough, Newell, Phelps, Radford, Alexander H. Rice, Rousseau, Nathaniel G. Taylor, Thayer, John L. Thomas, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Whaley, Stephen F. Wilson, and Wright—42.

So the amendment was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BIDWELL. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. BIDWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866; in which the concurrence of the House was requested.

#### SMALL-ARMS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, upon which he called the previous question:

*Resolved*, That there be printed for the use of the House five hundred extra copies of the communication from the Secretary of War in answer to a resolution of this House in reference to small-arms.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SOLDIERS OF WAR OF 1812.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, upon which he called the previous question:

*Resolved*, That five thousand extra copies of the report of the Committee on Invalid Pensions on the bills granting pensions to the soldiers of the war of 1812 be printed for the use of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAYMENT OF PENSIONS.

Mr. PERHAM. I ask unanimous consent of the House to take from the Speaker's table



the amendments of the Senate to the amendments of the House to Senate bill No. 69, to provide for the payment of pensions.

No objection was made.

Mr. PERHAM. I move that the amendments of the Senate be non-concurred in, and that a committee of conference be requested upon the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. PERHAM moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

Mr. STEVENS. I call for the regular order.

The SPEAKER. The regular order is the consideration of House bill No. 543, for restoring to the States lately in insurrection their full political rights. Upon this bill, by unanimous order of the House, the gentleman from Pennsylvania [Mr. STEVENS] was to be regarded as entitled to the floor.

Mr. STEVENS. I do not propose at present to call the previous question, but will leave the bill open for discussion to-day. I now yield to the gentleman from New York, [Mr. RAYMOND.]

Mr. RAYMOND. Mr. Speaker, as the gentleman from Pennsylvania [Mr. STEVENS] has decided to leave this great and engrossing subject open for still further discussion, I will take advantage of his consent to present as briefly as possible some considerations upon the subject which I would be glad to bring to the attention of the House. And as I do not desire to trespass unduly upon the patience of the House, I shall feel under obligations to the Speaker if he will protect me from interruption, if there should be any disposition on the part of gentlemen to reply during the progress of my remarks to anything I may say. And as I do not desire to follow the example of the attorney who persisted in arguing his case after the jury had brought in a verdict, I will take occasion to say that in my judgment some aspects of this great question of reconstruction have been virtually settled, so far at least as to remove them from the arena of profitable discussion at this time. By various expressions of public sentiment, through the press, through this body, in legislative assemblies all over the land, and especially through the verdict rendered last fall at the polls, I think I am quite justified in saying that the people have themselves already decided several points of this great controversy. One of the points embraced in that decision I think is this: that they are not willing to accept as a basis of adjustment and restoration what has been put forward as the policy of the President of the United States. In other words, they are not willing that the States lately in insurrection shall resume their former portion of political power as members of this Union, and to give admission to their representatives in the two Houses of Congress without some provision for the future or without specific authority of law. The President had put this forward as his view of what was just and proper to be done in this case, providing only that the representatives they might send should be loyal men. I concurred in that opinion; and I say frankly that I am still of the opinion that if this had been done at an early stage of the controversy, promptly, cheerfully, generously by the party which ruled the destinies of this country at that time, it would have restored peace and healed to a great extent all the troubles of the body-politic. But because I believed and still believe that to have been the best policy then, I do not feel bound to maintain that it is the best policy now. A physician may prescribe a gargle for a sore throat; and if his prescription is thrown out of the window the sore throat may develop into an inflammation or into a raging and consuming fever; but he would be regarded as wanting in sound judgment and in common sense if for the sake of consistency he should feel bound to prescribe nothing but gargles during the whole progress

of the disease. I shall therefore dismiss from consideration as impracticable and out of the question this mode of settling the controversy which divides and distracts the nation. And in the next place, although they have not pronounced decisively upon any specific plan of adjustment, I think the people have decided more nearly than they have decided upon anything else that the constitutional amendment adopted by Congress at its last session and submitted to the several States for ratification affords, on the whole, the wisest and the most satisfactory basis of adjustment of which this question in its present attitude is susceptible. And finally, I think the people have decided that they would rather trust to Congress to devise some mode of settling this question, some mode of restoring those States which were lately in rebellion to the Union, than trust to the executive department of the Government. They regard it as a matter for the legislative power rather than for the President alone.

But in saying this I do not mean to imply that they have committed themselves in advance to anything and everything which Congress may see fit to do. While they have expressed a general preference for the constitutional amendment, and a general confidence in Congress rather than the Executive, I think they have trusted not so much to any particular plan of adjustment as to the presumed wisdom and patriotism and justice and good sense which the men whom they have deputed to act here as their Representatives will bring to the consideration and settlement of the question. They will therefore require that whatever we may do here shall be characterized by wisdom, by patriotism, and by that practical good sense which should mark everything we attempt for the public good; and if we are to throw aside the amendment as a basis of adjustment, as the very men who proposed and pressed it seem disposed now to do, they will require at our hands something much wiser, more effectual, and more practical in its place. The distinguished gentleman from Pennsylvania [Mr. STEVENS] has submitted a bill by which he proposes to settle the question now at issue before the country. That bill is before us for consideration, and it contains three leading cardinal principles. The first is that the States—I speak of the bill as it stands now after modification and amendment—that the State governments now existing in the South, in those States which had been previously in rebellion, are to be deprived of all legal authority; their acts are to be pronounced null and void; and it is proposed that in place of the governments which exist in those States to-day we shall, suspending the privilege of the writ of *habeas corpus*, extend martial law over all that territory.

In the next place the bill proposes that this Congress shall authorize the election of delegates to conventions in each of those States, first prescribing universal suffrage as the basis on which they shall be elected; that those conventions shall form constitutions, Congress prescribing certain principles and provisions which shall be incorporated into any constitution which those conventions may frame; these constitutions thus formed shall then be submitted to the people of those States for ratification, and if ratified, to be then brought here and submitted to the approval of Congress, which they must receive before the governments thus formed are to have validity and practical authority to enact laws for the government of those States. And in the third place, the bill provides that if the Legislatures of those States, after their constitutions shall have been thus formed, adopted, and approved, shall at any time disregard, abrogate, or annul any of the principles which the bill prescribes for adoption in those constitutions, then the State so acting shall forfeit its representation in Congress.

There is pending here, a substitute offered by the gentleman from Ohio [Mr. ASHLEY] to the bill of the gentleman from Pennsylvania, [Mr.

STEVENS,] which differs from it in only one respect; I mean in matter of general principle. That substitute declares that all the acts and laws of the existing State governments shall be null and void; but it provides for them no substitute whatever during the interim which must elapse before the provisions of the law we propose to enact for the formation of new governments shall have been carried into effect.

Now, sir, I take it we have to inquire, while we are examining the provisions of this bill, first, whether we have the power to pass it, and whether, if so, it is wise that we should pass it. What are these governments now existing in the southern States which we propose thus to supersede? They are governments having actual force and effect within the territory subject to their jurisdiction. They are *de facto* governments. They originated, as all gentlemen here know, by the act of the people of those States, under the lead and guidance, and, if you chose to say so, under the authority and direction of the President of the United States. It is proposed to annul these governments, partly because of their origin, because they did thus originate in the acts of the Executive, and partly because the governments thus established do not protect the rights, liberties, and property of their citizens as we think they ought to do.

Now, sir, I shall not enter upon the question whether the President had power to do what he did in inducing the southern States to form these governments, for the question has already been fully discussed. I discussed it myself at the last session and I do not wish to reopen it now. I thought then, and still believe, that the President did not transcend the authority with which he is clothed, in setting in motion the machinery of government in those States and in authorizing their people to enact laws for their own protection. I have no doubt that if Congress had been in session when the contingency arose it would have had equal authority in the premises, and that it might have authorized the people of those States to take steps for the reorganization of their governments. But as it was not in session, and as the necessity for government was pressing, the President deemed it within his legitimate authority to take such steps as the emergency required. He did not prescribe arbitrarily, it must be remembered, qualifications of suffrage in the formation of new governments; he merely fell back upon the laws in force on that subject, and recognized by the State government and by the national Government alike, before the rebellion began. And if it be urged that he prescribed conditions—that he required them to ratify the amendment abolishing slavery, to repudiate the rebel debt, and to nullify their ordinances of secession before he would recognize the governments thus established—it is fair also to remember that no one complains of these requirements; that the people themselves do not complain, and that those here who do object to his making those requirements concede that in themselves they were perfectly just and right.

They object only to the President's authority to make them. But if the requirements themselves were just, and if the people upon whom they were made do not object, certainly we may cure any defect on the score of origin by declaring them valid, as the gentleman from Pennsylvania [Mr. STEVENS] in the bill as reported proposed to do. We may have the power, strictly speaking we may possibly have the right, to abolish and destroy them. But I certainly do not deem it wise so to do solely on account of their origin, solely on account of an alleged lack of power on the part of the President to authorize the people to form and establish them. It is usual all over the world to recognize *de facto* governments and respect their authority without inquiring too closely into the rigid legality of their origin. And we should, in my judgment, adopt and act upon this rule, unless there is something in their character to forbid it. How is it here? Is it wise, would it under existing circumstances be conducive to the public peace and the pub-

lic welfare to sweep away these local governments which have now for nearly two years been discharging, more or less perfectly, the functions of government for the people of these southern States? I take it for granted that every one who hears me will concede that it is an absolute necessity that every community should have at all times an organized government of some kind for the enactment and enforcement of law. Any government is always better than no government. Despotism is always better than anarchy. The government of the King of Dahomey is better for the people of Dahomey than no government, no authority, no control whatever would be. Now, the substitute offered by the gentleman from Ohio [Mr. ASHLEY] proposes to abolish all the governments in these southern States, to declare all the laws they have enacted to be absolutely null and void, and to leave them for a certain time absolutely without government or law of any kind.

Mr. ASHLEY, of Ohio. The gentleman is mistaken.

The SPEAKER. Does the gentleman from New York yield?

Mr. RAYMOND. Certainly, for correction if I have made an erroneous statement.

Mr. ASHLEY, of Ohio. It is first to be in a provisional condition, and then the provisional government elected by the constitutional convention are to administer the State government until a constitutional government is recognized by Congress.

Mr. RAYMOND. If I understand it, the first section of the bill annuls absolutely all those governments now existing, and declares all the laws which they have enacted to be absolutely null and void. This takes effect as soon as the bill becomes a law, and subsequent sections provide that the conventions to be elected under this law may appoint provisional governors and commissioners, who shall administer the government until the constitution, to be framed, adopted, and ratified by Congress, shall take effect. But between the date of the passage of this act and the action of the conventions to be elected under it, the governments now existing are abolished and their laws nullified, and no provision whatever is made for any authority in their place. There is to be an interregnum extending from the date of this act to the appointment of provisional governors by the convention to be elected under it, and for that time the bill of the gentleman from Ohio makes absolutely no provision whatever.

But, as I was saying, it is an absolute necessity that every community should have at all times some government, some law, whatever its origin and whatever its character. The governments now existing in the South are in the actual daily discharge of governmental functions. They are making laws for the government and control of their people. They are providing for the punishment of crime, for the enforcement of contracts, for the transfer of property, for the regulation of civil relations, for the thousand transactions of common life. It is urged that these laws are not equal; that they are unjust, inadequate to the protection of the lives, liberties, and property of their people; that those of their people who have been true to the nation during the recent war, and especially those of the negro race, are not protected in their rights.

I admit there is ground for this complaint. I believe it to be true that crimes are of daily occurrence in many sections of the southern States which are shocking to humanity, and which call loudly for redress. And it is greatly to the discredit of these governments, it is well calculated to arouse against them the hostility of men who love justice and equal rights everywhere, that they tolerate such outrages and crimes within the territory subject to their jurisdiction. It is proposed by this bill that we shall suspend the *habeas corpus* and substitute martial law over all this territory instead of the State governments; in other words, that the authority and direct power of the nation shall

take the place of the governments which now exist in the South. I submit, in the first place, that this act will not remedy the evil; it will not give the security required, even if it should become a law. It must be remembered that the Federal Government already has full authority to interpose its power for the protection of the people whose lives and liberty are in jeopardy in all the region embraced in the rebellion. The Freedmen's Bureau bill and the civil rights bill passed at the last session, and which are now in force as laws, both authorize the direct interference of the Government of the United States for the protection of the civil rights of the people of all that territory against or in default of the local authorities and without distinction of race or color.

But it is said these laws are not sufficient because they depend for their execution upon the President of the United States, and he is opposed to the principle of those laws, and therefore is lax in their execution. Now without raising any question as to the matter of fact, I submit that martial law, if declared, is subject to exactly the same contingency. The President of the United States is Commander-in-Chief of the Army; if martial law should be declared, its execution devolves upon him, and if he will not execute these, what right have we to assume or presume that he will execute that? I do not see, therefore, that we should gain any additional security for those great interests which justly deserve our care by the enactment of martial law.

So much, sir, for the practical operation of this section of the bill if it should become a law. But behind all this arises in my mind this objection: that we have not the power under existing circumstances to declare martial law over that territory. The Constitution in the ninth section of the first article declares that—

"The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

The privilege of *habeas corpus* is not suspended in that section now. It is enjoyed by all the people of that territory. It was suspended during the war, but it has since been restored by direct proclamation of the Executive, authorized by law. If it is to be suspended now, therefore, it must be by an original exercise of power on our part, and if we are to be governed by the Constitution we must confine ourselves to the specific contingencies which alone, according to the Constitution of the United States allow its suspension. Those contingencies are, first, that there shall exist a case either of rebellion or invasion, and secondly, that in consequence of that rebellion or invasion the public safety shall require its suspension.

Now, there certainly is no invasion in those States, and I think there is no rebellion there, though upon that point different opinions are held, some maintaining that constructively at least and in contemplation of law the state of rebellion still exists. I will not stop to argue that point; but certainly there is no such rebellion existing there at the present moment as endangers the public safety, for that means something more than the safety and rights of individual members of the community; it means the public safety—the safety of the nation, of the whole public, or body politic and corporate. That certainly is not endangered. That certainly does not require that the privilege of this writ should be suspended. I do not see, therefore, how, if this provision of the Constitution is to control our action here, we can possibly find authority to suspend this writ and declare martial law over that territory, as this bill proposes to do. I think I run no risk in saying that it is absolutely certain that any such law enacted by us would be declared null and void by the Supreme Court of the United States upon the first case arising under it that should come before that tribunal.

I have thus examined the first provision of the bill as it now stands. As originally introduced by the honorable member from Pennsylvania, it proposed to give validity to the

existing governments, to sanction their laws, until they should be replaced by other governments, to be formed under our authority. That provision was, in my judgment, just and wise, far better adapted to the necessities of the case than the amendment offered by the gentleman from Ohio, [Mr. SPALDING,] which he accepted, which encounters, as I have endeavored to show, not only serious objections on the score of policy, but the direct and explicit prohibitions of the Constitution.

The bill provides in the next place for the organization of new governments in those States under authority of Congress. It prescribes the qualifications of suffrage in the election of delegates, and dictates certain provisions of law which must be embodied in the constitutions they may form before they can even be submitted to Congress for ratification. The learned member from Ohio, [Mr. BINGHAM,] in his very able argument submitted to the House a few days since, objected to this as a substantial denial of the right of petition to the people of those States—a right which belongs to every citizen within the limits or jurisdiction of the United States. If they are States within the Union, I think it also in direct conflict with the second section of the first article of the Constitution, which expressly gives to the States absolute and exclusive power to fix the qualifications of suffrage within their limits.

Whether they are States within the Union or not is a point I shall not argue now. I have given on previous occasions my reasons for believing that they are. But if they are, they can only be so under and by virtue of the Constitution, and I confess my inability to see why, in that case, they do not come under all the provisions of that instrument. Either they are States of the Union, thus clothed with such functions and duties as the Constitution confers upon States of the Union, or they are not States at all, but conquered provinces, subject solely and absolutely to the will of the national authority. One or the other of these positions must be true. I cannot, with all my disposition so to do, perceive the force of the argument by which the gentleman from Ohio [Mr. BINGHAM] sought to show that they are still States for some purposes but not for others, that they are States for Federal purposes but not for purposes of local government, that they may ratify amendments to the national Constitution, but cannot make laws for their own government. I cannot perceive any basis for such a distinction either in the language or the spirit of the Constitution. This bill treats them as conquered provinces. If they are, we have the right to deal with them as this bill proposes to do. But I have heretofore discussed this point so much at length that I will not again enter upon it at the present time. I have only to say that I have seen no reason to change my original opinion, nothing in any quarter to refute the doctrine laid down by a very learned and distinguished judge of the State of Massachusetts in the decision of a case that came before him: that the war for the suppression of the rebellion could not give the Government the rights of conquest, nor could it authorize us to divest a State of all political privileges and treat it as foreign territory acquired by arms.

The same considerations apply with still greater force to the third of the provisions of this bill, which provides that if at any time after readmission any of these States shall abrogate, alter, or change any of the provisions which this bill requires them to ingraft upon their constitutions, that State shall thereby and thereupon forfeit its right to representation in Congress. After admission they become States of the Union, and will be, beyond all doubt, upon a footing of perfect equality with all the other States. The national Government cannot have power, in my judgment, thus to inflict upon them terms and penalties which it cannot also inflict upon any and all of the other States of the Union. And with this statement of my views upon that point, as my time is too

limited for any argument of the question, I leave it.

For these reasons, sir, reasons of policy and of authority, I do not think we ought to pass this bill. I do not believe it would be at all effective in securing the objects at which we aim, or that it would conduce in the slightest degree to promote peace and secure equal rights among the people upon whom it is to take effect. And I cannot help believing that it contains provisions directly at war with specific and peremptory prohibitions of the Constitution. So much for that.

But, sir, there is a graver aspect to this question. I have proceeded thus far upon the assumption that in this whole matter of restoring the States lately in rebellion, as in the war against them, the Constitution is the supreme law. But the opinion is held by some—and acted upon, I venture to believe, by many who do not avow it, and who perhaps are not quite conscious that they are acting upon it—that the restrictions and prohibitions of the Constitution have no application to such a case as this. A learned and distinguished jurist of my own State, a gentleman who has filled the highest judicial offices in that State, as well as represented this Government at a foreign Court—I refer to Judge Conkling—has recently declared that this is no constitutional question at all; that it arises outside the Constitution, and that, to use his own language, we might as well refer to the Koran as the Constitution for the purpose of getting light upon it.

On the other hand, the Supreme Court of the United States, in a decision recently pronounced, has declared that the Constitution as interpreted by that court is and must be the supreme law alike for rulers and people under all circumstances and at all times, in peace and in war, and that none of its provisions can ever at any time be abrogated, transcended, or suspended during any of the great emergencies of Government. Now, sir, while I cannot assent to the doctrine of the distinguished judge whom I first quoted, while I think it incumbent upon us as individual citizens and as members of the Government to regard and respect the Constitution as the absolute rule of our action, I think that the opinion of the Supreme Court is liable to a construction somewhat stronger and more sweeping than the real facts of the case warrant. It seems to assert that the ultimate sovereignty of the nation rests in the Constitution; that there is nothing behind it; that it binds the people in their national and political character as well as in their relations as individual citizens, absolutely and at all times; and that no emergency of Government can permit or sanction any departure from its provisions or the exercise of any authority which it does not confer.

Now, for all practical purposes in the ordinary movements and operations of government this is well enough. It is well that high regard and reverence for the Constitution should thus be inculcated, and that all the action of all classes, of rulers and people, should proceed upon that basis. But as an absolute statement of the nature and residence of national sovereignty I cannot accept it. It seems to assert that the ultimate sovereignty of the nation rests in the Constitution; that there is nothing higher, nothing superior to it in authority. But there must be some power somewhere which gives that Constitution its authority. It certainly is not self-derived. We are bound to obey its injunctions, not simply because they are there, but because they come to us, through it, from some power which has the right to prescribe them; and that power, whatever it is and wherever it resides, must of necessity be higher than the Constitution itself.

Nor can it be maintained that all the authority of the Constitution was conferred, once for all, by the Convention which originally framed and the people who originally adopted it, and that it now simply represents their will and their authority. Sovereignty is something which abides with and is inseparable from that power

in which it exists. It cannot die nor can it be suspended. It is ever-living and ever-present, giving at all times the sanction of its authority to the organs and instruments of its will. The nation itself is that supreme, sovereign power in this country; not the nation as it existed in 1789, but the nation as it exists to-day. The Constitution exists for the nation, not the nation for the Constitution. It is the nation which gives authority to the Constitution, not the Constitution which gives authority to the nation. The nation is sovereign; the Government is the organ of such portion of its sovereignty as it sees fit to delegate; and the Constitution is the rule of conduct prescribed to the Government by the nation, and by which that authority is to be exercised. Of course, neither the Government nor the rule of its action can be superior in authority to the nation which prescribes them both. It is the nation, therefore, which is sovereign, and the people, either as a political unit or as existing under State organizations—I will not now inquire which—are the nation.

We may, I think, suppose a case in which the doctrine of the Supreme Court just cited, that neither rulers nor the people—meaning thereby the nation—can under any circumstances or in any emergencies exercise any power not conferred by the Constitution, would not be true. It was the nation which waged the war against the rebellion. Now, suppose that in the midst of the war the Supreme Court had decided that the war was unconstitutional, would the war have stopped? Would the people have abandoned the attempt to vindicate their sovereignty and to preserve their existence as a nation? Ought they to have done so? They might have chosen to do so; in the exercise of their sovereignty they might have had the right to surrender their national character and take instead of it the character of a league of sovereign, independent States; but they would also have had the right, in the exercise of the same sovereignty, to defend and maintain their existence as a nation by war.

Nor is it clear that political departments of the Government would have been overborne and bound by such a decision, for it is the general rule in all constitutional governments that the judicial department follows the political instead of leading or overruling it. This, moreover, is to be noted: the decisions of courts can only take place after the facts have occurred, after results have been attained. They cannot annul those results. The Supreme Court may condemn as unconstitutional the war which saved and established our existence as a nation, but it cannot reverse or annul that result. It may decide, as it is now deciding, that steps which the Government, acting as the organ and instrument of the national sovereignty, deemed essential to the success of the war, transcended the authority conferred upon it; but the steps were taken and cannot be taken back. Milligan was arrested, tried by military commission, and convicted of being engaged in a conspiracy to aid the rebellion. The Supreme Court now decides that this trial and conviction were illegal, but they took place nevertheless, and the conspiracy was thus arrested and the rebellion deprived of its aid.

Suppose that the court should now make a similar decision in regard to every measure taken by the Government to suppress the rebellion. Suppose it should decide that the proclamation first calling for troops, the successive drafts, the suspension of the writ of *habeas corpus*, were all unconstitutional. They have nevertheless done their work. They made the war successful, and that result cannot be changed, even if every single step by which it was reached should be pronounced in violation of the fundamental law. I have always believed, and do still believe, that the Government had the authority of the Constitution, express or implied, for all it did in waging war against the rebellion. But if the Supreme Court should decide otherwise, if it should hold that every act done to crush the rebellion was in direct

violation of the Constitution, the fact still remains that the rebellion was crushed; and no decisions, no judgments, no processes can revive and reinstate it in what the court may deem its violated constitutional rights. Without going further into what may be deemed too abstract a discussion for such an occasion, what I have said may show that emergencies may arise in which the rule laid down by the Supreme Court is not absolutely true, in which the sovereignty of the nation may transcend the authority of the Constitution without violating the law of the national life, in which, indeed, that law itself may demand such an appeal from the Constitution to the nation which created and maintains it.

Such action, I grant, is extraordinary, revolutionary, indeed, in a certain sense, and only to be vindicated by extraordinary emergencies. Yet it has been resorted to in more than one instance in our brief history already.

When the apprehensions of the first Napoleon that Louisiana would fall into the hands of England led him to instruct his minister here to sell it to the United States, it was the belief of all the leading statesmen of the day that the Constitution gave our Government no power thus to acquire foreign territory. And Jefferson, who was then President, did not hesitate to express the opinion that, without an amendment of the Constitution, we had no right to make the purchase. But there was no time to act upon amendments, and so pressing did he deem the necessity of the case that Jefferson himself made the purchase, and without hesitation gave effect to every step necessary to complete what he had pronounced an unconstitutional transaction. By common consent the act received the nation's sanction, and a construction was thus given to the Constitution which has never since been questioned. Suppose the Supreme Court had decided that purchase unconstitutional, would Louisiana have been given up? The Supreme Court declared the bill chartering a bank of the United States to be constitutional; but President Jackson, claiming the right to administer the Constitution as he understood it, overruled the Supreme Court and vetoed the bill as in violation of the fundamental law; and the nation sustained him in so doing. When President Tyler sent troops across the Rio Grande, and thus involved the United States in war with Mexico without the assent or action of Congress, so great an authority as Chancellor Kent declared that he had committed an unconstitutional act for which he deserved impeachment. Suppose the Supreme Court had decided that the war, because of its origin, was unconstitutional, would Texas and California and New Mexico, the fruits of the war, have been surrendered?

In all these cases the Supreme Court accepted the facts of history, the acts of the Government which had passed into and become parts of the national history, as the settled law, and the people sanctioned them as an exercise of the sovereignty of the nation, transcending the delegated authority of the Constitution, it is true, but justified by the emergency and sanctioned by the result. If the Supreme Court is wise now, it will thus accept as accomplished and irreversible facts not to be drawn in question the processes and results of our recent war.

The instances I have cited show that there is not only in theory but in actual practice a sovereignty higher than that of the written Constitution, and that whenever the emergency requires it that sovereignty will assert itself. Indeed, some of the ablest writers on constitutional law maintain that the real constitution of a nation is something wholly distinct from its written constitution; that it is nothing else than the judgment, the opinion, the will of the nation itself, and that the written constitution is simply an attempt to reduce this will, which is the real constitution, to a fixed and definite form for purposes of law and government. It is important, therefore, that the written constitution should be at all times as nearly as possible



the embodiment and expression of the national sentiment, the national will, and this principle is recognized by our Constitution in the provisions made for its own amendment. That written constitution in any country is the best which gives fullest and freest scope to the normal and regular development of the national will and character. "The general opinion of the governed," says Burke, "is the vehicle and organ of legislative omnipotence." In any country where there is life and activity, in this country distinguished above all others for the energy, variety, and incessant activity of its development, there must and will be constant changes in the temper, the necessities, the aspirations of the national mind; and those changes must enter into the structure of the Government, if that Government is to be the organ and instrument of the real sovereignty of the nation.

Any constitution that does not yield readily and easily to the development of the national life lacks an essential element of stability. It must aid, not retard national growth. It must not be unyielding; inflexible—rigidly imposing the restrictions of one era upon the movements, influences, and aspirations of another—or it will be overridden and broken by the growth which it seeks to confine. It is idle, and is every day becoming more and more idle, to rely implicitly upon the early fathers and founders of this nation as decisive authorities on the provisions to be embodied in our fundamental law. Not that we are wiser in the general principles of government and law than they were, but because we know by actual experience what they could not foresee, namely, the temper, the movements, experiences, perils and necessities of the times in which we live and for which we have to act. If we had lived in their day we might not have performed their duties and met their responsibilities as well as they did. If they were living now they might be wiser, more patriotic, less under the sway of passion and prejudice, and better able to do our work than we are. But all this is wide of the mark. They lived and labored in their day, and we live and must labor in ours.

The years that intervene between 1789 and 1867 measure very inadequately the distance between the political and social necessities of that day and this. And while I have been and still am opposed to rash, hasty, and immature attempts to amend the Constitution, while we should be on our guard against a temptation which will always beset us, namely, to ingraft the prejudices, impulses, and even the resentments of the hour upon the fundamental law, it is impossible to doubt that such changes as must always be wrought in the necessities, the convictions, the tone, and the will of the nation by great convulsions, and such as have, beyond all question, been wrought by our recent civil war, must make their mark upon the Constitution, and work corresponding changes in the scope and distribution of the political power which it confers. And history shows that if this is not done by amending the Constitution in accordance with its own provisions, it will be done by an irregular action of the national will, by action not contemplated by the rule prescribed for the conduct of the Government, and therefore revolutionary in its nature, but not the less certain to occur or less effective in its results on that account.

Mr. TAYLOR, of Tennessee. Will the gentleman from New York allow me to ask him a question?

Mr. RAYMOND. I prefer not to yield now for any question. If I stop for that purpose my whole time may be consumed. When I shall have finished, I will, if it be the pleasure of the House, submit most cheerfully to any cross-examination to which any member may desire to subject me.

Now, sir, the provisions for amendment in our Constitution are very rigid; and it has been made a question by many writers on constitutional law whether they are not too rigid, for a nation so constant and so rapid in its growth as ours, and whether on that account

the Constitution is not the more liable to be overridden and its authority transcended with the assent of the nation itself.

Why, sir, bear in mind that of the thirty-six States constituting this Union ten States may defeat any amendment that may be proposed. Now, you can find ten States that together have less than two million people, and in every one of those ten States an amendment proposed by Congress may be voted down by a popular majority of less than a thousand, while in the other twenty-six States the vote may be unanimous in favor of the same amendment. It is not likely that this will occur, but it is among the possibilities of the case; so that less than two million people—nay, less than ten thousand people—in ten States may defeat an amendment demanded by the thirty millions of the remaining States. If we hold with many that the loyal States alone may amend the Constitution, we can find seven States out of the twenty-six, with less than a million of population, who can absolutely defeat any amendment that may be proposed and advocated by the other twenty-five millions.

Considering these possibilities; considering the extreme difficulty at all times of obtaining the assent of three fourths of all the States to amendments concerning which public sentiment is greatly divided, I think there is force in the objection that the provisions of our Constitution for its own amendment are somewhat too rigid. The real Constitution, the governing sentiment of the country, has not full and fair play.

But without dwelling longer upon these abstract points, I proceed to say that the war has developed certain principles and sentiments in the national mind which ought to find a place in the structure and Constitution of the Government. I believe the nation demands that they shall in some way be made the basis upon which the Union is to be fully restored and the practical operations of the Government resumed. The settled sentiment of the nation, in my judgment, demands guarantees against future attempts at secession, guarantees against an inequality of rights and franchises based upon arbitrary distinctions of race or color, guarantees for the inviolability of the national debt and the sanctity of the public credit. I have no doubt at all that the will and purpose of this nation to-day is, and has been ever since the war closed, that there shall be in the Constitution some provision more effective than any yet existing for an equality of rights of all men in this country, and for their protection in the enjoyment of them; for an absolute and immediate equality of civil rights, and for an equality of political rights just as soon as the other and more pressing necessities of the nation will permit.

I think there should be embodied in the Constitution a provision for the absolute equality in civil rights of all the inhabitants of the land; and I believe that there will be soon, if there is not now, from the people, not of one section, not of one class of States, but of all sections and of all States, an equally strong and equally resistless demand for a corresponding equality of political rights.

I think in the next place that the nation as a nation demands an absolute guarantee against future attempts at secession. The people intend that this effort at secession and revolution shall not be repeated. They do not intend to go through again what they have already gone through; nor do they intend that the suffering and the sacrifices they have already experienced shall be without their due effect upon the fundamental law of the nation.

It is not a passing caprice, but the settled judgment of the nation, that these guarantees are essential to the development of the national power and the protection of the public liberties. It is a condition which is much more likely to grow stronger than to grow weaker, for it is founded in justice and consults the public good. If these guarantees were once imbedded in the written Constitution, as the principles and sentiments which demand them

are already imbedded in the unwritten but real Constitution of the nation, and the Government were then restored to full, regular activity in all its functions, we should have the highest promise of rapid and peaceful national growth and prosperity for at least another generation, which, as Jefferson held, was quite as long as any Constitution ought to last without revision.

Now, sir, let us see what provision we have attempted to make for meeting this strong and just demand of the national will. We have first the constitutional amendment adopted by Congress at its last session and submitted to the States for their ratification. And now we have this bill intended to supply what that amendment lacked.

Now, the constitutional amendment meets the demand of which I have spoken partially, but only to a certain extent. It does provide for an equality of civil rights. It holds out an inducement to the people of the southern States for the extension of political rights and the elective franchise to the colored race, by increasing their representative power in the national councils in proportion as they shall thus extend the suffrage. Whether this goes far enough or not is a disputed question. Congress at the last session thought it was as far as we could wisely and safely go at present, and I think the people concur in that opinion. And the amendment guarantees the sacredness of the public debt, and clothes Congress with such an enlargement of power as these new provisions may require.

All these provisions are just and wise, and thoroughly in harmony with the sentiment of the nation. But these are all which the amendment contains which are in the nature of a guarantee at all. There is a partial and temporary diminution of political power imposed upon the South, which is just and right, but wholly ineffective as a guarantee; and disabilities are imposed upon classes of the southern people somewhat more sweeping than the public safety requires, and calculated to do more harm by exasperating the South than it does good by securing the peace and security of the nation. The amendment should be maintained, though I believe slight changes might be made in the section to which I have thus referred, which, without in the least degree impairing its value to the nation, would insure its ultimate acceptance by the southern States and thus render it of practical value in the restoration of the Union.

But on the subject of future attempts at secession the proposed amendment contains nothing which can, except by the remotest inference, be construed into a guarantee. The learned and ingenious member from Ohio [Mr. BINGHAM] contends, I am aware, that such a guarantee is wrapped up in the first section of the amendment, that which relates to an equality of civil rights. But I confess my inability to perceive it very clearly, and I am quite sure the public sentiment would be better satisfied with one more distinct and explicit in its terms. There is a difference of opinion as to whether the States did, under the Constitution as it now stands, by their attempted secession, actually forfeit their representation in Congress and their right to a share in the political power of the nation.

But there is no difference whatever in the opinion that, however this may have been in the past, it shall not be left open to doubt in the future. I believe every State of the Union—those which were loyal and those which were not—will now agree upon an amendment to the Constitution providing that whenever hereafter any State shall attempt to secede, or shall enter into any compact or agreement with any other State to secede from the Union, and shall sustain such attempt or agreement by force of arms, that State shall thereby and thenceforth forfeit all right to participate in the national Government by being represented in Congress or in the Electoral College until readmitted thereto by law. Such a provision, imbedded in the fundamental law, ingrafted upon the

Constitution, would leave no shadow of doubt upon this subject hereafter, and would stand as a perpetual guarantee against secession through all time to come.

By the amendment already adopted secession is not forbidden, nor are officers of the Government of the United States even required to swear paramount allegiance to the national Government. By the amendment I have suggested secession, or attempts at secession, are not only forbidden but are forbidden under a distinct and formidable penalty. I think some such amendment should be grafted on the Constitution, and I deem it the duty of Congress to present it, in addition to the one already pending, to the States for adoption.

As for this bill, sir, I need scarcely say that it contains nothing whatever which can possibly be regarded as a guarantee. It is simply a law, a law which the Supreme Court will unquestionably annul, and which any coming Congress may repeal. It has no single element of stability, nothing which can guaranty anything to anybody beyond the day which witnesses its enactment. In my judgment the nation demands something more stable, more definite, more fundamental, more radical, something which reaches the very root of secession and plucks it up more thoroughly than anything contained either in this bill or in the constitutional amendment which has been proposed by Congress.

It will be objected, especially by gentlemen on the other side of the House, that these acts and amendments tend to a greater centralization and consolidation of power in the Government than is contemplated by the Constitution as it is. I cannot deny that. I concede that it does. But unless I am mistaken in my observation of the current of public sentiment, the war through which we have just passed has developed in the nation a feeling favorable to some further extension of the power of the General Government, a feeling that in some respects, those which the war has brought into special prominence, some enlargement of the national authority is desirable and necessary.

It cannot have escaped observation that this tendency to consolidation of Governments is going on all over the world. The sentiment is not peculiar to us. What we see going on in Europe every day shows that the tendency is toward centralization—the accumulation of national power. In Italy, where only a few years ago the tendency was toward a confederacy of separate States, it is now toward consolidation. We all see what has taken place in Germany within a year or two, where the whole people, obeying the same tendency, have followed the lead of their able and audacious statesman and consolidated that whole country into one powerful Government under the lead of Prussia. In the British North American Provinces a few years ago the tendency was toward separation—maintaining the rights and authority of each of the separate Provinces. Then came a brief interval in which annexation to the United States found favor. Now, the general tendency is toward consolidation in the hands of one general Government which shall wield the power of them all. Now, sir, we, under the ordinary operation of things, would not have been free from this same tendency. I think there has been from the day the Constitution was framed until the present time among a large portion of the people of this country a conviction that there ought to be more central authority; and although the doctrine of State rights received great development immediately after the formation of our Government, and acquired further force from the existence of slavery and the struggle of that institution to preserve itself, I think there has always been in the nation a desire for somewhat more of centralization and consolidation in the national authority. That central authority I admit should be kept within limits and watched with jealous care; for I agree thoroughly with the gentleman from Illinois [Mr. BAKER] when he declared the other day that he would rather trust

the States with the defense of personal liberty than leave it in the hands of Congress.

But it is not wholly a question of personal liberty. The people do really look to the States for the preservation of personal liberty, but it is also more or less in the public mind a question of power, of grandeur, of consideration among other nations. Every man would rather belong to a great, powerful, and glorious nation than to a small State which can only wield a limited sovereign authority. The war has strengthened this feeling of national pride, this preference for national over State distinction; and while I admit the force of the objection and the necessity of watching carefully and keeping within proper bounds the development of this feeling, I think that some extension of national power must be expected.

But I must leave this line of remark and return to the subject more directly under discussion. The bill before the House, it seems to me, will be followed by certain practical consequences to which we should not shut our eyes. Its first effect will be to implant in each southern State a rival government to that which now exists. There will be two governments contending for ascendancy, one organized on the principles of those which exist there now—the States controlling the franchise—the other organized under the provisions of this bill, and resting upon universal suffrage dictated by Congress as its basis. It is impossible that they should not come into collision, first a collision of authority, then a collision of arms; and under the pretense of securing their peace and the rights of all we shall have given the southern States a fierce and bloody civil war. You will say that the power of the nation shall be exercised to sustain the governments which will be formed under our authority.

But who wields the force of the nation? Not Congress. We cannot direct the movements of the Army. That is done by the President of the United States, and you can scarcely venture to hope that, with his opinions, the new governments we propose to establish would be sustained with much vigor or effect. The practical effect of such a step as we are asked to take would be quite the reverse of the results we profess to seek. The honorable member from Pennsylvania [Mr. SCOTFIELD] said the other day that however our opinions might differ we all sought the same grand object—the peace, order, and prosperity of our common country; we all agreed that we could not afford to have the South become to this nation what Ireland has been to England and Hungary to Austria and Poland to Russia—a discontented, decaying, rebellious section of the common empire. I ask gentlemen to examine this bill in the light of that opinion. Is there anything in it which tends to promote peace in the southern States, where it is to take effect? Will it give any better security for the rights of any portion of their inhabitants? Is it not certain to stir up strife, to plant new seeds of discontent and of civil war, to array class against class and race against race in every State to be affected by its provisions?

There can be but one answer to these inquiries. No man can be so blind as to doubt that these will be its sure and its only results. I say nothing of its effect upon the general prosperity of the whole country. Whatever promotes discord and strife in the southern States postpones restoration, destroys commerce, repels capital, deranges the whole system of industry by which alone the very men who are the objects of our special care can live, diminishes the ability of those States to pay taxes and contribute their share to the common burdens, and in every way does most serious and lasting injury to all the interests of our common country. It seems to me quite clear that the bill can effect no good purpose whatever, either to the nation, to the southern States, to the colored race, or the men who have stood by the Union during the recent war. I cannot help believing that they will all be injured, seriously and fatally, by an attempt to carry

its provisions into effect. The bill cannot possibly produce good results in any portion of the country. It cannot meet the national demand or satisfy the national expectations. Its advocacy may meet certain party exigencies and personal aspirations—I use the expression in no offensive sense—certain desires of individuals to carry out theories and try experiments of government, but beyond this I see no good purpose which it can possibly serve.

If it were possible to modify in certain unimportant and exasperating details, and without in the least impairing its real effectiveness and practical utility, that clause of the constitutional amendment already adopted which imposes disabilities upon certain classes of persons engaged in the rebellion; and if then, such an additional amendment as I have suggested, forbidding under penalty of forfeiture of all national representation during the pleasure of Congress, any attempt hereafter on the part of any State to secede; and if it were distinctly stated that upon the adoption of these amendments the States should be readmitted to representation, I believe all the amendments would be adopted promptly and cheerfully by three fourths of all the States, and that the Union could be restored upon that firm and enduring basis to more than its ancient peace, prosperity, and renown.

This is my belief. Others may not share it. They may think that none of these amendments can be adopted by three fourths of all the States. Very well; grant it. Those gentlemen who say this are not without a theory fully adequate to meet it; why not act upon that? They maintain that the actual sovereignty of the nation rests with those States which never renounced their share of it, and that three fourths of those States are as competent to ratify constitutional amendments as their representatives are to enact laws. My learned friend from Ohio [Mr. BINGHAM] holds this opinion and sustains it with his accustomed ability and eloquence. The argument in its support is certainly not without force, and the theory is held by some very able writers on constitutional law. But why do not those on this floor who hold it act upon it?

The member from Pennsylvania [Mr. SCOTFIELD] the other day sought to hold the Secretary of State responsible for dereliction of duty in this respect; and denounced him in what seemed to me very unbecoming terms, and with utterly undeserved severity, for failure in this regard. He did not deem it unworthy of himself or in violation of his self-respect to speak of the Secretary of State—venerable not more for age than for the signal services to his country and the cause of freedom everywhere, by which his long and laborious life, devoted wholly from early manhood to the public service, has been made illustrious—as a “perfidious old man;” perfidious, the gentleman says, in not having proclaimed, as required by law, the adoption of the constitutional amendment, for which three fourths of the loyal States have cast their votes. I cannot err in saying that the gentleman from Pennsylvania knew that there is no such law. The law requires the Secretary of State to certify the adoption of amendments when ratified by three fourths of all the States. He acts under that law. If Congress desires him to act upon another theory why not enact another law? If Congress believes that to be the true theory of the Constitution why not put it upon the statute-book?

And I may ask the same question in regard to action upon the whole subject of reconstruction. Why does not Congress—why does not that party which has an overwhelming majority in both branches—a majority large enough to render the veto a barren scepter in the hands of the Executive, do something that shall be final and effective? We hear much of the congressional policy, the policy of the dominant party, which the people are said to have indorsed, and which some of us are somewhat vehemently denounced for not supporting. But what is it, and why is it not enacted? Last year we were told it was the constitutional amend-

ment; this year the same men who made that their basis then discard it now. Last year that man was untrue to his party obligations who did not stand by it; this year the man is declared to be faithless to his party who does. This is not meeting the expectations of the nation. Professions, declamations, menaces are not what the people demand, and they may well say to Congress, as the impatient Hamlet said to the murderers in the mimic play—

"Leave thy damnable faces, and begin."

If the majority has a policy of reconstruction let it bring that policy forward and take the responsibility of acting upon it. I am quite ready to vote for it if it commends itself to my judgment, and I am quite as ready to be outvoted and submit if it does not. But the country demands action of some kind upon this great subject, concerning which Congress has been talking, and doing nothing but talk, now for two successive sessions.

Mr. Speaker, I will not enter upon any of the other branches of this great subject which invite attention. I have very nearly exhausted my time, and I fear more than exhausted the patience, though not the indulgence, of the House. The political state of the country seems to me to become more and more complicated, unsatisfactory, and threatening every day that we sit here without action. Let us adopt some measures of reconstruction or restoration at the earliest possible moment. If we cannot get all we want let us take what we can get. The condition of the country requires decisive action. The feeling of the people demands it. I am not alarmed at the prospect of strife and collision, greatly as I should deprecate it as an injury to the country and a serious check on its prosperity. But I have too much faith in the inherent and irrepressible energy of the American people, in their self-respect and self-command, and in their devotion to their country and its cherished institutions, to allow me to believe that this nation is doomed to perish under any strife that can be waged upon its soil.

Every nation has had to earn its manhood, to fortify its frame, to strengthen its muscle by just such trials as we have encountered, but the end of which, it seems, we have not yet reached. Whatever further trials may await us I believe the nation will emerge from them strong, bold, and free, preserving its liberties as a Republic and enforcing its respect upon all the nations of the earth by its strength, its liberty, and its adherence to substantial justice and right in its dealings with its own people as with all the world.

Mr. SHELLABARGER. I would like to make the first thing I say on this occasion the most agreeable thing which I shall say; and with that design I shall say first that I am not about to make an hour's speech. [Laughter.]

Mr. Speaker, the man who is now the acting President of the United States once said to me, in speaking of a bill like the one now before the House, that it was a measure to dissolve the Union. That proposition has been so often repeated by members upon the other side of this Hall during the debates upon the subject now under consideration that I have thought the House would probably pardon me if I should attempt to condense into a few sentences a suggestion or two in regard to that declaration, repeated so often and worn out so thoroughly as it is; and with the purpose of making the shortest statement that I can, of condensing it into as few sentences as I can, I trust the House will pardon me for reading part of what I have to say about it. I say it now, not because it is either new or important—important I mean as presenting anything novel for the consideration of the House—I present it only because the declaration has been repeated again and again with apparent earnestness by gentlemen on the opposite side of this Hall and as being worthy the attention of gentlemen on this side.

Every argument and every view and every method of presentation and statement which

ever has been or which ever can be devised to enforce this doctrine, to wit, that the nation has no power to guaranty to these revolted districts loyal republican governments, condense themselves into but two. One of these methods runs thus: that as all loyal men confess that by no secession, rebellion, or other possible or conceivable act of its people can any State, or the people thereof, withdraw from the Union, therefore these rebel States are in the Union. If in the Union then, as there can be no State in the Union which is not entitled to two Senators and at least one Representative, therefore these revolted States are entitled to such Senators and Representatives and to all the other powers and representations of States, and any legislation denying this is usurpation and unconstitutional. Now, it is absolutely self-evident that if this view establishes anything, it establishes this also, namely: that during the entire war these rebel States were entitled to elect our rulers, because if you admit that during the war these States and their people ceased to have such powers to elect Senators, Representatives, and Presidents, then you admit that it is possible for a State and people to do that which in law either forfeits or suspends their power to elect the nation's rulers, and the whole argument so far as based on this point is abandoned. Now, notice here that they who make this argument deny that individuals who go into rebellion can decitizenize themselves so as that the United States may, as to any individual, accept his renunciation of any power appertaining to citizenship, and declare him to have ceased to have the powers of one of the people, an elector of a State. Note carefully, also, that these same persons all maintain that it is wrong, and most of them that it is illegal, to try and punish as traitors those who waged this rebellion, and in pursuance of this doctrine their Representatives vote nearly solid against punishing as a traitor Davis, the head of the rebellion. Now, this it is averred is the constitutional law of the Republic.

Mr. Speaker, may I borrow from another (Mr. Greeley) a method of illustrating this kind of constitutional law?

Whatever is a principle of our Constitution is capable of being written out into explicit and affirmative requirements of the Constitution. Let us write the above constitutional law out into language, not unjust or tortured, but fairly stating what this doctrine affirms. It reads thus when written out:

Article nine, section one. Whenever hereafter a causeless rebellion shall arise, and war be waged against the United States, so great and bloody that the rebellion shall in fact abolish and overthrow all the constitutions and laws of eleven States of this Union which recognize the supreme authority of such Union, and shall remove from office all officers who have taken an oath to support the Constitution of the United States, and shall enact and enforce in the place of such constitutions and laws only such as recognized the supreme authority of usurped and rebel governments, and in the place of such loyal officers shall put such legislators and officers alone as shall swear to support such rebellion, and shall kill, imprison, or banish all such persons in such eleven States as will not aid in the said war to destroy this Union, and shall continue to wage such war for four years, and therein shall kill three hundred thousand of the loyal people, and, by starving and other practices of barbarians, shall murder sixty thousand more, and shall inflict upon the nation a debt of \$4,000,000,000, and shall lay waste and desolate the entire land, and shall not cease such war until totally overthrown in overwhelming and crushing defeat, then, and in all such cases, the people so actually engaged in such rebellion, war, starvings, poisonings, and other barbarous practices for the overthrow of the Government as aforesaid, shall not be deemed to have done any act forfeiting or suspending any power or privilege of a citizen of the United States, or of an elector in any State, not be deemed to have put it in

the power of the United States to declare forfeited or even suspended any power of such persons to elect the rulers of the Republic; but, on the contrary, all such people, while so engaged, and the States, as bodies politic, which they compose, shall, during all said four years of war, be deemed and held to be true, loyal, and republican people and States of this Union; and as such shall, despite the prohibition of the United States, be entitled to elect one third of the Senators, Representatives, and presidential electors of the United States, and shall thereby be enabled in the Senate and House to defeat any act necessary to the existence of the Government of the United States, and which requires the assent of two thirds of such Houses or of either House. And moreover, it shall be lawful for those who originate, lead in, and execute such war, rebellion, and murders, at all times to be elected to the offices of President, Vice President, Senators, and Representatives of the United States. And neither by test oaths or otherwise shall it be lawful to exclude such leaders while engaged in such rebellion or afterward from being elected to or assuming such offices.

Mr. Speaker, the man who affirms that this is not a substantially just affirmation in the terms of express law, of the exact effect of the doctrine that the people of a State can do no act which deprives even temporarily such people and their States of the power to elect our rulers is either a false man or an imbecile; and with him I hold no debate. And he who, seeing the consequences of such a doctrine thus fairly written out into the terms of law, does not turn away from them with loathing and utter disgust is worse than either false or imbecile. He is a traitor! And here I leave that.

Mr. Speaker, that second and only other method to which I have alluded, of enforcing the position that the United States have no power to assume the organization of loyal republican governments in these revolted States can be accurately stated thus: it says that, admitting that during the force and usurpations of the war of rebellion, the rebels and their States ceased to have the power to elect our rulers, yet the rebellion being crushed, the violent overthrow of the old constitution and laws of these States ended, and the people having submitted after crushing defeat to the authority they failed to overthrow, then and thereupon these old State governments and such new ones as those so defeated may choose to form become at once republican and loyal States, and the United States have no control over the matter, either as to who shall be electors and take part in reviving these States, or as to when and upon what terms these States and their people shall resume the high power of States governing the Union!

Now, Mr. Speaker, if this be indeed the state of our constitutional law, then this too may be written out fully into the forms of express law. So written out in all its leading requirements and consequences, it reads as follows:

Article nine, section two. Whenever hereafter such a rebellion against this Union as is described in the first section of this article shall arise and be overthrown by the United States, then and in all such cases they who engaged in such rebellion, war, murders, starvings, poisonings, and other practices of barbarians, to the end that they might destroy the Government of the United States, shall, immediately upon their having their arms wrested from them, and while yet prisoners of war, have the right both as individuals and as the people and electors of their States to elect, and also to become the President, the Vice President, Senators, and Representatives of the United States. And such traitors shall, moreover, have the power to so frame their State constitution and laws that none shall be entitled to vote for the offices aforesaid except those who engaged in said rebellion; and the said traitors and the States which they compose shall be entitled thus to at once assume said control of



the Government of the United States, although in fact none of them shall have either felt or professed any regret for such treason, and although they may remain as traitorous as ever toward the Government of the United States, and may in fact assume such powers for the overthrow of the Government of the United States, and this although those so taking said offices for traitorous purposes may compose a majority of both Houses of Congress. And it shall be unconstitutional and illegal for the United States, by joint committee of Congress or otherwise, to even inquire into the matter of the return to loyalty or into the other acts or purposes of the traitors aforesaid, or into the republican character or purposes of the governments of their said States. But, on the contrary, such rebels, and if they so order they alone, shall be, immediately upon their defeat as aforesaid, and while yet prisoners of war, entitled to assume and take control of the Government of the United States without inquiry, conditions, let, hindrance, or delay. And it shall, moreover, be unlawful to exclude such traitors from any of said offices either by requiring test oaths or otherwise, except only that each House of Congress may judge of the election and qualification of its own members, and expel if two thirds so order.

Now, Mr. Speaker, in this section I do not caricature or exaggerate, but on the contrary I far understate the appalling results of this position, which I consider a position which teaches that, in defiance of the sovereignty of this victor nation, and in the very teeth of its prohibitions, its rebel prisoners of war, at the very instant of their defeat, have the right—ay, sir, the right—as electors and rulers of sovereign States, to resume the control of their conqueror; and the right to vote out that awful life of the nation which their five hundred thousand murders done did not extinguish, but augmented into mightier being.

No, sir; no. This is not the law of your nation's existence; and your injured country—what one ever so wronged before?—has the right and power in these revolted districts to see to it that there shall be returned and guaranteed to them governments right loyal and right republican, the United States being judges.

Now, I have said all that I propose to say upon the general question of the power of Congress to pass the bill now before the House, or any other bill which shall provide for the organization of loyal republican governments in the revolted States; and to provide also for the government of the people of those States provisionally until such loyal State governments can be organized therein.

Mr. Speaker, I wish to make a suggestion about the sixth section of this bill, which declares rebellion to have wrought a forfeiture of two privileges of citizenship, to wit: the right to vote and hold office.

Some gentlemen here of learning see in that section a declaration that Congress can vote the Territories and people, loyal and disloyal, of our Union out of the national jurisdiction and into foreign Governments, and can attach new and unknown penalties to past disloyalty by mere act of law without conviction.

Sir, this seems to me a most strange and obvious error, and arises out of forgetting that all the rights and obligations of citizenship arise, not at all out of any criminal enactments, but out of that contract and bond which connects the citizen with his country, and which binds both to certain correlative duties. This mistake comes from forgetting what is self-evident without being stated at all, but which is stated by Vattel in these words:

"If the body of society or he who represents it [the Government] absolutely fail to discharge their obligations toward the citizen, the latter may withdraw himself; for, if one of the contracting parties does not observe his engagements, the other is no longer bound to fulfill his, as the contract is reciprocal between society and its members. It is on the same principle also that society may expel a member who violates its laws."

This right of Governments to withhold from them who discard all the obligations pertaining

to their citizenship the powers and rights which come alone from performing these obligations is one which, by necessity, attaches to and inheres in the very nature and structure of all civil society, and has been acted upon and enforced as a self-evident right of all government in every stable Government that has existed since the world began. This identical principle was asserted at the origin of your Government in the legislation of every one of the States of the confederation; was repeated and reenacted by three, at least, of the first Congresses under the Constitution, and has been virtually reenacted by being kept in force by every subsequent Congress which ever met under the Constitution.

But, sir, I am not about to enter upon an argument which I submitted to this House upon a former day; and only allude to it now to submit to the House a single suggestion about it. It is this which is submitted as an illustration and a proof:

There is a child before you. He moves about in the simplicity of his young nature, unconscious of the dignity which is upon him. He goes under your flag to another country. There another Government injures his life, his property, or even a hair of his head. For that injury, sir, what ought to happen? Nay, sir, by the very law of your nation's life and honor what must happen? Now, nothing has occurred except that a foreign Government has put its hand in insult or injury upon a little boy, and he upon the other side of the globe, where midnight is when we have high noon. But then the boy was our country's and was under its flag. When the tidings come to us that that child was hurt, if needs be for his redress every sword in the land and every gun, every arm in the land and every heart, every drop of blood in the land and every dollar of money pass eagerly under requisition to the work of that child's redress; and for that redress your armies and navies start off in a procession which girdles the globe with the light of your banners.

And, sir, why all this? It is because that child bore with him what thank God and the armies of America, is to-day the highest of earthly dignities; higher than that which made the person of him of Tarsus sacred in the presence of a Hebrew mob. The boy was an American citizen.

But, Mr. Speaker, others are in foreign lands from our country; Mason, Slidell, Breckinridge are abroad. Should one of these be hurt as the boy was, who in this House will arise and say that his avenging belongs, by any law of the Constitution or of honor, law of men or of God, to his outraged country?

I will yield to any gentleman on the other side who will rise in his place and say that this Government should resent any insult or injury to such men. [After a pause.] There is no response; no voice in all the loyal section of the country will be heard to assert it. I therefore assume that their avenging belongs not to my country. Now, why not? Mason once did have the right to demand your protection, and he is unconvicted to-day. Why has he not the right to make the demand now? Why did your Government refuse to consider Thresher, unconvicted of any offense against your laws, as not entitled to the rights of an American citizen? Why did that man, (Mr. Webster,) who then administered your Department of State, and who is to stand forever in your country's history unmatched and solitary as the master of your constitutional and your public law, refuse to accord the protection of this Government to one who engaged in the Lopez expedition but who was unconvicted of any crime? Sir, in the light of history, of law, and of reason, there can be but one answer; that along with the repudiation of the obligations of citizenship the right to claim its privileges perishes in so far as the Government may choose to forfeit them. And it is upon this principle that we may rightly enact this section into law.

Now, I shall say nothing more about this

sixth section than I have already said. My own objection to it is, that it fails to assert the right to life which my Government has; it is poor and impoverished in the extent to which it goes. I say here, in the name of the loyal people of this country, South and North, that if we fail to put its stamp of detestation upon the treason of these men, by prohibiting them from any rule and authority in that country, in so far as that prohibition shall be found by the United States to be requisite to retain the governments of the States and of the nation in truly loyal hands, we will stab to the heart that Government which we on all sides of the Hall love so well.

One illustrious in another age said what has passed into the proverbs of a foreign tongue. *Dulce et decorum est pro patria mori*. A distinguished Senator translated that to read, "It is sweet and decent to die for one's country." But, sir, let me once for all say now—perhaps the last time that I shall ever speak upon the subject in the American House of Representatives—that if my Government shall, in any policies of reconstruction that may be adopted, abandon to their fate the men of the South who stood by their country when their country so much needed friends there; the men who proved their love of country when to prove it meant to die; and who proved it by receiving upon their own and their wives' and children's defenseless heads the storm of a huge and merciless treason, and shall, now in the day of the nation's triumph, consign them and their little ones, and the power of their States, to the dominion of those who made the rebellion, and whose almost tenderest mercies and best loyalty the nation, appalled with horror, has just read in the fire and blood of Memphis and New Orleans massacres, and shall refuse to withhold from these authors and architects of our ruin such powers as the southern patriot's and the nation's safety demand to be withheld, then will indeed the day have come when for our country it will have ceased to be even decent to die, and when our country will itself be dead.

Mr. Speaker, I return to the House my thanks for the singular attention and kindness with which I have been listened to, and here quit the theme.

Mr. ROSS obtained the floor.

Mr. STEVENS. If the gentleman from Illinois [Mr. Ross] will yield, I desire to move that the House resolve itself into the Committee of the Whole on the state of the Union. The gentleman from Vermont [Mr. MORRILL] desires to deliver a speech which has been postponed a long time by the discussion on this bill.

Mr. ROSS. I yield for that purpose.

Mr. STEVENS. Some gentlemen have asked me whether I propose to call the previous question on this bill to-morrow. In answer to that, I may say that while I do not regret the length of time which has been occupied by this debate, especially after the noble speech to which we have just listened, yet I see such diversity of opinion on this side of the House upon any question of reconstruction that if I do not change my mind I shall to-morrow relieve the House from any question upon the merits of this bill by moving to lay it on the table.

#### THE NORFOLK RIOT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of December 10, 1866, a report relative to the riot at Norfolk, Virginia, on the 16th of April, 1866; which, on motion of Mr. ELIOT, was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

#### REV. WILLIAM FINCHER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a letter and other documents from the Commissioner of Freedmen relative to the imprisonment in

Georgia of Rev. William Fincher, a missionary to the freedmen in that State; which, on motion of Mr. ELLIOT, was referred to the Committee on Freedmen's Affairs, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 503) for the relief of Mrs. Mary A. Dixon, of Alexandria, in the State of Virginia, widow of the late Turner Dixon, deceased, in which the concurrence of the House was requested.

#### PRESIDENT'S MESSAGE.

Mr. STEVENS. I now move that the House resolve itself into the Committee of the Whole on the state of the Union and resume the consideration of the President's annual message.

Mr. MAYNARD. There are several bills on the Speaker's table which, as we are fast approaching the close of the session, it is desirable shall be referred to the appropriate committees. I ask the gentleman from Pennsylvania to yield so that those bills may be taken up and referred.

Mr. STEVENS. I cannot yield for that purpose; the gentleman from Vermont has already been delayed too long. I insist on my motion. The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WELKER in the chair,) and resumed the consideration of the President's annual message, on which Mr. MERCUR was entitled to the floor.

Mr. MERCUR. I yield to the gentleman from Vermont, [Mr. MORRILL,] with the understanding that I shall be entitled to the floor when he concludes.

#### FINANCIAL POLICY.

Mr. MORRILL. Mr. Chairman, so many schemes are afloat here that the public judgment is bewildered—sometimes one for the immediate retirement of compound-interest notes; sometimes for the substitution of United States notes for compound-interest notes and all other obligations of the United States falling due; and sometimes for the substitution of United States notes in lieu of those now furnished by the national banking associations—but whatever the merits of these associations as an original question, I must say that I should regard a measure to wind them up and the issue of an equal volume of currency by the United States as tantamount to a perpetual suspension of specie payments. This instability, the ever-recurring proposals of change in measures affecting and disturbing the whole interests of the country, is a vice of most deplorable magnitude, and which we as legislators should unremittingly labor to limit.

Mr. Chairman, much needless disputation is avoided by a precise definition and limitation of the terms employed to express propositions. If those who advocate specie payments and those who favor paper money would fix accurate bounds to the meaning of their words they might be found apart, but not so far apart as they themselves suppose. Those who are for resumption do not mean forthwith, and those who are against it do not mean non-resumption forever. Let them explain their positions and they would be nearer together than they now are; but while they indulge in loose talk they are as wide asunder as the poles.

It is true, resumption of specie payments by the Government cannot be obtained until there is some curtailment in the circulation of the legal-tender notes, say \$200,000,000, nor perhaps until by stiffening the tariff we check the outgoing of California gold. But when resumption does occur it will at once unlock a large amount of specie hitherto withdrawn from circulation, and, prices being also reduced, a less amount of currency will be required. No disastrous effects need follow if the people and the Secretary of the Treasury only exercise a common prudence. All expect the country to face resumption at some time; and it is after all but a question as to what time will be the

best and productive of the least amount of inconvenience. The men who have faith in the resurrection of gold and silver say we shall never have a better time than now. Those who have felt the fructifying effect of a flood of paper money—its first glow of expanding prices and its quiet mode of scaling debts—believe its potency inexhaustible, and demand that the flood shall never subside.

For my own part, I am persuaded if we start now we shall not reach the goal of resumption any earlier than the most devoted patrons of an exclusively paper-money system would wish.

In a season when prices have universally risen it is a matter of congratulation that the value of man has risen most of all. Skilled labor—the hand guided by educated brains and a free will—is appreciated. The world begins to find room for all her children, and never will good and willing workmen be forced to beg for employment. Whether paid in paper or gold, the wages of man the world over will rule higher for every slave that has been emancipated. On the return of specie payments the rank of labor will be more than relatively maintained.

Finance seems to be a subject which inspires all men, and each one is persuaded of the infallibility of his own gospel. The financial condition of no nation or individual is ever so sound that it may not be improved; and if admitted to be unsound the volunteer doctors and the wet and dry nurses, painfully prolific, propose remedies more to be dreaded than any malady. It is curious, too, to observe what progress is made in the science of wealth. Classic standards are no longer authority, and two and two no longer make four. To appreciate this progress one must turn his back upon Franklin and Hamilton and Gallatin. They believed that labor created wealth and that the public debt could be paid only by proper taxation. The new school, however, trust much to the miraculous efficacy of paper currency. Hand in hand with that, the laborer is taught that he can earn as much in six hours as he once earned in ten or twelve, or that if he is worthy of the age he need not work at all. Again, that with this invention diligently used taxation, always a great bore, may be handed over to posterity or any party who likes it. I regret that I have no such pleasing theories and no such delusive nostrums. I have no dream that we can add to the wealth of the country by any contrivance unaccompanied by honest labor, nor that we can long maintain public credit without taxes or by faith without works. Let us rather strive to give to labor its largest constant remuneration, and equally strive to sustain the Government by the smallest amount of taxation.

While some of the ablest intellects in France and England are seeking a road by which to escape the evils—the losses and hazards—of even a mixed currency, while they are becoming bullionists pure and simple, we have some men who should be statesmen studying schemes by which to perpetuate the prodigal use of that Government paper which was engendered by a gigantic war.

A speech on financial questions, bestudded with facts and figures, I know possesses few attractions compared with the many immediate and remote problems that arise on the great topic of reconstruction, and yet the subject is now one of even more pressing importance. If the sinners of the South can afford to delay repentance, we can afford to wait. I shall not ask any one here to adopt my arguments, which may be poor, but the facts presented I hope may have more to recommend them.

Never was it more important than now that we should fix our tax and revenue system upon a stable basis—to stand for a series of years—but, if our political condition did not forbid this, the unfunded national debt, and, above all, the immense volume of national bank and legal-tender currency, will not permit it. Ere this we ought to have been sailing on smooth seas; but beyond some palpable rocks, which may be avoided if we choose, what unexplored

dangers lie in our path it is almost impossible to foretell, and yet all contingencies must be provided for. Our destiny is to be a great and powerful nation, or, if not that, then to follow in the long procession of extinct republics. There can be no middle ground. The United States must be a grand Power among the nations of the earth or nothing. The first sign of exhaustion, the first stumble of decrepitude, will be the signal for all of our foes to unite in crushing out our national existence. We must not forget in finding cruel enemies at home we also have been furnished with superabundant evidence that those who govern foreign nations are by no means our friends, but on the contrary they have exhibited a savage joy at every blow which made "freedom shriek" or retarded the triumph of the principles and supporters of a republican Government.

Earnestly seeking peace, and believing honorable peace possible, we yet may be flirited into war. We may be assailed, and thus be called upon to defend ourselves with all our might. If our financial condition is only sound we can easily bear the strain; but until we have our debts solidly funded, until they are held where they will not leap into the market and crush all domestic credits at the first croakings of alarm, an addition of another thousand millions of debt is to be avoided. A war to be supported by an inflated currency is devoutly to be shunned. I do not like the idea of being under perpetual bonds to keep the peace, and therefore it is our highest duty to insist, first and everywhere, on rigid economy; and second, to restore our finances to the normal condition—to the specie standard—at the earliest practicable moment. Producing more gold and silver than all the rest of the world, let us not endure the reproach that we do not know how to keep it after we have got it. Able to bring into the field the mightiest of armies, let us also be equally strong in our means of indefinite and independent support. Let any who may seek a war with us know from the outset that it will be one commensurate with our physical and geographical proportions and in no way inferior to our past history.

We must look at the sober facts before us. The inevitable expenses of the Government must be provided for. The interest on our public debt is estimated next year at \$105,551,512, and, unless the perpetual paper propagandists shall prevail, upon the final redemption of the legal-tender currency this will be ultimately increased about twenty or twenty-five million dollars, or in the aggregate more than our whole public debt in 1816, when it reached the highest point (\$127,334,993) prior to the recent rebellion.

Our Navy has been very largely increased, and it is not probable that it will ever shrink to its former narrow proportions. In this Department our annual expenditure will be \$23,144,810 81, or nearly twice as much as before the war. The regular Army is now fixed at about fifty-four thousand men, but we have to provide for nearly ninety thousand for the coming year; eight thousand or eighteen thousand are forever obsolete; and it must be kept capable of instant and formidable expansion. The estimated cost for the War Department the coming year is \$58,804,657 05. The extra bounty we provided for last year will amount to \$80,000,000, all of which is yet to be paid.

The pension appropriation, instead of covering a few heroes of a hundred years as well as of the Revolution, and five or six thousand scarred soldiers of the war of 1812 and 1847, now embraces young men, but mutilated in service, in every city, town, and village, to the extent of nearly one hundred and twenty-five thousand; and instead of less than a million dollars, as in 1862, now requires \$13,177,446, or as much as the whole expenses of the Government in 1824 and 1828. The war claims of several States, if that of Missouri, already reported upon at \$7,000,000, may be regarded as a foretaste, will weigh heavily upon the Treasury.

The Indians, though reduced in numbers since the advent of the Pilgrim fathers from not less than fifteen millions to two hundred and ninety-five thousand seven hundred and seventy-four, maintain their nomadic and intractable character, requiring for each a mile square of territory for support where a white man would need but a few acres, and beyond this an annual and perpetual expenditure of \$3,500,000 more, which does not include the large and variable sums it costs us out of the military chest to bestow upon them, for various provoked and unprovoked offenses, that Christian chastisement which the agents and traders who snatch and devour our amiable charities, think they need. Last year seven thousand nine hundred and nine Navajoes were held by us as prisoners in New Mexico at an expense of \$1,500,000. The Freedmen's Bureau, in proportion to its value and importance the most economical expenditure of the Government, will cost for the coming year \$10,350,265 55; but it has an unexpended fund on hand of two thirds of this amount. The elevation of the Indian may be hopeless; but fortunately the improvement of five millions of the African race is a possibility abundantly assured. With the most inflexible economy, without any guarantee that the Halls of Montezuma shall have restored the gold abstracted by Cortez, or without the indulgence of any other splendid folly, our entire expenditures for all purposes cannot be brought down to anything like the old standard of sixty or seventy millions per annum. Heavy taxation is at present unavoidable; but this will every year be sensibly diminished by increased wealth and increased population. Our task, if we are wise, will be at least biennially to relieve something from taxation. European nations, however, ambitious once more to maintain large armies in time of peace, compelled to make lavish expenditures for the maintenance of the balance of power, will annually have to seek some new object of taxation upon which new burdens may be imposed.

An unusual item, however, is this year to be provided for by the people, not by the Government, which will transfer a large sum from the United States to Europe. The Paris Exhibition will attract Americans, ever addicted to travel, by thousands, and there is some ground for the satire conveyed in the pretended cable dispatch, that Napoleon has set apart four acres as a grave-yard for American visitors who may not survive. It will be a very moderate estimate to calculate that seventy-five thousand persons will this year cross the Atlantic from the United States, and the cost will not be less than \$1,500 each in gold, or a total of \$112,500,000, which in currency would be over \$150,000,000. Some will estimate the number much higher and the expenditures greater. It will hardly be less. This will swallow up the entire production of all our gold and silver mines for the year to come, or what is more likely, its equivalent in United States bonds, to be disposed of as the exigencies of individuals may require. Such a drain may be ill-timed, but there is no escape from it. For the present our lesson as a nation is economy, rest, abstinence. Hereafter we may revenge ourselves by calling a world's convention at St. Louis or upon the summit of the Rocky mountains.

I know that excellent men entertain much affection for paper money, although no one at the time of its recent introduction dreamed of its present overgrown proportions, nor of using it beyond the immediate war exigencies of the Government. Its use, justified only by an overwhelming necessity, was to be terminated with the first dawn of peace. I confess to a feeling almost of mortification in having the conviction that this question requires sober argument before an American Congress. How any friend of American industry can espouse the cause of an endless reign of paper currency, of which it takes one dollar and thirty, forty, or fifty cents to buy a dollar in specie, is to me incomprehensible. Iron ships are rapidly coming into

use, but they can be built abroad and employed for one half the price they cost here. Will any American build an iron ship? Tenements for rent, unless already built, are no longer favorite investments for men having capital, and no poor man dares for a moment to indulge the idea of building a house and a home. Although all other circumstances, save only our depreciated currency, indicate a disposition and warrant in all parts of our country, North and South, East and West, to start new industrial enterprises, yet few such are actually started. Men will not invest expecting five years hence to lose one half of the sum invested.

Some gentlemen think that the premium on gold paid by the importers is ample compensation for all the griefs of American manufacturers. Never was there a greater fallacy. When the wants of the Government created both a demand and war prices for goods; when it was easier to sell than it was to buy; before labor and raw materials had advanced to the same ratio or beyond that of gold, then manufacturers were reaping princely harvests from the rise of raw materials and stocks on hand. All that is changed. Now raw material has been consumed and labor has advanced, but prices of finished manufactures have receded and are still receding. Many mills have already suspended, and others are working on short time. Certainly to embark in any new enterprise is deemed hazardous. Neither the great attractions of the West nor of the South can overcome the dreaded longevity of the race of "greenbacks." The bare difference in the cost of the permanent capital of English woolen manufacturing establishments and American gives to the English the mastery and ample dividends. Six years ago a woolen mill that would have cost \$1,000,000 in New York or New England could have been put up—so much cheaper are raw materials and labor—for \$500,000 in England. Permanent investments there which yield three and a half per cent. per annum are satisfactory. Here seven per cent. per annum is the least that would tempt capital to such enterprises, or that would anywhere be voluntarily accepted. To-day the prices of bricks, iron, machinery, and labor have so largely increased that such an establishment would here cost nearly double what it would six years ago, or \$2,000,000. The interest upon this sum would be \$140,000 per annum; but the interest of the British establishment—\$500,000 at three and a half per cent.—is no more than \$17,500. Here is \$122,500 per annum in favor of the British manufacturer, a sum sufficient for very respectable dividends, certainly, on a capital of \$500,000. Is it any wonder that we have an extraordinary influx of British goods, or that all Europe last year was swept to furnish the empty American markets?

Prior to the war the cost of the labor expended upon a yard of cotton cloth (64x64 printing) was nine mills, but now it is two cents and seven mills or three times the amount. A printer in Washington now gets twenty-four dollars per week and works but eight hours per day, where he formerly received fourteen dollars per week and worked ten hours per day; and yet he will tell you that his condition and means to support a family have not been bettered. A ton of English railroad iron in Wales is now sold for £5 10s. or \$27 50; but it is estimated that the wages alone paid to workmen in Pennsylvania to produce a ton of rails amounts to sixty-five dollars, and of this a careful analysis shows \$35 28 to be expended by them for agricultural productions. In spite of the high rates of the figures the laborer enjoys no more comforts than formerly. Our paper currency represents dimensions without gravity and its perpetuation must prove destructive to both employes and employers.

I am no defender of the politics of the Secretary of the Treasury. They have been and are as distasteful to me as to any of my friends. He is not, however, the first man who has sought distinction in a rôle for which he was unfitted. The author of Blackstone's Commentaries sought parliamentary position to

increase his fame, but there his career is only remembered because Junius pointed at him his "slow, unmoving finger of scorn." John Quincy Adams was not always satisfied in the high career of a statesman, but sometimes attempted poetry, and "Dermot McMorrough" was the result. The political sins of the Secretary are patent, but according to Burns "we know not what has been resisted." Should we drive him from position, is it likely that any successor would have more of the confidence of the country? His recommendations, so far as I am concerned, shall not be condemned because made by him, only scrutinized. I do not think it will be very wise for Congress to get wrong on financial questions because the Secretary happens to be right, though wrong politically. For myself I shall not make the mistake of opposing him where my conscience assures me he is mainly sound and true. Although I think he has named a day for the resumption of specie payments somewhat earlier than it will be possible to achieve, yet the unalterable purpose to resume at an early day I have no doubt is sound in principle, policy, and morals, and if Congress shall thwart this purpose it will have doomed the country to long years of suffering. More than this: any party which shall undertake seriously to procrastinate the day of our redemption from the evils of an excessive paper currency, the evil of dear living, will at last be overwhelmed by its opponents, even though the latter may not be able at the time to extricate the country. Strong as we are we cannot afford to take the wrong side of such an issue.

On the 11th day of May, 1865, the premium on gold had fallen to one hundred and twenty-eight and a half per cent., having fallen from two hundred per cent. in March, and from a much higher point than that in January without producing a perceptible ripple in financial circles and far less a panic. There were twenty-seven hundred and thirty-three failures in 1860 in the United States, amounting to \$61,739,473; but in 1865 there were only five hundred and thirty, amounting to \$17,625,000, or about one fourth part of the average number and amount. Mortgages, made light, had been liquidated. The old system of mercantile credits by common consent had been banished. The South in losing all had lost its credit, and trust in that direction was impossible. All felt that to pay as you go was sound policy. The scriptural injunction "owe no man anything" had been implicitly obeyed, and then was the golden moment, not only for political reconstruction, but for a return to specie payments. Then the capital of the country was idle and might have been largely enlisted into the service of the country. The campaign of a paper currency was over, and it waited only to be honorably discharged. Useful once, it was now only an incumbrance.

The western States prior to the war were largely involved in debt, and they not only paid off an indebtedness of not less than \$200,000,000, but they became large holders of United States securities with means of becoming still larger holders. Up to this time neither in the West nor in any other part of the country have our people asked or received the ancient measure of credits. Notwithstanding the drain of the war the great masses of the people are free from debt. Thanks at least, to the Secretary of the Treasury for having borne aloft the motto of an early resumption of specie payments. This, if no more, has prevented the country from an indefinite expansion of credits, from plunging headlong into debt; and never, in my opinion, shall we have a more auspicious moment to initiate measures for a vigorous retirement of the excess of our paper currency.

I wish I could believe that the Treasury estimates of the receipts from customs for the years 1867-68 were not too large, but I cannot, and instead of \$145,000,000 if we get less by \$20,000,000 it ought to content and be satisfactory to the country. The capacity of the South to consume and pay for immense importations has been vastly overrated, and the



lake trade alone probably much exceeds the entire aggregate of the southern trade recently restored. The prompt action so generally expected upon the tariff bill now pending in the Senate, by which the rates of duties would be somewhat increased, for a time greatly stimulated importations, and we have had both a glut of merchandise and of revenue by no means to be anticipated for the coming year.

It is most likely the Secretary of the Treasury has underestimated the amount of United States bonds held abroad, and that instead of \$350,000,000 not less than \$500,000,000 of our national securities are so held. So long as these remain below par abroad they will be held more or less as fancy stocks, liable to be returned for realization at any moment. If they could be made equal to par it does not seem to me that the holders would part with a security for which they were receiving six per cent. interest in order to accept another no better at three and a half per cent. interest. Beyond a question when our bonds bring what they represent, dollar for dollar, a new loan payable abroad could be negotiated, if it were desirable, at five per cent. and perhaps at four and a half per cent. We shall ere long demonstrate that it is safer to trust the United States at three and a half per cent. than any other nation in the world, but first we must make our present obligations worth their par value in gold at home.

I wish it were true that the stocks of the United States were not to be found at all in foreign markets; but we are not rich enough to hold all the good things we produce. Is it not, however, a source of mortification that Massachusetts five per cent stock brings more in London than United States sixes? Or that Virginia five per cents bring only twenty per cent. less? Are we quite content that Egyptian, (quoted at 84,) Turkish, (98,) Brazilian, (98,) and even Moorish, (98,) stocks shall be quoted much higher than the best of United States stocks? Some of these loans at four per cent., of Governments greatly inferior, as we think, to that of the United States, bring higher prices than our six per cent. loans. I do not wish swiftly to put large profits in the pockets of our creditors, but those who obtained our stocks at less than par made their profits at the time of purchase, as it was to have been expected the Government would pay to the uttermost farthing all it promised, principal and interest, and those who relied upon the good faith of our Government, or who may hereafter so rely, will never receive less. No other Government has met its obligations with more punctuality. If slowly, the world will surely yet acknowledge the fact. But our creditors are receiving eight or nine per cent. while gold commands its present rate of premium. On \$2,000,000 of debt this profit of our creditors amounts to over forty millions per annum.

The problem of how much currency or circulating medium any country requires for the healthful transaction of its business is one having so many points of disturbance that its actual solution is one of some difficulty. Each examiner will vary the result according to the data included or excluded, and probably according to the theory he wishes to build up or demolish. I propose to present some facts upon this subject that to me seem important, and to which I invite the consideration of the House.

The entire amount of bank-note circulation of the whole country in January, 1862, was \$184,000,000, and of this \$40,000,000 belonged to the southern States. The maximum amount of bank-note circulation at no previous time has gone beyond \$214,778,822, and the circulation in 1860 was \$207,802,000, and that was a year of as large production and of as much general prosperity as any perhaps in our history. To the amount of paper there must be added a small amount for specie in daily circulation. Doubtless there was \$200,000,000 of specie in the country, but that held by banks is represented by paper, an equal amount of which is usually retired whenever specie is demanded

and temporarily brought into use. A considerable amount, as there ever will be, was hoarded or *in transitu* as merchandise.

The business of the country was not larger in 1866, certainly, than it was in 1860, except in national taxes, and these unquestionably create a demand for some increase of the circulating medium, and as unquestionably to some extent diminish the business of the country. It is a great convenience, however, that the medium should be of a national character and current in all parts of the country.

With what propriety can it be claimed that the business of the country requires the vast volume of paper currency which now inundates the land? Let us look at it:

*Paper currency now in circulation, (December 1, 1866.)*

Notes of State banks.....	\$36,785,035 00
Notes of State banks converted, now outstanding.....	9,748,025 00
United States notes, legal tender.....	385,441,849 00
Fractional currency.....	28,620,249 93
Circulation issued to national banks.....	292,671,753 00
	<hr/> \$753,236,911 93

In 1862 the circulation of bank notes of the southern States was \$40,000,000, and was at the outset of the rebellion much increased; but the confederate currency was subsequently largely substituted for it, and the amount now outstanding certainly does not exceed that sum, and its chief value lies in the fact that the creditors of the banks can use it to pay their debts. I shall not bring the \$1,000,000,000 of Jeff. Davis's king-cotton currency into the account. That, in "swinging around the circle," seems to have been condemned and executed even before its authors.

West of the Rocky mountains, on the Pacific slope, gold and silver has maintained its sovereignty and very little paper has got into circulation. The amount of gold and silver coin is probably considerably greater there to-day than it was six years ago, and may be estimated in all the States and Territories at \$25,000,000. Throughout the country, and particularly where merchandise is distributed at wholesale, there are many articles bought and sold exclusively for gold, and no other prices are quoted for them. Instead of coin, gold bars or bullion is very largely used by banks and by importers to pay for foreign merchandise. These circumstances keep some small portion of the gold coinage from being wholly demonetized. The copper and nickel coinage has been depreciated so that a five-cent token contains about one cent of real value, or until it is almost as light as any paper which can be produced, even by the genius of the hydrostatic power at the Treasury Department, and it once more rises and floats triumphantly over the dirty sea of paper currency in vulgar fractions. The gold certificates of deposit, issued by millions, help to swell our circulation, being conveniently and daily used for many purposes, especially to pay for exchange in the liquidation of foreign accounts and among gold operators. Bills of exchange are in fact currency, and the amount afloat is enormous.

The compound-interest notes are largely used, and almost universally, though without authority, take the place of United States legal-tender notes in the reserve required to be held by national banks. Even the seven-thirties often take the place of lawful money, and are given and taken in financial transactions at their current value. To some extent the coupon bonds of the United States are used as money and are remitted to pay balances due, especially balances of trade due abroad.

To the circulation already mentioned, it is fair, then, to add the most considerable part of the following items:

Gold certificates of deposit.....	\$19,638,500
Compound-interest notes.....	147,387,140
Specie in actual circulation on the Pacific	25,000,000
Specie in actual circulation in the Atlantic States.....	15,000,000
Copper and nickel.....	3,000,000
	<hr/> \$210,023,640

This, added to the first series of items,

makes the whole of our present currency \$963,290,551 93, or in round numbers nearly one thousand million dollars, to do actually less business than we were doing six years ago, when we did not have nor require one fourth part of the sum!

The four millions per month of Government paper authorized to be retired last year has been more than compensated by the increase of national bank paper, and paper currency, therefore, still maintains its supremest bulk. We produce of gold and silver \$8,000,000 per month, and yet higgie about retiring within the same time \$4,000,000 of paper.

The amount of notes authorized to be issued by the Bank of England is £11,000,000, or \$55,000,000; and the entire amount of paper circulation in Great Britain, including private and joint-stock banks, as established by act of Parliament in 1844, was £37,000,000, or \$185,000,000. Some years it has been a trifle more than this and some years a trifle less; but in 1865, strained as they were for capital to buy and hold cotton at its advanced price, the amount did not go beyond £39,129,789. Beyond doubt the trade and commerce of Great Britain vastly exceeds that of our own or any other nation. Its exports in 1864 were \$2,545,000,000, and yet they find \$185,000,000 of paper money equal to all their ordinary demands. How is it that it can be pretended we require so much more? During the war it was claimed that the enormous transactions of the Government absorbed hundreds of millions, and doubtless the money paid to our armies in distant fields did not find its way to commercial centers as quickly as it would if it had flowed through the ordinary channels of trade; but the Government changed business, did not increase it, and if it did, the war has ceased and the Government is no longer the grand purchaser and consumer of everything upon which it can lay its hands. It is an absurdity to suppose that we require five times as much paper money as Great Britain to do less than half as much business. But the facilities now in use for the transaction of business by houses engaged in large operations, outside of the use of money of any kind, although known, are generally vastly underrated. A member of Parliament recently declared that it required no more currency to do the business of Great Britain now than it did twenty years ago, when the business was only half as large.

There will be found in one of the parliamentary reports of 1858 (Evid., p. 165) the testimony given by Mr. Slater, a member of a firm in London largely engaged in commercial transactions, ranging over several millions sterling yearly, which showed that their receipts and payments in the ordinary course of business, when carefully analyzed, held the following ratio for one hundred parts:

Receipts.	
Bank of England notes.....	7 per cent.
Gold and silver.....	3 per cent.
Bankers' drafts and checks.....	90 per cent.
Total.....	<hr/> 100 per cent.

Payments.	
Bank of England notes.....	2 per cent.
Gold and silver.....	1 per cent.
Bills of exchange and checks.....	97 per cent.
Total.....	<hr/> 100 per cent.

The business of this firm was analogous to that of any of our large merchants or traders in New York, and proves conclusively that the credit and capital of the people are used to the extent of ninety to ninety-seven per cent. in ordinary mercantile transactions, and that neither gold and silver nor paper convertible into gold and silver is used for a circulating medium beyond from three to ten per cent.

This fact is strikingly illustrated by the New York bank exchanges or money transactions for a single day; for example, take one in the year 1863, amounting to \$91,291,431, which was performed by the use of \$2,807,396 in money. In the year 1854 the bank exchanges were \$5,862,912,098, and the balances or money

used daily were under one million dollars. For this data I am indebted to a former eminent member of this House, (Colonel Stebbins.) This experience of New York tallies very closely with the testimony in the parliamentary report, that it only requires about three per cent. in money to liquidate all payments in modern trading. If it were not mischievous it would be ridiculous to claim that there is a necessity for the continuance of our present excessive amount of paper money.

Mr. Charles Buller, in the House of Commons, stated that the amount of bank paper in 1834 was between twenty-six and twenty-seven million pounds, while the amount of bills of exchange in circulation at one time in the same year was £182,123,000, or five times the amount of bank notes.

On the 1st day of January, 1866, the whole bank capital of the country amounted to \$403,357,346; but a much more active and larger capital was made up of individual deposits, which at the same date amounted to \$513,608,888. By means of the checks of depositors this may be and is drawn out daily, and by checks of other depositors or other bankable funds an equal amount may be deposited. At the same time it is perfectly safe for any bank to calculate that at the close of business each day the sum total of the deposits will remain nearly unchanged, and thereby the basis of discounts is very much enlarged. Thus the credit of individuals at the banks plays by far the most important figure in modern financial transactions, and does away with the necessity of a large volume of bank note circulation, besides more than doubling the aggregate working capital of the banks.

An unvarying standard of money has been the desideratum of the world, but it has not yet been found. Gold and silver have been almost universally accepted as the nearest approximation to that end, because these metals have great intrinsic value in proportion to weight, and are portable and durable. But a bushel of grain in old and long-settled countries has been considered a more unvarying standard of prices than even gold, on the ground that it requires a more uniform amount of labor to produce it. But a uniform standard, however desirable, appears impossible. Labor in one country is worth more than in another, and worth more in cities and towns than in rural districts, because money is there more abundant and purchases less of the absolute necessities of life. Educated or skilled labor is more valuable than the uneducated, because more productive. Labor is worth more in the spring-time and harvest than in winter, notwithstanding it costs the laborer more in clothing, food, and exposure, because in the winter unemployed laborers become abundant. Agricultural labor being interrupted, many who follow it in its season pursue the trade of artisans during the winter, and thereby depress the prices of such labor in towns and cities. Prairie lands combined with labor-saving agricultural implements have reduced the price of grain in the Western States, but the labor to effect distant transportation prevents any very large reduction in the prices which the world at large continues to pay. A day's work in the United States may be worth twice as much as in Mexico; but if one thousand men in the United States produce one thousand ounces of gold or silver for the same amount of labor it requires in Mexico to produce two hundred and fifty ounces, transportation no longer interferes, and the price in Mexico will fall one half, or it will take twice as much gold or silver to make the same purchase as before. It is to be noted, however, that Chinese labor, being that largely employed in our mining regions, is quite as cheap as that employed in Mexican mines.

In point of fact the surpassing abundance of the precious metals, especially that of gold, discovered within the last eighteen years—California being already eclipsed by the Colonies of Great Britain—and the facility and cheapness with which they are obtained, has so

cheapened the markets of the world that gold itself has rapidly depreciated and nowhere purchases as much as it would in 1850. So copious are the supplies, multiplied suddenly at so many different points on the globe, that it may be expected at an early day to be valued, like any other article, at no more than the cost of extraction. Whether the enormous increase of the precious metals may not ultimately destroy them as a measure of value, as was apprehended upon the first opening of the golden treasures of California and Australia, remains yet to be seen. The extraordinary drain of silver to the Asiatic nations will not forever postpone the question. It seems probable, however, if this drain should continue even for a short time longer that all nations will either abandon the use of silver coins or they must speedily debase them. Otherwise their commercial price so much exceeds the currency value as compared with gold they will be melted up. In 1800 the value of gold produced stood to that of silver in the proportion of twenty-eight to seventy-two in a total of \$54,000,000; but in 1863, when the production had been quintupled, the proportions were nearly reversed, and gold stood as sixty-seven to thirty-three. In fact the increase of silver is small, while gold has quadrupled. Macaulay's New Zealander may find among other wonders a thousand years hence a pound of silver valued at fifteen pounds of gold.

In 1830 it was estimated that for the preceding nineteen years the average annual production of the precious metals had fallen off about \$31,000,000 from what it had been prior to that time.

	Productions before 1810.	Productions after 1810.
Europe and Asia.....	\$4,000,000	\$5,000,000
Indian Archipelago.....	2,980,000	2,980,000
Africa.....	1,000,000	1,000,000
America.....	47,000,000	15,000,000
	<u>\$54,980,000</u>	<u>\$23,980,000</u>

The amount of gold and bullion in Europe in 1847 was estimated to have been \$1,200,000,000. The accessions to this general stock of gold in the world since have been prodigious, but prior to 1848, for more than thirty years, the annual supplies did not much more than equal the annual waste. I am not able to obtain any consecutive returns of the amount produced in Mexico, South America, Russia, or Africa, and only imperfect returns of what has been produced in the United States and in Australia, but it is known that productions have been increasing largely, and probably the aggregate annual production in the United States alone is now nearly equal to the amount produced by both the United States and Australia a few years ago.

	United States.	Australia.	Mexico.
1851.....	41,250,000	4,535,775	4,546,000
1852.....	58,500,000	48,678,640	4,240,000
1853.....	62,500,000	52,227,645	-
1854.....	70,500,000	45,143,735	-
1855.....	67,000,000	63,702,400	-
1856.....	65,950,000	58,821,495	-
	<u>365,300,000</u>	<u>273,109,690</u>	<u>8,786,000</u>

To these statements should be added from ten to twenty per cent. for what is not reported. Mr. Homans, of the Bankers' Magazine, estimated the production of gold and silver in 1863 as follows:

California.....	\$70,000,000
Other portions of the United States.....	30,000,000
British Columbia.....	6,000,000
Mexico.....	25,000,000
South America.....	13,000,000
<b>Total, North and South America.....</b>	<b>144,000,000</b>
Russia (Europe and Asia).....	\$22,000,000
Other parts of Europe.....	6,800,000
Asia and Africa.....	5,775,000
Australia.....	75,000,000
New Zealand and British Colonies.....	12,000,000
All other countries.....	6,000,000
	<u>127,575,000</u>
<b>Grand total.....</b>	<b>\$271,575,000</b>

The following is the estimate of M. Chevalier, June, 1866, (see *Journal des Economistes*.)

	Silver, fr.	Gold, fr.
America.....	264,332,000	547,670,000
Europe.....	42,228,000	55,317,000
Russia.....	4,445,000	89,812,000
Australia.....	1,111,000	321,111,000
	<u>312,116,000</u>	<u>1,013,910,000</u>
		<u>312,116,000</u>
<b>Total.....</b>	<b>1,326,026,000</b>	
at five francs per dollar, equal to.....	<b>\$265,205,200</b>	

These estimates, made up from different sources and from different stand-points, serve to prove each other, and beyond doubt are very near the truth.

Within the last ten years, for which I have no returns, the very reliable estimates already given for 1863 and 1866 would show that more than treble the amount has been produced than for the six years for which I have given the returns. These facts conclusively show, apart from the action of a paper currency, that gold must have irremediably fallen in intrinsic value. It has become cheap by its abundance. What occurred after the discovery of the silver mines of Potosi in 1545 is again stamping itself upon history. There is, therefore, no occasion for any other depreciation than that which must inevitably befall us on account of the annual addition which has been and will be made to the general stock of gold and silver in the world for generations yet to come.

We keep up mints and assay offices at great expense, but it is clear that on the whole not one fourth part of the sums coined are retained by the country. Of all we have coined, in other words, three fourths or more has left the country. The impress of the American eagle gives no patriotism to coin, and it changes its allegiance—as did the coins of other nations in past ages, though forbid by Draconian laws—whenever tempted by any interest possibly computable. The following table shows the work of our mints and assay offices since first established:

Gold coinage is.....	\$845,536,600	79
Silver coinage is.....	136,351,812	96
Copper coinage is.....	5,535,623	55
	<u>\$987,424,037</u>	<u>30</u>

Where is it? Most of it has disappeared, rated at the value of the pure metal contained, and not a whit advanced by the artists of the Mint.

Among other modes of reducing the standard value of money, Congress began as early as 1837 by debasing our gold and silver coins, and declared that of one thousand parts nine hundred should be of pure metal and one hundred parts alloy. The standard of British gold is one part alloy in every twelve; but we have no coins which are not debased at least one part in every ten. At that time gold could be more profitably exported than silver, and this measure was designed not only to make the legal value of the two equivalent to their relative commercial value, but to bring gold into more general circulation. Neither object was secured. The rates of value, of fifteen or sixteen to one, soon became obsolete, and gold coins, although the standard was purposely placed below that of silver, were still exported. In order to retain in the country any silver, which, being worth more than its legal-tender value, bore a premium and was sold as a commodity, it then became necessary to reduce the weight of the silver coinage, and the half dollar in 1853 was reduced from two hundred and six and a quarter grains to one hundred and ninety-two grains, and fractional parts to the same proportion. Silver dollars at once disappeared, and eagles bearing date prior to 1837, being worth in proportion to the new eagles \$10 66, also disappeared. The weight of these in 1791, standard gold, was two hundred and seventy grains, but in 1837 they were reduced to two hundred and fifty-eight grains. The debasement of our coinage, never entirely pure, was thus about seven per cent.

Foreign coins; beyond our power to debase,

have been of course permitted to be rated at an increased valuation. The pound sterling of Great Britain, or sovereign, was made a lawful tender in 1794 at \$4 44, and in 1842 it was raised to \$4 84—being an increase of over nine per cent.

It will be seen from this recital that the standard of the United States coinage is very low, and the normal condition of exchange with most other civilized nations is always against us. Exchange on London when at not over nine and a half per cent. is really at par. When our paper money is promptly convertible into specie it is still much below the par of the countries with which we have the largest commercial transactions. Our gold coins are received abroad, not according to the value we stamp upon them, but according to the amount of pure gold they contain. It would seem almost inexcusable to allow our paper money to remain depreciated below the standard of specie as fixed by ourselves for any period more protracted than is now imperatively necessary. Bank notes, when they are made equivalent to the standard of United States coin, will be none too valuable. The second, third, and fourth dilution of money would not be tolerated by even Bismarck.

But the value of anything circulating as money diminishes both in proportion to its abundance and in proportion to the swiftness with which it changes hands. Holders of what is called money below the standard of the world are always eager to part with it; they never hoard it. They invest it either in something more solid or are happy to be rid of it for even such extravagances as they would feel could not otherwise be afforded. The American people at all times possess a wonderful facility for bargain-making, and an abundance of paper money exaggerates this national aptitude.

In the United States the same sum of money probably changes hand twice as frequently as in England, and in England three times more frequently than in France, and in France twice as frequently as in Spain, and in Spain five times more frequently than in Russia or Turkey. China and India appear to be Serboman bogs, where specie once introduced never more comes to the light. It goes and stays there perhaps because it will buy more labor there than elsewhere; it is irrecoverably lost, at all events, to modern commerce. Years ago a high authority laid it down as an axiom: "Given the comparative abundance of money, its market value will vary as the rapidity of the circulation. Given the rapidity of its circulation, the market value will vary as its comparative abundance. Given both the quantity and rapidity, its value will vary as the economy in its use."

If this be true, almost any nation would feel the evils of a redundant currency less than that of the United States, because the rapidity of circulation elsewhere would be generally far more sluggish.

The effects of an inflated currency, by creating suddenly a nominal increase of values, has demoralized the nation. Men quit work and buy property for a rise, although the rise may have ceased. The Jew in Boston, who had heard of some parties who made fortunes by failing, shut up his store, although owing nothing, and traveled about all day saying he had failed. Toward night he reopened his store, and said that he had failed ever since nine o'clock in the morning, and had not made a single cent! If the speculators would go back to their proper avocations, like the Jew, it would be all very well; but they will not. Staid men become adventurous, and adventurers become desperate. Haste to be rich fires the brain, and he who has no elephant or no fancy stocks ready to water and dispose of to green friends is a fossil of a by-gone age. Even the unsophisticated representatives of the rural population, attracted by the history of some lucky city gambler, (or "gold operator," the polite do call it,) rush toward towns and cities, eager for sudden wealth, and are

ready to sully character for an unsullied equipage, believing the splendors of an establishment may conceal a shabby soul.

The urban population everywhere gain in numbers at the expense of the rural. Town and city rents are fabulously dear, and not even the cholera retards their rise. Hotels are filled, notwithstanding members of Congress from the Pacific find it cheaper to cross the Atlantic and spend the vacation in Europe rather than risk a four-months' reckoning with an American landlord. Industry, whether agricultural, manufacturing, or mechanical, is no longer attractive when fortunes are lost by wise men and are gobbled up by fools. A few may gain what others lose by bold and remorseless speculation; but the masses, trained to legitimate business and to honest labor, are daily growing poorer in pocket while they are daily exposed to deeper ruin by the seductive influences of those who seem to fly to fortune on the expanded wings of a paper currency. Let us set the gold operators and all who follow kindred trades at work in some honest calling. At least we may dry up the fountain from which flows their present means of intoxication.

It is a significant fact that our great eras of financial distress have occurred just at the moment when we have had the maximum amount of paper money inflation and when we were at profound peace with all the world. The bank-note circulation of the United States from January, 1830, to January, 1837, rose from \$61,324,000 to \$149,185,890, and then came the financial collapse from which the country did not recover for more than five years, or until 1843, when the bank circulation had been reduced to \$58,564,000. In 1857 another period of sharp distress and great embarrassment was experienced throughout the country. At this time the bank-note circulation had swollen to—the highest point then ever known—\$214,778,822. An excessive rise of the circulation of paper would seem almost as surely to pre-empt a storm in the financial world as the sudden sinking of the mercury in the barometer denotes a violent change in the atmospherical world. Under such circumstances the skillful mariner will trim his canvas so as to weather the rough dangers he may be called upon to pass through. While the war raged we had to run fearful risks, stretching every rag of sail, with our admirals lashed to the masthead, and came off victorious. Now, with all our craft safely in harbor, it would be disgraceful to sink by insisting upon carrying full sail instead of throwing an anchor or by neglecting to trim the ship with proper ballast after being unladen. Thus far we have escaped any commercial tornadoes, but if we should be visited by such a calamity—the usual sequence of war—it is too obvious that we are exposed to something of unrecorded severity.

Any excess of currency adds nothing to actual values. Calling a dollar a dollar and a half only brings along the necessity for marking up the price of every exchangeable commodity correspondingly. If this were to be done with mathematical exactness nobody would be the gainer or the loser. But our circumstances are peculiar. We know and have faith that every dollar issued by the Government will be actually redeemed and paid, and probably within five years. So that any one can afford on this hypothesis to invest gold in United States notes and hold them idle until redeemed for much less than even the present premium on gold, and would probably gain much more than six per cent. interest according even to the present rate of discount on legal tenders. Notwithstanding that the present inflation of paper ought naturally to carry the price of gold much higher than it now is, this all-pervading conviction largely controls the rate of discount. If the public faith on this point should undergo a change and the time of specie resumption appear to be uncertain or postponed, there is no power which could prevent the premium on gold from bounding up to some of its highest altitudes. Let Congress become weak and vacillating and we should soon see our cur-

rency as buoyant as soap-bubbles and with hardly more purchasing power. During the war, at whatever sacrifice of present comfort, the people back of us conducted themselves and voted like statesmen. Let us not suffer in comparison by an exhibition here of a more contracted vision when the light is more abundant.

The ratio between gold and paper is not the true one. Producing a large surplus of gold, if naturally is and forever will be cheaper here than elsewhere. But we have depressed it by making it a commodity which we are obliged to sell for what the world will give. We can spare it more readily than anything else. The Government requires gold to be paid at the custom-house and it pays out an equal amount at the sub-Treasury. That is the inflexible and perpetual measure of our wants. Beyond this neither Government nor people have any use for it. Banks have long since removed it from their vaults. It is the cheapest thing we have to sell. So long as this continues we are maintaining the paper system to the great advantage of foreign nations and to our own loss. While it continues we shall be the subjects of foreign plunder and the spoil of gold speculators. Every man's property is at the mercy of the wild waves of an inflated currency.

All our experience shows that excessive issues of paper money have been followed by excessive importations of foreign goods. When the struggle with Napoleon was over it was not until years later that England resumed specie payments, during which her material progress was comparatively stationary, and her magnificent strides in trade and commerce bear date subsequent to this period. When the bank-note circulation of the United States was so largely expanded in 1836 our imports reached the large sum of \$189,980,035, having risen from \$70,876,920 in 1830. At the same time our exports of domestic produce were only \$106,916,680. Again, under like circumstances, in 1857 the imports rose to \$360,890,141, having been no more than \$178,138,318 in 1850. At the same periods the excess of specie and bullion exported was very large. The net imports of foreign merchandise the past year, valued in gold, amounted to \$417,046,577, of which over \$125,000,000 were in dry goods! The close of the rebellion let loose at high prices a vast amount of cotton; but we exchanged it at once for dress goods. These facts would seem to show that the higher law of trade and commerce exercises a pitiless rigor against those nations which tolerate an excessive circulation of paper money.

It is often said that the United States if the legal-tender issues were withdrawn would be a loser by the amount of increased interest. The commercial health of the country is of tenfold more value than \$24,000,000 to the Government. With inconvertible paper health is impossible, but with health we could easily negotiate all loans for one sixth less interest. The \$300,000,000 of national bank currency that would then be convertible, being over fifty per cent. more than we had in 1860, would be an ample supply for the wants of trade. But while we are befogged with paper currency redeemable in other paper currency and that not redeemable at all—the worst conceivable form of inflation—Congress will make lavish appropriations and the expenditures of the Government will be unnecessarily expanded at every session far more than any loss to be incurred on the score of interest by funding the United States notes. As legislators we come to hold money cheap. Familiarity with millions has bred a contempt for paltry sums, and it seems cowardice to shrink from any proposal merely because the figures are larger than would once have sufficed. Put off the day of payment and we count large sums as trifles, forgetting that each dollar of every man's skin will cost some one of our countrymen the sweat of a hard day's work. It is the golden moment for the party now in power to turn its attention to the dry subject of economy and stem the tide flowing out from the Treasury, for the day will



approach when our course will not fail to be reviewed by tax-payers. If we cannot now reduce taxation largely we can do much more by largely reducing our appropriations. If we prevent all raids upon the Treasury we shall entitle ourselves to imperishable gratitude.

From the facts to which I have already called the attention of the House it would appear to be demonstrated that the simultaneous discovery of new auriferous deposits in various parts of the world, of marvelous extent and richness, has rapidly and forever depressed the standard value of gold, whether as a currency or as a commodity, throughout all civilized nations, and that the United States standard of the precious metals used as currency has been depreciated from time to time, either by alloy or diminished weight, until it compares unfavorably with that of other nations; that while we have already entirely extinguished or propose to extinguish the circulation of State banks, we have supplied its place and much more by the creation of a family of national banks, whose issues alone are one hundred millions greater than the circulation displaced—issues everywhere practically irredeemable and inconvertible, and only claiming to be convertible at some time or other into other paper currency of still larger proportions, which the Government will in some way and at some time redeem, if it does not choose instead to go more deeply into the monopoly of fancy-colored paper money; that deposits, bills of exchange, and checks of individuals really possess in commercial transactions all the functions of bank-note currency, and in modern times are used at least nine times more extensively, and therefore, in proportion to the business of the world, far less money is actually required than formerly; that the rapidity of the circulation of money, or whatever circulates as money, greatly magnifies any currency which may be used in the United States; that the immensity of our paper money circulation tends to the spread of unthrifty habits and induces extravagance on the part of Congress and the Executive Departments as well as the people; that a postponement of the time of resumption will find our people less prepared, more deeply in debt, the banks with a heavier line of discounts, and the credit system more expanded everywhere than now for a wise, steady, and prudent adherence to the idea of an early resumption; and without this cardinal idea always in front we are in danger, in the face of a diminishing revenue, of no resumption at all.

A violent or abrupt contraction of the present volume of paper currency might not be advisable, and with the ever-present interest of the Treasury urging the maintenance of an easy money market, there is no danger of its occurrence; but a moderate and persistent contraction of the flood within its old embankments is advisable in order to restore health and vigor to languishing industries and in order to build up our greatness as a nation upon that impregnable foundation for which the material, not more precious than solid, has been placed by Providence within our reach, and in greater abundance than is to be found in all other countries beside. We have just emerged from a most expensive war, and ought to exhibit that spirit which success justly inspires, grappling with the financial difficulties remaining as part of our inheritance with the courage that conquers, and thus secure the vital interests of our own people while we challenge the respect of foreign nations.

Mr. MERCUR obtained the floor.

Mr. SCOFIELD. My colleague yields to me to move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WELKER reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the President's annual message, and had come to no resolution thereon.

CAPTAIN J. THOMAS TURNER.

Mr. DELANO moved that the Committee

of Claims be discharged from the further consideration of the petition and papers of J. Thomas Turner, for pay for travel from Baltimore to San Francisco, and that the same be referred to the Committee on Military Affairs. The motion was agreed to.

#### TAX ON COTTON.

Mr. TRIMBLE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the tax on cotton, if by them deemed expedient; and that they be instructed to inquire into the expediency of permitting the cotton to be removed to market without bond, the tax to be there paid as provided; and to report by bill or otherwise.

#### MILITIA.

Mr. PAINE, from the Committee on the Militia, by unanimous consent, reported a bill to provide for organizing, arming, and disciplining the militia, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

#### REMOVAL OF PROTESTANT CHURCH AT ROME.

Mr. DODGE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be, and is hereby, requested, if not inconsistent with the public interests, to communicate to the House of Representatives any information which may have been received by the Government in relation to the removal of the Protestant Church or Religious Assembly meeting at the American Embassy at the city of Rome, by the order of that Government.

And then, on motion of Mr. ALLISON, (at five o'clock p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of Daniel Warner, J. G. Wooster, and 25 others, of Cornwall, Vermont, relative to protection of the woolen interests.

By Mr. BROOMALL: The petition of citizens of Delaware county, Pennsylvania, remonstrating against the passage of any law for the more rapid curtailment of the currency, and against requiring national banks to redeem their issues in New York.

By Mr. CHAVES: The petition of William Breeden, attorney for José Pablo Gallegas, Juan José Gallegas, and Manuel A. Otero, for expenses of organizing the New Mexico militia.

By Mr. COOK: The petition of citizens of La Salle county, Illinois, praying that the national bank currency be retired from circulation, and its place supplied by Treasury notes.

By Mr. EGGLESTON: The petition of E. Gest, of Cincinnati, in favor of contracting the currency and of substituting greenbacks for national bank currency.

Also, the memorial of 300 cigar manufacturers of Cincinnati, praying for a specific and uniform tax on domestic cigars of five dollars per thousand.

Also, the petition of Miles Greenwood, and 20 others, consumers of steel for machinery, protesting against an increase of duty on imported steel.

By Mr. ELIOT: The petition of Joshua Sears, and others, of Barnstable, Massachusetts, salt manufacturers, praying for protection for domestic salt.

By Mr. FINCK: The petition of Eleanor Starling, mother of Cephas C. Starling, deceased, praying for a pension.

By Mr. HARDING, of Illinois: A petition for mail route from Rock Island to Stirling, in Illinois.

By Mr. HISE: The petition of Robert B. Martin, and others, against curtailment of the national currency.

By Mr. HUBBARD, of New York: The petition of William Weiler, and 13 others, manufacturers and journeymen cigar-makers, citizens of Norwich, New York, representing that the present system of taxation is productive of gross fraud and is destructive to them and their business, and praying that Congress will give a favorable consideration to their statements and so amend the law as to remedy the evils of which they complain.

By Mr. JOHNSON: The petition of Charles E. Buck, for relief.

By Mr. MARVIN: The petition of citizens of Fort Plain, Montgomery county, New York, praying for a reduction of the national currency.

By Mr. O'NEILL: The petition, numerously signed by manufacturers of cotton and woolen goods in the city of Philadelphia, praying that the burden of taxation may be lessened, that the five per cent. tax on goods may be repealed, and that a drawback of three per cent. per pound on cotton may be refunded to the manufacturer, that all articles of luxury not produced in the United States may be taxed, and that there may be speedy action on the part of Congress so that the mills and factories may be in full operation.

By Mr. PAINE: A memorial of the Chamber of Commerce of Milwaukee, praying that the internal revenue law may be so amended that a higher tax shall not be imposed upon time-paper than upon sight paper.

By Mr. SAWYER: The petition of Lucius E. Marshall, of Harrisville Marquette county, Wisconsin, praying for the passage of a law authorizing the Secretary of War to issue to the petitioner a duplicate discharge.

Also, the petition of A. K. Brush, of Waukau, Winnebago county, Wisconsin, and 30 others, praying for the impeachment of Andrew Johnson, Vice President, and acting President of the United States.

By Mr. STOKES: The memorial of L. S. Trowbridge, of Tennessee, asking for the passage of an act authorizing the President to appoint three commissioners to settle the claims of the East Tennessee and Virginia and the East Tennessee and Georgia Railroad Companies.

By Mr. VAN AERNAM: The petition of Private John Law, praying Congress to grant him a pension for loss of arm, resulting from a railroad accident while on his way home as a furloughed prisoner of war.

Also, a communication of Governor Fenton, forwarding statement of a committee of the citizens of Dunkirk, New York, of the condition of the Dunkirk harbor, and urging the necessity of an appropriation therefor.

By Mr. WASHBURN, of Massachusetts: The petition of Philip Martin, and others, soldiers of the war of 1812, residing in Franklin county, Massachusetts, asking that a pension be granted to all the soldiers of the war of 1812.

By Mr. WENTWORTH: The petition of David Goodwillie, of Chicago, Illinois, praying that Congress may grant American registers to certain vessels.

Also, the petition of David Muir, of Chicago, for a change of registry to certain vessels.

By Mr. WILSON, of Iowa: The petition of Smith, Scott & Co., and others, citizens of Burlington, Iowa, for a change in the tax on cigars.

Also, the memorial of the city of Burlington, Iowa, relative to a tract of land in that city belonging to the United States.

Also, the petition of W. M. Gayler, and 65 others, citizens of Hillsboro, Henry county, Iowa, for the impeachment of Andrew Johnson.

By Mr. WILSON, of Pennsylvania: The petition of James M. English, of English Center, Lycoming county, Pennsylvania, praying Congress to grant him a warrant for a tract of land eighteen miles square in some of the valleys of the Rocky mountains, to be selected by him, to be stocked by him with the best breeds of fine woolled sheep that can be procured; and also to introduce the Cashmere, Persian, Angora, and Circassian goats.

#### IN SENATE.

FRIDAY, January 25, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. STEWART, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of Hon. Simon Cameron, elected by the Legislature of Pennsylvania a Senator from that State for the term commencing March 4, 1867; which were ordered to be placed on the files of the Senate.

#### THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate a communication from A. J. Boreman, Governor of West Virginia, transmitting an authenticated copy of a resolution adopted by the Legislature of that State ratifying the amendment proposing a fourteenth article to the Constitution of the United States; which was ordered to lie upon the table.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the Soldiers' and Sailors' Union, of Washington city, District of Columbia, asking for an increase of the pay of clerks and others in the employ of the Government; which were ordered to lie upon the table.

He also presented resolutions of the Soldiers' and Sailors' Union, of Washington city, in favor of the passage of a law allowing all persons to draw their full pensions during the continuance of the law prohibiting the payment of pensions to those holding a civil office; which were referred to the Committee on Pensions.

He also presented a resolution of the Legislature of Kansas, in favor of the passage of Senate bill No. 489, to provide for giving the right of preemption to settlers on the Cherokee neutral lands, and for other purposes; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of Kansas, in favor of the extension of the benefits of the homestead law to the settlers on the lands recently purchased from the

Osage Indians, and known as the East Treaty lands; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of Kansas, in favor of granting to the Union Pacific railway (southern branch) like or equal aid as has been granted to the Union Pacific railway with its several branches, namely: The Central Pacific railroad of California, the Union Pacific railway (eastern division) the Sioux City branch, and the Union Pacific Central branch; which was referred to the Committee on the Pacific Railroad.

Mr. WILSON presented the memorial of Albert W. Bishop, adjutant general of Arkansas, praying for an appropriation for the publication of his report presented to the Legislature of that State in November, 1866; which was referred to the Committee on Printing.

Mr. GRIMES. I present the memorial of a large number of persons who have been in the Union service as officers, soldiers, and sailors, citizens of Virginia, remonstrating against the closing of the Norfolk navy-yard.

I also present the memorial of a large number of colored citizens of Portsmouth and Gosport, remonstrating against the closing of the yard.

I also present the memorial of sundry citizens of Virginia, and a memorial numerously signed by the workmen employed in the yard to the same effect.

I move that these memorials with the accompanying papers be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. COWAN presented a memorial of citizens of Pennsylvania, remonstrating against the passage of any act authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. BUCKALEW presented twenty-three petitions of manufacturers and operatives in Manayunk, twenty-first ward of the city of Philadelphia, praying for a repeal of the internal revenue tax levied on all goods manufactured; which were referred to the Committee on Finance.

Mr. SHERMAN presented a memorial of citizens of Georgia, remonstrating against the passage of any act for the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. CHANDLER presented the memorial of W. Marsh, United States consul at the port of Altoona, in the Duchy of Holstein, Germany, praying for an allowance to him for disbursements for living and charities, for office rent, clerk hire, and for amount expended in the publication of an emigrant guide-book; which was referred to the Committee on Commerce.

Mr. BROWN presented the petition of the president of the North Missouri Railroad Company, praying for a reduction of the duty on steel and iron for railroad purposes; which was ordered to lie upon the table.

Mr. WADE presented two petitions of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie upon the table.

Mr. BROWN presented a paper in relation to the claim of Mrs. Jerusha Page for a pension; which was referred to the Committee on Pensions.

Mr. SUMNER presented the memorial of the officers and members of the Newsboys' Association of Washington, praying that the name of the association be changed to that

of the Newsboys' Home and Children's Aid Society of the District of Columbia, and that the criminal court, the police, and magistrates of the District be authorized, in their discretion, to commit juvenile offenders and vagrants who come within their jurisdiction to the president and board of managers of said association; which was referred to the Committee on the District of Columbia.

Mr. JOHNSON presented a memorial of merchants, mechanics, manufacturers, and others, of Baltimore, Maryland, remonstrating against the passage of the bankrupt bill; which was ordered to lie upon the table.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of Dempsey Reece, praying to be relieved from any further performance of his contract to carry the mail on route No. 12068, between New Castle and Mechanicsburg, in Indiana, submitted a report, accompanied by a joint resolution, (S. R. No. 160,) for the relief of Dempsey Reece, of Indiana. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 506) to authorize the trustees of the Foundry Methodist Episcopal church to sell and convey square No. 235 in the city of Washington, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the memorial of Edward Dodge, of Brooklyn, New York, praying that the name of the yacht Mayflower may be changed to the name of Silvie, reported a joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name of the same to that of Silvie; which was read and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Rowland W. Griffith praying that the bark R. W. Griffith, now under the British flag, may be granted an American register, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of John A. Ragan, praying for an appropriation for the construction of certain canals to prevent the inundation of the Mississippi river, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of members of the Union Republican Central Committee of the city of Elizabeth, New Jersey, praying that that city be made a port of entry, and that an appropriation be made for the purpose of erecting a suitable building for the accommodation of the custom house, post-office, collector and assessor of internal revenue, and for holding the Federal courts, asked to be discharged from its further consideration; which was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom the subject was referred, reported a joint resolution (S. R. No. 161) in addition to a joint resolution to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris, in 1867; which was read and passed to a second reading.

Mr. CONNESS, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (S. R. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon, reported it with amendments, accompanied by a written report; which were ordered to be printed.

Mr. WILLIAMS. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. No. 522) for the relief of Nathan Noyes, to make an adverse report. I move the indefinite postponement of the bill.

The motion was agreed to.

#### COMPENSATION OF CIVIL EMPLOYEES.

Mr. WILLIAMS. I am instructed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service in Washington, to report the same back with an amendment in the nature of a substitute; and I will say, so as to make it unnecessary for those concerned to ask questions about it, that the amendment omits the exceptions in the original resolution, and provides for an addition of twenty per cent. to the salaries of the all officers and employes of the Government at Washington whose salaries do not exceed \$3,500, without respect to any advancement that they may have received in their salaries by the disbursement of the fund that was placed in the hands of the Secretary of the Treasury. I give notice that I shall endeavor to call up this resolution to-morrow morning.

#### PARIS EXHIBITION.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print extra copies of the message of the President of the United States on the subject of the Paris Exhibition, to report it back to the Senate without amendment, and recommend its passage. I ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That one thousand extra copies of the message of the President, with the accompanying documents, on the subject of the Paris Exhibition, transmitted to the Senate on the 21st of January last, be printed for the use of the Senate, and two thousand copies for the use of the Department of State.

#### FIRST CONGREGATIONAL SOCIETY.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred the amendment of the House of Representatives to the bill (S. No. 253) to incorporate the First Congregational Society of Washington, have instructed me to report it back, with a recommendation that the Senate disagree to the amendment of the House. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the amendment of the House to the bill; which was to strike out all after the enacting clause and to insert the following:

That Hiram Barber, Roswell H. Stevens, Charles H. Howard, Silas H. Hodges, Henry A. Brewster, John W. Rumsey, David M. Kelsey, Abner T. Longley, Benjamin F. Morris, William T. Bascom, S. C. Pomeroy, and Calvin S. Mattoon, and their associates, are hereby created a body politic and corporate by the name of "The First Congregational Society of Washington;" and as such may purchase, hold, and convey real and personal estate, make contracts, sue and be sued, plead and be impleaded, and may exercise all such powers as are requisite to enable them to sustain religious worship in Washington, in the District of Columbia, and to erect and maintain edifices for that purpose, and parsonages; and said society shall be exempt from any taxes to be assessed upon their property, under the authority of Congress or of the District of Columbia or the city or county of Washington: *Provided*, That the whole value of their property shall not exceed \$200,000.

SEC. 2. *And be it further enacted*, That the first meeting of said society shall be holden at the time and place at which a majority of the persons herein above-named shall assemble for that purpose; and six days' notice shall be given each of said corporators; at which meeting, and at all annual meetings, and at all meetings specially called for that object, said society may enact, amend, or repeal by-laws regulating the government of said society; prescribing the number, character, and duties of their officers, and the manner of their election; defining the terms on which members may be admitted to it, and shall cease to be such; and providing in all things for the management of the affairs of said society or for securing its interests and welfare.

SEC. 3. *And be it further enacted*, That the powers of this corporation shall vest in the board of trustees, who shall be chosen as provided by the by-laws, and shall consist of five persons, and shall have perpetual succession, each one holding his office until his successor is chosen and qualified.

The amendment was non-concurred in.

#### BILL RECOMMENDED.

Mr. WILSON. I move that the bill (S. No. 366) to reorganize the clerical force of the War Department, and for other purposes, be taken up and recommitted to the Committee on Military Affairs and the Militia.

The motion was agreed to.

## HOUSE BILL REFERRED.

The bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, was read twice by its title, and referred to the Committee on Finance.

## PENSION AGENTS.

The PRESIDENT *pro tempore* appointed MESSRS. LANE, TRUMBULL, and BUCKALEW as the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (S. No. 69) to provide for the payment of pensions.

## NOTICE OF A BILL.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to increase and equalize the pay of officers of the Army of the United States, and for other purposes.

## BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 535) for the benefit of Mrs. Jerusha Page; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 536) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 537) for the relief of Harriet W. Pond; which was read twice by its title, and referred to the Committee on Claims.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 538) for the relief of the widow and children of Henry E. Morse; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 539) to expedite the construction of the Southern Pacific railroad; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 213) to extend the provisions of the act in regard to agricultural colleges to the State of Tennessee, in which it requested the concurrence of the Senate.

## HABEAS CORPUS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 755.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (H. R. No. 755) amendatory of an act to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved May 11, 1866.

The bill provides that whenever any suit or prosecution which has been or may be commenced in any State court, and which the defendant is authorized to have removed from that court to the circuit court of the United States, under and by virtue of the provisions of an act relating to *habeas corpus*, and regulating judicial proceedings in certain cases, approved March 3, 1863, or by virtue of the act amendatory thereof, approved May 11, 1866, and all the acts necessary for the removal of the cause to the circuit court shall have been performed, and the defendant in any suit shall be in actual custody on process issued by the State court, it is to be the duty of the clerk of the circuit court of the United States to issue a writ of *habeas corpus cum causa*; and it is to be the duty of the marshal, by virtue of the writ of *habeas corpus*, to take the body of the

defendant into his custody to be dealt with in the circuit court according to rules of law, and the orders of the court, or of any judge thereof in vacation; and he is to file a duplicate copy of the writ of *habeas corpus* with the clerk of the State court in which the suit was commenced, or deliver the duplicate to the clerk of the court; and all attachments made, and all bail and other security given in any suit or prosecution which has been or shall be removed from any State court to the circuit court of the United States, in pursuance of law, is to be and continue in like force and effect as if the suit had proceeded to final judgment and execution in the State court.

Mr. JOHNSON. Was that bill referred to a committee and reported.

The PRESIDENT *pro tempore*. It is reported from the Committee on the Judiciary.

Mr. TRUMBULL. I will state to the Senator from Maryland that the bill was reported at the last session of Congress, and has been on the Calendar ever since.

Mr. HENDRICKS. My recollection of this bill is, that it only relates to cases in which there has been an arrest in the State courts and relieves from that arrest after proceedings have been taken according to law to take the case into the United States court. I did not know the bill was to be called up this morning. If that be its purpose I have no objection to the bill. I will ask the chairman if it goes any further? I suppose it does not go any further.

Mr. TRUMBULL. I think not. The bill was before the committee at the last session of Congress, and was reported without amendment. It is a House bill—a very short bill, containing only one section. The Senator will see by running his eye over it how far it goes. The only effect of the bill, as I understand it, is, that where a suit is removed under the law as it exists from a State to the United States court, and the defendant is in custody under the authority of the State court, a writ of *habeas corpus* may be issued by the Federal court for the purpose of bringing the party into that court. I think that is the extent of the bill, as I recollect it; I have not examined it very carefully this morning. I presume there will be no objection to it. If a case is removed or authorized to be removed, as the law now stands, of course the custody of the party should go along with the case. I do not think there can be any objection to it.

Mr. JOHNSON. The honorable chairman, I have no doubt, is right as to the extent of the bill. I think I concurred in the committee in reporting in favor of it. It does not enlarge the class of cases which are removed from the State courts to the court of the United States. But the law as it stands now does not provide for what either has happened or may happen, the case of an arrest and confinement under arrest under the authority of the State court. The whole object of this bill is to bring the propriety of those arrests before the United States circuit court, to whom the case itself is to be transferred under the existing law. My friend from Indiana, I think, will concur in the bill if he will look at it carefully. It does nothing more than give the circuit court authority to ascertain whether there is a cause for the arrest or not.

Mr. HENDRICKS. I thought so, and I interposed no objection to the bill with that understanding. That is my impression of it. The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## HOUSE BILL REFERRED.

The joint resolution (H. R. No. 213) to extend the provisions of the act in regard to agricultural colleges to the State of Tennessee was read twice by its title, and referred to the Committee on Public Lands.

## REWARDS TO PRISONERS FOR GOOD CONDUCT.

Mr. HARRIS. I move that the Senate proceed to the consideration of Senate bill No. 460.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 460) in relation to persons imprisoned under sentence for offenses against the laws of the United States.

Mr. HARRIS. The Committee on the Judiciary have reported an amendment to the bill in the nature of a substitute, and I presume it will only be necessary to read the substitute.

The PRESIDENT *pro tempore*. The substitute only will be read unless some Senator asks for the reading of the original bill.

The Secretary read the amendment of the committee, which was to strike out all after the enacting clause of the bill and to insert the following in lieu thereof:

That all prisoners who have been, or shall hereafter be, convicted of any offense against the laws of the United States, and confined in any State prison or penitentiary in execution of the judgment or sentence upon such conviction, who so conduct themselves that no charge for misconduct shall be sustained against them, shall have a deduction of one month in each year made from the term of their sentence, and shall be entitled to their discharge so much the sooner, upon the certificate of the warden or keeper of such prison or penitentiary, with the approval of the Secretary of the Interior.

SEC. 2. And be it further enacted, That it shall be the duty of the respective district judges of the several districts of the United States to cause this law to be executed, and to receive and pass upon the evidence authorized by the said State laws, and to give and furnish to the warden or other keeper of the prison the proper certificate, warrant, or authority for the discharge of any convict imprisoned, as aforesaid, upon a conviction under the United States laws, before the expiration of the term of his sentence, or for other mitigation of his punishment, in pursuance of the provisions of the State laws aforesaid, and such convict shall be thereupon discharged from imprisonment or his punishment otherwise mitigated, as the case shall require, in conformity to the said State laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

## MARYLAND COLLECTION DISTRICTS.

Mr. CRESWELL. The Committee on Commerce, to whom was referred the bill (S. No. 347) to change certain collection districts in Maryland and Virginia, have instructed me to report it back with an amendment in the nature of a substitute, and to ask that the bill as amended may be put upon its passage. It will take no time. If it leads to debate I shall not press it to-day.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was to strike out all after the enacting clause of the bill, and to insert the following in lieu thereof:

That the districts of Oxford and Vienna in the State of Maryland be, and the same are hereby, abolished, and the office of collector of both said districts is hereby discontinued.

SEC. 2. And be it further enacted, That the district of Oxford, in said State, shall be annexed to the district of Baltimore, and all that part of the district of Vienna in said State bordering on the sea-coast, and all the waters which flow into the sea or bays on the east side of said district of Vienna be, and the same are hereby, annexed to the district of Cherry Stone, in the State of Virginia; and that all the residue of said district of Vienna be, and the same is hereby, made a new district, to be called the eastern district; and that the collector of said eastern district shall receive an annual salary of \$1,200, and shall reside at Crisfield, which shall be the port of entry for said new district.

SEC. 3. And be it further enacted, That the offices of surveyor at Snow Hill and of deputy collector at Annapas set be, and the same are hereby, discontinued, and that the collector of the district of Cherry Stone shall hereafter reside at Accomac Court-House, which shall be the port of entry for the district.

SEC. 4. And be it further enacted, That all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. JOHNSON. I ask my friend and colleague if this is reported at the instance of the Secretary of the Treasury?

Mr. CRESWELL. Yes, sir; I have a communication from the Secretary of the Treasury recommending these changes.

Mr. JOHNSON. That will do.

Mr. CRESWELL. The bill has only been changed in some local matters of detail, which



from my knowledge of the country I thought I better understood than the Secretary of the Treasury.

Mr. JOHNSON. I am satisfied.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### WRIT OF HABEAS CORPUS.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of House bill No. 605.

The motion was agreed to; and the Senate as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 605) to amend an act to establish the judicial courts in the United States, approved September 24, 1789.

Mr. JOHNSON. I ask for the reading of the bill.

The Secretary read it as follows:

*Be it enacted, &c.* That the several courts of the United States and the several justices and judges of such courts, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution or of any treaty or law of the United States; and it shall be lawful for such person so restrained of his or her liberty to apply to either of said justices or judges for a writ of *habeas corpus*, which application shall be in writing and verified by affidavit, and shall set forth the facts concerning the detention of the party applying, in whose custody he or she is detained, and by virtue of what claim or authority, if known; and the said justice or judge to whom such application shall be made shall forthwith award a writ of *habeas corpus*, unless it shall appear from the petition itself that the party is not deprived of his or her liberty in contravention of the Constitution or laws of the United States. Said writ shall be directed to the person in whose custody the party is detained, who shall make return of said writ and bring the party before the judge who granted the writ, and certify the true cause of the detention of such person within three days thereafter, unless such person be detained beyond the distance of twenty miles; and if beyond the distance of twenty miles and not above one hundred miles, then within ten days; and if beyond the distance of one hundred miles, then within twenty days. And upon the return of the writ of *habeas corpus* a day shall be set for the hearing of the cause, not exceeding five days thereafter, unless the party petitioning shall request a longer time. The petitioner may deny any of the material facts set forth in the return, or may allege any fact to show that the detention is in contravention of the Constitution or laws of the United States, which allegations or denials shall be made on oath. The said return may be amended by leave of the court or judge before or after the same is filed, as also may all suggestions made against it, that thereby the material facts may be ascertained. The said court or judge shall proceed in a summary way to determine the facts of the case, by hearing testimony and the arguments of the parties interested; and if it shall appear that the petitioner is deprived of his or her liberty in contravention of the Constitution or laws of the United States, he or she shall forthwith be discharged and set at liberty. And if any person or persons to whom such writ of *habeas corpus* may be directed shall refuse to obey the same, or shall neglect or refuse to make return, or shall make a false return thereon, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall, on conviction before any court of competent jurisdiction, be punished by fine not exceeding \$1,000 and by imprisonment not exceeding one year, or by either, according to the nature and aggravation of the case. From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause is heard, and from the judgment of said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default of such, as the judge hearing said cause may prescribe; and pending such proceedings or appeal and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against such person so alleged to be restrained of his or her liberty in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus*, shall be deemed null and void.

Sec. 2. And be it further enacted, That a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity, or where is drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitu-

tion, treaties, or laws of the United States, and the decision is in favor of such their validity, or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of or commission held or authority exercised under the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed by either party under such Constitution, treaty, statute, commission, or authority, may be re-examined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect, as if the judgment or decree complained of had been rendered or passed in a court of the United States; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution, or remand the same to an inferior court. This act shall not apply to the case of any person who is or may be held in the custody of the military authorities of the United States, charged with any military offense, or with having aided or abetted rebellion against the Government of the United States prior to the passage of this act.

Mr. JOHNSON. The bill itself I have no doubt will commend itself to the approval of the Senate, and I only rise for the purpose of inquiring of the chairman of the committee what will be his construction of the bill or his opinion of the law in the particular which I am about to mention. In my own view, under the law as it now is, any judge of the Supreme Court of the United States has a right to issue a writ of *habeas corpus* to be executed anywhere within the limits of the United States. This bill professes, according to its terms, to recognize that right, and to make it the duty of the court where it does not appear affirmatively or to the satisfaction of the court that the arrest is not in violation of the Constitution or laws of the United States to issue the writ. A difficulty has arisen in the construction of the present power, and the difficulty will arise if we pass this bill, if it be well founded now.

The former Chief Justice of the United States held that this kind of process issued by any judge of the Supreme Court of the United States could be sent anywhere within the limits of the United States, and would of course be compulsory upon the party to whom it was directed; but an application was made to the present Chief Justice for a writ of *habeas corpus* to bring before him the case of one of the prisoners at the Tortugas who was charged and convicted of being concerned directly or indirectly with the assassination of the President, by a military commission, upon the ground that military commissions for the trial of citizens, he being a citizen, were unconstitutional, that question having been decided affirmatively by a recent decision of the Supreme Court. The Chief Justice simply denied the application; but, as I understand, he denied it, not upon the ground that the prisoner was there under any proper authority, but because he had no power himself to issue such a writ to be executed outside of his own circuit.

This bill does not cure that defect, if it be a defect; and I suggest to my friend, the chairman of the committee, that perhaps he had better lay it on the table and let us examine the question of law, so as to place it beyond all doubt. There is a practical inconvenience, as we can all see, in authorizing a writ of *habeas corpus* to be issued by any judge of the United States. This bill gives it to the district judges as well as to the Supreme Court judges; and an application might be made to a district judge in Florida to bring before him some men convicted and sentenced and held under imprisonment in the State of Vermont or in any of the further States. Perhaps it would be as well to limit the authority to the circuit over which the judge's jurisdiction in other respects extended.

I rose merely for the purpose of suggesting to the honorable chairman the doubt which is evidently in the mind of the present Chief Justice of the United States, and the advisability of so framing the law as to remove that doubt.

The bill was reported to the Senate without amendment.

Mr. JOHNSON. Now, if we are about to pass the bill we ought to understand exactly what will be the operation of it. Any man who may be imprisoned in any part of the United States may be brought out by this writ issued by a district judge of the United States farthest from the place of imprisonment. I think that is exceedingly inconvenient, embarrassing, and expensive, and I do not see the necessity for it. I do not see why the authority should not be limited to the circuit judge of the circuit where the party is imprisoned, or at least to the district judges within the same circuit.

The bill would apply, I suppose, to the judges here in this District. They would be authorized to issue a writ of *habeas corpus*, and it could be sent down to the Tortugas or any where else the farthest from here, either south or north, and the party would be brought here to have his case decided here, and the decision upon that writ of *habeas corpus* would be conclusive, no matter what might be the decision of the Supreme Court of the United States on the same question brought before them.

I think perhaps the chairman had better let the bill lie on the table until the next session of the Senate, until to-morrow or Monday, so that in the mean time we may look at it and guard against what seems to me to be a very unnecessary measure, and what would be a very expensive one.

Mr. TRUMBULL. I shall not object to the bill lying over until to-morrow, if the Senator from Maryland desires to examine it further. It was a bill which was called up at the last session and some discussion was had upon it then. There is certainly some force in the suggestion of the Senator, if it be true that the bill is susceptible of such a construction as he puts upon it, that a district judge in one part of the Union might issue a writ of *habeas corpus* to bring before him a person confined in a remote part of the Union from him. That would be objectionable. It would hardly be tolerated that the district judge of California should issue a writ of *habeas corpus* to bring before him some person from Maryland. Such, I apprehend, is not the design of the bill, and probably it is not susceptible of that construction; but if the Senator wishes to look into it further I shall not object at all to its going over to to-morrow.

Mr. JOHNSON. I should prefer that.

Mr. TRUMBULL. As it is now one o'clock the special order cuts it off at any rate, I suppose.

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the unfinished business of yesterday.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LOXN, its Chief Clerk, announced that the House had passed the joint resolution (S. No. 99) for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war *Idaho*, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the joint resolution (S. No. 112) for the relief of Mrs. Abby Green.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 666) authorizing the Secretary of War to purchase certain property for military purposes;

A bill (H. R. No. 820) for the relief of Henry S. Davis;

A bill (H. R. No. 967) for the relief of James Hooper, of Baltimore, Maryland;

A bill (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier;

A bill (H. R. No. 1045) for the relief of Daniel Frederick Bateman, a revolutionary soldier;

A joint resolution (H. R. No. 211) for the relief of George W. Lane, superintendent of

the branch mint at Denver, Colorado, and Assistant Treasurer of the United States; and

A joint resolution (H. R. No. 244) to amend existing laws relating to internal revenue.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 755) amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved May 11, 1866; and the enrolled joint resolution (S. No. 156) to provide for the removal of the wreck of the steamship Scotland; and they were thereupon signed by the President *pro tempore* of the Senate.

#### THE TARIFF BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes.

Mr. JOHNSON. I move to amend the amendment of the Committee on Finance by striking out lines seventeen to twenty-four, inclusive, of section thirteen, on pages 84 and 85, and inserting in lieu thereof:

On candle or cannel coal, and on all bituminous coal, \$1 50 per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. President, the bill as it stands in those parts of it which the amendment proposes to strike out levies a duty of \$1 50 a ton upon bituminous coal brought from a certain region of country, and it levies a duty of only fifty cents upon coal brought from a distance inside of a described line. The Senate will see by looking at the line which is described that the effect of it will be that nearly all the coal that is imported from abroad will be subjected only to the duty of fifty cents, as nearly all the coal which is imported is brought from inside of that line. Now, as I stated the day before yesterday, if that duty alone is imposed upon the bituminous coal, it will very materially injure, if it does not entirely destroy, the use of the bituminous coal of the United States.

The bill, in a line which I do not propose to strike out—for if that interest needed the protection I would vote for it—proposes \$1 50 a ton upon anthracite coal. Pennsylvania does not need that protection, there being, as I understand, little if any anthracite coal imported into the United States. It is an article which almost exclusively belongs to Pennsylvania, and is a source of great wealth to her. But the bituminous coal is common to Maryland, common to West Virginia, common to several of the western States, and is very extensively, and must be very extensively, used throughout the United States, for various purposes, for fuel for manufacturing purposes, for the production of gas, for steamboat fuel, and it is becoming a very extensive article of sale and consequently of wealth to the United States. The whole effect of the provision as it stands in the bill will be to protect the manufacturers, who can be supplied by foreign coal this side of the described line, paying a duty only of fifty cents, which will render it impossible for the Maryland miner or the West Virginia miner or the Kentucky miner to compete in the markets with that coal. The whole effect of my amendment, therefore, will be to strike out the distinction, so as to levy a duty of \$1 50 per ton upon all bituminous coal; and I hope that, looking to the purpose which we all have in view and the necessity of protecting all, the Senate will concur in the amendment.

Mr. FESSENDEN. The clause which has been inserted by the Committee on Finance here is the same that was inserted by the Committee of Ways and Means in the House when they reported the original bill. It was debated very much in the House, and principally by one of the Representatives from Maryland, taking the same ground that the honorable Senator from Maryland does now, and by a majority of one, I think, though it may have been two or three, the duty was finally carried, as the Senator proposes here. The Representative from

Pittsburg gave his assent to it as proper and fair under the circumstances.

Now, there are several reasons why the clause should stand as the Finance Committee arranged it. The Senator from Maryland has made a very general statement that it would destroy the mining interests of the Cumberland valley and of Kentucky if this duty of fifty cents only was imposed. In reply to that I want to say to him that during the existence of the reciprocity treaty, under which coal came in free from Nova Scotia, the whole trade of the Cumberland valley in coal, the peculiar coal they raise there, came up from about nothing to six hundred thousand tons. Although during the operation of that treaty the Nova Scotia coal came in without any duty, the trade in Cumberland coal grew up from a very low figure to about six hundred thousand tons. How can the Senator reconcile that fact, about which there is no dispute, with the idea that the imposition of fifty cents on it, instead of nothing, is to ruin the trade in Cumberland coal? It shows that the honorable Senator has made his statement without being fully acquainted with the data that exist in relation to the matter about which he has made his remarks to the Senate.

Now, sir, does anybody know how much coal is imported from Nova Scotia at this time in the whole? Never over five hundred thousand tons in any one year, and the whole coal trade of the United States exceeds twenty-two millions. Even when the Nova Scotia coal came in free its importation never exceeded five hundred thousand tons. How can that ruin the business in Cumberland coal?

There are several other facts that I wish to mention for the information of the honorable Senator. None of the Nova Scotia coal goes south of Rhode Island to any appreciable extent. It is used principally in New England for the purpose of making gas. All but about eighty thousand tons of it is used for the purpose of making gas, affording the light used by gas companies. Some of the gas companies do not use it, preferring to import their coal from England even at a duty of \$1 50 a ton, and do so; but others use it to a great extent. There are only about seventy or eighty thousand tons used for any other purpose than gas-making. It is not used for fuel in families. The anthracite is used almost exclusively for that purpose. The seventy or eighty thousand tons I speak of are used for the purpose of manufacturing iron in the iron rolling-mills established in New England. The Nova Scotia coal cannot be used by blacksmiths, and it is not used by blacksmiths or in machine-shops. It does not answer their purpose; but it is used, as I said before, to that small extent in the manufacture of iron in the rolling-mills in New England.

Now, how will the use of Nova Scotia coal for gas interfere with the Cumberland coal? The Cumberland coal is not used for making gas and cannot be.

Mr. JOHNSON. It is in Baltimore.

Mr. FESSENDEN. No, sir, not the Cumberland coal. I understand it cannot be used for that purpose, and is not. I think the Senator, if he makes proper inquiries, will find that he is mistaken. So it does not interfere with that. It might interfere possibly, but for the large additional freight, with the Westmoreland county coal of Pennsylvania, out of which gas is made, and which is sent down to Philadelphia and other points for that purpose.

Now, let me state another fact of some importance, and that is that the Cumberland coal already has an additional protection of one dollar in the fact that in the same market it always commands a dollar more per ton than the Nova Scotia coal for the very use to which it is put—I mean for use in manufacturing iron. It is a better coal and commands a dollar a ton more, and this added to the gold duty of fifty cents, as the committee propose, would be a protection as it stands now of in fact \$1 70 a ton in currency.

Under these circumstances the committee

thought that, in view of the large additional duties that are placed upon iron manufactured so largely in Maryland and Pennsylvania, and which fall very heavily upon the workers in iron, it was no very great boon to ask that those who have the coal at their doors precisely where they get their iron should allow the iron-workers elsewhere to import the very small quantity that they use, seventy or eighty thousand tons, free from the additional burden of the increased duty. In Maryland you have your coal and your iron upon the spot. We must carry our coal to Maine and carry our iron to Maine to manufacture it. Now, is not a protection of \$1 70 per ton upon the coal sufficient for the Maryland workers in iron and the Maryland owners of coal? It is strange to me that under these circumstances the very small quantity that is used for that purpose and for gas-making purposes cannot be allowed to be imported at the rate of duty now proposed to be stricken out; and such was the opinion of the Committee of Ways and Means of the other House, as well as of the Committee on Finance of the Senate.

The truth is that with reference to all these matters many things are to be considered. The tariff on iron proposed by this bill will bear very heavily upon the population of New England. I think that men should consider in framing a tariff applicable to so many different sections of this great country, having different interests in many particulars, that the rule of "live and let live" might well be applied. It should not be insisted upon by the owners of these large coal mines, whose trade is so very large, that this article, which is mainly used by persons in the United States who were formerly accustomed to get their coal free under the reciprocity treaty, and who have not been able to raise the importation to over five hundred thousand tons, should be subjected to the heavy duties imposed upon other coal.

I have now stated the facts in relation to the matter, and until the Senator can tell me why the Cumberland coal trade grew up from almost nothing to over six hundred thousand tons a year under the reciprocity treaty, when there was no duty on Nova Scotia coal at all, I shall be unable to see how the Cumberland coal trade can be destroyed by a duty of fifty cents, and I cannot consent to vote for this amendment. If he could prove that as a matter of statistics I should be inclined to look with a little more favor on his argument.

Mr. JOHNSON. The honorable member from Maine is always instructive; no one is more conscious of that than I am, because I am almost always instructed by him; but on this occasion he has attempted to instruct me where I think I was instructed before.

I was aware that under the reciprocity treaty coal was admitted free; and I was aware that to a certain extent the Maryland coal was produced and disposed of to a great extent at that time. Whether the amount was four hundred or five hundred or six hundred thousand tons, as he states, I do not know. I suppose he is right as to the amount; but in point of fact the owners of the mines made little or no money.

Mr. FESSENDEN. They sold over six hundred thousand tons.

Mr. JOHNSON. No matter what it was, they made little or no money by it; and they made little or nothing, because the demand for such coal was not equal to what they could have supplied; and the profit upon what they were able to supply was comparatively trifling. Notwithstanding the reciprocity treaty they supplied all the wants of the country with reference to this article this side of New York. That they do now; but that does not furnish a sufficient demand. There have been various companies chartered by Maryland for the purpose of mining coal and bringing it to market. The stock at one time went up to a very large figure beyond its par value, but it soon receded; and there is no one of the original stockholders who held on that has failed to lose.

Having thus, as far as I am able, answered by denying the fact that there was any great value in the trade notwithstanding the reciprocity treaty, my honorable friend will permit me to ask if fifty cents is a sufficient protection for coal brought from this side of the prescribed line, why the committee have charged \$1 50 upon coal that is brought from Europe. One would suppose that as it costs a great deal more to bring coal from Liverpool than to bring it from Nova Scotia, if there had been any discrimination between the importation from the two places, it would have been a discrimination in favor of the Liverpool coal. But that is not so; and I might ask him, too, why it is that the Committee charges \$1 50 upon anthracite coal; what is the purpose of that? Is that for revenue? That must be answered in the negative, because no anthracite coal is or can be imported; it is not to be found anywhere within reasonable reach. What is it put into the bill for, therefore?

Mr. FESSENDEN. It is stricken out.

Mr. JOHNSON. I speak of the bill as it originally stood. Why was it put in the bill?

Mr. FESSENDEN. I will answer by and by.

Mr. JOHNSON. The honorable members from Pennsylvania can answer that question. It was apparently inserted for the purpose of satisfying what it was supposed might be the wants of the Pennsylvania miner. But why is there a difference now (to ask it in another form) between the duty imposed on coal imported from this side of the prescribed line and that imported from the other side? The only answer that I think can be given is, that the only coal that comes to the United States of this description is that which comes from this side of the prescribed line. Then there is a motive in it; and what is the motive? Is it to encourage the foreign coal owner? Certainly not as against ourselves. It has two objects. It has for its first object, perhaps, the receipt of revenue; but it has for its second and perhaps its more persuasive object the benefit of the manufacturers of the East. I do not complain of protecting them reasonably, but if it be right to protect them by means of a tariff, is it right to do so by sacrificing the interests of other American citizens in their own industry? I do not think any satisfactory answer can be given upon that point.

Mr. FESSENDEN. We deny the fact that it does. The Senator assumes that it sacrifices others.

Mr. JOHNSON. If it does not, and no particular revenue is to be derived from the fifty cents, I should suppose that my friend would have no objection to inserting \$1 50 instead of fifty cents, for that, while it would benefit us, would not injure New England.

The honorable member says that the Maryland coal is used only as he understands—of course he has been so informed—in the manufacture of iron.

Mr. FESSENDEN. Oh, no. It is used for a great many other purposes. I said it was not used for gas.

Mr. JOHNSON. The Senator is mistaken. It is used in the manufacture of gas, and it is not used exclusively in the manufacture of iron.

Mr. FESSENDEN. I did not say it was used exclusively for that purpose.

Mr. JOHNSON. The iron works in Pennsylvania, which are very extensive, are, I believe, managed entirely, as far as fuel is concerned, with anthracite. They have succeeded in constructing their chimneys and their furnaces in such a way as to make the anthracite answer every purpose of getting a blast which will enable them to ignite it and to burn it just as fast as the Cumberland coal could have been ignited and would have burned out under the original form of their works as far as related to their furnaces. It is used, too, very extensively in the manufacture of gas.

My friend near me [Mr. MORRILL] suggests that they never see the Nova Scotia coal in his neighborhood. I have no doubt that is true; but they never see ours; and they never see

ours because they prefer at present prices the anthracite; but if we could carry the Maryland bituminous coal into Maine, where my friend resides, and there be able to sell it at a price anything like the price for which the anthracite coal can be sold, I think they would soon abandon the anthracite perhaps and substitute the bituminous coal. But that is a matter of speculation.

All that I mean to say—and I place the propriety of the amendment upon that ground—is that the maxim to which the honorable chairman of the Finance Committee referred, of living and let live, is perfectly right. No man wants to live by killing another; no man wants to get rich by impoverishing another; no man desires to get rich by keeping another from getting rich within the same time. That is not living and letting live. It is reversing the maxim. Now, what is proposed to be done by the bill as it stands, as I think, lets eastern manufacturers live, but does not let the coal owner live. I think that if we substitute the amendment which I have proposed, instead of having six hundred thousand tons, the production will be doubled or quadrupled, for the supply is inexhaustible. Everybody would be benefited by it. It is not the case now, certainly, in relation to the owners of the mines, who have made little or nothing, although they have gone on from time to time under the hope that they would eventually find it to be a profitable business and benefit everybody.

Mr. CRESWELL. The coal interest in Maryland is one of the largest of our State. I suppose it equals in magnitude any one of the manufacturing interests of New England. In Massachusetts they have some fifty or sixty millions invested in the production of cotton fabrics. In Maryland we have directly invested in coal production \$80,000,000. In addition to that, we have invested \$18,000,000 in the Chesapeake and Ohio canal and \$12,000,000 in the Baltimore and Ohio railroad, making in that State alone invested in the production and transportation of coal a gross capital of \$60,000,000.

I know, sir, that many gentlemen consider the article of coal as a raw material; and I believe the very able, energetic, industrious, and upright revenue commissioner, who has had this subject under consideration has treated it from that stand-point. I differ from him, but differ of course with great respect. I admit that coal in the mine is a raw material. In that condition it is worth twenty-five cents per ton only; but when labor is applied and the coal is removed from its bed and placed at the mouth of the mine you find that it is increased in value, according to that gentleman's own statement, about eightfold. Of that increase some seven eighths, or eighty seven per cent., depends upon the value of the labor bestowed upon the article.

In the commissioner's statement he further proceeds to say, that when the coal reaches Baltimore the price of it in 1865 was seven dollars per ton. We then have an increase of twenty-eight fold in the value of the coal at Baltimore, as enhanced by labor and transportation. That almost equals the illustration so often given of the value of labor as exhibited in the manufacture of the main-springs of watches from the raw material. The greater part by far of the value of coal when it reaches the market is chargeable to the labor necessary to its production and the cost of transportation.

But the commissioner in the consideration of this question does not stand precisely in the same position as the committee. He argues it as a free-trader; he says that it is essential that everybody should have cheap coal, and for that reason he recommends the entire abolition of all duties on coal. If his theory be correct, of course there should be no duties on coal coming from any quarter, and it would apply as well to the repeal of the duties on coal coming from England and Wales as that coming from Nova Scotia. But the gentlemen of the Finance Committee do not ask for that.

They incorporate in this bill a somewhat cunningly devised provision—I do not use the term in any offensive sense—applying the rate of fifty cents a ton to coal coming from all sections west of the thirtieth meridian of longitude, and \$1 50 to all coal coming from any place east of the thirtieth meridian of longitude. We are then immediately led to inquire, why this singular provision in the bill? Why are gentlemen obliged to go to the globes and maps to ascertain what it means? Why not say at once on its face, "We intend that Nova Scotia coal shall come into New England and wherever else it can reach, for fifty cents a ton, and that all other coals shall be charged \$1 50?"

But the chairman of the Committee on Finance says that this coal is only imported into New England. I do not know where he gets that information. I am sure it is a mistake.

Mr. FESSENDEN. I said mainly, not only.

Mr. CRESWELL. I have before me a statement showing the amount of the coal imported during the years 1864, 1865, and 1866, varying somewhat from the statement made by the commissioner, and I think correcting some of the errors into which he has fallen. I admit that it is a very difficult matter to get precise information as to the amount of the product of bituminous coal, and perhaps somewhat difficult to get the precise amount of importations. But, according to the volumes on Commercial Relations, published officially and by authority of the Government, it appears that in 1864 there were imported into New York, free of duty, under the then existing reciprocity treaty, 129,375 tons of coal from Nova Scotia; and in the same year, from Great Britain, 105,924 tons, subject to a duty of \$1 25 per ton under the present tariff. In 1865 there were imported into New York 206,649 tons; and in 1866 151,590 tons from Nova Scotia, paying, after the 17th of March of the last-mentioned year, the duty of \$1 25 per ton. It thus appears that the statement of the Senator from Maine as to the markets reached by the Nova Scotia coal is incorrect.

The proposition comes very insidiously when presented, as it has been, by the friends of this bill, namely, that all that is asked is that New England shall be supplied from Nova Scotia with two hundred and fifty thousand or two hundred and eighty thousand tons of coal for purposes for which the Cumberland coal cannot be used, and that therefore it is unjust to impose more than a nominal duty. But I will inform the Senator that this is not a fair presentation of the point at issue. I ask him now what was the price of Nova Scotia coal before the repeal of the reciprocity treaty and during the war, when the ordinary avenues of communication and transportation for our coals were obstructed and sometimes actually closed during the rebellion, and when the operators at Pictou and Cape Breton could deliver their coals in Boston for half the price at which it could be sent from the Cumberland mines? If I am not incorrectly informed they charged then up to the full measure of what they could obtain, and they demanded and received in Boston twelve dollars per ton, having the exclusive control of that market.

I hold then, sir, that the same theory will apply to this article as to all others, and that producers of coal will charge as much for it as they can obtain. It is not a question between the consumer and the producer, but it is a question as between the operators of coal mines in Nova Scotia and the operators of coal mines everywhere within the United States. The argument assumes that shape, and we must necessarily occupy that ground in this discussion.

The commissioner, in his statement, asserts that coal from Nova Scotia, during the year 1866, commanded in Boston \$8 50 per ton, while that from Cumberland was sold at \$8 25 per ton. That, taken in connection with the statement just made by the honorable Senator from Maine, that the Cumberland coal is worth \$1 50 more per ton than the Nova Scotia coal,



Shows that even in the year just closed, upon their own figures, the Cumberland coal was placed in the market of Boston at a cheaper rate than the coal from Nova Scotia, after deducting the duty of \$1 25 on the latter, and that Cumberland coal was sold there at \$3 50 per ton less than Nova Scotia coal was sold during the war, when it had almost the exclusive command of the trade.

Now, sir, what is the fact in regard to this Nova Scotia coal trade? Every one knows that it grew up under the operation of the reciprocity treaty. Indeed, the distinguished gentleman from Vermont now occupying a seat in the other House, who has been recently elected to represent that State in this body from the 4th of March next, asserted in public discussion that the reciprocity treaty was originally entered into, not in any expectation of any benefit to the agricultural or the mining or the fishing interests, but solely with a view to the benefits that would inure to the manufacturing interest; that the free-trade policy of England, then recently established, had inspired hopes of a rich harvest to the enterprising capitalists of New England, but that the whole scheme proved abortive, when the Provinces suddenly reversed the policy of the mother country, and as soon as they found they could profit by it imposed heavy duties upon manufactured articles and undertook to manufacture for themselves. The result was that everybody in New England and elsewhere along the boundaries became disgusted with the reciprocity treaty, so far as it affected manufactures. They claimed, however, that the exportation of coal from this country into the western portions of Canada was about equal to the importation from the coal mines which had been opened meanwhile in Nova Scotia under the operation of free trade, and that the coal business was a fair case of reciprocity when in fact there was no reciprocity about it.

We sent into the Provinces anthracite coal, of which they had none, while they sent us in return bituminous coal, of which we had an abundance already.

We care not a straw about the provision in this bill imposing \$1 50 duty on anthracite coal. Strike it out, or double it, the result will be the same. We can command the trade of the world in that and ask no favors. There is no region from which any importations of anthracite coal can be made; but it is with regard to the bituminous trade that we have great anxiety. The truth is that when Nova Scotia coals came into this country free they were in competition with all the bituminous interests, and without any equivalent. But at last the Provinces, having refused to receive our manufactures free at the dictation of the manufacturers, we of Maryland rejoiced in the belief that the Provinces could no longer import their coals free into this country. But it seems we were sadly mistaken. During the existence of the reciprocity treaty, in which we acquiesced from a disposition to aid our northern brethren, certain capitalists of Boston, or thereabouts, with perhaps some associates from Maine, went into Nova Scotia, leased the coal-fields of Pictou and Cape Breton, and opened a very profitable trade with our Atlantic border as far south as New York. These speculators who transferred their capital into a foreign country, beyond the reach of all taxation, now turn upon us and say that they will continue their trade and will insist upon bringing their foreign labor and untaxed capital into competition with our domestic labor, charged as it is already with the most grievous burdens. Shall we submit to this?

Sir, I contend that this is not doing as you would have others do to you, that this is not acting in the genuine spirit of protection. I advocate the policy of protection, and I believe that that theory of administering the finances of this Government is correct; I am willing to stand by the producers of woolen and cotton cloths and the manufacturers of iron and every other branch of domestic industry with a view

to the protection of American labor everywhere throughout the length and breadth of our land. So believing and so acting, I trust that when I tell gentlemen that upon the coal interest in Maryland, West Virginia, and Pennsylvania, fifty thousand laborers depend entirely for subsistence, it will be conceded that I have a right to claim the same degree of protection for my own people, and the great interests of my State.

It is no answer that even while the reciprocity treaty lasted a trade grew up in Cumberland coal equal to six hundred thousand tons per annum. How did it grow up? Everybody knows that when the trade started, and when it received its impulse, labor could be procured at from seventy-five to eighty per cent. cheaper than now. The country was then unvexed by a depreciated currency, and enterprise was unshackled by taxation. In that state of the case our miners were able to compete successfully with all foreigners, and our production increased steadily notwithstanding the influx of importations free of duty. But now we have to bear not only our own burdens but also our share of the burdens of the Government, and if thus hampered we shall be obliged to enter upon the race of competition with those who are free from all embarrassments we shall certainly fall fainting by the way.

The importation of two hundred and seventy thousand tons of coal into New England is not of itself alarming, but we know from the representations of officials in Nova Scotia and from gentlemen who have invested in the mines in that Province that those mines are capable of a largely increased production. We have two hundred thousand square miles of coal lands in this country; and though gentlemen may seem amazed at the statement made by the commissioner that the United States produced last year twenty-two million tons, I believe that we are capable of producing two hundred million tons per annum. All that we want is a reasonable encouragement in order to increase the product to that amount; I apprehend that when we get two hundred millions of coal per annum we shall have as much as the country wants, and the result will be a decrease in the price.

But in Nova Scotia they are also capable of the same degree of development; and if gentlemen look to this measure as a measure of revenue, they must consider that the seven hundred thousand tons imported in 1865 would, at a duty of \$1 50 per ton, yield \$1,050,000. If they put the duty down to fifty cents, still regarding it as a revenue measure, there must be three times the importations in order to produce the same amount of revenue. If this rate of duty is established at fifty cents per ton it will not be ten per cent. *ad valorem*, while gentlemen claim on many manufactured articles from fifty to seventy-five and even one hundred per cent. On coffee, an article of general use and prime necessity, this bill imposes a duty of five cents per pound, which is equivalent to forty per cent. *ad valorem*. No, sir; this duty of fifty cents per ton has not been fixed for the sake of revenue, but solely for the purpose of inducing an increased production in Nova Scotia; and thus it becomes a battle fairly and squarely between the producer in Nova Scotia and the producer in Maryland, Pennsylvania, and West Virginia; and that is the whole case in a nut-shell.

Now, are gentlemen prepared to say that they will encourage foreign manufactures and foreign labor to the exclusion of domestic manufactures and domestic labor? I trow not. I am sure that Maryland interests cannot survive this policy. We might linger out a sickly existence; but that there would be any more investments with a view to the development of our immense coal-fields I have not the slightest idea. It is now a struggle, with labor as it is, to produce coal and to convey it to market; but if this competition is allowed you will find the Nova Scotia coal not only coming into Boston and New York, but actually driving us to

the wall in Philadelphia and Baltimore. All we ask is that there shall be imposed a duty of \$1 50 a ton, equal to about twenty or twenty-five per cent. *ad valorem*, in order to enable us to overcome the natural obstacles in our way to the coast.

It is well known that in Nova Scotia the natural advantages of location are very great over those of Maryland, West Virginia, and Pennsylvania. Our mines are two hundred miles from the sea-board; theirs are within six miles of the sea-board. It costs us about \$1 80 per ton to convey our coals from Cumberland to Baltimore, and to place them in position there for shipment to other sea-ports. It costs these Nova Scotia companies but a small fraction of that sum. The difference in that point of transportation alone is such that, with labor at its present high price, they would be able to drive us out of the eastern markets, and that state of affairs would be fraught with ruin.

The commissioner says that it is very important for everybody to have the means of warming and lighting his house at the lowest cost and of cooking his food cheaply; and one gentleman in the other House remarked at the last session—I suppose I may allude to it without impropriety—that it was absolutely necessary that the poor people in New England should have cheap coal, because they were often unable to buy a sufficient amount of cotton and woolen clothing. I think it is quite as important that in Maryland we should have our due proportion of cotton and woolen fabrics. We desire to take them and are willing to buy them from the New England manufacturers rather than from the importers, though we may have to pay a higher price, because we want to encourage the labor of our own country and keep every section of it in a prosperous condition. But let the principle be carried out in good faith, and be applied to all alike, so that the free laborers of Maryland may, equally with their northern brethren, gather the choicest fruits of honorable toil and secure for themselves and their families the comforts and the blessings of life.

Mr. FESSENDEN. Mr. President, I will first answer one or two questions put by the honorable Senator from Maryland on my left, [Mr. JOHNSON.] He asked me why the duty is put so high upon other coal. I tell him it was designed to make a distinction; it was the design of the House to make a distinction, and for very obvious reasons. It is worded in the way it is with reference to lines because of the necessity of resorting to that mode in order to accomplish the purpose. It is necessary to have some other designation than a mere description of the place from which the coal comes. The Committee on Finance are not responsible for that. If Senators choose to call it a contrivance, it was a contrivance of the House committee and not of the Senate committee, and I think a very good one, and the only one that would effect the purpose.

The coal that is imported from Great Britain is a high-priced coal, rather used as an article of luxury than anything else. It is used somewhat for gas, but it is used by some people for burning purposes, because it has peculiar advantages as a burning coal; and those who can afford to pay for it buy it and use it in preference to other coal; and hence it is imported to a certain extent; and as that is a matter of trade with Great Britain, we thought under the circumstances the duty upon it might stand.

Anthracite was mentioned originally simply because it has always stood so in our tariffs. The idea of putting a duty on it, however, is a mere humbug, for none can be imported; and for that reason, when the committee came to see how the matter stood they struck out those words and simply put the duty on "all other coal." Anthracite coal needs no protection of any kind or description.

If the Senator's coal from Cumberland needs protection it needs protection against two enemies: one is anthracite coal, which will be pre-

ferred for burning purposes always to the Cumberland or any other bituminous coal in this country wherever it can be had at anything like the same price. That experience has proved. I do not know that a pound of the Nova Scotia coal or Cumberland coal is used for the purpose of fuel merely in the town where I reside, though we import some of the Nova Scotia coal. The other enemy Cumberland coal has to contend with, let me tell the Senator, is the Baltimore and Ohio railroad and the Chesapeake and Ohio canal. Its enemies are the freights the Maryland miners have to pay over their own railroads and their own canals, raising the price of coal. They should fear this much more than any competition from other coals anywhere. The effort is to saddle all the rest of the country with those freights for the benefit of these two works.

Now, sir, with reference to the main question, let me answer one or two of the questions of the Senator on my right, [Mr. CRESWELL.] Cumberland coal sold at a lower price than Pictou coal this very last year in the New York market, with all its expenses of transportation. It sold at something like seven dollars and a half or eight dollars, when the Pictou coal was selling for nine dollars and a half, because it could be put there cheaper. It is sold in New England and used in New England, and used largely in New England, for purposes for which the Pictou coal cannot be used. It is used, in the first place, for purposes of steam. It commands a higher price for that use; and during the war, when Pictou coal was selling in Boston at ten dollars, large quantities of Cumberland coal were selling in Boston at sixteen dollars, for the simple reason that it is used for so many more purposes. In a statement handed to me by a gentleman who is perfectly familiar with the whole matter, he says that in Boston Cumberland coal was selling at about the same price as Pictou, but the real value of the coal was one dollar per ton over Pictou. That was at a later period than the one of which I have just spoken. He says further, that Cumberland coal is used extensively for ocean steamships; all the steamers from New York and Boston use it. Forty pounds of Cumberland will make more steam than fifty-two pounds of Pictou. All the glass-works in New England use Cumberland coal, and it is the only coal used in machine-shops and for blacksmiths' purposes throughout the country. It is carried by rail to Island Pond for blacksmith purposes. It goes up that far, through Maine, very near to Canada, in preference to the Pictou coal.

Mr. CRESWELL. Because it is cheaper?

Mr. FESSENDEN. No, sir; it is because the Pictou coal cannot be used for these purposes; it cannot be used for raising steam, or rather it is so inferior for that use that they can afford to pay a higher price and do pay a higher price, notwithstanding all the cost of transportation, for Cumberland coal. The Pictou is used principally for making gas in New England; and, as I stated before, the only thing besides that which is wanted in reference to the matter is from seventy to one hundred thousand tons, used in the manufacture of iron, in which we compete at such immense disadvantages with Maryland and other iron-producing States that have their iron and coal on the spot.

Mr. CRESWELL. Allow me to ask a question. Will the Senator inform me how it was that during the last years of the war the coal companies in Nova Scotia declared such immense dividends?

Mr. FESSENDEN. I do not know that they did.

Mr. CRESWELL. It is a fact.

Mr. FESSENDEN. I am now informed of it for the first time.

Mr. CRESWELL. They declared dividends equal to one hundred and seventy-five per cent. in one case, and varying from that down to twenty per cent., and none lower.

Mr. FESSENDEN. It is so easy to make

these statements that I should like to know where the Senator gets his authority.

Mr. CRESWELL. I get it from a gentleman who is perhaps as well versed on the subject as the gentleman whose letter the Senator read.

Mr. FESSENDEN. The gentleman whose letter I read is perfectly well known to me, and he is familiar with the coal and iron business and has been for years, and he does not import an ounce of the article or use an ounce of it in any shape or form.

Mr. CRESWELL. The member from the Cumberland district [Mr. THOMAS] made that declaration in the House last year, and asserted it upon his own personal veracity that he had that information as direct as it could be obtained, that he was perfectly satisfied of its truth. He has given this subject more attention perhaps than any gentleman in either branch of Congress.

Mr. FESSENDEN. If I should assert on my own personal veracity all the things that have been stated to me by the most highly respectable gentlemen engaged in the different branches of business, I should undertake to carry a load that would break down any man or any set of men that might attempt it. The fact may be so; but I do not believe it, because the amount of sales would not justify any such statement. The sales are very small.

The Senator appeals, as does every other Senator who has a particular interest in his State to look after, to the principle upon which all our tariff bills are founded as a general principle, namely, the encouragement of our own labor; and he speaks of the high percentage placed upon some kinds of manufactures and the low percentage upon others. If he will look through this bill he will see that there are many things that pay as low as ten per cent., for the reason that they come very near to raw materials, and the policy of the bill is, so far as we can, to let in raw materials without duty.

There is another consideration, and that is a consideration which is somewhat important to us living near the Canadian frontier, with reference to trade. I will not now reply to what was said about the reciprocity treaty and the way in which it was made. I think I know as much about that as does the honorable Representative from Vermont, who is soon to be in the Senate. No man has a more strong personal respect and regard for that gentleman than I have; but I think I know as much about that treaty as he does, inasmuch as I was here when it was adopted and know the principles upon which it was founded, and he was not; and I had very considerable to do with the question. I was in the Senate at the time it was adopted, and I was present at the discussion.

Mr. SUMNER. And spoke.

Mr. FESSENDEN. I spoke upon the subject in the Senate; but I did not vote for the treaty.

Now, sir, in reference to these matters, we in New England feel as if a little something was due to considerations of trade. Our trade with the British Provinces has been of consequence to us. The repeal of the reciprocity treaty and the kind of feeling that is growing up is cutting it up by the roots. I should like to retain some portion of it at least; it is of advantage to us. I have already stated to the Senate that the Committee on Finance, in considering the tariff bill, thought it was a matter of some consequence to retain, if possible, our trade with foreign nations if we could do so without endangering the interests of the country. We think so still; and the more we cut off the receipt of raw materials, coarse materials which we get from the British Provinces, the more we interfere with a trade that is valuable and beneficial to us.

Now, the Senate will permit me to bring a personal matter into consideration; I cannot help mentioning it. I stated the other day, in a few remarks that I made, and I closed the

remarks I then made by saying, that it would not do to trust the manufacturer with making a tariff. I will extend that remark and say it would not do to trust the commercial people with making a tariff. It would not do to trust any men exclusively interested in one line with making a tariff. The interests of all must be consulted; and those who are not particularly interested in one branch, I think, should decide the question. Fortunately, I as an individual am not interested in manufactures or in trade or in anything, even in agriculture, except to the extent of about half an acre of land in my garden; and I do not find that very profitable, for I believe every cucumber I raise costs me a quarter of a dollar. So I think I am in a pretty good state to act upon this question, having no great personal interest. But I see that a correspondent of the New York Tribune has undertaken to say that I stated here in debate that it would not do to trust the manufacturers to make a tariff, because they would destroy, or desire to destroy, the commercial interests of the country, or something of that sort. I made no such statement of any kind or description.

Mr. CONNESS. I thought you never noticed what the papers said.

Mr. FESSENDEN. My attention was called to it or I should not have noticed it. I stated what I have just said, and it required a great deal of ingenuity in this correspondent to pick out two different parts of my speech and put them together in that way, and it required not a little coolness to do it when on the same page of the newspaper was the report of the Associated Press which stated correctly what I did say upon the subject, and the Globe stated it more at length; and both statements were to the same effect. It was a very silly misrepresentation as well as a malicious one. However, I have paid all the attention to it that I designed.

I repeat what I said with reference to that point: it is of importance in my judgment that we should retain as much of our foreign trade as we can, if by so doing we are not affecting injuriously other interests, and those which may be considered by some gentlemen more peculiarly the interests of this country.

Now, then, it is perfectly manifest that the Senator from Maryland [Mr. CRESWELL] has argued from his apprehensions. It is utterly impossible that the light duty, comparatively, of fifty cents per ton upon Pictou coal could interfere essentially with Cumberland coal or with any other coal in any way; and to raise that duty to the amount now proposed imposes a heavier burden by increasing the duty upon the few manufacturers of iron there are in New England, and it makes a heavier tax on the light which the people get from the manufacture of gas. Now, cannot the Senator afford that little boon to New England, which is so heavily burdened with reference to these taxes that are put on for the benefit of the iron interest in which his constituents are concerned?

Mr. CRESWELL. We should be glad to grant it if we could afford it; but our charities must be measured by our ability.

Mr. FESSENDEN. There is the very point. I contend that it can be afforded, because the interests of one does not interfere with the other, as I have shown, unless the Senator can convince me that we could use the Cumberland coal for the purpose of making gas, and get enough of it.

Mr. CRESWELL. There is plenty of coal in the country to make gas from.

Mr. FESSENDEN. Where will the Senator find it?

Mr. CRESWELL. In the very place the Senator mentioned himself—Westmoreland county, Pennsylvania, and West Virginia.

Mr. FESSENDEN. I suppose you can in Westmoreland county, Pennsylvania, find some; but when you come to put on the freights upon an article so necessary as light for the people—heavy railroad freights such as are imposed by the Baltimore and Ohio railroad

and other roads, which make the price of coal so burdensome—it becomes a serious question whether the article will bear such an increase.

But, sir, I do not feel disposed to continue this debate. The matter is one in which my constituents are much interested; but really it is so small that it strikes me it is hardly worth while to insist upon the duty being raised upon this coal. The duty under the existing tariff is \$1 25, and the amendment is to make it \$1 50. As I said before, at the rate proposed by the committee, fifty cents, the protection is in fact \$1 70, because in the first place Cumberland coal is worth one dollar a ton more for any purpose for which it is used, and in the second place the fifty cents duty on gold amounts to nearly seventy cents in currency, bringing it up to what I stated.

Mr. CRESWELL. There is but one remark that fell from the Senator from Maine to which I desire to reply, and that is as to the inordinate charges of the canals and railroads who are the carriers of our coal to market. Our theory on that is precisely the same as it is on all other manufactured articles. Our desire is to have so much coal produced in the country as to make a competition in that article inside of the country, not only as to the production of coal, but also as to the freightage of the coal, so that it may be brought down to the lowest possible figure at which the companies can by transportation make a living. The difficulty with the Baltimore and Ohio railroad and with the Chesapeake and Ohio canal was perhaps more owing to their location than their own fault. During the war they were broken up several times; the Baltimore and Ohio railroad was broken up three times; the Chesapeake and Ohio canal was broken up, boats were burned, the banks were destroyed, the locks were injured. But if these companies have charged inordinately, let other companies be organized for purposes of transportation, and let those companies compete with them and bring the prices down to the lowest figure.

Mr. EDMUNDS. Your State will not organize them.

Mr. CRESWELL. She will organize them if necessary. Maryland is as much interested in having cheap coal as any other State, and we want to have our mines developed to such an extent that the amount produced shall always force a way to market and oblige those who produce coal and who carry coal to do it at the lowest possible figure.

Mr. WILLEY. Mr. President, these clauses of the bill which it is proposed to strike out as they now stand mean, I suppose, if they mean anything, to admit the principle of protection, and the propriety of applying the principle of protection to the production of coal in this country. Both the clauses propose to impose a certain sum per ton upon coal; therefore the necessity, the propriety of giving protection is conceded; the principle is admitted. That being admitted, the next question is, does the bill as it now stands accomplish the purpose proposed by it. If it is necessary to have this principle of protection incorporated in the bill at all, if the principle itself be right, then the question is, how far shall it be applied. Will the insertion of a mere nominal sum in this bill, which does not accomplish the proposed purpose, satisfy the country or satisfy the implied understanding by incorporating this provision in the bill? What is the use of admitting the principle in the bill by imposing a duty unless such duty shall be imposed as accomplishes the purpose proposed by the bill?

It seems to me that the two clauses of the bill are inconsistent with themselves. Coal from one side of a certain geographical line must pay \$1 50; coal from within that geographical line is to pay only fifty cents per ton of twenty-eight bushels.

Mr. FESSENDEN. That is not a new principle. We impose different duties upon goods directly imported from the East Indies and goods imported from the East Indies by

way of Europe. Why do we do it? It has been in our tariffs for a long time.

Mr. WILLEY. I confess, Mr. President, that I am not very familiar with the details of the tariff bills; but has not the Senator got the cart before the horse? Is not the discrimination the other way in the instance mentioned?

Mr. FESSENDEN. The reason simply is that some other interests which are important to the country require it.

Mr. WILLEY. It may be so; but if there be anything in the Senator's point it would be proper for him to show that different interests require the discrimination here. Now, the point to which I was wishing to direct the attention of the Senate was this: if it be necessary to protect this branch of American industry from foreign competition at all, and to impose duty upon the foreign article, where is the propriety of imposing a greater duty upon the same article which comes from a different longitude? If we want to protect domestic industry against the introduction of a foreign article coming in competition with our own article, we fail very much to accomplish it when we impose a high duty upon the distant article, which perhaps would not or could not be so easily brought into competition with our article, and a lower duty upon an article in a foreign country lying nearer our shores.

But then, Mr. President, I fully concur with the Senator from Maine, and with other Senators, that we should have coal, it being an article of general consumption in the country, upon terms as reasonable as possible. I am willing to admit that it enters very largely into the comforts and conveniences and necessities of society. But then, reverting again to the principle incorporated in the bill, that we propose to protect the domestic article and to protect our domestic industry engaged in producing this article, why should we not adopt a proposition which will accomplish that purpose?

But, then, Mr. President, following out the policy of this principle of protection in regard to the production of coal, what would be the probable result? It may be, and I believe it is, the fact that the Cumberland coal is not very valuable as a gas-producing article. The Senator from Maine seems rather to doubt whether we had in this country any very considerable mines producing gas-making coal.

Mr. FESSENDEN. No, I do not. I said that in Westmoreland county, Pennsylvania, it existed; and it exists very largely in Ohio. There is no doubt about that.

Mr. WILLEY. It exists very largely in Ohio, very largely in Pennsylvania, and it exists all over West Virginia. Our hills are full of cannel coal with which no other coal can come into competition in the production of gas. Our hills are full of bituminous coal. The gas of this city is made from coal from within nineteen miles of where I live, a large portion of it. Our hills, too, upon recent discoveries are full in some places of asphaltum, albertite, or chap-a-po-te. We have the means of enlightening the world if you will only give us protection enough to enable us to do it. We have fifteen thousand miles of coal-fields, some of our hills developing in different strata as high as seventy feet of workable coal.

Interspersed through all these mines are veins of cannel coal. And we have, besides that, the purest asphaltum in the world—a vertical vein which is a curiosity to all geologists, five feet thick, ascending to the top of the mountains, and descending perhaps two thousand feet, already explored two hundred feet deep, so rich, so near to resin itself that out of it you can produce one hundred and twenty gallons of pure oil to a ton. And yet, sir, in West Virginia we have a *terra incognita* of these mineral resources, placed as it were almost in the center of the United States, on this side of the Rocky mountains, as yet unexplored, undeveloped, with the Ohio river to carry it southward, wanting means to get to these mines.

These rich resources in our State are attracting the attention of capitalists. Already men have been purchasing up some of these rich mines; already are men investing their capital in constructing railroads from the northwestern branch of the Baltimore and Ohio railroad into the interior to these mines; they are constructing retorts there for the purpose of making oil out of this asphaltum, and reaching our rich mines. What we want is reasonable protection; and if we are to have protection at all, if the principle of this bill is worth anything at all and is to be recognized, give us such protection as will be effective.

This cannel coal, this gas-making coal, is a matter of very great interest to all the country. Besides a great object of the protection of the encouragement of domestic industry is the development of the resources of our country, and thus the increase of the aggregate wealth of the country. All I want is that the principle of this bill may be made practically efficient, that if we are to have protection at all we shall have such reasonable protection as will enable us fairly to compete with the foreign producer. A protection that does not amount to that is no protection at all; it is a mere delusion, and is tantalizing the capital of the country and the domestic industry and labor of the country.

Mr. FESSENDEN. Let me say to the Senator that in the imposition of this duty protection was not in view at all, because the committee did not think that our bituminous coal needed any protection whatever against the coal that is imported from Nova Scotia; but a small duty was imposed by way of revenue; it was not made large, for the reason that other interests of the country require that it should not be. That is the simple reason.

Mr. HENDRICKS. Mr. President, I have found myself unable to bring my mind to support a tax upon an article depending altogether upon the longitude from whence it comes; and when this bill was read by the Secretary there was nothing in it that struck me as more singular than the proposition that coal coming from beyond a certain longitude should be taxed \$1 50, while coal coming from within that longitude should be taxed fifty cents. If the chairman of the committee would say to us that the coal brought from beyond that line was worth three times as much as the coal that is brought from within that line, then perhaps his argument would have force.

Mr. FESSENDEN. I thought I stated once, and that the Senate understood completely, that the object of the clause was to let in Pictou coal at a low rate; but owing to the condition of our treaties we cannot make a distinction between countries. We can, however, draw a distinction generally, which does not nominally make a difference between one country and another. It is drawn as it is to avoid the operation of treaties which prevent our naming the place. That I understand to be the origin of the clause.

Mr. HENDRICKS. Then why not put it all at fifty cents? There is nothing in the treaties to prevent us putting all coals at fifty cents, I suppose, if that is right, if that is the tax that ought to be upon them. Now, I know of no interest that can be protected, if we are to have protection as a purpose of legislation at all, with less hurt to the country than coal. It will make no difference to us in the western States whether the tax upon foreign coals be one dollar or five dollars a ton, for no coal can reach the interior of this country from the sea-coast; and I suppose that the only section that can be affected by this provision is that section that lies upon the Atlantic coast; and it is simply a proposition that they shall have cheap coal from the Provinces coming in immediate competition with the coal interests of our own States. I do not think that is right if we are to have a tariff bill at all like this.

The burden of the argument of the Senator from Ohio [Mr. SHERMAN] in support of this bill, who represented the committee in its



advocacy, in its protective features, was this: that the volume of our currency is so great that labor is high, and that everything which goes to decide the cost of labor is so high that we cannot compete with the labor of other countries; and he took the position, as I understood, that labor was higher than gold in comparison with former times. Then, sir, if that position be true, ought not the laborer in the mines to be protected from it? If that be true ought not the interests that are invested in coal to be protected upon that proposition, the proposition upon which this whole bill stands as a protective bill?

Another thing: is it right for the manufacturing localities to ask a high tax upon all they produce and then to refuse a similar protection to the laborers in the coal mines? By this bill you add a per cent. to the clothing that the miner purchases from New England. That goes into the cost of labor in the mines. Is it not fair, then, as you talk in this bill so much about compensations, that you shall protect the miner in his labor? You make him pay something more for every article of clothing that he buys, that that protection may go to the benefit of the manufacturer. Is it fair, then, to say that the manufacturer shall have a benefit in this legislation of cheap coal coming in competition with the laborer in our own mines? I do not think it is right; and although I generally vote for the lowest rate of duty that is reasonable and right, I shall vote for a liberal protection to coal in this bill.

Mr. FESSENDEN. One word. The Senator has said nothing new, nothing which has not been said half a dozen times before here almost in this very debate, particularly by the Senator from Maryland. The answer I make is simply this: I agree to the idea of protection upon whatever needs it. My idea was founded on the argument that no protection in this case is necessary in point of fact.

Mr. BUCKALEW called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Conness, Cowan, Cragin, Crosswell, Davis, Doolittle, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, Johnson, Kirkwood, Lane, Norton, Ramsey, Riddle, Saulsbury, Sherman, Van Winkle, Wade, and Willey—26.

NAYS—Messrs. Anthony, Cattell, Dixon, Edmunds, Fessenden, Fogg, Foster, Morgan, Morrill, Patterson, Sprague, Sumner, Williams, and Wilson—14.

ABSENT—Messrs. Guthrie, Harris, Howard, McDougall, Nesmith, Nye, Poland, Pomeroy, Ross, Stewart, Trumbull, and Yates—12.

So the amendment to the amendment was agreed to.

Mr. FOSTER. I move to amend the amendment of the committee by striking out the words "one dollar and fifty cents" in line two hundred and sixty-five of section seven on page 36, and inserting "two dollars;" so as to make the section read:

On planter's hoes, or other hoes, wholly or in part of steel or iron, two dollars per dozen.

In the first place, I wish to say that a duty of \$1 50 per dozen to the manufacturer is, as I believe, and as I think I can show, little if at all better with the other provisions of this bill than honest free trade would be; no better than if he made his hoes without any protection and without paying any duties whatever. I wish also to disabuse the minds of Senators, if they have the impression that this is simply a Connecticut interest and that I am desirous of benefiting a mere home interest. It is true some of my constituents are interested in the manufacture of these hoes, but so are other sections. There are manufactories of these hoes in the State of Massachusetts, in the State of New York, in the State of Pennsylvania, and in the State of Ohio; so that I trust I am not advocating a merely sectional interest. Further, I am asking simply that the amount of duty fixed by the bill of the House of Representatives on these articles should be the law. The amendment I propose will only make this bill conform to the House bill on this point.

I said I did not think a duty of \$1 50 was any if at all better than real free trade, and I think I can show it. I have taken some pains to inform myself on the subject, and if Senators will attend to me I think I can convince them that this \$1 50 duty is really no protection at all.

I differ entirely from the honorable Senator from Ohio, [Mr. SHERMAN,] who said the other day that at the present time it seemed impossible to make up a tariff bill that would not be protective. It seems to me not only possible, but that it has been actually worked out; that while we get a tariff bill which I admit imposes very high duties, yet they are laid in such a manner, one so countervailing the other, that many interests which seem to have ample protection really have no protection whatever; and worse than that, the proposed legislation in some cases discriminates against home labor and in favor of foreign labor, the duty, nominally, being very high.

The clause as it stands in the bill proposes a duty of \$1 50 per dozen on these hoes. They are manufactured of Swedes' iron; and to make a dozen of the average size of these planter's hoes it takes twenty-eight pounds of iron. These twenty-eight pounds of iron, under the present bill, pay a duty of thirty-five cents. It takes, in addition, four pounds of cast-steel, which is imported, and the duty on which is sixteen cents. It takes half a pound of borax, the duty on which is five cents. It takes a pound of emery, the duty on which is two cents. Then there is the wear of the grindstones. Of course you cannot reduce that to an exact figure for a dozen of hoes, as is the case with the other articles I have given; but by an estimate which I believe is accurate five cents is given as the proper proportion of the duty on the grindstones used, those being all imported. Summing up these items we have sixty-three cents as the sum-total of those several duties on the articles which go into the manufacture of a dozen of these hoes.

Then the internal revenue tax on this dozen of hoes, which sell on the average for eight dollars, is forty cents. The sixty-three cents of duties subtracted from the \$1 50 protection leaves eighty-seven cents. From that, the internal revenue tax of five per cent. on eight dollars, forty cents, should be deducted, leaving forty-seven cents, and that is the whole protection upon a dozen of hoes, if we stop here. This is not all.

The coal which is consumed in this manufacture it is not possible of course to determine exactly, but we can come pretty nearly to it. An establishment that manufactures fifty dozen of hoes per day, which is a good sized establishment, requires to run its engines three tons of coal, and two tons more for the other necessary uses of the establishment, heating the hoes, &c., making five tons. Five tons per day in an establishment manufacturing fifty dozen of hoes per day would be one ton to ten dozen of hoes, or two hundred and twenty-four pounds per dozen. Then it takes two hundred and twenty-four pounds of coal to make a dozen hoes. Now the cost of two hundred and twenty-four pounds of coal at tide-water, say at New York, is sixty cents, at the rate of six dollars per ton. At Birmingham, in England, the cost of a ton of coal is one third of that, two dollars, and the cost of two hundred and twenty-four pounds necessary for this purpose, twenty cents, making a difference to the American manufacturer on his coal which goes to manufacture a dozen of hoes forty cents. That is the amount paid by the American manufacturer for his coal over and above what is paid by the English manufacturer. We had forty-seven cents left as the protection when this item of coal was taken up, and taking out the forty cents which the American manufacturer pays over the English there is left seven cents, and that is the whole amount of protection given to the American manufacturer on a dozen of hoes that nominally are protected by a duty of \$1 50.

This article requires a great amount of labor, and skilled labor, to manufacture. The cost of the labor on the dozen of hoes which sell for eight dollars is between two and three dollars. The cost of manufacturing a dozen hoes is nearly three dollars for the labor alone. Now, a duty of \$1 50 on a dozen of planter's hoes, which cost eight dollars per dozen in this country, I admit seems quite a large duty; but when we go into the elements which enter into the cost we find that is not a protection of over seven cents a dozen, instead of \$1 50. Five sixths of these planter's hoes are now imported. The other description of hoes are of no consequence to this argument, for they are not imported. I speak of planter's hoes; they are a very different thing from the ordinary hoe used in the northern States.

Under these circumstances I submit that the rate fixed by the House bill—two dollars per dozen—is not too high; on the contrary, it is a bare living protection. The present bill is protective in name, and is intended to be protective in reality; but in consequence of the very high duties on all the materials which go into the production of these hoes the duty amounts to little or no protection at all.

I trust that I shall have the aid of my friend from Michigan [Mr. CHANDLER] on this subject, for he, as I understand him, is decidedly and strongly in favor of protecting American industry. If I was asking one hundred and sixty per cent. I should of course want a little of his strength of assurance in order that I might ask it gravely from the Senate. I am asking for no such protection. I endeavored, it is true, to keep an article which had one hundred and sixty per cent. protection where it was, without having it raised; but against the power and influence of the Senator from Michigan my effort was unavailing, and instead of one hundred and sixty per cent. the duty was advanced to something over two hundred per cent. Of course I do not complain of that at this time; but I trust the Senate will see that what appears to be protection is made some real protection, and that we shall not be cheated by a name when in reality the legislation discriminates against us instead of for us. I hope there will be no serious objection to the amendment I propose.

Mr. CHANDLER. The Senator from Connecticut will certainly have my support for this amendment, and I beg to inform him that in Michigan we are more interested in this manufacture than perhaps the State of Connecticut.

Mr. FOSTER. Then you will not think I am sectional.

Mr. CHANDLER. Not at all. I shall with great pleasure support the amendment of the Senator from Connecticut.

Mr. GRIMES. I ask for the reading of the clause as it will stand if the amendment proposed by the Senator from Connecticut be adopted.

The SECRETARY. If amended as proposed, the clause will read:

On planter's or other hoes, wholly or in part of steel or iron, two dollars per dozen.

Mr. GRIMES. The Senator from Connecticut gave us a very thorough analysis of the cost of planter's hoes, but he failed to give us any information of the cost of the other kind of hoes, such as are used in the section of the country in which I happen to live.

Mr. FOSTER. I am perfectly willing that my amendment shall apply to planter's hoes only. The other hoes are not imported now, and \$1 50 a dozen is unquestionably adequate protection to them; at all events I do not wish to disturb it. It is in regard to planter's hoes, which are really the only ones in question, that my amendment applies.

Mr. GRIMES. I do not know whether they are imported or not; but I am very well aware that if the bill be passed with that amendment it will be made the excuse for putting an additional price upon hoes furnished to the farmers of the country. I trust, therefore, that the

Senator will modify his amendment so as to apply it specifically to planters' hoes and not extend it to all other hoes.

Mr. FESSENDEN. I should like to ask the Senator from Connecticut why the other hoes are not imported: He says these are the only ones imported.

Mr. FOSTER. Because they are made of different iron, and the manufacture has been so constantly in the hands of the American manufacturer that foreign competition is entirely out of the question now. The manufacture of planters' hoes, however, was entirely broken up during the war. If I mistake not, there were about two hundred and fifty thousand dozen used per annum formerly; but during the war this branch of business, which is a distinct business, entirely different from the manufacture of the common hoe, was broken up altogether, and is now in the hands of foreigners, and without some protection will continue to be in their hands. It is not so, however, in regard to the ordinary hoe of the farmer.

Mr. FESSENDEN. The difference between them is that one, the common hoe that is made here is a very nice product, a product of considerable skilled labor, which has reached such a point that the business here cannot be interfered with. The other is a coarse, rough manufacture. The amount of it is, that that particular kind of hoe as it is made is about the simplest of all iron work, a very simple manufacture indeed, requiring very little skill, as little almost as anything that is made—nothing to be compared with the ordinary hoe.

Mr. FOSTER. I wish I had here a planters' hoe which I have in my room, and the honorable Senator would find that he is mistaken when he calls it a coarse article or one not requiring skill. It is one of the most finished articles I ever saw.

Mr. FESSENDEN. I suppose anybody could make a plausible statement by making out a list of various items entering into the cost of any manufacture, and assuming the wear and tear of the grindstones used in making a dozen hoes to be five cents, and other articles in proportion. A large calculation might be made out in that way. I do not think that the wear of a grind stone in grinding a dozen hoes would be five cents; nor do I think the quantity of coal guessed at is a safe criterion for us to go by. Sir, I have one answer to the Senator: does he know how much these hoes cost on the other side?

Mr. FOSTER. I do not.

Mr. FESSENDEN. Two dollars and a half a dozen. The tax is over fifty per cent. on this very common article.

Mr. FOSTER. I presume the same resort is had in that case as in others to the practice of invoicing goods greatly below the cost. The invoice is one of the last evidences of real value.

Mr. FESSENDEN. There cannot be any fraud in an article of this sort, and there is none. The commissioner informs me that he heard testimony on the subject, and it seemed to him to be grossly unreasonable, upon so simple and plain an article as this was to put the duty so high. To require a duty of over fifty per cent. on the cost of so plain an article as a hoe I think is unreasonable, and therefore I shall vote against the amendment.

Mr. CONNESS. I should like to inquire of the chairman of the Finance Committee whether hoes are made abroad and imported?

Mr. FESSENDEN. This kind of hoe is.

Mr. CONNESS. But is it proposed to raise the duty upon this particular kind which is imported?

Mr. FESSENDEN. The Senator from Connecticut proposes, as I understand, to vary his amendment so as to make it applicable only to these.

Mr. CONNESS. To hoes of the kind which are imported from abroad?

Mr. FOSTER. I said I was perfectly willing that the amendment should apply to planters' hoes only, and I will modify the amendment by proposing to strike out, in line two hundred and sixty-four, the words "on other

hoes," and then to insert, after line two hundred and sixty-five, "on all other hoes, made wholly or in part of steel or iron, \$1 50 per dozen;" so as to make the provision stand thus:

On planters' hoes, wholly or in part of steel or iron, two dollars per dozen.

On all other hoes, wholly or in part of steel or iron, \$1 50 per dozen.

Mr. WILLIAMS. I do not know that there is anybody here to represent the planters, and it may be a little unpopular to undertake to speak in behalf of their interests, but it seems to me that a proposition to impose a tax upon planters' hoes, higher than is imposed upon other hoes, is an unjust discrimination. I understand the honorable Senator from Connecticut to say that in this country the other hoes can be and are manufactured, and that there is no competition from the foreign market. I suppose that about the same ingredients enter into the manufacture of one hoe as of another hoe, though there may be some difference; and I suppose there is. Of course both require labor. If these hoes are such as the Senator represents, I do not know that I ever saw planter's hoes; but if it be a hoe that is made of an excellent article, and is the product of skilled labor, then it seems to me it is very different, so far as the labor is concerned, from the other hoe, and I do not think that this proposition to impose a tariff of two dollars per dozen upon planter's hoes, while a tariff of only \$1 50 is imposed upon other hoes, is a reasonable or just distinction to make, and I would rather the clause should stand as it was originally reported by the committee than to see this change made, as though there was an effort here to strike a blow at the interests of the planters, or impose a burden on them which is not imposed on other people.

These planters are men whose circumstances will not allow them to pay any higher tariff than the men who use hoes in the northern States; but on the contrary they are in embarrassed circumstances. The cultivation of cotton in this country is an interest that we are all interested in promoting; and if any class of persons in the United States need cheap instruments of labor, certainly that class is the planters of the South who are engaged in the cultivation of cotton. I presume that the estimate of the Senator is correct. I have no doubt his arithmetic is correct; but I have had enough experience in connection with this tariff bill to know that when you assume, as some of these persons interested in the manufacture of an article do sometimes, that a certain ingredient costs a certain sum, which is altogether an assumption, an imaginary thing, and then proceed with the argument, you can arrive at a very satisfactory conclusion and show any result that you desire to show. But there are very often mistakes in assuming that the value of a certain ingredient is a certain sum. I suppose the honorable Senator has been furnished with this information by persons who are interested in the manufacture of the article. I undertake to say that you may take up any article in this tariff bill that is the product of labor and is made up of materials upon which a tax is imposed, and it is not difficult (if you allow a man to make his own showing and assume the prices to be just what he thinks they are or ought to be) to show that nobody is protected in this bill or that but few persons are protected. And yet when you read the bill everybody is forcibly struck with the high tariff that is imposed upon almost every article.

Mr. FOSTER. The honorable Senator will allow me to say that there is not a single element that I have stated as making up the amount of cost of the manufacture of these hoes which is an estimate of value merely. It is taken from the tariff bill as it stands, so much duty on so many pounds of iron, on so many pounds of steel, on so much borax, on so much emery. There is an estimate in regard to grindstones, and the honorable Senator from Maine thinks I have got that a few cents too high. That item is five cents in the

calculation. That is the only estimate there is in the whole. It is not an estimate of value; it is simply what the duty by law will be if this bill passes. There is no opinion about it.

Mr. WILLIAMS. I suppose there is an opinion expressed as to the amount at any rate of these different ingredients it will take to make a dozen hoes.

Mr. FOSTER. So far as that is concerned it is true.

Mr. WILLIAMS. There is no absolute certainty as to that point. You assume it will take so much of one article and so much of another article to make a dozen hoes, and upon that basis I do not pretend to dispute the computation of the honorable Senator; but I say that I know that the committee in more than one case by undertaking to follow computations that were made by persons interested were misled. I have no doubt the statement of the Senator so far as he is concerned is entirely correct.

Mr. CHANDLER. I stated to the Senator from Connecticut a few moments ago that I should support his amendment. I meant the original amendment. I cannot vote for a discrimination against any one particular interest. Michigan is not interested in the manufacture of planters' hoes, but is largely interested in the manufacture of other hoes. I shall vote against the amendment as amended.

I regret exceedingly that the Senator's constituents were so unfortunate as to be oppressed with that extra six cents per hundred pounds on salt, of which we spoke the other day. I was in hopes that the Senator would yield gracefully and think that his people could stand the enormous pressure; but it seems still to weigh upon his mind. I do not see any way that I can aid him out of the difficulty unless the Senate shall reverse its decision.

Mr. FOSTER. I am not asking that the honorable Senator should aid me out of the difficulty. Indeed it is a difficulty of his own creation, not of mine. If he gets along with his difficulties as I with that, happy as he is now I think his happiness will increase. But that is not the point. The honorable Senator from Oregon says there must be some estimate here. There is an estimate that it takes thirty-two pounds of iron and steel to make a dozen of planters' hoes; and that is all the estimate there is in it; and that is based on actual experience in the manufacture.

I can assure the honorable Senator from Iowa that these planters' hoes are very different affairs from the ordinary hoe used by the farmers. Their weight I should think is twice or three times as much as that of the ordinary hoe; and thirty-two pounds of the iron and steel I think is as little as would be sufficient to make a dozen. If, however, there is an error in that estimate, it is all the error there is. Everything else in the statement I presented showing that these manufactures have but seven cents protection from the Government on their manufacture is as certain as the law. If there is any mistake about the law, there is a mistake about this calculation, but not otherwise. The manufacturer of a dozen hoes where a dollar and fifty cents protection is nominally given, has seven cents only. The difference between free trade and this bill is seven cents so far as he is concerned. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. This a matter that affects the agricultural interest directly, though perhaps not very extensively. It seems to me that a tax of \$1 50 is enough on a dozen of hoes. The committee have come to that conclusion, and as one representing that interest, I hope the Senate will stand by the committee's report rather than adopt the amendment.

The question being taken by yeas and nays, resulted—yeas 11, nays 22; as follows:

YEAS—Messrs. Anthony, Cowan, Dixon, Foster, Harris, Howe, Morrill, Sprague, Wade, Wiley, and Wilson—11.

NAYS—Messrs. Brown, Chandler, Davis, Edmunds, Fessenden, Frelinghuysen, Grimes, Henderson, Hendricks, Johnson, Kirkwood, Lane, Morgan, Norton,

Patterson, Riddle, Saulsbury, Sherman, Sumner, Trumbull, Van Winkle, and Williams—22.  
**ABSENT**—Messrs. Buckalew, Cattell, Conness, Cragin, Creswell, Doolittle, Fogg, Fowler, Guthrie, Howard, McDougall, Nesmith, Nye, Poland, Pomeroy, Ramsey, Ross, Stewart, and Yates—19.

Mr. FOSTER. I offer another amendment, to come in on the same page at the end of the two hundred and sixty-first line of seventh section. The clause, as it now reads, is:

On pocket-knives and pocket-cutlery of all kinds, fifty-five per cent. *ad valorem*.

I move to amend the clause by adding to it these words:

And, in addition thereto, on knives and pocket-cutlery valued at two dollars per dozen and less than five dollars per dozen, fifty cents per dozen; on these descriptions valued at five dollars per dozen and over, seventy-five cents per dozen.

The duty as it stands is fifty-five per cent. *ad valorem*. My amendment proposes to add to that on the description of cutlery which is invoiced or which costs two dollars per dozen and less than five dollars per dozen, fifty cents as a specific duty, and upon those descriptions which are valued at five dollars per dozen or over, seventy-five cents per dozen as a specific duty. The bill from the House has this provision in substance, but not precisely in these terms. It is a specific duty of fifty cents per dozen in addition to the *ad valorem* duty in the House bill, which is fifty or fifty-five per cent., I have forgotten which. Now, a duty of fifty-five per cent. *ad valorem* on this description of cutlery is a very small duty. All manufacturers and all merchants are aware that goods imported from abroad, where the duty is an *ad valorem* duty, are invoiced with reference to saving money in duties, and the frauds that are alleged and believed in relation to foreign invoices have grown familiar to us all. I do not know to what extent they may be true; but no doubt they are true to a very great extent. Goods imported from abroad, paying an *ad valorem* duty, are no doubt invoiced greatly below the real value. Anywhere from twenty to thirty per cent. would unquestionably be a very low estimate of the amount of difference between the invoice and the actual cost.

Therefore, when this amount of fifty-five per cent., which is *ad valorem*, comes to be applied to goods thus fraudulently invoiced, the real protection is much less than fifty-five per cent.; probably one half would be a fair estimate; and so one third the duty is avoided by the fraudulent invoicing of the property. The duties on all the articles which enter into the composition of this pocket-cutlery are so greatly increased by this bill that the protection of the former duty of fifty per cent., which I think is the existing rate, is very much diminished, and the duty on this particular manufacture will be less under the new bill than it is under the present law. Now, a specific duty of fifty cents a dozen over and above the *ad valorem* duty of fifty-five per cent. does not afford as great protection to the manufacturers of these articles as the ordinary rate of protection in this bill. It is less, very much less.

The effect of the protective system upon this kind of manufacture has already worked out the result which the friends of the American system claimed for it to a very great extent. As proof of that I would call the attention of the Senate to a few facts in regard to the cost of American knives and cutlery in New York in 1864 and in 1866 as compared with foreign knives in those years.

American knives in the year 1864 in the city of New York, taking five different grades of knives, had a market value of \$2 75 a dozen for one grade; \$3 30 a dozen for another; \$6 32½ for another; \$10 45 for another, and \$22 for another. The imported knives of the same grades at the same time were \$3 75, \$5, \$8 17, \$12 50, and \$23 75, making a difference in favor of American knives of \$1 a dozen in one case; \$1 70 in another; \$1 84½ in another; \$2 45 in another; and \$1 75 in another. That was in the year 1864.

In 1866, taking the same classes of goods in the New York market, American knives of the same grades were sold at \$2 50 per dozen, \$3,

\$5 75, \$9 50, and \$20; while imported knives of the same grades sold at \$2 10, \$2 80, \$4 35, \$7, and \$13 80, making a difference in favor of imported knives in one case of 40 cents a dozen, in another of 20 cents; another \$1 20; another \$2 50, and in another of \$6 70; and that is the condition of the market at the present time.

Now, sir, I point to the fact as one creditable to American industry and one that vindicates the system, that under this system, notwithstanding the rise in everything which goes into the manufacture of these commodities, and notwithstanding the rise in labor, these several classes of knives are manufactured in this country at a cheaper rate than they were two years ago by a very considerable sum. It is true that they are now imported at such a rate that under this duty the American manufacturer must stop, notwithstanding he has been manufacturing an article which has been growing cheaper from year to year, because the foreign manufacture is now so much cheaper than his that it must be driven from the market.

Mr. GRIMES. What are you talking about; poor cutlery?

Mr. FOSTER. No; I am talking about cutlery which is classed as pocket-cutlery. It is not by any means a coarse kind of goods or manufacture, but on the contrary it requires skilled labor and is an expensive style of manufacture. I will not go over the suggestions that I have made in respect to the increased cost of the manufacture of these knives. It is perfectly apparent that fifty-five per cent. *ad valorem* will be no protection. The manufacture of these different articles in this country under that protection, with iron at a hundred per cent. and the increased rates on steel, must stop. I would ask gentlemen on what ground it is that bar iron is taxed one hundred per cent. and the manufactures of iron, and the finest manufactures of iron, are taxed only fifty-five per cent? What is the sense of such legislation? I had supposed that the idea of duties was to protect labor, and that the more labor was mixed with a commodity the higher should be the duty to protect it. That is the principle, if there be any principle in it; but on the ground upon which this bill in this particular seems to go, when the iron comes from the mine and is manufactured into a bar it shall have a duty of one hundred per cent. to protect it; and when that bar of iron is made into steel and from steel into knives, and of course has its value immensely, almost fabulously increased, it shall have a protection of only fifty-five per cent., and this is facetiously called protection to home labor!

I do not believe that fifty-five per cent. is as good for the manufacturer of knives in this country to-day, paying all the duties which he is compelled to pay on the materials which go into his manufacture, as free trade would be, and I think gentlemen will see that it is not, and cannot be, for the materials which go into the manufacture are doubled in price, more than doubled, and the duty upon the manufactured article is slightly increased; and yet this is called protection!

I confess that I shall quite despair of anything in the way of protection to labor if this be done. The country may be very much loaded, may stagger under the burden of high prices, and yet labor be wholly unprotected. It is possible to work out that result. For instance, you may load iron with such an amount of duty that no such protection as fifty-five per cent. on the manufactures of iron will induce men to pursue the business; you must increase the protection, and you may have to raise the duty very high before any profit is made—the price may rise so high that it becomes almost impossible for consumers to make purchases, and yet nobody realizes any profit.

High prices ordinarily suppose that somebody is making a profit; but where the manufacturer of cutlery has got to pay two or three prices for his materials, and has to compete with the foreign article paying a less amount of duty, the home manufacturer makes no

profit though he sells at a high price. It will cost the consumer enough, in all conscience; it will cost him three or four times what it ought to cost him; but the home manufacturer will make nothing, because the commodities which he has used have been so overloaded with duties before they entered into the manufacture that it was impossible. I trust, therefore, it will be understood that although prices may be high, immensely high, there is not necessarily in that any protection to labor.

Mr. FESSENDEN. If we discuss the general principles of the tariff bill, and protection to American labor, and the cost of labor on every amendment that is offered to this bill, I think we shall get through about this time next year if we keep in continuous session. I believe this is the third amendment that has been offered to-day, and it is now nearly half past three o'clock; we have been two hours and a half on the bill. I wish to suggest before saying what I have to say, that I have found myself for two successive days without a quorum. I do not know but that it will be so to-day; but I wish to notify the Senate that I shall ask them to remain until we finish the bill this evening. We ought to do it.

Mr. SHERMAN. We had better take a recess.

Mr. FESSENDEN. No, I believe Senators can without going out of the building very easily stay the hungry edge of appetite, and the sacrifice is not a very great one to make for the business of the session.

Now, with regard to this particular amendment, I should like to ask the Senator from Connecticut how many pounds of steel it takes to make a dozen pocket-knives?

Mr. FOSTER. I am not able to answer. I have not made the calculation.

Mr. FESSENDEN. The Senator asks for an additional duty of fifty cents specific and seventy-five cents specific on certain grades of pocket-knives. The reason why the committee did not put a specific duty on them was simply this: that to put a specific duty upon a very large portion of these pocket-knives would necessarily exclude them from the country. They are of German manufacture ordinarily, and very low-priced and used by children. Such knives are not manufactured here in point of fact, and the original cost of them is not probably more than fifty cents a dozen or seventy-five cents a dozen. The result would be that the specific duty would be in excess perhaps of the whole price of the article.

Mr. FOSTER. The amendment does not propose at all to meddle with cutlery that is not invoiced at over two dollars a dozen.

Mr. FESSENDEN. I was stating the reason why the committee thought they had better adopt an *ad valorem* rate of duty. There is another idea on which this bill is predicated in regard to articles manufactured from iron and steel, and that is to grade the duty somewhat according to the necessary increase upon the materials out of which the article is made. That was the reason I asked the Senator what quantity of steel it took to make a dozen pocket-knives. He says he is unable to answer it, and I am unable to answer it myself; but anybody can see that it is a very small amount. The increased rates of duty on steel could not by any possibility be over two cents on all that is necessary to make a dozen pocket-knives. You should predicate your increase on the amount of material used to make the article, and not upon the fineness of the work. There may be some fine, careful work about it; but having raised the duties on iron and steel, the necessary increase upon all articles manufactured from iron and steel should depend very much upon the amount of revenue imposed upon the quantity required. Anybody can see, as I said before, that that would be the merest trifle in the world; it would amount to very little on a dozen pocket-knives.

In order to meet that we have raised the tariff as we supposed sufficient in proportion as we have raised other things. Under the tariff of 1864 this trade has flourished. I am



not aware that there is any complaint that it has been suffering in any degree under that tariff; but now that we propose additional duty on iron and steel, anybody that manufactures anything from iron or steel comes forward and claims, not a corresponding rate of duty, but an enormous rate of duty, without reference to the amount that it takes from the consumers and the amount of the additional duty which the article itself pays in consequence of the increase on iron and steel, which is the smallest amount possible in the very kind of work that we are speaking of.

The committee were of opinion that as the business itself did not suffer, as there was no pretense that it had suffered, but as it appeared to be doing well enough we would impose an additional duty of five per cent. which is ample to cover the increase on the articles out of which a knife is manufactured. Now, to put fifty cents a dozen or seventy-five cents a dozen on these knives, according to their value, is not a large increase of duty upon the higher-priced ones. As you go up in price the duty becomes proportionately smaller, whereas as you go up in price the *ad valorem* duty is larger and larger. Under the *ad valorem* duty as proposed by the committee the best kind is the most protected, as perhaps it should be, and by the increase of five per cent. which we have given throughout we supposed we accomplished the purpose. It is, however, for the Senate to judge.

The amendment to the amendment was rejected.

Mr. WILLEY. I move to amend the bill by striking out in line thirty-two of section twelve, on page 85, "fifty cents" and inserting "five dollars;" and I desire to attract the attention of the Senate to a paper which has been laid on the desk of every Senator, I believe, this morning, containing a fair statement of the facts upon which I predicate this motion.

According to the tariff of 1862-63, the duty upon chap-a-po-te, asphaltum, and albertite was three cents per pound, or \$67 20 per ton. Under the existing tariff law the duty is twenty-five per cent. *ad valorem*. Why it is now proposed to be reduced to fifty cents a ton I am not able to understand. If Senators will turn to this paper they will see that—

"Chap-a-po-te and Albertite are both a species of asphaltum. Chap-a-po-te is brought from Cuba. Extensive arrangements are now being made by companies recently formed in Cuba for the express purpose of shipping large quantities of the mineral to the United States, to be converted into oil. The expense of conversion is about six dollars per ton, and the yield of oil per ton is about one hundred and twenty gallons."

There is also Albertite in Nova Scotia. I understand that a company, consisting chiefly of foreigners, is organized there, who own the mine and are making arrangements to transport the material when mined from Nova Scotia to within the jurisdiction of the United States, and erect their retorts here for manufacturing oil. The product of oil from one ton of Albertite amounts to seventy dollars, less waste and the cost of refining. This mineral is mined where labor is one dollar a day in gold, and it can be brought to Portland for \$2 50 a ton. It is to this statement in the paper on Senators' desks that I especially invite attention:

"One special advantage which the manufacturers of oil from Albertite and other imported asphaltums have in the market arises from the fact that the internal revenue law, with the view to protect the manufacturers of oil retorted from coal and other bituminous substances, (mostly yielding only twenty to forty gallons per ton,) discriminates in favor of oil so manufactured by imposing a tax upon it when refined of only fifteen cents per gallon, while petroleum oil refined is subjected to a tax of twenty cents per gallon. Albertite and other asphaltum oils being made from bituminous substances, when refined, come in under the minimum rate of fifteen cents per gallon; that is to say, one hundred gallons of oil made from Albertite asphaltum (being the product of one ton of the mineral) pays an internal revenue tax, when refined, of fifteen dollars, while one hundred gallons of petroleum refined pays a tax of twenty dollars. Crude petroleum at the wells is only worth at this time about eight cents per gallon, thus the discrimination made by the internal revenue tax in favor of the Albertite and against petroleum of five cents per gallon is equal to seventy-five per cent. on the value of the petroleum at the wells."

Now, sir, it is perhaps not known that we have asphaltum within the United States. One deposit is in West Virginia: it is the most remarkable deposit, perhaps, in the world: it is vertical. As I said a while ago it has been explored from the face of the hill, where it makes its appearance, to its summit; it has been explored two hundred feet in depth; it is five feet in width. It is almost equal to resin in the production of oil. If Senators have any curiosity I have some small specimens of it here, so that they will see that it is almost like resin, it is so rich in the production of oil. I also have specimens of the article from Nova Scotia which Senators will see are identical in appearance, and understand identical in quality, the same thing precisely.

What the extent of this extraordinary deposit in West Virginia may be laterally we do not know. Already the cities of the Union in various quarters are interested in the development of this extraordinary deposit. A small per cent. of it added to ordinary gas-coal brings it up to a very good standard; and there is a desire in various cities and various parts of the Union that this extraordinary mine may be developed for the single purpose, if for no other, of getting a per cent. of it to mix with their ordinary coal for the purpose of manufacturing gas. It has attracted the attention of capitalists; it is now owned by men in New York largely, by men also in Baltimore and from various sections of the country, who are at this moment constructing fourteen miles of railroad from the northwestern branch of the Baltimore and Ohio railroad to this deposit. They are investing a large amount of capital in it.

It runs out also into the region of our canal coal. It is approaching in direction also the oil wells in our State; and other companies and other capitalists are already projecting improvements to connect with these, so that if there be any encouragement by protection of the development of this article in West Virginia it will bring into requisition a vast amount of most valuable minerals in which the country at large is greatly interested. Unless there be some protection to these men who have invested their capital, as I have stated, this development cannot take place. They are placed at a disadvantage growing out of the distinction between the duty imposed upon refined petroleum oil and oil expressed out of this stone, so that they may transport it across the narrow channel, and thus avoid the duty. We get the advantage of this discrimination in the duty.

Now, sir, the canal coal interests in our section of the country are largely interested in protection. Since we are disposed to protect our domestic industry, disposed to protect our domestic manufactures, and thus adopt a policy which would lead to the development of the country, and ultimately, as in the instance mentioned by the Senator from Connecticut just now, result in reducing the price of this article, which must necessarily enter very largely into the consumption of the country in gas and otherwise, I should be sorry to see protection refused in this direction in favor of the foreign manufacturer.

We have the article within our own limits; and certainly if in 1862-63 Congress thought it was proper to extend such extraordinary protection as sixty-seven dollars a ton to this article, the prayer of those whom I represent here in asking for a moderate protection of five dollars per ton now ought not to be deemed extravagant. I trust the Senate and especially do I trust that the chairman of the Committee on Finance will receive this proposition favorably. I think there is merit in it; our own domestic industries, our own capitalists here at home, and our own minerals should have the benefit of this protection against the foreign manufacturers.

Mr. FESSENDEN. I think this is literally running the doctrine of protecting American labor into the ground and running it very deep into the ground, now into a mountain in West Virginia, that somebody has bought there with a view to a large speculation, but which is

hardly begun to be developed as yet. What does the Senator from West Virginia ask? Because this mountain is in his State and may in process of time be developed, and because a company of gentlemen of New York, speculators, very excellent gentlemen I have no doubt, have invested money there and mean to build a railroad in time, we should at once tax everybody that uses a pound of cement, everybody who uses anything of this quality for his roofing throughout the country; and, moreover, shut up all the factories in New England where oil is manufactured out of this coal. Why, sir, one factory in my own town pays to the Government every year I think something like fifty or sixty thousand dollars of internal revenue. The Senator would shut up all these factories and impose a very heavy duty upon the coal and everything they use because this undeveloped region exists in West Virginia, which with a proper attention to the American system may in time be developed. I think it is unreasonable, and the mere statement of the case as the Senator has presented it shows the great impropriety of attempting to do any such thing. I despair of stopping any movement that shall be made if this be successful. The same thing came before the committee and we did not regard it.

Mr. WILLEY. I have no desire to wholly exclude this competition. All I desire is that the same principle shall be applied to this coal that we applied to merely bituminous coal awhile ago, and that we are applying to every other article of American industry and development. All that I ask is that industry and capital in this direction shall have the same protection that capital and industry in other directions have; that in developing our coal which we happen to have in West Virginia we shall have the same protection that manufacturers have in other sections of the Union; that is to say, that our capital and industry shall be brought into a fair competition with foreign industry; and if we are to have protection given to any one thing it seems to me we might as well have the same protection in this direction. I am asking for no exclusion; I am only asking for a reasonable protection, that kind of protection which has been extended all through this bill to every other article in it, that and no more. If the amount I ask is extravagant, let the Senate reduce it to what would be right. But if it was right in 1862 and 1863 to have a duty of sixty-seven dollars a ton on this article, are we extravagant when we only ask five dollars a ton now? The existing tariff is twenty-five per cent. *ad valorem*, and if you look to the value of the article you will find that that amounts to five dollars a ton or about that. I only want this bill to stand upon the principles of fair play, that we shall have the same protection in this as in other directions. I do not want to ask anything of the Senator from Maine or of any other Senator that is unreasonable or unfair.

Mr. CHANDLER. I believe that this asphaltum deposit in West Virginia is a very rich one. I am informed that it yields a hundred and twenty gallons of oil to the ton. It is nearly as pure as resin. The Senate has this morning deliberately placed a duty of \$1 50 a ton upon coal. The purest of coal yields from twenty to forty gallons of oil to the ton. This yields one hundred and twenty gallons. I do not think the Senator from West Virginia asks an unreasonable protection when he asks five dollars upon this pure substance that is found in such vast quantities in his own State. I believe the mine in West Virginia is the only one to be found in the United States; I have heard of no other having yet been discovered. They are now building a railroad to that mine. I was informed by a gentleman the other day that they were investing several hundred thousand dollars, and in a very short time the oil would be produced in unlimited quantities. I really think the Senator from West Virginia makes but a fair demand when he asks for the small duty of five dollars a ton on this rich deposit.

Mr. FESSENDEN. If that deposit is so rich as it is said to be, what prevents these gentlemen from setting up their factories close along side of it and working it? Nothing can come in competition with it, surely. If it is so rich, richer than anything on the face of the earth, why do they not set up their factories and begin to make it? Instead of that, before they have done a thing they ask the country to impose a duty upon every pound of cement that is used, everything that is used for roofing purposes, and everything that is made into oil, and to shut up the factories for the benefit of some unknown future. Now, let the Senator's friends who have investments in West Virginia undertake to do their work in the first place and show what can be done before they ask us to lay this enormous tax on the country.

I stated in the beginning that I do not hold to the doctrine of protection so far as this, that on a mere experiment we are to begin by laying heavy duties which tax the consumer very much until the production had become an object of interest and advanced so far that we can see what its benefit is. If we do that we shall not only get no revenue from customs, but we shall stop our internal revenue by putting an end to the factories now existing.

Mr. CHANDLER. There are a great many interests that this comes in direct competition with. There is not a manufacturer of lard-oil that is not interested in this kind of protection.

Mr. CONNESS. That is where you come in. [Laughter.]

Mr. CHANDLER. No, sir; the State of Michigan does not produce lard-oil at all. I do not think there is a gallon of it produced there; but there are many manufacturers of oil from coal and other substances, and they are all interested in this protection. I hope the amendment proposed by the Senator from West Virginia will be adopted.

Mr. SHERMAN. When this subject was under consideration in the committee my attention was not called to it, and I supposed that this chap-a-po-te, or asphaltum, bitumen, &c., was a very coarse material worth less than coal. I am now informed that the present duty of twenty-five per cent. is at least equal to five dollars per ton. On that point, if my friend from Maine has any information, I would like to have him give it. The present duty it seems does not operate injuriously to the interest or to the manufacture of oil.

Mr. FESSENDEN. The present duty is twenty-five per cent. *ad valorem*. I do not know what that would amount to per ton.

Mr. SHERMAN. I am told that the present rate of duty is at least five dollars a ton, at twenty-five per cent. *ad valorem*. If that is so, I do not see any occasion for reducing it. It is a very proper source of revenue. The business is prosperous if it yields anything like what is said, if a ton of this product yields one hundred gallons of oil. This same bill levies a tax of I think twenty or forty cents a gallon on the oil extracted from the bitumen—

Mr. VAN WINKLE. Ten cents on the erude.

Mr. SHERMAN. And forty cents on the fine; so that it can very well bear a tax of five dollars a ton; and if five dollars a ton is not an increase of the present rate I shall vote for it.

Mr. FESSENDEN. We do not know what it would be.

Mr. SHERMAN. I am informed from the best information I can get—

Mr. FESSENDEN. It is now twenty-five per cent. *ad valorem*.

Mr. SHERMAN. But I am informed that twenty-five per cent. is not more than five dollars a ton. If so, we had better make the duty specific and keep it at about its present rate. I certainly would not vote to reduce the duty, and when it was proposed to substitute fifty cents per ton for twenty-five per cent. *ad valorem* I supposed it was continuing the old rate, only making it specific; but if that be a mistake, as a matter of course we

ought to continue the duty at about its present rate, making it specific. According to my present judgment I should vote for it at five dollars. The House have continued the old rate, twenty-five per cent. *ad valorem*.

Mr. FESSENDEN. Why should any heavier duty be levied on this than other kinds of coal?

Mr. SHERMAN. It is more expensive than coal. That is the information I have. I know nothing about the article myself, but I am informed that it is much more valuable than coal. The Alberfite is worth three times as much as coal, and if it is worth three times as much it ought to pay about the same rate *ad valorem* that coal does, because that is the article with which it is brought in competition; and if five dollars a ton is equivalent to twenty-five per cent. *ad valorem*, that is about a fair rate. The information I get is that it is worth twenty dollars a ton.

Mr. HOWE. The way the case seems to be put is, that it is introducing a material which is equal to the production of one hundred gallons of oil at a duty of fifty cents; that is, half a cent a gallon. It seems to me if our object in this bill is to raise revenue, that is making very slow progress toward it. I do not see why this oil cannot afford to pay as much duty as other oil.

Mr. WILLEY. The question, it strikes me, presents itself in this shape: if it will lead to the development of this rich mine in West Virginia, as it will no doubt, and to the manufacture of oil to impose these rates, which are about equal to those now existing, under which the manufacturers of this article in the North have been able to live along and still pay a revenue to the Government, we can still get that revenue without diminution and increase our revenues by developing this great interest of the manufacture of oil and by the duties upon it.

Mr. FESSENDEN. The question is, this: whether gentlemen wish to encourage manufactures. There are many things that are manufactured out of this article, of which it is a raw material, and the raw material is not yet developed in West Virginia at all.

Mr. WILLEY. As the Senator seems to allude to that, I will state that the company are now erecting retorts at this point for the purpose of manufacturing the oil, and are building a railroad from the northwestern branch of the Baltimore and Ohio road, and expect to manufacture largely at that point, and also to manufacture it at Baltimore.

Mr. FESSENDEN. Well, Mr. President, I really cannot understand the process upon which gentlemen act on this subject. Here is an undeveloped mine, if you please, out of which the owners expect to make a large profit some day or other; and in the mean time, not having developed it, not having the raw material at all, not having begun even, except by building a railroad to get to it, they ask in advance that industries that have grown up out of the raw material imported from abroad, which they have not at this time, shall suffer for their prospective benefit. That is just the amount of it. That is the question. I think that is cutting pretty deep. I cannot go for this doctrine of protection to the extent to which gentlemen wish to carry it. I have no doubt if it shall be found in time that this coal, or whatever you please to call it, and it is for the ordinary uses of coal, merely used for the manufacture of coal, comes in competition with what shall turn out to be a great American interest, that at that time something will be done with regard to it to equalize the matter; but to do it in advance and to stop the works which are already going on upon the foreign raw material seems to me to be a very singular kind of proceeding.

Mr. WILLEY. The Senator will allow me to say that the specific duty which I propose is about the same as that now existing. The other article to which he alludes seems to have prospered to the extent he mentions with that duty upon it. I do not understand, therefore,

the point of the Senator's remarks. We do not propose materially to increase the duty, if any at all, from what it now is. Our object is to prevent it from being reduced down to nothing, or to fifty cents a ton. It is twenty-five per cent. *ad valorem* now. Under the existing duty that interest has flourished, as the Senator from Maine says, at Portland by the importation of the article from Nova Scotia and the manufacture of it here, thereby avoiding as you will see the five cents discrimination on every gallon of the oil under the provision of our revenue laws now, which imposes a higher duty on refined oil made out of petroleum than on that made out of canal coal and other substances. In order to get the benefit of that discrimination, they send the crude material over to this country at \$2 50 a ton or somewhere thereabouts, manufacture the oil, and then sell it for five cents less revenue duty upon a gallon than there is imposed upon the petroleum oil when refined, and in that way evade the duty and realize the handsome profit of five cents a gallon.

But, sir, that is not the point. The point here is, that we have already expended in making arrangements for the manufacture of this article; indeed we manufacture to some extent already in West Virginia from canal coal and otherwise; but in regard to this asphaltum we have expended large amounts and are erecting retorts now to go into the manufacture immediately; and if the Nova Scotia article can live under a duty of twenty-five per cent. *ad valorem*, certainly I think it can live with a specific duty, amounting to about the same thing, of five dollars a ton.

Mr. FESSENDEN. The committee have gone upon the principle in this bill, wherever they could, to reduce to the lowest practicable point the duty on the raw material for the purpose of encouraging established manufactures. It is not applied to this article alone, but to many other articles where the manufactures are established and progressing in this country. It was thought to be a part of the American system to encourage these manufactures. Gentlemen have been willing to apply it in a great many cases where they felt that interest with regard to their own sections; but now they wish to reverse it and overturn the manufactures for the benefit of the possible raw material that may be found hereafter. That is the argument. The Senator says that this duty is lower than it is upon petroleum. The reason is it costs much more to manufacture it, and the rate of duty upon the manufacturers of oil and the refiners of petroleum, and of this substance was fixed by agreement and compromise between the parties themselves as to what was right and just between them, and there have been no complaints from them. This business has not been prosperous. The works near my city have failed once. Senators talk about these great advantages, and yet they have had a very hard struggle to get along any how; and now the proposition is that they shall not have the benefit of the principle introduced into the tariff in regard to all other manufactures depending on raw material coming in from abroad.

The PRESIDING OFFICER, (Mr. ANTHONY.) The question is on the amendment proposed by the Senator from West Virginia.

Mr. WILLEY called for the yeas and nays, and they were ordered.

Mr. HOWE. I may be mistaken in the vote I am going to give. I am going to vote for this amendment, but without the slightest regard to the protection that is asked for this West Virginia mine. I do not understand that the law or the duty of protection has anything to do with a mine. All the protection that can be asked for, if any, is the difference between what it costs to take out from the deposit the raw material in this country and in any other country where there is a like deposit competing with it. That is all that protection has anything to do with. If you put duties beyond that point upon any such material it is value added to the article; it is not protection; but

the people tax themselves to give an extraordinary value to that deposit; so that I do not vote upon the principle of protecting the West Virginia mine. But I cannot understand for my life, and nobody has told me yet, although I made an humble petition for it once, why this material, if it is capable of producing so much oil to the ton, cannot afford to pay a heavier duty than half a cent a gallon.

Mr. FESSENDEN. That is the material that comes from West Virginia.

Mr. HOWE. I have not understood that there was any difference between the two materials. Then, on the other hand, it is said that this article is already paying now what is equivalent to five dollars a ton. I have not heard that disputed yet. I saw a paper here which states that but a few years since—

Mr. SHERMAN. Allow me a word. Since I have spoken on this subject I have got a little further information from about the only source of information we have—the special commissioner of revenue—and it is no doubt reliable. He says the Albertite—that is the most expensive—is worth more than twenty dollars, but shale, &c., the coarser produce, would be worth under fifteen dollars; so that I suppose about twenty dollars is the average.

Mr. HOWE. Very well; that would make this tax about twenty-five per cent. But it is said that a few years since this same article paid sixty-seven dollars a ton. I have not heard any explanation why that very extravagant duty was placed upon it then; but for mere purposes of revenue and guided by mere revenue considerations I do not understand why this should not be.

Mr. FESSENDEN. Let me say to the Senator that that is an entire mistake. It came in free, the whole of it, up to a year ago, when the reciprocity treaty ceased to operate; and when the reciprocity ceased to operate, then it came under the general provision which was not made for that but for other articles exported from other countries, of the same description. There was no duty on it whatever, and this duty that fell upon it in the course of the year, upon the repeal of the reciprocity treaty, is what has made it operate so enormously upon everybody that manufactured anything out of it. It was free entirely before that.

Mr. HOWE. Then this statement that that very large duty was levied upon it seems to be incorrect.

Mr. FESSENDEN. Certainly.

Mr. HOWE. But there is no mistake about the other proposition, that what is equivalent to five dollars a ton is levied on it now.

Mr. FESSENDEN. Undoubtedly, because it came under the existing tariff, which was not made for this particularly.

Mr. HOWE. I do not suppose it was made for this special article, but it pays that duty now, and we are asked to reduce it in the interest of a single factory.

Mr. FESSENDEN. Oh, no; there are more than one.

Mr. HOWE. I have heard but one factory spoken of. But, in the interest of the mere business of manufacturing or turning it into oil we are asked to reduce the duty from five dollars to fifty cents, and to yield up so much revenue. That is encouraging manufacturers rather too extensively, I think. I am just as fond of them as anybody else, and would do just as much for them; but it seems to me that is asking a little too much. I vote, therefore, for this amendment for the purpose of increasing the revenue. I have seen no evidence yet that the business of manufacturing will suffer if we continue that duty. They can still import it. I shall have to pay my part of the duty, I suppose, if I use the oil. Those who do use it will have to pay, as they pay all these taxes.

The question being taken by yeas and nays, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Buckalew, Chandler, Creswell, Davis, Fowler, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Lane, Norton, Patterson, Sherman, Sprague, Stewart, Van Winkle, Wade, and Willey—20.

NAYS—Messrs. Anthony, Brown, Conness, Dixon, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Grimes, Morgan, Morrill, Poland, Sumner, Trumbull, Williams, and Wilson—17.

ADJUTANT—Messrs. Cattell, Cowan, Cragin, Doolittle, Guthrie, Kirkwood, McDougall, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, and Yates—15.

So the amendment to the amendment was agreed to.

Mr. SPRAGUE. I move to amend the bill on page 37, section seven, line two hundred and ninety-three, by striking out "forty-five" and inserting "sixty-five," and by adding at the end of the clause the following proviso:

*Provided, That all material contracted for in good faith before January 1, 1867, shall be admitted at the rate of duty provided for by law at the date of said contract.*

So that the clause will read:

On all machinery not herein otherwise provided for, composed in part of iron or steel, or of any other metal or material, complete or in parts, sixty-five per cent. *ad valorem*: *Provided, That all material contracted for in good faith before January 1, 1867, shall be admitted at the rate of duty provided for by law at the date of said contract.*

The proposition is to increase the rate of duty on machinery from forty-five to sixty-five per cent., an increase of twenty per cent. Commissioner Wells says, in his report:

"Of the machinery designed for the numerous manufacturing now in process of construction, especially those for the manufacture of cotton, and for the refining of sugar, a very large proportion—fully one half in quantity and value—will be of foreign construction, the price being one third less than that for which the same can be contracted for in the United States."

Again, in another portion of his report, he says:

"The commissioner estimates the value of machinery for American manufacturing establishments, now in the course of construction in Europe, at about three million dollars."

The commissioner also states that machinery constructed in this country now costs one hundred per cent. more than at the beginning of the war; that \$50,000 worth of machinery before the war would produce as much cotton or woolen fabrics as \$100,000 invested now in machinery for cotton or woolen or any other of the varieties of manufacture.

I am aware, Mr. President, that by this amendment it renders it difficult for the American manufacturer to purchase machinery. He will not dare to make a permanent investment at rates so high; but I am also aware that if he does purchase it, by the character of this bill he will not long be able to run his machinery. He has now shut down a large portion of his machinery, and the balance but lingers, and the blow that is now aimed at it cannot but be one of death. The increase of prices of iron and steel and wool, with no increase for the manufactured articles, or but very little, into which these articles are introduced, must show conclusively that, having staggered these interests in the past, the future must see their death. I speak of cotton, of linen, and of everything that comes out of iron and steel that has not received an increased rate of duty.

Did I hesitate a moment to advocate greater protection to this interest I should be doing great injustice to myself. By excessive taxation it has been destroyed, and by a premium greater than heretofore, now offered to the British manufacturer for the introduction of his machinery, the American manufacturer is kept prostrate. There is not one branch of manufacturing product but he can supply did he but know it, did he but cater to our ideas of form and plan. Many of them are already on this scent; many more will follow, until all our manufacturing industry will be done by Englishmen.

He cannot carry on manufacturing without the machine shop. He is by the provision of this bill, as I will demonstrate, driven clear out of this country. While communities are to-day offering large sums of money to induce manufacturing development among them, the Senate, led by Wells, is driving them out of the country. The English offer the largest sum and the American community the least.

Let me read a statement of one of the best manufacturers of machinery:

"The present and proposed tariff bears heavily upon and discriminates against the machinist. The

proposed duty on iron used by us, which, with steel, is the main element of machines, is from seventy to one hundred and fifty per cent. *ad valorem*, being from twenty-eight to sixty dollars per ton. The duty proposed on steel varies from sixty-seven per cent. *ad valorem*, upward, while the duty on machinery composed of iron and steel, in the reported bill, is but forty-five per cent. Thus the proposed law discriminates against our own machinists and in favor of foreign labor; for it says to the importer that if he will have his labor done in a foreign land, the material and labor together may be admitted for less than half the rate of the raw material.

"The following table shows the cost of cotton machinery at home and abroad, per spindle, and the duty required to compete with England:

Mules, per spindle	Spinning frame, per spindle	Second sized frame, per spindle	Fine fly-frame, per spindle	Second sized slubber, per spindle	Coarsest slubber, per spindle	Cost to maker in United States, per spindle, without profit.	Weight of machine in iron and steel, per spindle.	Same sells for in England.	Same costs imported.	Proposed duty of 45 per cent.	Without further protection can be imported for less than cost to maker in United States by—	With duty of 70 per cent. can be imported for less than cost to maker here by—
2 80	4 94	12 90	14 00	21 50	\$30 80	124 lbs.	83 "	\$11 50	\$13 27	\$5 97	\$11 56	\$3 24
12	19	50	50	9 12	10 28	50	4 62	6 02	5 78	4 06	4 06	4 06
1 32	2 16	4 56	5 04	5 04	5 67	2 55	2 31	5 45	4 17	89	27	

The above table is on the supposition that gold and currency are equal; but if gold be reckoned at \$1 35, and the price of the raw material enhanced by the proposed increase of duty, and the duty of sixty-five per cent. be put on machinery, even then at gold prices the coarsest slubber above-named can be imported for less than cost to the maker here by three dollars per spindle, and so of the others in proportion."

To illustrate this in a plainer point of view, take the case of a spindle disconnected from the machine. A steel spindle weighs nine pounds, which, at four and a half cents a pound, pays forty and a half cents. Ten per cent. *ad valorem* at eight cents per pound makes forty-eight and a half cents. The same spindle costs in England one dollar all finished. The duty on that would be forty-five per cent. with no fraud practiced by undervaluation, making forty-five cents; so that the proposed tax on machinery of steel is less than the tax on the raw material by three and a half cents. It is evident that forty-five per cent. will give to the English manufacturer the business of manufacturing machinery for this country; though I do not believe, as I said before, we shall long have any use for it. The present duty of thirty-five per cent. has heretofore given the manufacturing of machinery to England, as Commissioner Wells says England can build cotton and sugar machinery for one third less than our own mechanics, and \$3,000,000 worth are now in



course of construction. Those \$3,000,000 in gold at rates of contract, such contract being based at two and one third here as to one in England, would carry the sum in currency up to \$7,000,000. The mechanics of the United States here lose \$7,000,000 of work, four fifths being for labor, \$5,600,000, which would otherwise go into the hands of our mechanics and enable them to live and to purchase the means of living in their own country. This is from cotton machinery alone.

Why is this so? Because their labor is so burdened by taxes and the raw material being affected likewise, first from similar causes, and maintained in that condition by a duty of from seventy to one hundred and fifty per cent. as proposed by this bill, sixty-five to seventy by the present law, so that the labor of the mechanic cannot live one moment in competition with the untaxed mechanical labor abroad.

Iron and steel are raw materials as applied to the production of machinery, but they are manufacturing products, and those products obtain a protection of from seventy to one hundred and fifty per cent., and the kind of manufactures under consideration and which it is expected will consume the product thus protected, has a duty of forty-five per cent. imposed upon it. What a fallacy! Who is so foolish, who so absurd as to on the one hand enhance the value of one product, and at the same time render another product valueless? In order to continue a value to the one you must assure it to the other. Where are you to find a market for your iron and steel or wool if you admit into the country products made from those articles at a lower rate of duty than the material of which that product is made in this country? Your labor and supplies are enhanced in value in proportion as your raw material is advanced.

But you say four fifths of the cost of the product that is made from iron and steel is labor. That is true. Then if one fifth bears a burden of from seventy to one hundred and fifty per cent.—I take the present bill, the rates on steel and iron to illustrate my point—the average being more than one hundred per cent., one fifth of that is twenty per cent. You thus at once dispose of twenty of the forty-five per cent. as provided in this bill, leaving twenty-five per cent. only to counterbalance, first, five per cent. Government tax, which, when augmented by a similar tax on all the products which become a part of your manufacture of machinery, carries your Government tax to eight per cent. The increased interest upon the high cost of your production will not be less than nine per cent. above the foreign. Here you have seventeen per cent. in currency to offset twenty-five per cent. in gold. Reduce it to the gold standard, and you have twelve per cent., leaving thirteen per cent. to be offset, first, by supplies, coal, oil, &c., and the greatest of all is labor which, at the lowest calculation, as Commissioner Wells has determined, is sixty per cent. higher to-day than it was in 1860; reduced to gold is forty per cent. This, in connection with the thirteen per cent. that we must offset, leaves twenty-seven per cent. that is necessary to enable us to preserve our business as manufacturers of machinery. So says the mechanic. We ask, he says, for twenty per cent. We hope we may be able to breast the storm, though we show conclusively that upon the article of cotton machinery we lose ten per cent. or three dollars on a spindle that now costs \$30 80. We ask nothing for interest on our capital; we ask nothing for our own labor in carrying on the business.

Commissioner Wells says labor has advanced, and is now sixty per cent. higher than in 1860. He does not tell us how much higher our labor in 1860 was than the labor abroad. He says also that the cost of interest has increased to the American manufacturer to fourteen per cent. The English interest is four or five per cent., which, increased to currency, is, as I have said, seven per cent. The American manufacturer pays seven per cent. more interest than the English manufacturer. I am now basing my calculation

upon the present rate of duty on machinery, which is thirty-five per cent. The present duty on steel and iron is sixty-five per cent. We use one fifth of that in the construction of a spindle, or thirteen per cent. Our labor is sixty per cent., and our supplies for the manufacturing of this kind of product, this spindle, is also sixty per cent., (I have no doubt the supplies are larger;) and if four fifths remain, four fifths of sixty is forty per cent. We pay to the Government for immediate tax five per cent., and we accumulate that tax three per cent. by the accumulations of Government tax into the product produced; making eight per cent. in this particular instance, although it is eleven per cent. in some departments of manufactured machinery.

We have, then, first, extra interest, according to Mr. Wells's statement, which is correct, seven per cent.; we have the Government tax, eight per cent.; we have the extra cost of labor over 1860 (without mentioning the addition of percentage to bring our labor then down to the actual labor that existed abroad) sixty per cent.; reduced to the gold basis forty-eight per cent., making sixty-three per cent. Reducing this to a gold basis at thirty-five, we have forty-one per cent. We have thirty-five per cent. in gold that we pay on one fifth the material that enters into the consumption on our product, which is seven per cent. by the present tariff. Adding that to the forty-one per cent. makes forty-eight per cent. Without a dollar of protection on the difference in the price of labor, we find we have been giving a bounty to the English manufacturer of thirteen per cent. in gold to bring his machinery into this country. If this is not a startling fact I must confess my ignorance of the subject.

But let us go on. You have thus thirteen per cent. in gold to overcome. How do you do it? By increasing the duty on the iron and steel that enter into one fifth of this product. The duty will average one hundred per cent. on articles used in the construction of machinery, especially of the one in question. One fifth of one hundred is twenty. We had seven per cent. on the basis of the last tariff. We must therefore add to the premium we give to the English manufacturer twenty less seven, making thirteen per cent., which added to the other thirteen per cent. makes twenty-six per cent. The present tariff increases the duty from thirty-five to forty-five per cent. Deducting that ten per cent. we have sixteen per cent. of a premium that we now give to the English manufacturer to import his machinery into this country. We only ask four per cent. between the cost of labor in this country before the war and what it was in England at the same time, and of course we lose largely by that.

Mr. Commissioner Wells, in his efforts to keep cotton machinery at forty-five per cent., makes use as an illustration of the duty on a pocket-knife, and we are asked, Why do you want greater duties than we give upon pocket-knives? I reply, first, we do not get that, which is fifty-five per cent. A spindle, that we have taken as an illustration, costs in currency \$30 80, and weighs one hundred and twenty-four pounds, and one dozen of knives, which would perhaps weigh two pounds, would cost nine dollars per dozen. Three and one third times nine is thirty dollars, or about the cost of a spindle. If one dozen knives weigh two pounds, three and one third times two is six and two thirds pounds of imported material, or material affected by the tariff, enter into the construction of knives to one hundred and twenty-four pounds of same material on spindles. We use in one construction of a spindle nearly twenty times the iron and steel that is used in the construction of a knife. We shall pay nearly twenty times the duty; twenty times more of the seventy to one hundred and fifty per cent. on iron and steel than is paid by knives. We ask but ten per cent. in addition. What a wide difference between the two branches of industry and how much of wisdom there is exhibited in such an arrangement I leave to the

Senate to determine. We make a basis of cotton machinery. We could make the same basis upon that of all other machinery. I therefore hope my amendment will prevail.

Mr. HENDRICKS. I do not know that I understand this amendment exactly; but I think it contains a new principle. Is it customary to provide in the tariff that goods already contracted for and not shipped shall not be subject to the new duties? This proposition is that persons going into the manufacturing business who had contracted for their machinery before the first day of this month, shall be allowed to bring their machinery into the country under the old duties, and then when it comes in, if others want to go into the manufacturing business and buy machinery, they shall be embarrassed so far as the additional duties will embarrass them. If I understand the amendment that seems to be it.

Mr. JOHNSON. That is it.

Mr. HENDRICKS. Then I want in that connection to ask the Senator what cases he wants to provide for by this unusual legislation. I do not understand it. It is a proposition that the manufacturers who have already established their business and have purchased their machinery, and all manufacturers who want to enlarge their business or to commence a new establishment, but who made their contracts prior to the 1st of January, shall have the benefit of the old law, and then if anybody else wants to compete with them hereafter, he will be compelled to pay these high duties. If I understand it, it amounts to about that, and I do not think I can vote for it.

Mr. CONNESS. I hope the Senator from Rhode Island will offer the two propositions involved in his amendment separately.

Mr. JOHNSON. The question can be divided.

Mr. CONNESS. Certainly. I am in favor of the first part of the Senator's amendment, but the latter part of it I should consider very unjust indeed. By another provision of this bill it will be remembered that we propose to collect duties upon all the goods of whatever kind in bond in our warehouses.

Mr. HENDRICKS. Already shipped.

Mr. CONNESS. Already shipped and in bond; and yet here by a special provision the Senator proposes to exempt goods which are in foreign countries, not yet made. That is a proposition that I cannot support.

Mr. JOHNSON. I ask for a division of the question. I should like to have the amendment read again.

The Secretary read the first part of the amendment on page 87, section seven, line two hundred and ninety-three, to strike out "forty-five" and insert "sixty-five;" so as to make the clause read:

On all machinery not herein otherwise provided for, composed in part of iron or steel, or of any other metal or material, complete or in parts, sixty-five per cent. *ad valorem*.

Mr. JOHNSON. I ask that the question be taken first on that.

Mr. CONNESS. I move to amend the amendment by striking out "sixty-five" and inserting "sixty."

The PRESIDING OFFICER. This being an amendment to an amendment—the whole bill now under consideration is an amendment—it is not amendable in the third degree.

Mr. CONNESS. Then it will be in order to move to insert a somewhat lower rate, if this proposition be voted down.

The PRESIDING OFFICER. The question is on the first branch of the amendment offered by the Senator from Rhode Island.

Mr. CONNESS. I hope the Senator will modify his amendment to that extent, by inserting "sixty" instead of "sixty-five."

Mr. SPRAGUE. The Senator might just as well ask me to say forty per cent., for it is as clear as that the sun rises and sets that these shops cannot be carried on at any less rate than that which I propose; and we need these shops. If you cut off the machine shops from the manufactories, you may just as well

throw your machine shops and manufactures into the ocean; the one is connected with the other just as bread is connected with the life of man almost.

Mr. SHERMAN. I do not wish to oppose a matter of this kind; but this is an advance on the present rate of duty of thirty per cent. The present rate of duty is thirty-five per cent. The Senator from Rhode Island proposes to make it sixty-five.

Mr. FESSENDEN. Nearly a hundred per cent.

Mr. SHERMAN. I mean it is an advance on the cost of the article of thirty per cent., or an advance of nearly double the present duties. What reason is given for this? My friend from Rhode Island says we have added to the duties on steel and iron. When this subject was before the committee, and a gentleman was before us who was very much interested in this matter, I asked him, and I asked the question of dozens of others, what proportion do steel and iron bear to the cost of the article?

Mr. SPRAGUE. One fifth.

Mr. SHERMAN. My friend says one fifth. The general statement was one tenth. Now take his own statement, one fifth. Here is a machine that costs \$100.

Mr. SPRAGUE. Thirty dollars.

Mr. SHERMAN. Any machine. He says thirty dollars. Take a machine that costs thirty dollars. Now the raw material which enters into the manufacture of that machine, according to his statement, is six dollars; according to the general statement made before us three dollars. We have added to the cost of that raw material, six dollars, about fifty cents, or at most, one dollar. Now, because we have added to the cost of the raw material one dollar at the outside, therefore we must add thirty per cent. on the cost of the completed article, or nine dollars. That is the argument.

Mr. SPRAGUE. I go behind that, and say that before this increase of duty, it costs three times as much with the rates as now existing on iron and steel to produce this article of a spindle in this country as it does abroad.

Mr. SHERMAN. Two years ago we framed a tariff law to meet that very difficulty; but now we have increased the duties generally about ten per cent. on certain leading and important staples, in order to protect our industry and to give us more revenue. In order to compensate for that increased duty—for that is all there is required—we are asked to give thirty per cent. on the completed article of manufacture, when the addition to the cost of raw material is only about five per cent. It seems to me that would destroy the object of this bill. I should like very much to accommodate my friend from Rhode Island; there is nobody whom I would more desire to accommodate; but the effect will be that at sixty-five per cent. we shall have no machinery imported into this country, and we shall get no revenue from it. The pretext, or the ground upon which this increase is proposed, is evidently delusive, because the whole increase to the raw material made by this tariff is probably not three per cent. on the present rate of duty.

The Committee on Finance have already allowed ten per cent., or nearly thirty per cent. on the present rates. I believe they report forty-five per cent.; the old duty was thirty-five; and I was perfectly willing at the urgent complaint of these manufacturers to vote for fifty per cent. or even fifty-five per cent., so as to put them on a footing with cutlery, although, as it is manifest, the rates of duty on cutlery being a more expensive article, are usually higher. The rates of duty I believe on table cutlery are fifty per cent.; and I was perfectly willing to vote for fifty per cent. on machinery; but to put it up to sixty-five, it seems to me, would destroy the great object of this bill, to produce revenue, and I cannot vote for it.

Mr. CATTELL. I was of the impression that this machinery was one of the items upon which the Committee on Finance did not put as much duty as was required to protect its manufacture; and I so expressed myself, and

am in favor of some additional duty. I ask the gentleman from Rhode Island if he will not consent to modify his motion so as to make it fifty-five per cent. I will vote for that.

Mr. CONNESS. He has refused to make it sixty.

Mr. CATTELL. I was out of the Chamber for a few moments, and did not hear that proposition made. Then I shall most undoubtedly vote against the amendment as it stands, because I believe it to be more than is necessary. A motion to make the duty fifty-five per cent. would meet with my approval.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. SPRAGUE. What is the proposition?

The PRESIDING OFFICER. The amendment of the Senator from Rhode Island.

Mr. CONNESS. I will say to the Senator from Rhode Island that the Senator from New Jersey proposes that he modify his amendment so as to say fifty-five per cent. I have already proposed that he should modify it so as to make it sixty per cent. I believe that that is necessary. I believe that you are going to stop the workshops of the country engaged in producing machinery unless you give them a protection to this extent. I do not desire to enter into the question at this time, although I have thought upon it to some extent; but I hope the Senator from Rhode Island will consent to modify his motion as I have suggested, and let us take a vote on sixty per cent.

Mr. SPRAGUE. Very well.

Mr. CONNESS. I understand that the Senator consents to that modification of his motion.

The PRESIDING OFFICER. (Mr. EDMUNDS in the chair.) The question, then, is on the first branch of the amendment of the Senator from Rhode Island, as modified, on page 37, section seven, line two hundred and ninety-three, to strike out "forty-five" and insert "sixty."

Mr. ANTHONY. I am satisfied that unless there be some additional duty put upon machinery that branch of industry will be driven out of the country. The argument of the Senator from Ohio is not precisely fair. He says that because a large additional duty has been put upon the raw material, therefore we wish a corresponding additional duty put upon the manufactured article, whereas the raw material is but a small portion of the value of the manufactured article. If the advance was demanded on that ground, the answer of the Senator from Ohio would be perfect; but it is not so. The demand is made upon the ground stated by the chairman of the Finance Committee in presenting the bill: that it has been the object of the committee to give protection wherever it was needed.

Mr. President, I am very sorry indeed to give any vote that makes machinery cost more, because, although many of my constituents manufacture machinery, many more of them use it. But leaving entirely out of the question the protection due to our own industry, taking into consideration only the question of national independence, I believe it is of vital importance that we should not drive out of the country the fabrication of iron, and I am quite sure that the present duty reported in this bill is not sufficient to retain that branch of industry. I do not know but that by and by, after labor comes down, it may revive again; but at present, with anything like the present prices of labor, it will be impossible I think to carry it on.

I do not know upon what principle it is that we put a duty of one hundred per cent. upon the manufacture of iron and then put a duty of only forty-five per cent. upon the industry which transforms that iron into a useful machine. I do not know why the one branch of industry is not entitled to just as much protection as the other, provided it needs that protection. I suppose the manufacturer of iron requires a greater degree of protection in order to its successful prosecution than the manufacture of machinery itself; but if you give the manufacturer of iron all that is required to carry on the business successfully, then I do

not see why you are not bound to give the same protection to the manufacturer of machinery. I know very well that if we increase the price of machinery we increase the price of the articles which machinery produces, and that increases the cost of living and raises the price of labor, without giving to the laborer really any additional wages; but I do not see how we are to prevent it. If we are to make a beginning we must begin at the bottom and reduce the cost of the raw material; and that, I understand, the committee are not prepared to do, and I do not ask it of them. The reason why we could import machinery under the duty that now exists was that we had gold at 200; that made all the difference in the world; but now machinery is coming in here from England and is laid down here at thirty per cent. less than we can manufacture it. I know that a steam-engine has been manufactured in England, brought here, and laid down thirty per cent. lower than we could manufacture it. I think there ought to be an additional duty on machinery.

Mr. WILLIAMS. Mr. President, I do not know to what extent this sort of argumentation that has been presented by the honorable Senator will carry us. Now it is made manifest, as it seems, that one hundred per cent. tariff is necessary to enable those engaged in manufacturing iron to conduct their business.

Mr. ANTHONY. And you give it to them.

Mr. WILLIAMS. And this tariff bill gives it to them. Now the manufacturer of steel says, "You have fixed a tariff of one hundred per cent. on iron; our business is to make iron into steel, and you must favor us with the same duty that you do the manufacturer of iron;" and so you add another hundred per cent., making two hundred per cent. And now here comes the man who makes that steel into machinery, and he says he must have one hundred per cent.; and so we pile one tariff upon another until the cost of the article, when it is finally finished, to the consumer is made fabulous. There is some fallacy about this reasoning somewhere; because that is the legitimate result of it. That is the argument that is urged here on every hand. Every Senator who addresses the Senate with reference to these articles manufactured of steel commences by saying, "You have levied so much upon iron; we are entitled to as much as the men who make the iron; and so it goes on from one thing to another until the articles come to be so high that nobody can afford to use them."

I do not pretend to know as much about these things as many other Senators who live in manufacturing States; but one idea that operated upon my mind was this—

Mr. FESSENDEN. The Senate goes further than that and protects materials in the bowels of the earth, for fear they may be driven out of the country.

Mr. WILLIAMS. Certainly, and that is a true proposition on the same system of argument. If a man discovers a mine in this country anywhere, immediately a tariff is imposed upon the article, and the effect of discovering a mine in this country is to make the article higher than it was before the mine was discovered. That is the general proposition; but that is not pertinent to this question.

Mr. ANTHONY. That is just what the Senate have done.

Mr. WILLIAMS. I know they have done it, but I did not help to do it.

But I was about to state the idea which influenced me more than any other to vote for this report. I am not disposed to oppose a reasonable increase; but the great cry in this country is, that the manufacturers need protection; that the men who make the woollens and the cottons in the country need protection; and that was the reason I thought that if you put a high tariff upon the machinery, to that extent you injured the manufacturing interest of the country; that unless the manufacturing interest, which seems to be demanding and needs the most protection—

Mr. CONNESS. And so destroy another class to save them.

Mr. WILLIAMS. I did not suppose that a duty of forty-five per cent. would destroy them, and, as the honorable Senator from Ohio said, it is impossible to show how it does destroy them; because the argument proceeds upon the assumption that the tariff upon iron and steel has increased the value of those two articles, and yet the same showing makes it appear that they constitute an inconsiderable part of this machinery; so that it is not because a high tariff is imposed upon the iron and the steel that this great duty is necessary; it must be for some other reason. I suppose the main reason is because labor is higher in this country than it is in England. I should be willing, if it be the mind of those gentlemen of the Senate who understand the manufacturing business better than I do, to increase this duty. I do not propose to be obstinate in reference to the matter; but it is difficult to see, while the men who conduct the manufacturing business of the country are clamoring for protection, how we protect them if we impose an additional price upon the very articles they use in that business.

Mr. ANTHONY. Mr. President, I do not want to impose an additional tax upon the cotton and woolen manufacturers; I do not want to make their machinery expensive; but this fact, in my opinion, is abundantly proved, and I think the chairman of the Committee on Finance will agree with me that, unless there be some additional duty, the fabrication of iron machinery must, for the present at least, cease in this country. Whether that result is desirable or not others can judge for themselves; but I believe that will be the result. I expressly disclaimed, as the Senator from Oregon would have heard if he had listened to me, demanding a higher duty upon machinery because there has been a higher duty imposed on iron. I know that the iron forms but a small part of the cost of the machinery.

Mr. WILSON. In some kinds of machinery it forms a good deal of the cost.

Mr. ANTHONY. It does in some kinds of machinery, but it does not form a fifth in this case, and generally not so much. I stated that an increased duty was necessary because at the present price of gold and at the present rate of duty machinery is brought from England and laid down here for thirty per cent. less than we can make it. Senators will judge for themselves whether they wish to correct that or not.

The difficulty that the Senator from Oregon enlarges upon I perceive as well as he does. I perceive that when you put an enormous duty upon the manufacture of iron you are obliged to put a duty upon the manufactures made from iron, and when you put it on those manufactures you are obliged to put an equal duty upon the goods which the iron machines are employed to manufacture; but if that system is not right, then you must begin at the bottom and take the duty off the iron, because wherever you stop you destroy the industry that you stop with. If the edifice is going to topple over it is best to strengthen the foundation of it.

With regard to the great duties that the manufacturers of cotton and wool demand I think the Senator exaggerates them. I do not think the manufacturers of cotton and woollens demand great duties. If they do they certainly have not been accommodated in this bill; for the duties on cottons are somewhat lower; the duties on linens are lower; and in the duties on wool and woollens the committee have accepted the House bill with regard to the advance on wool, but have not accepted it on woollens.

Mr. FESSENDEN. One of the items on which the charge was predicated on woolen manufactures in the House bill was the duty on dye-stuffs, and we have taken off the duty on dye-stuffs in almost every instance.

Mr. ANTHONY. That does not amount to so much as the reduction of duty on woollens from the rates of the House bill.

Mr. FESSENDEN. Oh, yes, it does.

Mr. ANTHONY. I am not so informed. The Senator probably knows better than I do.

Mr. FESSENDEN. We did not make the calculations ourselves, but had them made by an expert with the direction to make the duties conform.

Mr. ANTHONY. I submit to the superior information of the committee, and I have no doubt it is correct. But with regard to the great duties demanded by the woolen and cotton manufacturers, one of the largest manufacturers and one of the most intelligent men in the country said to me the other day, "Give me the free importation of my raw material; relieve me from all internal taxes; impose a duty of twenty-five per cent. and collect it, and it is all I want; that would be better than the present bill, and better than any bill I have had."

Mr. FESSENDEN. I have no doubt it would be.

Mr. ANTHONY. But with such enormous duties, duplicated and quadrupled upon everything that enters into the fabrication of their goods, it is impossible for them to get along without corresponding duties.

Mr. FESSENDEN. I have had the impression that there ought to be a slight increase of the duties on machinery; but by no means so much as is stated by the Senator from Rhode Island, [Mr. SPRAGUE.] I am informed, however, that a very accurate calculator, after calculating the duties—he made an accurate calculation last night—says that even forty-five per cent. is one and one eighth cent over the duties imposed upon the raw material, iron and steel; so that in reality they have more protection. How true it is I do not know. He undoubtedly believes it.

Mr. ANTHONY. Than under the present tariff?

Mr. FESSENDEN. No, sir; as we have fixed it.

Mr. ANTHONY. In the bill reported?

Mr. FESSENDEN. In the bill as we reported it, taking the increased duties on steel and iron and the increased duties on machinery.

Mr. ANTHONY. That the increase on machinery is more than the increase on the raw material?

Mr. FESSENDEN. In proportion.

Mr. ANTHONY. I think that very likely. I expressly said that this demand was not made in consequence of the increase on iron; but it seemed to me the same principle that made the duty of one hundred to one hundred and twenty per cent. upon iron and steel would justify a duty of more than forty-five per cent. upon machinery.

Mr. FESSENDEN. It depends entirely upon the proportion. If the increase now is greater than that on the raw material out of which it is made, that ought to be satisfactory, unless the business was languishing before.

Mr. ANTHONY. That is the case precisely. The reduction of the price of gold would have destroyed the business but for protection.

Mr. FESSENDEN. I wish to state the whole case. There was one fact that was not denied, and that was that the business of the manufacture of machinery in this country was so pressing that the machine-shops could not fill the orders offered them in the time the machinery was required, and in consequence those who offered them were obliged to send to Europe in order to get the machinery made in the time they wanted it. The orders were so great that the manufacturers of machinery could not fill them for want of time and ability to complete them.

Mr. ANTHONY. And also owing, if the Senator will allow me, to the diversion of a large portion of the fabricators of iron to the service of the country during the war. That made a great difference.

Mr. FESSENDEN. That may be. At any rate more orders were offered to them than they could fill, even at the old prices.

Mr. ANTHONY. That is undoubtedly so; but the fact upon which this demand is made is, that under the existing tariff machinery can

be laid down in this country from abroad thirty per cent. cheaper than it can be manufactured here. I know that one of the largest machine-makers and one of the best in the country, and I think from the Senator's own State, has gone out of the business of manufacturing and gone into the business of importing machinery—Mr. Thompson, of your State, one of the best mechanics in the country.

Mr. CONNESS. More than that, they take orders and import the machinery and fill the orders, and make a profit on the transaction.

Mr. ANTHONY. Certainly; and one of the largest machine-makers in my State told me that for himself he was very indifferent as to the increased duties on machinery; he could make quite as much by importing as he could by manufacturing it; but he employs a thousand men, and they and their families consume two or three thousand barrels of flour and a great deal of wheat, pork, and beef, and all that would be consumed in England if we shut up these shops.

Mr. FESSENDEN. If the Senator had not interrupted me, I was about saying that, notwithstanding these different statements, I was so strongly impressed with the idea that this interest is suffering at the present time for need of protection that I was willing to go as high as the Senator from New Jersey suggested, fifty-five per cent., adding ten per cent. to the rate in the bill, which I think is about right, and with which I think this interest ought to be satisfied. That I should be willing to submit to as against the report of the committee; but I should not be willing to go as high as sixty per cent. If they cannot get along with fifty-five per cent. it is very singular under the circumstances.

While I am up I wish to notice a remark made yesterday by the Senator from Rhode Island, [Mr. SPRAGUE.] He gave us something to think of over night; he said he wished to throw out something that we might for our edification digest if we could during the night, and by the time we got here to-day be ready to say whether it had agreed with us or not. I refer to the statement which he made that this was a commercial tariff. If so, God help commerce, for there is no help from any tariff if this is a commercial tariff. He attempted to prove it by instancing the duties on cotton goods. I am informed by the commissioner that these duties were fixed at a rate perfectly satisfactory to those engaged in the manufacture of cottons, who appeared before him, and generally to everybody except in regard to some of the higher grades of cotton where we have increased the tariff. The cotton interest of this country has got so that it can stand of itself pretty much. The manufacturers in Massachusetts, I believe, have not troubled Congress for an increase of the duties on cottons, except on one or two of the higher grades, where a little addition has been allowed them.

With regard to linens we went upon a different principle. The Senator instanced linens and cottons. We thought that in the present condition of the country we are not in a state to deny ourselves everything for the sake of protecting everything. It is not a good time to do it. It is a good time to protect our established industries; and we must do that if we can, and afford reasonable protection to other interests which are beginning to be developed, but not such a protection as will raise the price of the articles to the consumer so largely as it would upon those industries which have not yet begun to be sufficiently developed. We acted upon that principle with regard to linens.

With regard to the manufactures of jute, we went upon the principle that as that article was altogether raised abroad it was important to reduce the duties on the raw material as much as possible in order to encourage the manufacture of it in this country.

We did not apply, and I do not know how any one can apply, a regular level to every industry in the country. My friend from West Virginia in his zeal wanted us to protect that



mountain from which so many beautiful ores are extracted for fear it would be driven out of the country if we did not protect it; and that is the case with a good many raw materials buried in the bowels of the earth that Senators say will be driven out of the country if we do not protect them. We had supposed the best protection we could give to them was by raising up an industry in the country to manufacture the material itself, which would protect it by giving a good ground for its development; but that does not seem to be satisfactory. I did not give a great deal of reflection, as my friend from Rhode Island has suggested, to what he stated last evening in regard to this being a commercial tariff; and I really would rather wait to hear him make it out, for I think that if any interest suffers under it it must be commerce.

Mr. SPRAGUE. Mr. President, I take the gentleman at his own word and will endeavor to make it out. If I recollect his argument as to crash, it was that we were upon terms of amity with Russia and we should continue those relations, and therefore should so arrange the duties as to continue to import crash from Russia. Was this otherwise than for the purpose of protecting commerce? Is not that an element which does protect commerce?

The Senator has risen in his seat several times and declared that the commercial interests of the country demand attention as well as the manufacturing. It seemed to be a topic with him throughout nearly all of yesterday afternoon to defend commerce. I think the Senator from Ohio and the Senator from Maine are both mistaken in the suggestions they made on that point.

I complain of this tariff because the Senator from Maine and the Finance Committee have been pressed by organizations which have forced the articles of iron and steel up to a rate of duties so great as to prohibit almost entirely the introduction of those commodities into this country; and while doing that they seem to forget that the articles of iron and steel and wool enter largely into the production of cottons and of linens; and yet we find that by the wisdom of this committee and of the commissioner the duties on the latter articles are reduced. The Senator tells us this was in accordance with the recommendation of the cotton interest. Did the cotton interest know that a large proportion of the material that they were to employ in the production of their cottons was to be advanced and they not get a corresponding advance in the protection of their industry? So of the linen interest.

Another thing which the Senator has forgotten and which the country does not seem to understand is, that prior to the war the importation of coarser cottons was driven from the market by the production of those cottons in this country, and the consequence was that the English machinery was put upon a different kind of commodity, a finer article. Now, however, the English manufacturer and his agents have been to this country, and we find him producing upon plans that have become stereotyped and acceptable in the markets of this country, and introducing here to-day every article known to American industry, and from twenty to thirty per cent. lower than we can produce it. The reason of this is because certain styles become popular. In the construction of a locomotive, for example, the people of this country demand a certain style and model and will go abroad for it; and the English manufacturer will come here, take styles that are acceptable to our people and go abroad and manufacture them and send them here. In this way every workshop in this country may be destroyed under the present system. When I say so I speak what I know. By this bill you enhance the value of a material part of the products that enter into the manufacture of cottons and linens. Did the cotton and linen manufacturers understand that when they said they were satisfied? Certainly not.

I think this is a commercial tariff, for the

reason that it will give to foreign nations and to what commerce we now have the carrying trade of materials that have heretofore been manufactured and produced in this country. They will be produced abroad, and foreign commerce will be used to introduce them into this country; and why? Because of the sickly sentimental idea that prevails here that you are to pay off the national debt in a hurry, and that you must tax the people more heavily for that purpose, and continue to tax, tax, with that view. Have you not taxed them sufficiently during the war? Have you not drawn from them one half of their property? Must you continue that policy? Must you drive from employment every laboring man in this country and send all our work abroad to be done?

Why, sir, what is the condition of the immigrants who arrive in our ports from Europe? Do they remain here? Is it not a startling fact that many of them return to take the pittance their labor receives on the other side of the water? Why is it? It is because of the increased demand for their labor there to produce supplies for this country. That is the reason they go back, and they will continue to go back; and instead of coming here they will remain there, and many now here will find great difficulty in getting labor to enable them to purchase the supplies necessary for their subsistence.

Mr. FESSENDEN. I do not wish to be misunderstood. The Senator says the burden of my song yesterday was protection to commerce. I deny it entirely. I do not think I mentioned the subject much yesterday. What I said in the beginning I stick to; that in the construction of a tariff bill of this description, while the main great object is followed of protecting American industry, we must, in some cases, take into consideration the effect that certain duties will have upon our commerce. That is what I stated, and I still maintain that position, for I do not wish to be considered a man of one idea. I would rather be able to look upon all the interests that are involved and have a tendency to produce benefit to our country and increase its wealth and its power.

I shall not attempt to follow the Senator in what he has stated. He argues always precisely in the same line, and that is that there is nothing to be considered but protection, and principally the protection of cotton manufactures, and that, after all, if you look out and protect cottons well the whole object of legislation is accomplished. I do not agree with him in that particular, and therefore it is hardly worth while for us to enter into discussion.

Mr. SPRAGUE. In answer to that, I will simply call attention to the fact that I am an advocate of protection to other interests.

Mr. CONNESS. Mr. President, upon the point made by the honorable Senator, the chairman of the Committee on Finance, the necessity of looking to the protection of commerce and the recognition of it as a great industry, without which a nation cannot live and be great, I entirely agree with him. What we try to aim at in legislation here on this subject is, that all the great branches of industry shall prosper under our hand. But I rose not to continue that theme; because, although it is interesting and has been ably handled by the Senators who have spoken, it has sunk the amendment before us pretty much out of view. The present proposition is to advance the duty imposed upon machinery coming from abroad. I go back to the position taken by the leading Senators, and accepted by all: that when we consider the matter of protecting home industry, the wise thing to do, the necessary thing to do, is to ascertain by a collection of facts what classes of industry require the protection, what classes of production can be obtained abroad, where other people are employed than our own; and brought into our country at a cheaper rate than our people can afford to be paid for making them, and apply the duty

there, so that our own people may be employed at home.

I think it is conceded that the duty proposed upon machinery is not sufficient to afford the necessary protection. When it becomes so that a manufacturer of machinery may send his orders abroad, import the machinery, and sell it to his customers, who do not know that it has been manufactured in England at a profit, it is time to advance the duty upon it, as I think; and my opinion is that the amendment now before the Senate does not propose too great an increase of the duty. I believe that if you accept such a proposition as the one now before the Senate you will empty our workshops where machinery is manufactured of the mechanics of the country.

In crossing the Atlantic last August after our adjournment I had the company of a very intelligent American, largely engaged in the manufacture of machinery. I had many conversations with him upon the subject. I found him to be a very able and intelligent gentleman, entirely at home upon the subject. He showed to me clearly that the tax imposed upon the material out of which sewing-machines were manufactured was so great that they could not manufacture them in our own country at a profit, and that they were compelled now to transfer their workshops, and would have to do it if the duties were kept up on the raw materials, to England, and have their machines manufactured there, bring them in at the duty imposed upon them, and sell them to their customers in America. This was, as I have said, from a very able man and one interested in a low duty upon machines, not interested in a high duty, for his position was, "reduce the tax that you now impose upon the raw material or else we will go abroad and manufacture, and must do it and will do it, because we can do it and pay your duty." Here we have the testimony, as I again repeat, of an able man interested against the very testimony that he gave. Now, I hope the Senate will adopt the pending amendment offered by the Senator from Rhode Island.

Mr. FRELINGHUYSEN. How much percentage does that propose?

Mr. CONNESS. Sixty per cent.

The PRESIDING OFFICER. (Mr. EDMUNDS in the chair.) The question is on the first branch of the amendment proposed by the Senator from Rhode Island.

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cresswell, Fowler, Frelinghuysen, Howard, Howe, Morrill, Sprague, Stewart, Van Winkle, Wade, Wiley, and Wilson—15.

NAYS—Messrs. Cattell, Davis, Doolittle, Edmunds, Fessenden, Fogg, Grimes, Henderson, Johnson, Kirkwood, Lane, Morgan, Norton, Patterson, Ramsey, Sherman, and Williams—17.

ABSENT—Messrs. Brown, Bucknley, Cowan, Cragin, Dixon, Foster, Guthrie, Harris, Hendricks, McDougall, Nesmith, Nye, Poland, Pomeroy, Riddle, Ross, Saulsbury, Sumner, Trumbull, and Yates—20.

The PRESIDING OFFICER. The first branch of the amendment is rejected, and the question now recurs on the second branch, to insert after line two hundred and ninety-three of section seven the words:

*Provided, That all machinery contracted for in good faith before January 1, 1867, shall be admitted at the rate of duty provided for by law at the date of said contract.*

Mr. FESSENDEN. How are you going to tell that?

Mr. ANTHONY. It will be determined under such regulations as the Secretary of the Treasury shall prescribe.

Several MEMBERS. Oh, no; vote it down.

Mr. ANTHONY. I think it ought to be adopted, and I will state the reason why. The case does not stand, as the Senator from Indiana stated, on the same basis as imported goods bought in the open market. The date is fixed at which this bill is to go into effect, the 1st of April. That gives time for all goods that have already been bought in good faith to come in under the present rates of duty, which is manifestly proper, because the Government has told

its citizens that they could import goods at certain rates, and on the faith of that law they have bought goods and they ought to be allowed to bring them in at that rate. Everybody admits that. I wish now to bring machinery contracted for under the same rule, because you cannot go into the market and buy machinery as you can buy cotton and woolen goods, carpets, and pig iron. It is not there; it is not made to order and sold in the markets of Europe; but it is contracted for. Therefore if you mean to give to the importer of machinery the same advantage you give to the importer of any other goods, you must give him, after he has contracted for the manufacture, the same privilege you give to others for the purchase of goods. It is manifestly inequitable to do otherwise.

Mr. WILLIAMS. If this machinery be kept out of the country by this tariff, does not that enable the American manufacturers to make the machinery and thus protect them?

Mr. ANTHONY. Certainly not, because the machinery is already contracted for. The question is whether you will allow a man to bring in his machinery at the rate of duty you told him he might when he agreed to have it manufactured, or whether, after he has made his contract on the faith of your tariff, you will increase the duty.

Mr. FESSENDEN. I should like to know what distinction the Senator would make between that case and the one I will state. A man imports a certain quantity of goods, no matter of what kind, and puts them in bond; and we pass a tariff bill, as we have done repeatedly, saying that upon those very goods in bond imported under that tariff he shall pay a higher duty.

Mr. ANTHONY. But you put the operation of the new tariff sufficiently ahead to let him take his goods out.

Mr. FESSENDEN. Repeatedly not. Sometimes we have made the bill go into effect the day it passes.

Mr. ANTHONY. But I think the Senator himself agreed with me that it was a very unjust proceeding.

Mr. FESSENDEN. I gave notice at one time that in that particular bill I would exempt goods in bond, but that afterward in all tariffs I would insist upon putting on the duties of the new bill at once, and I have acted on that principle. In regard to this bill we have named the 1st day of April as the day for it to take effect. Whether that will be agreed to by the House, whether they will not put it sooner, or whether they will not put it precisely as the original bill was, that it should take effect immediately upon its passage, I do not know.

Mr. ANTHONY. We shall have to do as the Senator says about that.

Mr. FESSENDEN. It is very likely that the House will disagree to the time we have fixed, and then that will be a matter of compromise. Perhaps we have put it too far ahead. At any rate, it is only an expression of opinion on the part of the Senate, and at the time it was agreed to perhaps we did not think sufficiently of the ease with which an order can now go to Europe, and how our country might be filled up between now and the 1st day of April. Since we passed the last tariff bill the Atlantic telegraph has been put in operation.

I only say this to show that it is uncertain what will finally be done on that point, and that any operations founded upon our action by people who send out orders simply because the Senate have fixed the 1st of April may prove entirely fallacious. But at any rate, as we have adopted that principle, and acted upon it in tariff after tariff, I see no reason why the importers of machinery not yet made should not precisely come under the same operation, and if they bring it in pay the duty prescribed. I have no idea of legislating exclusively for the benefit of those who are rich enough to send out and get their machinery made abroad and imported here at the same time that we put a heavy duty on anybody else who imports it.

Mr. ANTHONY. It does not require any richer man to import machinery at sixty-six cents than it does to manufacture it here at a dollar, and I think this amendment places the importer of machinery on precisely the same platform as the importer of other articles.

The amendment to the amendment was rejected.

Mr. CONNESS. I now renew the first part of the amendment proposed by the Senator from Rhode Island, [Mr. SPRAGUE,] only substituting fifty-five for sixty per cent.; so as to make the clause read:

On all machinery not herein otherwise provided for, composed in part of iron or steel or any other metal or material, complete or in parts, fifty-five per cent. *ad valorem*.

Mr. CATTELL. I hope that amendment will prevail.

The amendment to the amendment was agreed to.

Mr. CHANDLER. I move to amend by striking out lines thirteen, fourteen, and fifteen of section eight, on page 38, in these words:

On copper ore, ten per cent. *ad valorem*.  
On regulus of copper, fifteen per cent. *ad valorem*.  
On copper in pigs, ingots, or bars, four cents per pound.

And in lieu of them to insert:

On all copper imported in the form of ore, three cents per pound.  
On copper imported in the form of regulus, four cents per pound.  
On copper in pigs, ingots, or bars, five cents per pound.

Some years ago, before the imposition of internal revenue taxes, the duty on copper was fixed at two and a half cents per pound, which was an ample protection to our copper mines at that time. From time to time, as taxation increased, it was discovered that the miners, those engaged in mining copper, actually paid a larger amount of duty in the form of internal revenue to Government than the amount which purported to protect them. Under a duty of two and a half cents per pound the mines were prosperous and went on increasing until the product of the Lake Superior mines alone amounted to about ten thousand tons per annum, and we shipped many hundreds and for aught I know many thousands of tons to France, because our copper was of a purer and better quality, softer, and more malleable than copper obtained elsewhere. But since the great increase of the internal revenue taxation many of our mines have stopped working, and our product has now fallen from ten thousand tons or thereabouts to near six or seven thousand tons per annum.

Under this duty, as I am assured by the miners, by those interested in the mines, they will be compelled to stop entirely. The ten per cent. imposed by the bill is of course upon the foreign valuation—the valuation in Cuba or Chili or wherever the ore comes from—and it is almost an inappreciable tax. I propose to place a definite tax upon the ore after it is smelted. The progenitors of this tariff bill have gone upon the presumption that ore was a raw material. The whole expense of the ore is in the labor of getting it out of the mines, and the ore is then just within three per cent. of ingot copper. It costs only three per cent. to smelt the ore into ingot copper. I propose, therefore, to make a distinction of one cent a pound between copper in the ore and regulus which has gone through one process of smelting, and one cent between regulus and copper in the bar.

I have before me the sworn testimony taken before the Committee of Ways and Means of the House of Representatives of some of the most reputable gentlemen engaged in this mining business. They show that prior to last winter each one hundred pounds of copper mined in Lake Superior actually paid into the Treasury of the United States \$4 63; but last winter \$1 08 was taken off in the shape of direct internal revenue taxes, leaving \$3 55, the amount which is now paid into the Treasury upon every one hundred pounds of copper raised from the mine. I do not propose to

place the amount of duty as high as the amount now actually paid into the Treasury in the form of internal revenue taxation. The amount of internal revenue taxes paid upon one hundred pounds can be ascertained to a perfect certainty, because the owners of every mine are compelled to keep a store to supply their operatives with everything they consume; and in this sworn testimony, as I see, they have shown that they paid \$3 63 upon every hundred of ore that was raised, and now they pay \$3 55. I now propose to fix a duty of three cents per pound on foreign ore smelted, and I think any man at all acquainted with the mining operations of the country will say that that is certainly reasonable and just and proper.

Mr. WILLIAMS. Whenever the duty is raised upon copper as the gentleman proposes, then again the argument will be urged that we have heard so often, "You have put a very high tariff upon the raw material, and now you must add to the duties upon every manufactured article into which that material enters," and that illustrates, it seems to me, the folly of imposing these high duties upon what constitute raw materials for the manufacturing business of the country. This bill already adds very much to the duties upon copper. On copper ore the bill places a duty of ten per cent. *ad valorem*; the present tariff is five per cent. *ad valorem*; so that this bill, as it was reported by the committee, doubles the duty upon copper ore, and it would seem that that ought to be a sufficient advance of the duty upon the raw material. Then on the regulus of copper the bill of the committee puts a duty of twenty per cent. *ad valorem*, while the present duty is only five per cent. Here is an increase from five per cent. to twenty per cent. *ad valorem*.

Mr. CHANDLER. It is only ten per cent. in the bill.

Mr. FESSENDEN. We have made it fifteen per cent. on regulus of copper.

Mr. WILLIAMS. I see that I was mistaken; I was referring to the report of the commissioner instead of the report of the committee. The committee propose fifteen per cent. duty on regulus of copper, and the present tariff is five per cent. On copper in pigs, ingots, or bars the present tariff is two and a half cents; the committee report four cents a pound, which is nearly double.

This copper is a raw material. It is produced from the mines in this country. It is very essential in the construction of ships and vessels, and if such a duty be imposed as to make copper much more expensive the entire business of ship-building in the United States will be transferred to Europe. Besides, this copper is used in very many other ways, and it is stated that those engaged in the production of this ore are not successful in their business, or that they do not produce as much now as they did at a former day. That may be attributable to many causes. I do not know that it is to be assumed that this reduction in the production of copper is attributable to the lowness of the tariff or to importations into this country; it may have been produced by other causes. I have seen statements in the newspapers—and my attention was called to them from the fact that the tariff bill was pending, and this copper question was one that would be considered before the Senate—to the effect that the copper business was prospering, that new mines had been discovered, that the amount of copper produced was increasing, and that those engaged in the business were engaged in a profitable business. They were mere newspaper statements though, and perhaps not entitled to very much confidence. I only mention them because upon these subjects there are always more or less conflicting statements.

But, Mr. President, it seems to me, in view of the other interests of the country, in consideration of the fact that this is a raw material, the addition of one hundred per cent. to the present duty is as much as ought to be imposed at this time, and I hope that this amendment will not prevail.

Mr. STEWART. I hope this amendment will prevail. I represent a constituency that is not engaged in manufacturing at all, but still I am willing to vote for high tariffs on the articles they consume, because I want them to buy from the people of the United States. The United States are building railroads to us and improving the country, and I prefer to buy in the United States. I think the good of the country requires that these articles should be protected in a reasonable way.

In regard to this matter of copper, the Senate may not be aware that we have on the Pacific coast and in the interior of the country, between that and the Mississippi valley, a large amount of copper ore, veins undeveloped, but which are very rich. The other taxation upon the production of copper ore is so great that the mines on the Pacific coast remain undeveloped. A mine in California must be very rich, very superior to one in Chili to justify working it so as to come in competition with the product of the latter. In consequence of the high price our miners have to pay for their supplies, their clothing, and everything they consume, as compared with the cost of the same articles in Chili, the same class of copper mines cannot be worked there so as to compete with Chili. As the mining of copper is comparatively in its infancy in the United States, and we have an abundance of copper ore—enough to supply the world if we could only develop it—it seems to me that it should be protected, and I hope that the amendment of the Senator from Michigan will prevail.

A duty of ten per cent. *ad valorem* on copper ore imported is no protection. It is the most difficult thing in the world to ascertain the real value of it, and the provision can be evaded without the slightest difficulty in regard to the ores from Mexico and South America. If we are to have our mines developed under the existing state of things we must have some protection to this product.

Mr. CHANDLER. The mistake the Senator from Oregon makes is in considering copper ore a raw material. As I said, it just costs three per cent. to smelt it; it is within three per cent. of ingot copper, and hence the error the committee have made in making so great a discrimination between the copper ore and ingot copper. The fact is that copper mining has been carried on at a loss with prices at from twenty-eight to thirty cents, when six years ago it was carried on at a profit at prices from sixteen to twenty cents.

Such is the fact to-day. The increase in the price of labor, the increase of the cost of living, and the increase of the cost of transportation have carried the expenses up to double. If there has been a profit anywhere in copper mining it has been with the smelters, who had this large advantage over the miners.

As has been justly said by the Senator from Nevada, ten per cent. duty on the ore is almost inappreciable, because it is the duty paid on the value in Chili or Peru or wherever the ore comes from, without counting the additional cost of transportation. I ask for a less duty on the copper after it is smelted than is to-day and has been paid in the shape of internal revenue tax upon every hundred pounds of copper raised in the United States. Certainly it is just and right and proper that we should have the same protection, which would be three and fifty-five hundredths cents instead of three cents a pound, which is all I propose. I hope the amendment will prevail.

Mr. WILLIAMS. I find in a journal entitled the American Mining Index a statement of the production of copper in one county in the State of Michigan, the county Keweenaw, and I find there this extract from a paper published in that county:

"It appears upon comparison with the previous year (1865) that although there were less mines working in the district, nevertheless there was a gratifying increase in the number of tons of copper shipped the present season over the previous one of three hundred and eighty-nine tons."

I find that from that one county there were

shipped last year three thousand six hundred and twenty-three tons and eight hundred and ninety-one pounds of copper, and the increase over the previous year, in round numbers, was three hundred and eighty-nine tons, showing that the production of copper in that one county amounted to between three and four thousand tons, and that the production increased in 1866 over that of 1865. On this statement I do not think the business is suffering; I do not think this tariff is necessary to enable those engaged in this mining business to prosecute their labor and produce copper.

And, sir, if copper be not a raw material, there is no such thing as a raw material. There is comparatively, with the many other interests into which copper enters, but a small proportion of capital employed in the production of copper ore; and it is manifest that if this excessive protection is given to the capital and the labor employed in the production of copper ore—digging this ore out of the ground—other great interests in the country which cannot be prosecuted without the use of copper must necessarily suffer. It is a fact—it does not seem to have much weight here, but it is a fact—that the ship-building business of this country is rapidly crossing the ocean, and that that immense interest is passing into the hands of the British ship-builders. A tax of this kind upon copper will further tend to drive that business out of the country, and prevent persons who otherwise might engage in the business of building ships from engaging in that pursuit.

Mr. FOSTER. The Senator will excuse me for interrupting him on that point. I can inform him that in the largest ship-building district in this country at the present time there is but one ship on the stocks. I do not think, therefore, the business will be diminished a great deal.

Mr. CHANDLER. Let me tell the Senator from Oregon that there is a clause in this very bill giving a drawback on all copper and iron materials used in ship-building. I think that very unjust, but I shall not attack it if my amendment prevails.

Mr. WILLIAMS. It is true, that drawback is provided for; but I do not think that is a sufficient reason why the tariff on copper should be increased in the manner proposed by the Senator from Michigan. I only refer to ship-building as an illustration. I suppose copper is used in a great many other ways beside in the business of building ships, and this will affect all the interests in which the use of copper is necessary.

Mr. HOWARD. I wish to ask the Senator from Oregon from what paper it was that he read.

Mr. WILLIAMS. This paper is entitled the American Mining Index, and the extract contained in it which I read is taken from the Keweenaw Times.

Mr. HOWARD. I fancy the article in that paper simply relates to one single mine, which happens to have been very fortunate. I am somewhat familiar with the gentlemen engaged in the mining interests in my State, and it is the uniform complaint with those gentlemen that the internal revenue tax upon their industry has been so onerous that it has produced the effect of discouraging the working of the mines, although there has been a small duty on the imported article. They have been the losers between the upper and nether millstone. The duty upon the imported article has not been sufficient by any means to counterbalance the burden imposed upon them under the internal revenue laws; and instead of making money from this business, I believe it to be true that for the last year or so, as a general fact, they have been losing; and the fact is undoubtedly true that the companies are getting discouraged and are upon the point, many of them at least, of giving up their business and going into liquidation in consequence of the burdens which are thus imposed upon them.

I really hope that this amendment of my colleague will be adopted. I think the country

in the end will derive a very great benefit from it, because it will tend to encourage the production of copper, an article that enters into almost all the machinery of the country, upon railroads, upon ships, and almost every other description of machinery.

Mr. FESSENDEN. I was anxious myself that such duties should be placed upon copper as would tend to increase the manufacture of it and protect it, and I thought this bill was so arranged as to accomplish that purpose. If the Senators from Michigan think it is not, I have no objection to letting them have it their own way, so far as I am individually concerned; but my opinion is, derived from the best information I can obtain on the subject, that the course they are taking is destroying their own object. Take copper ore. Nobody thinks of laying a very heavy duty on the ore or regulus of copper. There is a very small quantity imported, and it is imported for the purpose of working the copper ores of this country. They cannot be worked without it, and that is what it is used for, and for that purpose it is imported to a small extent. Those who manufacture copper from imported ore mix it with the ores of California or the ores of Michigan in order to work it.

Mr. CHANDLER. That is a mistake.

Mr. FESSENDEN. It is all a mistake, I suppose, but I get it from people who are engaged in the business, who import it for that purpose, and who seem to be very much interested in it. The statement certainly applies to the ores of California.

Mr. CHANDLER. It does not apply to the Michigan ores.

Mr. FESSENDEN. I am inclined to think it does. The idea of imposing this very high duty upon ore which comes in in such small quantities for the mere purpose of being mixed with our ores, and especially for the benefit of the copper mines on the Pacific coast, whose ore cannot be worked without it, is to me somewhat mysterious.

In order to protect copper you must build up the manufacture of copper. It is of no use to get out the ore and not manufacture it in this country. You must, therefore, do something to help the manufacturers reduce it to shape, and that is the principal and about the only purpose for which foreign copper ore is introduced. Even though that is the case, the committee have doubled the duty on copper ore, putting it up from five per cent. to ten per cent., and trebled the duty on regulus of copper, putting that up from five to fifteen per cent.; and with reference to copper in pigs, we have carried that duty up from two and one half to four cents a pound. The House put it at five cents. I think the rates we have fixed are high enough for all purposes, and that on the ore and on the regulus, if any fault can be found with it, is too high, and it will only produce an injurious effect on the very result my friends from Michigan want to accomplish, and that is a larger production. But, sir, I am not going to contest the matter. It is their interest particularly, and if they are willing to take the risk I am willing to let them do it, as far as I am concerned, though I cannot vote for it, because it is against my judgment.

Mr. CHANDLER. Gentlemen call ore a raw material. I have seen ores taken out of the mines in blocks yielding ninety-seven per cent. of pure copper and weighing four or five thousand pounds. In other words, they are copper blocks and yet they are ore.

Mr. FESSENDEN. If it is so pure and so much superior to all other copper ore, why is copper ore brought from foreign countries at all?

Mr. CHANDLER. Because it is more expensive to get out. It has to be cut out with a cold chisel, and it is more expensive to mine it than it is to mine ore that has only four or five per cent. It is more expensive also to get it to market. And yet copper so taken from the mine in this way is called a raw material; and men talk of these blocks of pure copper,



or at least yielding ninety-seven per cent., as raw material. There is a block in the Washington Monument of Michigan copper ninety-seven per cent. Anybody can go there and look at that block, Michigan's contribution to the Washington Monument; pure copper, just as it was mined from the mine. If it had been thrown into the smelting mill it would have turned out ninety-seven per cent.

The explanation of the article read by the Senator from Oregon is very simple. The men at Keweenaw Point have added to their machinery very much. They had an immense amount of rock on hand, a great many thousand tons, which they could not work with their old machinery. They had been accumulating for years, and I believe they have been at work for the past year grinding up that accumulation of years, and have increased their quantity there; but the mining interests of Lake Superior, as a whole, have fallen off more than one third, and I believe one half, and they have actually been compelled to abandon all but their richest mines. Now, if it is the policy of the Senate to have these mines abandoned and send your coin abroad or your bonds, at sixty-six cents on the dollar, to buy copper when your mountains are full of it, so be it; but I assure Senators that this is not a sufficient protection to keep our mines going. The House I think recommended twenty per cent.

Mr. WILLIAMS. Twenty per cent. on the regulus?

Mr. CHANDLER. Fifteen per cent. on the ore and twenty per cent. on the regulus, and five cents a pound, I think, as I have it, upon the copper in the pig. I prefer, if I can get, the specific sums named in my amendment. They amount substantially to the same rates that are fixed in the House bill.

Mr. FESSENDEN. What percentage are they?

Mr. CHANDLER. About the same as the House bill; fifteen and twenty per cent. respectively—as near that as you can possibly get at it. My amendment is virtually the same as the House proposition in this respect. I hope the Senate will sustain this amendment; it is but just, and it is the lowest sum that will enable our mines to work. The House of Representatives went into a thorough investigation; they took the sworn testimony of a great many witnesses. I have it before me; but I do not wish to occupy the time of the Senate in reading it; but the best and most experienced miners swore that this is the lowest sum that will enable them to run their mines.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. I wish to submit to the Senate two or three amendments, occupying as little time as possible. The first relates to the subject of zinc.

Mr. SPRAGUE. If the Senator will give way I will move an adjournment.

The PRESIDING OFFICER. Before putting the question on that motion the Chair will lay before the Senate certain bills from the House of Representatives for reference.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 666) authorizing the Secretary of War to purchase certain property for military purposes—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 820) for the relief of Henry S. Davis—to the Committee on Public Buildings and Grounds.

A bill (H. R. No. 967) for the relief of James Hooper, of Baltimore, Maryland—to the Committee on Claims.

A bill (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier—to the Committee on Pensions.

A bill (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier—to the Committee on Pensions.

A joint resolution (H. R. No. 211) for the

relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States—to the Committee on Claims.

A joint resolution (H. R. No. 244) to amend existing laws relating to internal revenue—to the Committee on Finance.

The amendments of the House of Representatives to the joint resolution (S. R. No. 99) for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho, were referred to the Committee on Naval Affairs.

#### THE TARIFF BILL.

The PRESIDING OFFICER. House bill No. 718 is before the Senate; and the Senator from Rhode Island moves that the Senate do now adjourn.

Mr. CONNESS. I ask the Senator to withdraw that motion for a moment and I will renew it.

Mr. SPRAGUE. Very well.

Mr. CONNESS. I am willing to stay here if there is the slightest chance of voting on this bill to-night, but we have been here already six hours and a quarter and I find that Senators all around have amendments to offer; there is no prospect of getting through. I hope, therefore, we shall adjourn. I renew the motion.

Mr. FESSENDEN. I consider it my duty to ask for the yeas and nays. The matter is at the disposition of the Senate. They can do as they see fit.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 21; as follows:

YEAS—Messrs. Conness, Davis, Grimes, Henderson, Norton, Patterson, and Sprague—7.

NAYS—Messrs. Anthony, Cattell, Chandler, Cragin, Doolittle, Edmunds, Fessenden, Foss, Foster, Frelinghuysen, Howard, Kirkwood, Morrill, Portland, Sherman, Stewart, Van Winkle, Wade, Wiley, Williams, and Wilson—21.

ABSENT—Messrs. Brown, Buckalew, Cowan, Cresswell, Dixon, Fowler, Guthrie, Harris, Hendricks, Howe, Johnson, Lane, McDougall, Morgan, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sumner, Trumbull, and Yates—24.

So the Senate refused to adjourn.

Mr. FRELINGHUYSEN. I move an amendment: to strike out in line six hundred and ninety-two of section nine on page 69, the word "two," and insert "three;" so as to read:

On white oxide of zinc, or zinc paint, dry, three cents per pound.

This interest is a new and important interest in this country.

Mr. FESSENDEN. The committee do not make any objection to that increase.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. On the fortieth page, line seventy, of section eight, I move to strike out "three," and insert "four;" so as to read:

On zinc in sheets, four cents per pound.

Mr. FESSENDEN. That is rather high. Put it at three and a half cents and we shall make no objection.

Mr. FRELINGHUYSEN. Very well. I will take three and a half; and I so modify my amendment.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. Now in line sixty-eight of that section I move to make the duty "on zinc, spelter, or teutenague, in blocks or pigs," two and half cents instead of two cents per pound.

Mr. FESSENDEN. I make no objection to that.

Mr. FOSTER. To that portion of the amendment which relates to spelter I must object. It will increase the cost of various manufactures that are made up of this article to a very great extent. The duties imposed by the bill to protect those manufactures are adjusted to the duty at the rate of two cents per pound; that is an increase on the present rate; and the increase of duties on the various

manufactured articles is not so much relatively as on this item, as the bill stands. The attention of the chairman of the Committee on Finance was called to it, and I understood him to agree that, in his opinion, putting the duty on spelter at two cents a pound was putting it higher relatively than the duties on articles manufactured from spelter, as now arranged in the bill. This addition will make it impossible for the manufacturers to go on without an increase of duties on articles into the manufacture of which spelter enters as a component part. If you increase the duty on that, as now proposed, I think there will be an end to the manufacture of the articles into which this enters. That is my belief.

Mr. FRELINGHUYSEN. This article is imported from Prussia to a considerable extent, and there labor is two shillings a day; here it is \$2 50 a day. This is an article which is found in very many of our States east and west, and an interest which ought to be fostered in this country. It is not one of those interests that exist in the future, and in mere imagination, but is now established, and this country is able to supply all that is required of this most important article. I hope that the amendment will prevail.

Mr. FOSTER. The article is used very little in the condition in which this clause of the bill supposes it to be. It is amalgamated with other metals, and so makes up various articles that go into use in the country. In that way a large amount of labor is employed. Now, if you increase the price of this material, which goes into and makes up a component part of many other articles of manufacture, without increasing the duties on those several articles, you will not be protecting home labor; you will be doing the exact reverse. If the protection given to this article as a raw material is greater than that to the articles manufactured from it, the foreign manufactured articles will be imported, and there will be no demand for this. Thus you will be giving to American labor with one hand and taking away with two.

Mr. FESSENDEN. That is precisely the principle that has been adopted with regard to other things to-day.

Mr. FOSTER. I am aware of that; but I hoped the Senate would stop at some point—possibly here. If they are not to stop at all, of course I must submit.

Mr. FRELINGHUYSEN. This article is imported at five cents in gold and sold in New York at nine cents currency. If very little use be made of it by manufacturers, it will do those who the learned Senator from Connecticut fears will be injured by it very little damage. I insist respectfully that an interest like this, which is already established in this country for the production of an article that we have in a great many of the States, ought to be fostered and protected; and I hope the amendment, which it seems is not disagreeable to the committee, will prevail.

Mr. FOSTER. In connection with this amendment I wish to say a word with regard to a kindred item on the preceding page of the bill, the thirty-ninth page. Line fifty-one on that page, as reported by the committee, stood: "On nickel fifteen per cent. *ad valorem*." The report of the committee has been amended by adding to this line the words "and thirty cents per pound." The same argument which the honorable Senator from New Jersey uses in regard to zinc and spelter is applicable, as I understand, to nickel, and it illustrates the effect. There is in this country one establishment for the manufacture of nickel, and only one. The amount of capital invested is some one hundred and fifty or two hundred thousand dollars at the outside. Now, there are in the State of Connecticut manufactures of German-silver ware into which nickel enters as a very important part; it is one of the most important metals that goes into the manufacture of that ware, in which more than three million dollars of capital are invested. During the past year those manufacturers paid more than two hundred thousand dollars of internal taxes to

this Government. It is now proposed to make nickel so expensive that those works must stop or do business at a loss; and for what purpose? To build up a manufacturing establishment where less capital is invested than these works are paying to the Government in internal revenue year by year. Thus, to say nothing of the amount of private individual loss, the Government strikes from its own Treasury a larger amount than the whole amount invested in the nickel works.

The same thing is not precisely true of spelter and zinc; but the same principle is involved. You are building up the manufacture of these as raw materials; no, no, I must beg pardon for calling them raw materials, because it seems now that there is no raw material in this country. The ice, I suppose, is not a raw material; the air, I suppose, is not a raw material; certainly we have learned in the course of the debate that iron ores and copper ores which had been previously supposed to be raw materials are not so. But for convenience sake and in popular language I hope to be pardoned for speaking of these as raw materials. We are putting a duty which shall enable these that have been previously called raw materials to be made in this country, and we are striking down all the establishments where they are manufactured. If that is wisdom I shall now learn it for the first time.

Mr. GRIMES. I am really astonished to hear such an argument against this proposition as has been urged by the Senator from Connecticut, namely, that the effect of it will be to increase the price of materials that are to be used in the different households of this country. I understand that that is the very principle on which the bill is predicated; and it is upon that principle we propose that this nation shall grow rich and all the people in it. This article of zinc is an article of universal consumption. There is hardly a family in the land that has not articles of some description or other that are made of this material. I suppose there is not a stove in my State that has not a plate of zinc beneath it. The Senator from Missouri [Mr. HENDERSON] suggests that in some portions of his State they make shoes of it. [Laughter.] I have never seen it used in my State for that purpose. Now, it is proposed, for the sake of encouraging the production of zinc in the State of New Jersey, that we shall impose an additional tax on all the people throughout the country upon such articles as zinc and spelter and tutenague may be made into. I shall of course vote against this amendment; but I cannot conceive how the Senator from Connecticut, who I understand to be in favor of the general proposition of the bill, can interpose any objection to the amendment of the Senator from New Jersey.

Mr. FOSTER. Mr. President, I am in favor of protecting home industry, but I am not in favor of protecting it in the way that is here suggested; and if this bill is finally brought into such a position as a few amendments of this sort would place it, I shall be compelled, acting upon the principle of voting in favor of protecting American industry, to vote against it.

Mr. FRELINGHUYSEN. In reference to this little article which I have named, one establishment during the years 1863, 1864, and 1865 paid \$80,000 to the Government in the way of taxes. One establishment pays out in wages \$50,000 a month. What nickel has got to do with this question of zinc, or what the relations of the two subjects are, I am not aware. And in reference to this whole tariff bill, to which allusion has been made, it is not a question of political economy for us to discuss at all, in my apprehension; it is just a question of necessity; that is all there is of it. We have got to have a gold revenue to pay our debt. The only possible source to which we can look for it is our tariff income; and the gentlemen who have framed this bill assure the Senate and assure the country that this bill will give us a larger gold income with a smaller importation of goods; and I believe it. That is the

assurance given by the committee, and I believe it. Then, further, we must tax the manufacturer, because we have got the interest of the debt to pay. The manufacturer cannot pay the tax unless he is protected in his manufactures. The manufacturer must live as becomes a freeman and a citizen of this country, and we must have a duty on goods imported; we must make the foreign manufacturer pay a tribute into our Treasury equal to the difference between the living of the laborer here and the living of the pauper of Europe. It is a matter of necessity.

It is said that the consumer will have to pay more for his goods. I do not know that the consumer will have to pay any more for the goods that he uses than he would have to pay in taxes if you relieved the manufacturer from his taxation. At all events, by the imposition of these duties a home market is created, and every man who is engaged in labor has the benefit of that home market, and those who are not engaged in labor, by the appreciated wealth of the country in the increase of their property have the benefit of this tariff.

As to commerce, commerce is promoted by this tariff. Let there be a uniform tariff in this country, one that does not vary from year to year, and we shall have manufactures that will supply and command the whole market of the East, with our railroad across the continent and our steamers on the Pacific ocean. For us to throw away the growing market of this country to foreigners, to take the very life-blood out of this young Republic and transfuse it into the arteries of the old kingdoms of Europe, would be an enormity. It seems to me that we should place ourselves in the class of those who forget their own household.

I hope that this bill will pass. I hope that it will be perfected. The whole country are indebted to the laborious attention that the committee and commissioner have given to this bill; but at the same time, as a matter of course, in some of its details it is capable of being improved; and on this question of spelter for ingots of zinc, disconnected from nickel, I hope the amendment will be adopted.

Mr. GRIMES. I have been enlightened by the Senator from New York on two points: first, that no question of political economy enters into or has controlled the committee in preparing this bill, or should govern us in voting for it. I judged as much before, but I was not aware of it until I heard the statement authoritatively made by a gentleman who is a strong advocate, as I understand, of the measure. I should like to address to him one inquiry: if it be true, as I understand from his argument he asserts it is, that all classes in this country are to be equally protected under our tariff law—this permanent tariff law that he speaks of—will we not occupy the same position that we do now? Who is going to be benefited and who is going to be injured, and where is the money to come from with which to support the Government?

But I am instructed upon another point, and that is, that the Committee on Finance have informed the Senate and the country that under this bill there will be a smaller amount of imports and a greater or an equal amount of gold realized to the Treasury than under the present tariff law. I am aware that the Senator from Ohio [Mr. SHERMAN] made that statement the other day; and I undertook to ascertain, if I could, in what manner he proved it; but I came to the conclusion that it was a mere expression of his judgment, such as all of us can entertain perhaps, one probably with as much accuracy as another. But the committee have made no such report as that. I have not heard any such declaration as that from the chairman of the Committee on Finance. I hardly think he will be willing to make that statement; I hardly think the Secretary of the Treasury will be willing to make that statement; and I suspect there are hardly more than two or three members of this body who concur with the Senator from Ohio in that expression of opinion. The truth is, Mr. Presi-

dent, you will not raise as much revenue under this tariff as you did last year by \$50,000,000. That is a mere assertion of mine I know.

Mr. SHERMAN. Nobody claims that we shall.

Mr. GRIMES. I understand the Senator from Ohio says that nobody claims that we shall raise within \$50,000,000 as much as we did last year.

Mr. SHERMAN. But I say that this tariff as it stood—not if you are going to pile duties upon duties, but as it stood—I think will raise considerably more revenue than the existing tariff during the same time.

Mr. CATTELL. If the Senator from Iowa will permit me, I made the same statement in my remarks, and I said I thought the distinguished chairman of the committee would perhaps agree with me, that the amount of revenue would be about the same under this as under the last tariff; that it would not change much; but I took occasion then to state that the amount of customs receipts would unquestionably, for certain causes, be reduced the coming year. I have no doubt it will be forty or fifty millions less, and I hope it will be.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment of the Senator from New Jersey?

Mr. FRELINGHUYSEN. I ask for the yeas and nays.

The yeas and nays were not ordered.

The question being put, there were on a division—yeas five.

Mr. FESSENDEN. I ask for the yeas and nays. It will be necessary to have the yeas and nays in order to get a quorum. There is not a quorum voting on the division.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 17; as follows:

YEAS—Messrs. Cattell, Chandler, Creswell, Frelinghuysen, Howe, Van Winkle, Wade, and Willey—8.

NAYS—Messrs. Anthony, Cragin, Davis, Doolittle, Edmunds, Fessenden, Fogg, Foster, Grimes, Henderson, Kirkwood, Lane, Morrill, Poland, Sherman, Williams, and Wilson—17.

ABSENT—Messrs. Brown, Buckalew, Conness, Cowan, Dixon, Fowler, Guthrie, Harris, Hendricks, Howard, Johnson, McDougall, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Ramsay, Riddle, Ross, Sausbury, Sprague, Stewart, Sumner, Trumbull, and Yates—27.

The PRESIDING OFFICER. On this question the yeas are 8, and the nays 17; no quorum voting.

Mr. DOOLITTLE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, January 25, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### DEFENSE OF THE NORTHEASTERN FRONTIER.

Mr. PATTERSON, by unanimous consent, from the Committee on Foreign Affairs, reported a bill to provide for the defense of the northeastern frontier; which was read a first and second time, recommitted, and with the accompanying report ordered to be printed.

Mr. ORTH, by unanimous consent, submitted the views of the minority of the committee; which were also ordered to be printed.

Mr. PATTERSON entered a motion to reconsider the vote by which the bill was recommitted.

Mr. ORTH moved that one thousand extra copies of the majority and minority reports be printed for the use of the House.

The motion, under the law, was referred to the Committee on Printing.

### REMOVAL OF WRECK IN NEW YORK HARBOR.

Mr. DODGE. I ask unanimous consent to take from the Speaker's table Senate joint resolution No. 156, to provide for the removal of the wreck of the iron steamship Scotland, on the bar outside of Sandy Hook, and to put it upon its passage. The joint resolution has



been here since the 10th instant. It is a matter of great importance this sunken wreck should be removed, as during the late storm, lying as it does at the entrance to New York harbor, it was a serious obstruction to navigation.

There was no objection; and the joint resolution was taken up and read a first and second time.

The joint resolution was then ordered to a third reading; and it was accordingly read the third time.

Mr. DODGE demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof, the joint resolution was passed.

Mr. DODGE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RAILROAD IN MICHIGAN.

Mr. LONGYEAR, by unanimous consent, introduced a bill to amend an act entitled "An act to extend the time for the reversion of the lands granted by Congress to aid in the construction of a railroad from Amboy via Hillsdale and Lansing to some point on or near Traverse bay, in the State of Michigan, and for the completion of said road," approved July 3, 1866; which was read a second and third time, and referred to the Committee on the Public Lands.

#### INDIAN SUPERINTENDENCY IN COLORADO.

Mr. BRADFORD, by unanimous consent, offered the following preamble and resolutions; which were read, considered, and agreed to:

Whereas it is represented that gross frauds and irregularities have been committed in disbursing the money appropriated for the Indian service in Colorado Territory, for the years ending June 30, 1866, and June 30, 1867: Therefore,

*Be it resolved*, That the Committee on Indian Affairs be instructed to inquire in what manner and for what purposes the moneys so appropriated have been expended by the superintendent of Indian affairs for the Colorado superintendency, and particularly to ascertain how much money has been paid to one M. B. Cummings for services as clerk of said superintendency, what service the said M. B. Cummings has performed, and where he or she resides, and report the facts so ascertained to this House at their earliest convenience.

*And be it further resolved*, That said committee have power to send for persons and papers.

#### CALL OF COMMITTEES.

Mr. BENJAMIN. I call for the regular order.

The SPEAKER stated as the regular order the call of committees for reports of a private nature, commencing with the Committee on Naval Affairs, the pending question being on the report made last Saturday by the gentleman from Pennsylvania [Mr. KELLEY] from that committee.

#### PAUL S. FORBES.

The House accordingly resumed the consideration of joint resolution of the Senate No. 99, for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho.

The resolution authorizes the Secretary of the Navy to accept the steam screw sloop-of-war Idaho of the contractor, Mr. Forbes, at the contract price of \$600,000, or transfer the said vessel to the contractor on the latter giving bond with sufficient security to refund to the Department, within six months from the date of such transfer, all advances of money made by the Government to the said Forbes on account of the construction and equipment of said vessel.

Mr. KELLEY. I request the reading of the petition of Mr. Forbes, being the most condensed statement that could be made of the case.

The Clerk read the petition, as follows:

*To the honorable, the Senate and House of Representatives of the United States in Congress assembled:*  
The petition of Paul S. Forbes, of the city of New York, respectfully represents that the petitioner is a

merchant and ship-owner, having had a large number of steamers of various kinds built in New York to compete with English-built steamers in China, and always with success. In the course of his business your petitioner became familiar with the methods of construction of ships and with the engineers and builders, who have been employed by him to build his steamers, and it occurred to your petitioner that he might possibly be of some service to the United States by the use of his experience in procuring for them a steamer, to be built as a fast cruiser, and to combine the advantages which in his private steamers had been productive of the results of high speed and great economy.

With this view, and without any design or intention to make money out of the United States, he procured estimates to be made by builders and engineers of the probable cost of a sloop-of-war of three thousand tons burden as if the vessel were to be built for his own private use, and having procured these estimates he proposed to the Secretary of the Navy that he would undertake as the agent of the Navy Department to have built for the United States a sloop-of-war of the proposed size for the actual cost in money for which the mechanical work could be done, charging nothing for his own services or time, and assigning to the Navy Department the contracts he might make, or permitting the officers of the Department to make contracts on the plans proposed, as the Department thought most advantageous. The Navy Department at once approved of the general plan of the vessel, but objected to making a contract for an indefinite amount, which might vary largely from the estimated one. The Secretary, however, proposed to make a contract with your petitioner to have such a vessel built for the price it had been estimated to cost at that time, which was \$600,000 for the hull, spars, standing rigging, and machinery, and in order to advance the interest of the United States your petitioner accepted the contract, relying upon the estimates which he had procured, and which would have paid for the ship on the basis of currency, material, and labor as they were at the time of making the contract. Your petitioner at once employed Mr. Henry Steers, of New York, to build the hull by day's work, in order to secure the best result, and the Morgan Iron Works to build the machinery by day's work, under the superintendence of the engineer employed by your petitioner for that purpose. Soon after the work began, however, a very rapid rise occurred in the price of labor and materials resulting from the acts of the United States, and as a consequence the estimates upon which this vessel had been ordered at once were insufficient, and now your petitioner has paid out more money than the entire contract price, and the ship is not yet completed, although every exertion has been made by your petitioner to have the work done as rapidly as possible.

And your petitioner further sheweth that immediately after the vessel building under this contract was commenced, the Navy Department ordered the construction of six more similar to it, which were designed to be of the same size, but which have been somewhat lengthened, although not otherwise altered. These ships are building, except one, at the navy-yards; but the Department procured contracts for building the engines from engine-builders, and the contract price of the engines alone is \$750,000, which is \$150,000 more than the entire price of the ship and engines constructed by your petitioner.

Your petitioner submits that as the spirit of his contract was not to make money for himself, but that he should act as the agent of the Government in procuring others to build a steamer, so he ought not to be required to lose money by reason of the change in prices occasioned by the act of the Government; he is not a ship-builder nor a manufacturer, and his only desire was to serve the country without profit or loss to himself.

Your petitioner therefore respectfully solicits that he may be relieved from the situation in which he is placed by the said contract, by such an act as will in effect carry out the true intention of his offer to the Government, and to this end he proposes any of the following methods which may be selected for that purpose—either,

1. That the price of \$600,000 be increased in the same ratio that the price of labor and material has increased since the estimates were made, on which he proposed to have said ship built; or,

2. That the actual bills paid or to be paid by your petitioner to the persons employed by him to do the work be paid by the Government; or,

3. That the price paid by the Government for the similar ships and engines built by contract be paid your petitioner.

Your petitioner further represents that the ship in question, the Idaho, is nearer completion than any other of the large vessels now building, and can be got ready for use sooner than any other of the vessels of that class.

Your petitioner has only received from the United States \$300,000, and has paid out more than \$600,000, and the amount still needed to complete the ship will increase the expenditure required to be made by your petitioner, on account of the United States, to the extent of \$300,000 more, as is estimated by the machinists.

Your petitioner, therefore, asks that speedy action may be taken by the Government in order to provide the funds necessary for the completion of the vessel expeditiously, that she may be enabled to render the service for which she was built and for which she is now much needed.

PAUL S. FORBES.

Mr. KELLEY. I now ask to have the Senate report on this subject read.

The report was read, as follows:

"The papers in this case shows that on the 22d day

of May, 1863, Paul S. Forbes entered into contract with the Navy Department to build a steam screw sloop-of-war, and to deliver her to the Government fully completed within a period of nine months from the date of contract, which vessel he also guaranteed should have a capacity of speed equal to fifteen knots an hour. The contract price for the vessel was the sum of \$600,000.

"It appears that instead of the vessel being delivered to the Government in nine months from the date of contract she is not yet completely finished. And it further appears that the vessel fails also in the requisite of speed, and is not capable of making the fifteen knots an hour required by the terms of the contract.

"The Navy Department admits, and your committee fully believe, that Mr. Forbes was actuated by patriotic motives in entering into this contract. He is a merchant and ship-owner, and has had a large number of steamers built for the merchant marine, and with marked success. At a time when the exigencies of the country demanded a large increase of the Navy, and when every effort in that direction was an effort for the public good, Mr. Forbes, fully believing that he would thereby do the country a service, came forward with his proposition to build the aforesaid vessel. He did not expect to make any money thereby, but he believed that he could, with his experience and energy, furnish the Navy with a superior vessel in a brief period, and thus assist the country materially in the conflict with her foes. The Secretary of the Navy, in a communication to the committee upon this subject, says upon this point: 'That Mr. Forbes did not engage in this work from mercenary or pecuniary motives, I have always believed.'

He persuaded himself, or was persuaded by others, that he could in a brief time build a vessel possessing superior qualities to any which the Navy Department could build.

Your committee are informed, and believe, that the vessel in question has cost Mr. Forbes some three hundred thousand dollars above the contract price, or some nine hundred thousand dollars in all. They are also informed that, with the exception of the engine, the vessel is well built, and that she is fully worth to the Government, notwithstanding the deficiencies of her engines, the amount of the contract price. Your committee, therefore, in view of this fact, and in consideration of the patriotic motives which prompted Mr. Forbes to enter into the contract, and also in consideration of the fact that the Government is enabled to profit by the knowledge and experience derived from such experiments, feel warranted in recommending, as they do, that Mr. Forbes be released from his contract for the construction and furnishing of the steam screw sloop-of-war Idaho, and that the Navy Department be authorized to purchase the vessel, when completed, at a cost not exceeding the contract price. If, in the judgment of the Secretary of the Navy, the interests of the Government may be the better subserved, he is empowered to transfer to the said Paul S. Forbes the said vessel when the said Forbes shall give good and sufficient guarantee that he will refund to the Government, within six months from the date of said transfer, all moneys advanced by the Government to him on his contract for the building and furnishing of the said vessel. Your committee, therefore, report the accompanying joint resolution.

Mr. SPALDING. I know something about this case, for I was on the Naval Committee when it was fully examined, and the parties to it were heard with their testimony. I am satisfied that this measure in its inception was one of speculation. It proposed to introduce into the Navy a ship propelled by an engine which would compete with all the engines then in use in the Navy, and, in order to induce the Navy Department to enter into a contract, this contractor stipulated that he would build a ship capable of running fifteen knots an hour. The Department had no faith in this, but they agreed that the ship, when built, should be put on trial, and that it should come up to that rate of speed or else the Department should not be under obligation to accept of the vessel. Now, it has proved to be impossible for Mr. Forbes to make a ship that can accomplish that rate of speed with the motive power which he placed within her. She ran eight or ten knots an hour on the trial trip; and it is now proposed that, notwithstanding the Government had taken bonds that the vessel should be completed so as to run at a particular rate of speed, to receive this vessel, which has only the capacity of running eight or ten knots an hour, and to pay the full price under the contract.

Now, sir, with all the disposition in the world to accommodate Mr. Forbes, I protest against any such action on the part of the House.

I am in favor of the joint resolution as it came from the Senate, which would give to the Secretary of the Navy discretion either to receive back the money from Mr. Forbes or else to take the vessel at the contract price.

Now, it seems to me that these terms are as



just and liberal as Mr. Forbes has a right to expect at the hands of Congress.

I will vote for the resolution as it came from the Senate, but I will not vote for this amendment which instructs the Secretary of the Navy to take the ship at the contract price and pay \$600,000 for her when she does not come up to the rate of speed which it was contracted that she should attain.

Vessels such as this are not particularly wanted now in the Navy. I would give to the Secretary of the Navy power either to take the vessel at the contract price or to receive from Mr Forbes the money advanced to him and let him take the ship and make the most he can of it.

Mr. KELLEY. In reply to the gentleman from Ohio, I will say that while the amendment proposes to give the contract price for this vessel, it will still leave this patriotic citizen who engaged in the work of improving our naval architecture a loser of \$300,000.

Mr. SPALDING. That may be.

Mr. KELLEY. With that statement I call the previous question.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. I would ask the gentleman from Pennsylvania, [Mr. KELLEY,] if the Committee on Naval Affairs was unanimous in this report?

Mr. KELLEY. I cannot answer that question precisely. My recollection is that all the gentlemen who were present at the meeting of the committee at which the amendment was adopted, and it was an unusually full meeting, favored it.

Mr. PIKE. I was not in favor of it.

Mr. KELLEY. Then there was one, and only one, who was opposed to it.

Mr. ELDRIDGE. The gentleman is mistaken as to the vote on the amendment.

Mr. KELLEY. I give my recollection of what took place in committee. I do not assert it as a fact.

Mr. ELDRIDGE. I was present in the committee, and I did not agree to this amendment.

Mr. BAKER. I wish to ask the gentleman from Pennsylvania a question. It is this: whether the Government of the United States is now so far needing the ship as to justify us in paying \$600,000 for it, though we are under no obligation to do it?

Mr. KELLEY. I do not know the needs of the Government in that respect.

Mr. PIKE. Will the gentleman from Pennsylvania [Mr. KELLEY] yield to me for a few moments?

Mr. KELLEY. I will.

Mr. PIKE. I desire to say that I was content to let this measure pass *sub silentio*, simply voting against it, until the inquiry of the gentleman from Illinois [Mr. FARNSWORTH] was made, for the purpose of developing the opinions of the committee.

Mr. Forbes, who is well known as a merchant of great enterprise as well of great generosity of character, was led into this undertaking to construct the Idaho by the very generous idea of surpassing by his individual effort all the previous exertions of the Navy Department to produce valuable, and especially fast, ships-of-war. In order to accomplish that purpose he entered into this contract, and, as I believe, with no expectation of making money out of it, for the contract itself was an unusually hard one. He proposed for the small sum of \$600,000 to produce a ship of some two thousand five hundred or three thousand tons, which should do what no naval ship before did, make fifteen knots an hour for twenty-four consecutive hours in the sea-way, with all her armament on board. That was something which never had been done on either side of the Atlantic. But he was led to make the proposition by the ingenious theories and fertile suggestions of his engineer, a gentleman well known to the public, Mr. Dickinson.

In pursuance of that contract Mr. Forbes has already expended some nine hundred thousand dollars. He has received from the Government

\$550,000; losing, as I believe, over three hundred and fifty thousand dollars by his enterprising exertions. Now, for one I was entirely willing to say to Mr. Forbes, "You have already lost enough, and the Government has lost enough by this experiment; we will not call upon you to return any portion of this \$550,000, but we will take the vessel and call the matter square." According to the terms of the contract he would be obliged to refund this \$550,000 and take back the ship, for she fulfills no one of the conditions of the contract; and she is practically of but small value to the Government. The Government estimates that she is worth between one and two hundred thousand dollars for their purposes.

Mr. BAKER. Will the gentleman allow me to ask him a question?

Mr. PIKE. Certainly.

Mr. BAKER. If the ship is of practically but small value to the Government, and the Government is under no legal obligation to pay for it, why should we pay \$600,000 for the ship?

Mr. PIKE. I will reply to the gentleman. The Government has made many experiments during the war; and in that respect the Navy Department has been very much misunderstood. It has expended very large sums in experimenting, as all Governments must do if they would produce that most difficult thing to produce, a perfect ship-of-war. Large sums of money have been expended, not only by this Government, but by the British Government and the French Government, in making experiments which when they are accomplished and the money is spent prove to be of little practical benefit, except to direct the future exertions of the Government.

Some years ago, Mr. Stevens, of New Jersey, attempted to produce an iron-clad ship. The Government furnished him \$500,000. The ship was made and she lay on the stocks a long time, and was known as Mr. Stevens's battery, and this House at a prior session, after considering all the facts in that case, said to Mr. Stevens: "We will give you \$500,000, and you may keep your battery. This loss the Government is willing to share with the individual who attempts to improve the Navy."

Now, in the case of Mr. Forbes, I was willing that the Government should share the loss and not attempt to crush him. This sum, although very considerable to the individual, is very small to the Government when compared to the contribution it would oblige the bondsmen of Mr. Forbes to make if the contract is insisted upon. For that reason I was willing to have the Government receive this ship for the sum of \$550,000, which is the sum already paid, and discharge Mr. Forbes from any further proceedings on the contract. The result will be that the Government will sustain a loss, and Mr. Forbes will also sustain a loss of \$350,000. And I submit to the members of this House that this would be a very small contribution on the part of this Government to citizens who have endeavored to aid it.

Mr. GRINNELL. I would ask the gentleman from Maine [Mr. PIKE] why he objected to this bill in committee?

Mr. PIKE. The original bill provides simply a discretionary authority on the part of the Secretary of the Navy. The proposition I make is to give direction to the Secretary of the Navy to receive the ship for the amount already paid.

The question was upon the amendment reported by the committee.

Mr. BAKER called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 84, not voting 49; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Banks, Barker, Bergen, Bidwell, Blaine, Brannan, Chandler, Conkling, Darling, Dawes, Deming, Dixon, Donnelly, Eggleston, Eliot, Garfield, Grinnell, Griswold, Hale, Higby, Holmes, Hooper, Demas Hubbard, Jenckes, Kasson, Kelley, Ketcham, Laffin, George V. Lawrence, Le Blond, Loan, Lynch, Marston, Marvin, Maynard, McRuer, Mercier, Moorhead, Morris, Myers, Newell, Nicholson, Platts, Pomeroy, Raymond, Starr, Stevens, Taber, John L. Thomas,

Van Aernam, Burt Van Horn, Warner, Stephen F. Wilson, Windom, and Woodbridge—58.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Baldwin, Beaman Benjamin, Bingham, Boyer, Bromwell, Broomall, Campbell, Reader W. Clarke, Cobb, Cook, Cooper, Cullom, Dawson, Deffrees, Denison, Driggs, Eckley, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Goodyear, Abner C. Harding, Hawkins, Hayes, Hill, Hise, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Humphrey, Hunter, Ingersoll, Julian, Koontz, Kuykendall, Latham, Leftwich, Longyear, Marshall, McClurg, McKee, Miller, Moulton, Niblack, Neell, Orth, Paine, Perham, Pike, Price, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Shanklin, Shellabarger, Sitgreaves, Spaulding Stillwell, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Andrew H. Ward, Hamilton Ward, Henry D. Washburn, William B. Washburn, Wentworth, James F. Wilson, and Winfield—84.

NOT VOTING—Messrs. Alley, Ames, Arnell, Baxter, Blow, Boutwell, Buckland, Bundy, Sidney Clarke, Culver, Davis, Delano, Dodge, Dumont, Glossbrenner, Aaron Harding, Harris, Hart, Henderson, Hogan, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hulburd, Johnson, Jones, Kelso, Kerr, William Lawrence, McCullough, McIndoe, Morrill, O'Neill, Patterson, Phelps, Radford, Alexander H. Rice, Rousseau, Schenck, Scofield, Sloan, Strouse, Thayer, Robert T. Van Horn, Elihu B. Washburne, Welker, Whaley, Williams, and Wright—49.

So the amendment was rejected.

Mr. BAKER. I move to reconsider the vote by which the amendment was rejected; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurred on ordering the bill to be read a third time.

Mr. PIKE. I move to reconsider the vote by which the main question was ordered on the bill.

The SPEAKER. That motion cannot be made at the present time. It will not be in order till after the vote on ordering the bill to a third reading. The Digest states on page 143 that "it is not in order to move a reconsideration of the vote on ordering the main question when it is partly executed." That is the case here.

Mr. HILL. I move that the bill be laid on the table.

Mr. PIKE. What I desire is an opportunity to offer the amendment which I suggested to the gentleman from Pennsylvania. That is certainly a very proper amendment; and I hope by general consent it will be adopted. I am sure that no gentleman who understands this matter is willing to ruin Mr. Forbes.

Mr. SPALDING. Does the question turn now on the original proposition of the Senate?

The SPEAKER. It does.

Mr. SPALDING. I hope it will be adopted.

Mr. PIKE. I think that my friend from Ohio, [Mr. SPALDING,] when he understands this question, will act in conjunction with me.

Mr. HILL. At the suggestion of several gentlemen who desire a direct vote on the passage of the bill, I withdraw the motion to lay the bill on the table.

The bill was ordered to a third reading, and read the third time.

Mr. PIKE. I now move to reconsider the vote by which the bill was ordered to a third reading. If this motion shall be adopted I propose to offer an amendment which will simply allow Mr. Forbes to retain the money now in his hands, the Government taking the ship.

A MEMBER. How much money?

Mr. PIKE. Five hundred and fifty thousand dollars, for which the Government will receive a steamship that cost about nine hundred thousand dollars. I cannot say what is her worth, and no man can tell what is her worth. There are various opinions of her worth. The Navy Department estimates in one way and Mr. Forbes in another.

Mr. BAKER. The gentleman states that the Government will receive a ship costing \$900,000 at an expenditure of about five hundred and fifty thousand dollars. My question is whether or not the gentleman is able to inform the House what the ship would be worth to the Government if it will not run more than eight or ten miles an hour, as stated by the gentleman from Ohio, [Mr. SPALDING.]

Mr. PIKE. I will state to the gentleman from Illinois there are few ships in the American or any other Navy that will run over eight or ten miles an hour with an armament aboard. It is very good speed, ten knots an hour. There were few ships in our old Navy previous to this war, indeed I do not think there was a ship in that old Navy, which could run ten knots an hour.

Mr. BROMWELL. If the ship cost \$900,000, and that sum was in fact judiciously expended, why is the builder here now trying to get \$600,000 for it?

Mr. PIKE. I will reply to the gentleman from Illinois that the market for ships-of-war is limited, particularly when any foreign nations are engaged in war, for the Secretary of State steps in and says, "You shall not sell to either belligerents a ship-of-war." Mr. Forbes attempted to do this last year and was prevented by the action of the Government. Of course when these Governments are not at war, but in a state of peace, they have no need of armed ships; and when they are at war our Government will not allow armed ships to be sold to them.

Mr. MAYNARD. I would like to hear the gentleman from Maine express his opinion whether this vessel is or can be made valuable to the Government for naval purposes.

Mr. PIKE. I will say in reply that, opinions are various in regard to this ship. The Navy Department considers it of small value, while those who agree with Mr. Forbes in his ideas—engines similar to the one in this ship having worked well in the mercantile marine—think this ship will be of great value.

Mr. Forbes is acquainted in the East, having been largely engaged in mercantile affairs there. He has no doubt that if he had taken the ship to Japan last year and exhibited her there so that she might be tested by actual performance they would have bought her; but in his crippled condition he could not afford to take the ship out of the hands of the Government, and consequently there was no way of testing whether or not this ship is of practical value.

Mr. MAYNARD. My question was whether the Government could make this ship available for naval purposes.

Mr. PIKE. I will reply that I can only take the judgment of others. This is a handsome ship, and I esteem myself a judge at least of a commercial ship, as I have been engaged in shipping for a long time. But how valuable her engines are I cannot say. My motion is to reconsider for the purpose of submitting this amendment. I call the previous question, and I do hope the House will agree with me.

Mr. RAYMOND. I ask the gentleman to yield to me.

Mr. PIKE. Certainly.

Mr. RAYMOND. I will consume but a few moments in saying one or two words.

I admit the entire propriety of the rule, as a rule, of enforcing all contracts made with those who undertake to serve it. I will refuse as a general thing to depart from that rule, but in this case I think there are considerations which make it an exception. If there was the slightest reason to believe there was any intention to make money out of the Government by this contract, if it were not absolutely certain the only motive Mr. Forbes had for entering into it was to serve the Navy during the rebellion, I should hesitate about voting for this joint resolution. But it is not so. Mr. Forbes has put into this ship every dollar he has received from the Government of the United States with \$850,000 of his own money. It seems to me now no more than just, considering his motive, considering the sacrifice he must make in any case, the Government should not insist on his returning the money he has received, which it gets back in the ship together with \$850,000 of his own, when, with some changes in machinery, which may be more or less expensive, it is the opinion of experts and engineers this ship may be made one of the most splendid ships in the Navy. He is

deterred from selling her to any foreign Government at the only time foreign Governments wish to buy.

Unless it is considered proper for the Government of the United States to press to his ruin every man who undertakes to serve it, who has been unfortunate, having been misled into ventures which he could not carry through, it seems to me wise and equitable to pass the amendment suggested by the gentleman from Maine.

The previous question was seconded and the main question ordered; and under the operation thereof the vote by which the joint resolution was ordered to be read a third time was reconsidered.

Mr. PIKE. I now move to amend by striking out "\$600,000" and inserting in lieu thereof "\$550,000;" and also by striking out the word "contract" before the word "price." I move the previous question.

Mr. HILL. Will the gentleman yield me three or four minutes?

Mr. PIKE. First let the previous question be seconded and then I will yield.

The SPEAKER. The gentleman from Maine [Mr. PIKE] will have no right to any time at this stage.

Mr. PIKE. If I have no time then I cannot yield of course.

Mr. SPALDING. How much of the morning hour is left?

The SPEAKER. Three or four minutes.

Mr. SPALDING. Then I object to any further debate.

The previous question was seconded and the main question ordered.

Mr. HILL. I demand the yeas and nays.

The yeas and nays were refused.

The amendment of Mr. PIKE was agreed to; and the joint resolution, as amended, was ordered to be read a third time; and it was accordingly read the third time.

Mr. PIKE. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. HILL. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 52, not voting 43; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Banks, Barker, Baxter, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Chanler, Conkling, Darling, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Garfield, Goodyear, Grinnell, Griswold, Hale, Higby, Hogan, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburt, Humphrey, Hunter, Jencks, Johnson, Julian, Kasson, Kelley, Kelso, Laffin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McIndoe, McKee, McKuer, Mercut, Moorhead, Morrill, Morris, Myers, Newell, Nicholson, Patterson, Perham, Pike, Plants, Pomerooy, Price, Raymond, John H. Rice, Rollins, Schenck, Sitgreaves, Spaulding, Starr, Stevens, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—96.

NAYS—Messrs. Baker, Beaman, Benjamin, Bromwell, Broomall, Campbell, Reader W. Clarke, Cobb, Cook, Cooper, Cullom, Dawson, Defrees, Delano, Denison, Farquhar, Ferry, Finck, Aaron Harding, Abner C. Harding, Hill, Hise, Koontz, Kuykendall, Leftwich, Marshall, Miller, Moulton, Niblack, Noell, Orth, Paine, Samuel J. Randall, William H. Randall, Ritter, Rogers, Ross, Sawyer, Seofield, Shanklin, Shelabarger, Sloan, Stillwell, Stokes, Thornton, Trimble, Trowbridge, Hamilton Ward, Henry D. Washburn, William B. Washburn, Wentworth, and Wright—52.

NOT VOTING—Messrs. Alley, Ames, Arnell, Baldwin, Bingham, Blow, Buckland, Bundy, Sidney Clarke, Culver, Davis, Dawes, Dodge, Glessbrenner, Harris, Hart, Hawkins, Hayes, Henderson, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Ingersoll, Jones, Kerr, Ketcham, Latham, William Lawrence, McClurg, McCullough, O'Neill, Phelps, Radford, Alexander H. Rice, Rousseau, Thayer, Francis Thomas, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, and Whaley—43.

So the joint resolution was passed.

During the roll-call,

Mr. RANDALL of Pennsylvania stated that his colleague, Mr. GLESSBRENNER, was absent, being paired with Mr. O'NEILL on all questions.

The result having been announced as above recorded,

Mr. PIKE moved to reconsider the vote by which the joint resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

QUESTION OF PRIVILEGE.

Mr. BROOMALL. I rise to a question of privilege arising out of a part of yesterday's debate as reported in the Globe of this morning. I ask that the part of the report which I have marked be read at the Clerk's desk.

The Clerk read as follows:

"Mr. COOPER. Mr. Speaker, I said that when the gentleman from Pennsylvania charged Andrew Johnson with being a usurper, if I were permitted to quote the language of Marmon to Lord Douglas, I would say—

"Lord Angus, thou hast lied."

"Mr. KELLEY. If I were permitted! Sir, while the usurpation was plotting he was the confidential paid agent of the usurper, and knew all the secrets of the usurpation, and if conscience has not been extinguished in him he is not permitted to deny my allegation."

"Mr. COOPER. Mr. Speaker, the gentleman is mistaken as to his facts. While I was the confidential agent and friend of the President of the United States, and I glory in the fact, not one dollar of his money has ever been handled by me; and when the gentleman says that I was his paid agent he lies again."

Mr. BROOMALL. Mr. Speaker, I desire to ask whether, before stating what I propose to offer under the rules of the House as a question of privilege—

Mr. ROGERS. I rise to a point of order. Can this be a question of privilege, as the words were not taken down at the time?

Mr. BROOMALL. My question has relation to that very point.

The SPEAKER. The Chair does not yet know what point the gentleman from Pennsylvania [Mr. BROOMALL] desires to make.

Mr. BROOMALL. I desire to ask the Chair whether, inasmuch as the objectionable words were not taken down at the instance of some gentleman objecting at the time, it is too late for the House to censure the gentleman from Tennessee.

Mr. JOHNSON. I submit that it is not a privileged question at all. The gentleman has stated no privileged question at all.

The SPEAKER. He stated that he rose to a question of privilege.

Mr. JOHNSON. Until he states what his question of privilege is he has no right to the floor.

The SPEAKER. The gentleman from Pennsylvania [Mr. BROOMALL] must state what his question of privilege is.

Mr. BROOMALL. Under the impression that the Chair will answer my question of privilege in the affirmative, I offer the following resolution:

*Resolved*, That the offensive language of the member from the fourth district of Tennessee on yesterday, during the remarks of the gentleman from Pennsylvania, though well meriting a vote of censure, would degrade nobody as much as himself, and that if his constituents are satisfied with it and him, the House of Representatives will not at present complain.

Mr. FINCK. I submit that this is not a resolution of censure, and I object to its introduction.

The SPEAKER. The Chair refers to page 76 of the Rules, as follows:

"If a member be called to order for words spoken in debate, the person calling him to order shall repeat the words excepted to, and they shall be taken down in writing at the Clerk's table, and no member shall be held to answer, or be subject to the censure of the House for words spoken in debate if any other member has spoken or other business has intervened after the words spoken and before exception to them shall have been taken."

The obvious inference from this rule is, that it is expected that some member upon the floor will certainly call a member who is out of order to order for using unparliamentary language, and then the rule provides that the words excepted to shall be taken down after being repeated by the member who has excepted to them. In this case no gentleman called the gentleman from Tennessee [Mr. COOPER] to